



## BACKGROUND

In accordance with applicable law, on July 23, 2014, the parties entered negotiations to revise and renew their July 1, 2010, collective bargaining agreement, which was to expire June 30, 2015. They reached impasse, and negotiated a one-year interim agreement expiring June 30, 2016. Negotiations continued but to no avail; therefore, the parties signed another interim agreement expiring June 30, 2017. They continued negotiations and again reached impasse, thus activating the provisions of Act 88 leading to mediation and fact finding. Fact finding hearings were held in Pittsburgh, Pennsylvania, on October 19 and 20, 2017, and the matter is now ready for the Fact Finder's analysis and recommendations.

### I. Term of the Agreement:

The Pittsburgh Board of Public Education (the Board or the District) proposed that term of the Agreement be for three years, from July 1, 2017, through June 30, 2020. The Pittsburgh Federation of Teachers (the Federation) proposed a five-year term for the Agreement. The parties, however, are in substantial agreement that a three-year agreement will be satisfactory.

I recommend that the term of the Agreement be for three years, from July 1, 2017 through June 30, 2020 given the

### II. Salary Schedules:

Under the 2010-15 Agreement, the parties negotiated a new performance based schedule known as the Career Ladder Salary Schedule for New Teachers hired on or after July 1, 2010. This new schedule provided for teachers to elect career directions at specified times that would lead to greater responsibilities and higher earnings opportunities. The parties retained separate ten-step schedules for holders of bachelors and masters degrees for teachers hired before July 1, 2010(Exhibit A).

The parties agreed in 2017 to eliminate the Career Ladder Salary Schedule for regular classroom teachers and return to the previous traditional salary schedules. The Federation proposal for 2017 is Exhibit B. In addition, the Federation proposed retention of Advanced Study Credit, NBPTS, TPI and Longevity payments.

The Federation also proposed annual increases for all other employees of 2% in 2017-18, 2% in 2018-19 and 2.5% in 2019-2020, and it made separate proposals for the following categories of teachers: Twelve-month Professionals (Art.102 of the Agreement), Early Childhood Teachers (Art.105), Early Intervention Teachers (Art. 106) and Coaches (Art.116).

The Board proposed a single wage scale for all teachers hired after July 1, 2010. According to the Board, this schedule is derived from the previous Masters schedule. It is attached as Exhibit C. The Board also proposed that the Teachers Professional Increment (TPI) and Advanced Study Credits would continue to be inapplicable as they were under the Career Ladder Salary Schedule in the 2010

Agreement. For teachers hired before July 1, 2010, the Board proposes an increase of 1.5% at level 10b of their salary schedule in each year of the new Agreement, and it proposes that all other salary schedules be increased by 1.5% in each year of the Agreement.

For 2017-18, the Board proposed salary schedule essentially tracks the Federation's proposed schedule for those hired after July 1, 2010, through step 5. Then the step gradient steepens as the two schedules diverge so that the Federation schedule reaches \$91,555 at the top step, number 12, while the Board schedule arrives at \$95,860 at the top step, number 15. In both cases, the approximately \$35,000 bump step at level 10 in the old schedule is smoothed out, more so under the Board schedule than in the Federation schedule. In defense of the fifteen-step schedule, the Board presented a summary of 2017-18 masters degree wages and the number of step levels in salary schedules in other School Districts in the Pittsburgh area (Exhibit D). This exhibit shows that the final masters degree payments for both proposals are within the range of such amounts in comparable districts. The more important point is that these districts have more steps in their salary schedules, as many as nineteen in two cases, than does the parties' agreement.

I recommend the following wage adjustments:

The wage scale for all teachers hired after July 1, 2010, shall be that proposed by the Board and attached as Exhibit C.

The provision for TPI in Article 111 of the Agreement should be revised for teachers hired after July 1, 2010, to provide the benefit after five years at step 15. Otherwise, the provision should be applied as in the past for teachers and professionals in other eligible categories of service.

