

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA LABOR RELATIONS BOARD

IN THE MATTER OF

THE PENNS MANOR AREA EDUCATION
ASSOCIATION

and

THE PENNS MANOR AREA SCHOOL
DISTRICT

*
*
*
*
*
*
*
*

Case No. ACT 88-13-36-W

CORRECTED FACT FINDING REPORT

Michael D. McDowell, Esq., Fact Finder
Report Dated: July 8, 2013

APPEARANCES

For the Penns Manor Area School District:

Carl P. Beard, Esq.
Andrews & Beard
3366 Lynnwood Drive
Altoona, PA 16602

For the Penns Manor Area Educational Association:

Ms. Brooke E. Elliot
UniServ Representative
PA State Education Association
39 North 7th Street, Suite 300
Indiana, PA 15701

BACKGROUND

The Penns Manor Area School District ("District") employs 67.5 teachers who are members of the Penns Manor Area Educational Association ("Association").

The current Collective Bargaining Agreement ("Agreement") between the parties is effective August 24, 2008, through August 23, 2013.

By letter from the Secretary of the Pennsylvania Labor Relations Board ("Board") dated May 29, 2013, the undersigned was advised of his appointment pursuant to Act 88 of 1992 ("Act 88") and the Public Employe Relations Act (PERA), as Fact Finder in an impasse between the District and the Association.

In accordance with the Board's Order of May 29, 2013, the parties filed written statements of the issues in dispute with the Fact Finder. The parties raised issues at impasse involving the following provisions of the Collective Bargaining Agreement ("CBA"):

Article II: Duration

Article IV: Rights of Professional Employees, Section H: Evaluation and Writing Procedure

Article VI: Teacher Work Year, Hours and Conditions, Section A: School Year

Article VI: Teacher Work Year, Hours and Conditions, Section B: School Day

Article VI: Teacher Work Year, Hours and Conditions, Section C: Additional Hours

Article VI: Teacher Work Year, Hours and Conditions, Section D: Preparation Time

Article XI: Professional Compensation, Appendix A. Salary Schedules

Appendix B. Fringe Benefits - Section A: Hospitalization

Appendix B. Fringe Benefits - Section H: Voluntary Early Retirement Incentive

Appendix B. Fringe Benefits - Section I: Tuition Reimbursement

The Parties have been unable to reach agreement on the disputed issues. They have entered into a process whereby a third party will now review their respective positions on the disputed issues and recommend a result that, if the parties agree, would be incorporated into the CBA they would have otherwise forged through the collective bargaining process. A major difficulty in this case is that the parties are the bearers to this process of their initial proposals, there apparently having been little negotiation between the parties to this point, and the parties are widely apart in many of their positions.

On July 25, 2013, a Fact Finding Hearing was held at the Penns Manor Area School District, at which both parties were afforded a full opportunity to present testimony, question witnesses, introduce evidence and argue orally in support of their respective positions. Six members of the School Board, the District Superintendent and the District Business Manager were present for the District. Two members of the bargaining unit were present for the Association.

The issues are addressed in the same order as the relevant Articles appear in the current Agreement. To arrive at the recommendations in this Fact Finder Report, reliance was placed upon, among other things, the following considerations:

- The reliable and credible evidence presented at the Fact-Finding Hearing as well as the presentations of the parties;
- The current Agreement;
- Other labor agreements with the District;
- Comparisons of the unresolved issues relative to the employees in this bargaining unit and how those issues are addressed in other public and private settings where employees are doing comparable work, giving consideration to factors peculiar to the area and classifications involved;
- The interest and welfare of the taxpayer and the District to finance and administer the issues proposed;
- The understanding that each individual issue has been reviewed for its relative individual merit; at the same time, each individual issue has also been reviewed with consideration given to whether or not it appropriately fits into the Agreement created through this process;
- The lawful authority of this employer;
- Any stipulations of the parties.

The recommendations include overall considerations of the national economy; continually increasing health care costs and the further uncertainty of the impact on these costs by the recently enacted national health care legislation; what appears to be the inevitable increase in District payments to the Pennsylvania School Employee Retirement System ("PSERS"); and the potential moratorium on state aid for capital projects.

Although these reasons may not be specifically referenced in the individual Recommendations, the rationale for not recommending a proposal will include:

- The proposal was not sufficiently supported at the Fact Finding Hearing;
- The other party's argument against a proposal's inclusion was more compelling;
- The matters addressed by the proposal were not deemed appropriate to be recommended at this time, given the other recommendations in this Report for change in the expiring Agreement

The recommendations which follow constitute the settlement proposal upon which the Parties are now required to act, as directed by statute and Board regulations. Pursuant to statutory authority, this Report will be released to the public if not accepted. A vote to accept the Report does not constitute agreement with or endorsement of the rationales, but rather represents only an agreement to resolve the issues by adopting the recommendations. The Parties are directed to review the Report and, within ten (10) days of its issuance, notify the Board of their decision to accept or reject the recommendations.