Advanced Study credits for credentials earned above the masters degree level (as set forth in Article 112 Section 1, paragraph b), should remain in effect. Attaining a masters degree in itself, however, should entail no additional compensation for teachers hired after July 1, 2010, inasmuch as their salary schedule is derived from the preceding masters degree schedule.

Longevity payments under Article 110 should remain in effect for all teachers.

All other salary schedules, with the exceptions noted below, should be increased by 2% in each successive year of the Agreement. The same rate increases should be applied to step 10b of the salary schedules for those hired before July 1, 2010.

Twelve-month Professionals under Article 102:

These employees are paid at the appropriate rate for their position on their negotiated salary schedules, plus an added amount because they are scheduled to work twelve months rather than just for the ten-month school year. The Federation proposes that the salary for twelve-month employees be calculated by dividing their annual salary by ten to reach a monthly rate comparable to

that of an employee that works only for the ten-month school year. Then, the Federation would multiply that rate by twelve to reflect the twelve months the Article 102 employees work.

The Board has denied the Federation's request to base the twelve-month employees' salary rates on the assumption that their regular step rates are properly divisible by ten to calculate their monthly rates for a full year's employment. There is no history of the parties having used such a basis for calculating these salaries in the past. The salary rates of the twelve-month employees are negotiated apart from regular step rates, though they do have a basis in the step rates. In the sample provided, the twelve-month rate is \$2673 above the standard teacher's annual rate or approximately 3 percent higher than the ten month salary. The parties recognize that the twelve-month teachers have greater responsibilities and more extensive professional backgrounds than most of their classroom counterparts. It follows that there should be a greater differential in their salaries.

I recommend that the salaries for professional employees under Article 102 be increased by 5 percent in each year of the Agreement.

#### Coaching Vacancies and Compensation

Article 42 provides as follows with respect to posting coaching vacancies:

1. When there is a coaching vacancy at a school, the coaching position will be posted citywide in order for a qualified teacher at any school across the city to have the opportunity to apply.
  - a. If no qualified candidate is available from within the bargaining unit, the vacant coaching position will be open to a qualified applicant not employed by the School District.

The Federation proposes the following language changes for Article 42:

#### Article 42 – Coaching Vacancies

1. When there is a vacancy, positions may be posted internally and externally (at the same time) so all qualified candidates have an opportunity to apply. Building Representatives will participate in the interview process.
2. When a qualified coach has been hired to fill a coaching position, pursuant to Section 1 above, he/she shall be able to continue in the coaching position in succeeding school years so long as his/her service in the coaching position is satisfactory. All current coaches remain in their coaching positions.
3. Remains the same
4. Remains the same
5. Remains the same
6. Coaches who enter post-season playoffs will be compensated at a rate no less than their weekly salary, as determined by PIAA length of season as listed in the PIAA calendar and salaries listed in #6 of this document. The calculation process will be determined by counting the number of days from the last regular season game to the end of the last completed post-season game.

The Board agrees with paragraph 1. That posting should be simultaneous for both district and non-district employees. It also would add that the best qualified candidate should be selected.

The Board does not agree with the proposal that Building Representatives should participate in the employment interviews. Further, there being no current provision for extra post-season reimbursement, the Board would continue to provide none.

I recommend that the parties provide for simultaneous posting or otherwise advertising vacant coaching positions to both District employees and non-District candidates and provide for the selection of the most qualified candidate. No further changes in Article 42 are suggested.

#### Article 16 – Salary Schedules for Coaching

The Federation proposes a 28.5 percent increase for all existing coaching positions in both high school and middle school. Comparable salaries for the 2017-18 school year show that, though Pittsburgh’s data is from the 2010 to 2015 Agreement, the district is still competitive with other area districts.

I recommend that there be a 10 percent increase in coaches’ salaries across the board so that coaching salaries will remain competitive.

#### Early Childhood/Early Intervention Teachers

Outside its regular mandated educational functions, the Board provides services to preschool age children under Federal and State grants that set various program requirements that the district has been able to meet. The funding for this program is not large and has not expanded much since inception. The annual funding for 2017-18 is just below \$30,000,000, which must cover operating funds including teacher’s salaries for various pre-school class teachers and service providers. The funded programs are:

#### **PreK Funding Summary**

Fund	Program	2017-18 Budget
1BE	Pre-K Counts	5,219,000.00
1BC	Head Start	11,742,464.00
1BD	HSSAP	2,309,200.00
1BF	Ready to Learn	2,223,687.00
1BH	EC Tuition	241,944.00
1BJ	IDEA 611	993,688.00
1BN	Early Intervention	5,527,577.00
1AX	Access	645,406.00
1BG	EHS Child Partnership	434,333.00
1BM	IDEA 619	384,702.00
	Total Budget	29,722,001.00

Few, if any, educators and other observers doubt the value of early education. Unfortunately, the Board does not at this time have the means to support this good work and fold these programs into its regular program responsibilities as the Federation proposes. Specifically, the Federation would move the teachers in pre-school programs under Articles 105 and 106 into the regular teaching pay schedules under Article 95. The Board demurs, citing the prohibitive costs and long-standing practice of treating these teachers and programs as separate from the regular programs presented by the Board.

I recommend that the preschool programs here at issue should remain outside the Board's regular programs. Regrettably neither the money nor the will to expand these programs, which comes mainly from outside the District has been forthcoming. The Board, however, at times has made small contributions to these programs; therefore I recommend that in 2017 the Board provide a one-time increase of two percent in the salaries of these teachers. Given present conditions and the long-standing practice, I cannot impose the added burdens on the district that the Federation proposal would entail.

### III. Voluntary Transfers

The Board proposes that the provisions of Article 30 regarding voluntary transfers of teachers between schools be extended from a one-year cycle to a three-year cycle. The District's proposal specifically states:

The voluntary teacher transfer process shall operate every third year. The voluntary transfer process would occur in 2017 for 2017-18 and then every third year thereafter unless the parties reach agreement that it would be beneficial to operate the voluntary transfer process in an alternate year. (Article 30)

Annually, the District determines its staffing needs in February, posts the resulting vacancies and makes school based transfers from March into June. From June through July remaining vacancies are then filled with new hires. If all vacancies are not filled in this manner, the August 1 rule comes into play. The August 1 rule provides that any position that remains open after August 1 and that is filled by a new hire will be considered vacant and open for bid in the following year's staffing procedure.

In addition to changing the voluntary transfer process to a three-year cycle, the Board would eliminate the August 1 rule, protecting assignments for new hires from automatic disruption in the transfer process.

The Board's rationale for restricting the voluntary transfer process is that each year it creates a significant movement of teachers between schools that disrupts continuity of instruction and has a deleterious effect on overall student performance. Most important, from the Board's point of view is the fact that annually there is a net outflow of teachers from high needs schools into non-high needs schools.

The district as a whole does not have a stellar performance rating on PSSA (Pennsylvania System of School Assessment) tests for math and English language arts. In the 2016-17 school year for high needs

schools the math rating was 28% proficient, 72% basic or below basic. For English Language Arts the rating is 54% proficient, 46% basic or below. Of 54 schools in the district, 17 are considered high needs schools. The students in these schools have a poverty rate of 81% and 90% of the students are of color. The three-year staff turnover ratio is 26%. Non-high needs schools conversely have PSSA Math scores of 35% proficient and 65% basic or below and English scores of 53% proficient and 47% basic or below. The poverty rate in these schools is 62% with students of color comprising 60% of the population. The three-year staff turnover rate for these schools is 15%. Finally, in the 2016-17 school year, the District allots ninety-one staff displacements to the effect of the August 1 rule and 22 displacements to other causes.

The Federation does not dispute the fact that annual displacements can be disruptive, but it attributes the staffing problems cited by the District to mismanagement and the failure of administrators to follow the proper procedures in a timely fashion. The Federation, hence, would change neither the annual voluntary transfer process nor the August 1 rule. Rather, the Federation would improve training for those involved in the transfer procedures and urges greater collaboration between the parties to reach mentally agreeable understandings in ways to improve the process.