DISCUSSION OF FINANCIAL ISSUES

The issues in this case are plainly impacted by the financial circumstances of the District. The parties' presentations differed. The District described a poor financial position and projections of a poor financial future which will represent a financial crisis for the District. The Association asserted that the District is not in any financial difficulty. Their positions are further outlined as follows:

District Position

The District presented a great deal of undisputed evidence concerning its current position. This information was supplemented by the presentation and projections of Dr. William T. Hartman, Professor of Education, Department of Education Policies Studies, Penn State University. This evidence is summarized as follows:

Wealth/Tax Base

Local revenues from property taxes comprise approximately 17% of the total District budget. Of the 50 top employers in Indiana County, operating in the District are only a Sheetz, Inc., facility and a Rosebud Mining Company facility, with only the Rosebud Mining Company facility appearing in the top ten largest District real property taxpayers - at #10. For the 2013–2014 year, the District approved a five (5) mill total real estate tax increase; 2.5 of those mills is going to the maximum of the Index and the other 2.5 mills is to address PSERS. The District only receives \$26,000.00 per mill collected. Since 2006–2007, the District has increased its millage rates by 25.46 mills. The Association does not dispute that the District clearly has made a taxing effort.

Other local revenue sources are primarily local earned income taxes, delinquent tax receipts and earnings on investments. These make up 8% of the total budget but they are not under District control and there is little expectation of growth in these areas in this economy.

PSERS

In 2010-2011, the PSERS contribution rate was 5.64% but it was raised to 8.65% in 2011-2012. The pension rates are scheduled to go to 12.36% in 2012-2013, with increases of 16.93% in 2013-2014, 21.31% in 2014-2015 and 25.8% in 2015-2016.

The District maintains that approximately 10 years ago when the District's PSERS share for the District was 2.0%, the Association argued that the decrease should be used to fund the Association's proposals. The District now argues that the mandated increase in the District's contribution should support the reverse, that is, the concessionary proposals by the District.

State Funding

The District's budget is largely dependent on state money, which provides approximately 70% of the District's funding. However, since 2010-2011, the District has taken cuts in major instructional subsidies in the total amount of \$1,440,340.00. The cuts are broken down as follows:

Basic Education Funding	\$820,225.00
Accountability Block Grants	\$363,746.00
Charter School Reimbursement	\$123,373.00
Other Public Education Programs	\$132,995.00

School Districts are unlikely to gain much additional funding from the state . The Governor's proposal for Basic Education Funding for the District is minimal, approximately \$65,000.00, or about \$70 per student.

School Enrollment

The District has experienced a 12% decline in student population over the last ten (10) years.

School Construction

The District points out that, as a result of Act 82, the Commonwealth of Pennsylvania and Department of Education placed a moratorium on reimbursement for state building projects. This moratorium is in effect from October 2, 2012, through June 30, 2013. During that period no new Part A applications will be accepted.

Special Education

Over the last 11 years (2003-2004 to 2011-2012) alone, the District has paid out \$1,668,532.00 more than it has received in revenue for special education.

Cyber School

In 2010-2011, the district expended approximately \$155,891.00 for cyber education. That amount increased to \$160,681.00 and 2011-2012; and to \$285,770.00 in 2012-2013. Since Governor Corbett took office, the District no longer gets reimbursed for this cost. The state subsidy to districts to offset a portion of their mandatory charter school tuition payments was eliminated in 2011-2012 and has not been restored. That means in 2011-2012 and 2012-2013, the amounts listed above came out of the District's funds.

Interest Earnings

In 2006-2007, a year before the effective date of the most recent Agreement between the parties, and prior to the recession, the District was earning approximately \$193,763.00 in interest. That revenue source declined to \$1,000.00 in 2012-2013. The district earns only .15% in its sweep account.

Cafeteria

The Cafeteria is now suffering a \$106,000.00 deficit. The District has regularly increased its charge for lunches and is also considering increasing breakfast and lunch costs by \$.10 per meal this year.