I recommend that the District's proposal for changing the voluntary transfer process to a three-year cycle not be implemented. Teacher vacancies will not naturally occur in three-year cycles and the District is better served if it can fill such vacancies expeditiously with people who presumably want the available jobs. On the other hand, the August 1 rule should be abolished forthwith. It creates artificial and unnecessary vacancies that complicate administrative procedures and do absolutely nothing to advance the parties' pedagogical mission.

#### Article 51 Teacher Scheduling:

The District proposes to change Article 51, Section 2 to give more authority to principals in determining teacher schedules. Currently Article 51 in pertinent part states:

1. No later than March 1 of each school year, schedule preference sheets will be distributed to all teachers at each school. Teachers may then indicate their schedule preference, including subject, grade, alternative schedule(s), shift and time of preparation period. Teachers should return the sheets within one (1) week of the time of receiving them.
2. The teachers' schedule preference will be honored to the extent possible in the preparation of schedules for the following school year.
3. When changes in the teaching schedule(s) for a teacher(s) at a particular school become necessary due to the loss of a position(s) for the following school year, and this fact only becomes known to the school principal and/or the teachers at that school subsequent to the completion and utilization of the annual schedule preference sheets, principals shall reexamine the schedule preferences of all teachers at the school or of all teachers affected by the change, whichever is applicable. The schedule preferences, including alternative schedule choices, of all teachers or of all affected teachers shall continue to be honored to the extent possible in the preparation or revision of teaching schedules for the following school year.

The District proposes to eliminate the existing Section 2 and to insert the following language:

2. Principals shall seek and consider both teacher preference and instructional cabinet input, but shall have final authority to assign teacher schedules within the school, considering both teacher and student data.

The Board contends that the scheduling of teachers is an inherent managerial right over which the employer is not required to bargain. The Board cites 24P.S. §11-1112-A, Matters of Inherent Managerial Policy, in support of its position:

Employers shall not be required to bargain over matters of inherent managerial policy. Those matters shall include but shall not be limited to, such areas of discretion or policy as the functions and programs of the employer, standards of services, its overall budget, utilization of technology, the organizational structure and selection and direction of personnel. Employers, however, shall be required to meet and discuss on policy matters affecting wages hours and terms and conditions of employment as well as the impact thereon upon request by employee representatives.

The Board also cites Article 5, Employee Rights, of the Agreement:

The Board reserves all rights and powers conferred upon it by the constitutions and laws of the Commonwealth of Pennsylvania and of the United States, except as limited by this Agreement.

In Article 22, Section E, of its presentation, the Board reviews the case law in Pennsylvania in the matter of management rights. The consensus is that the right to assign employees to specific jobs as needed is a basic managerial right. The Board also argues that there are times when there is a compelling need to place a strong, able teacher in certain classes or grade levels to bolster the performance of less able teachers or to improve student performance. The Federation essentially argues that in the District, teacher autonomy has been eroded over the years, leading to low morale and less effective education. Therefore, the Federation would retain the language in Article 51, Section 2.

The Board's argument in this matter is a strong one. Management's right to direct the workforce is basic, and it is memorialized in statute and widely in collective bargaining agreements. In this Agreement, however, the Management Rights clause is not a strong one in that it does not specify a right to direct the workforce and only refers to external statutes, generally, as protectors of managerial rights "except as limited by this Agreement."

It is absolutely essential in this time and place where student performance throughout the District is, to put it mildly, not inspiring that the Board have the flexibility to use its resources as it deems they can be most effective. The Board's essential resource, of course is its teachers; therefore, the ability of principals to assign teachers within the scope of their certification and expertise to the classes in their schools in which they are needed should be recognized.

I recommend that the language in Article 51, Teacher Scheduling, be changed as proposed by the Board. Moreover, the following provision should be added: "Such assignments, whether they are contrary to a teacher's original preference or not, should be made only to advance the educational mission."