Health Care Costs

The District points out that the premium cost in 2006-2007 was \$1,582,300.00 and that it has increased to the point where, in 2013-2014, the premium cost is \$1,978,354.00. That is an increase of \$396,054.00. The annual costs of healthcare insurance and specific coverage areas are as follows:

	2001-2002	2006-2007	2012-2013	2013-2014
Individual	\$2,605.00	\$4,529.00	\$5,439.00	\$5,869.00
Parent, child(ren)	\$6,198.00	\$10,764.00	\$12,919.00	\$13,942.00
Husband/wife	\$7,028.00	\$12,215.00	\$14,666.00	\$15,827.00
Family	\$7,419.00	\$12,900.00	\$15,489.00	\$16,716.00

The District argues that its financial condition will no longer the District to absorb the costs for medical insurance on its own.

The District also notes that the recent Patient Protection and Affordable Health Care Act, commonly known as "Obamacare", placed additional burdens on the employer; in 2014 to 2016, an assessment of \$63 per member per year will be added to healthcare costs. Self-insured and self-funded plans will also have a one dollar cost (per employee) added to the plan in 2012-2013 and two dollar (per employee) cost for the period of 2013 through 2014. Plans that annually cost more than \$10,200.00 (single) or \$27,500.00 (family) are subject to a 40% excise tax on the amount of those costs. This "Cadillac" provision will come into play in 2018. Due to the possibility that the plan does indeed qualify as a "Cadillac" plan, the District claims it is absolutely imperative to address a change in the level of benefits within the plan.

The District maintains that, based upon information that has been prepared on the State and National levels, it is anticipated that healthcare costs will continue to escalate close to 10% per year. The District argues that it would be naïve to think that this is not a reality, particularly given the current state of the economy and all the other economic indicators.

The Kaiser/HERT Survey covering the period through 2012 shows that, for Pennsylvania employers, the amount of employee contributions in 2011 for single coverage was \$1,064.00, and \$2,425.00 per employee +1, and \$3,709.00 for family coverage. Thus, the request by the District to have employees in the bargaining unit contribute toward medical insurance is not out of line; in fact, employees in most school districts across the nation will contribute to the cost of the annual premium for medical insurance coverage as do individuals who pay taxes to the District.

The current plan of the Association provides for no in-network deductibles and no premium share. Significantly, an individual who is on a fixed income and currently receiving Medicare benefits contributes almost \$100.00-plus per month just for Medicare Plan B coverage. On any other additional coverage or the inclusion of prescription coverage for persons on Medicare, the cost is significantly higher, in the \$200.00-plus range per month. In July 1, 2009, the contribution rate toward healthcare plans for state employees rose to 1.5% of their salary for a basic healthcare plan.

The District pointed out that the PSEA in the Spring of 2012 published a White Paper entitled "Sounding the Alarm", and in June, 2013, published the additional White Paper entitled "Sounding the Alarm 2". These documents were in response to nearly \$860 million in cuts to school districts statewide in 2011-2012 and minimal increases since. It notes that "Pennsylvania Public Schools remain mired in their toughest fiscal crisis since the 1930s" and that "districts are being forced to make increasingly difficult decisions about how to meet the education needs of their students." It cites a statistical model created by John Trussel and Patricia Patrick recently published "in the refereed *Journal of Education Finance*" which cites, "[T]he compounding effects of other factors specific to

Pennsylvania school districts including payments to charter schools, pension costs, declining tax bases and rate limits, and state funding cuts are discussed." In addition, in 2011 and in response to potential spending cuts in state funding to districts, PSEA President Testerman called on school employees to consider a one-year pay freeze.

Dr. Hartman

Dr. Hartman presented information concerning what he termed "a different fiscal environment - the New Fiscal Reality" for school districts. Dr. Hartman provided projections using the 2011-2012 numbers as a baseline and projected forward for 2013-2014 through 2016-2017 using assumptions about how each of the components of the projections would change in the next few years. His result of the comparison of the parties' proposals is that the cumulative differences in the two proposals would contribute to the District having a projected negative fund balance exceeding \$1,000,000.00 in 2016-2017. As the District is not permitted to operate with a negative fund balance, the District must adjust spending and taxing plans to achieve a balanced budget and a positive fund balance.

Dr. Hartman's analysis concluded that there is very small possibility for revenue growth in the District; it would be solely from real estate taxes which constitute less than 20% of District funding. He points out that the District has sought substantial recent increases in its millage rate to raise additional revenue from that source. He also concluded that as salaries and health care benefits constitute 68% of the District's expenditures, those are the areas to look to for any necessary balancing reductions. He described a "budget share" concept which provided a mechanism for fair distribution of revenues and does not overly fund one area at the expense of another.

He notes that the Association characterizes the wage freeze it is offering in the first year of the agreement as creating a \$175,000.00 savings over a five year agreement. He disputes this assertion, noting that a wage freeze is not a savings and that the Association's attempts to characterize it as such proposes an invalid comparison to an imaginary number.