#### IV. Health Care:

The Board proposes the following changes

CB Flex PPO Highmark and UPMC PPO

- PPO Offering with in-network deductible (\$250/500) will replace HMO/EPO and grandfathered PPO plans.
- Move Specialist office copay to \$30 from \$15
- Emergency Room copay to \$100 from \$50; access to Urgent Care and Telemedicine provides a much better cost structure and experience for the member
- Move Brand RX copay to \$10/\$30/\$50 from \$10/\$20/\$40
- Removed grandfathered status and therefore eliminate copays for preventative care.

Spousal Rule

- Currently covers 2,209 spouses throughout the entire population.
- Spouses that have full-time eligible benefits available at their employer create an unnecessary higher cost burden for the Pittsburgh Public Schools benefit plan; and, spouses could be receiving opt out credits from their employer and then incurring claims at the expense of the Pittsburgh Public Schools.
- Spousal surcharge of \$150/month.

Eliminate Post-Retirement Healthcare for new hires.

Provide for the parties to meet and discuss changes to the plan offerings and/or plan design should the District receive notice that the plan costs will trigger the Affordable Care Act's "Cadillac Tax/Excise Tax". In the event the parties do not reach an agreement to implement changes that would reduce the plan premium costs such that the tax could be avoided, then the premium contributions of the employees shall be increased to offset the amount of the tax incurred on the dollar-for-dollar basis. This additional contribution would be in addition to the premium contributions required by the contractual calculation and not limited thereby.

The Federation made the following proposal:

The Federation proposed no changes to this portion of the contract. The Federation is willing to make the counter-proposal as listed below.

The Federation is willing to move active employees (non-grandfathered) to 2 Health Care Options, effective January 1, 2018:

- 1.The Highmark CommunityBlueFlexPPO (as described in the **Federation Counter-Proposal**); or
- 2.The UPMC PPO (as described in the **Federation Counter-Proposal**).

The Federation is willing to add language regarding the Affordable Care Act's "Cadillac Tax/Excise Tax."

The Federation **is not willing** to move the grandfathered active employees and retirees from their plans.

The Federation **is not willing** to remove post-retirement healthcare from the contract for new employees.

Additionally, the Federation proposes that the District and the Federation work in partnership in the following areas:

- 1.Increasingg employee engagement in wellness initiatives, including preventative screenings and care, making healthy choices and finding assistance in working on eliminating negative influences on individual health care.
- 2.Increasing employee education on how to best utilize their healthcare plan through choosing the correct tier and portal for their healthcare.

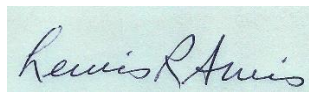
3. Engage vendors who help employers and employees analyze their data to direct education effort, negotiate better rates with providers, or direct employees to high-quality, cost-effective treatment pathways.

The Board's and the Federation's proposed plans are attached as Exhibits E and F. They are not far apart when describing benefit levels. It is not necessary here to explore the intricacies of the plans. Rather, the differences between the parties can be resolved in a straightforward manner:

I recommend the following in resolution of the healthcare issues.

1. The Federation's counter proposal moving active employees to either the CB Flex PPO or UPMC PPO should be implemented. This move should include all employees and retirees, grandfathered as well as non-grandfathered.
2. The parties are instructed to devise a plan to deal with the Cadillac plan excise tax under the ACA should the need arise. Any irresolvable differences should be taken to arbitration.
3. The parties should adopt the Office/Urgent Care/Emergency Room visits proposal offered by the Board, except the ER visits should remain at \$50 copay.
4. Brand RX copay should remain unchanged.
5. The parties are encouraged to continue to explore ways to improve employee health and reduce costs of health plans.
6. The Board's proposals regarding spousal coverage and post-retirement benefits should not be adopted at this time.

The above represents the full and complete findings and recommendations on those issues presented by the parties in this matter. Submitted on this 30<sup>th</sup> day of October 2017.

A handwritten signature in cursive script, reading "Lewis R. Amis", is displayed within a light blue rectangular box. The signature is written in dark ink and is centered horizontally within the box.

Lewis R. Amis  
Fact Finder

LRA/dpa