Association Position

The Association maintains that the District is not in any financial difficulty and has taken steps over the past few years to continue financial stability.

The Association asserts that the District has challenges but has retained good control over its finances. From 2008 to 2012 (the last year of actual data), the District has had more revenue than expenses in each year but 2011. With regard to expenditures, only in 2007 were expenditures more than income. In each year, the District budgeted losses but in only one year did expenses exceed revenues and typically the District will budget for losses, but on average has a \$442,000 difference. The appropriable fund balances (the committed, assigned and unassigned) in every instance are less than the actual and the appropriable fund balance is trending up. The Association states that what is a reasonable fund balance is now not clear given the changes. However, it maintains that the District is able to put away money to a degree and is not a District that is in distress. It notes that the District pays 42% to PSERS and the rest is reimbursed by the state. It acknowledges that household taxes account for 17.2% of total revenue which is manipulatable and not by a great deal as the District has made strides to maximize that aspect. The Association wanted to point out that the District is not primarily funded by the local taxpayer.

The Association also points out that the District has reduced the teaching staff by 11 teachers and has not replaced several support professionals who have retired in the last few years. In addition, the Association maintains that the District has received additional retirement notices from five support staff and ten teachers for the 2012-2013 school year. The Association also states that the one year pay freeze that it proposes will reduce payroll costs to the District by at least \$35,000.00 based on a 3.5% increase foregone in one year. The Association maintains that the savings will be \$175,000.00 over the life of a five-year Agreement. The Association points out that the aid ratio is fourth among seven surrounding districts. It is below average but not an outlier within the county as well.

The Association states that it is compassionate to the difficulties that have been forced on Districts and employees by the recent budget cuts. The Association states that it understands that in difficult times, difficult decisions must be made, but those also must be decisions that are financially sound, as well as fair and equitable. The Association believes that making those who make the least sacrifice the most is neither financially sound nor fair and equitable.

Conclusion

While recognizing that a portion of the positions of the parties must rely on projections that may change, on the state of this record the District is more persuasive in its overall argument that the District is a poor school district and one which has been heavily impacted financially by outside circumstances despite its tax efforts. The facts presented do not support the Association argument that the District "is not in any financial difficulty". The bargaining unit members were the beneficiaries of a five-year labor agreement with

generous wage increases and health care provisions which became effective prior to the significant economic and fiscal turmoil which resulted in the precarious financial position of the District today. Significant changes appear warranted to address what appears to be a "new reality" in school district financing and certain of the District's proposals will be recommended as proposed or modified to address the same. Recommendations in this report include the deletion of the Voluntary Early Retirement Incentive and significant concessions in health care. With regard to health care costs, it is noted that the employees currently have no in-network deductibles and do not pay a premium share. The following recommendations would require employees to bear some of their health care costs.

DISCUSSION AND RECOMMENDATIONS

Article II: Duration

Association Proposal: The Association proposes a six year agreement with a term running from August 24, 2013, through August 23, 2019. It is the Association's belief that a six year agreement would be beneficial for both parties because it would allow the parties stability for the next six school years. The Association acknowledges that "given the financial difficulty that schools in Pennsylvania are currently facing, the Association is agreeable to a shorter (four or five year) term." The Association cites the seven other school district collective bargaining agreements in Indiana County having durations of three years (one district), four years (four school districts), five and six years (one school district each). The current Agreement for this bargaining unit is a five (5) year agreement which will expire on August 23, 2013.

District Proposal: The District proposes a three year agreement with a term running from August 24, 2013, through August 23, 2016. The District cites the financial and economic condition of the District at this point and the fact that over the last five years the District was bound by the lengthy current Agreement from being in a negotiating position to address emerging issues raised by health care, the economy, the availability of state funds, contribution requirements, and the financial condition of the District. The District asserts that these concerns militate toward a shorter than normal agreement and that the same will give the parties some flexibility to deal with changing conditions.

Recommendation: It is recommended that the duration of this agreement be for three years. What has occurred over the last five years from an economic and financial standpoint, including the diminishment of state funding, increased contribution requirements for PSERS and Charter schools, as well as the current economic uncertainty, are persuasive for the District's position. It is recommended that the language of Article XX, Duration, Section 1 be modified to read as follows:

Section 1. Pursuant to the requirements of Act 195, this agreement shall be binding upon the parties hereto, their successors and assigns, from August 24, 2013, to and including August 23, 2016, and thereafter, except that either party may notify the other by certified mail of its desire to modify or terminate this agreement. This agreement shall cover the school terms of 2013-2014, 2014-2015, and 2015-2016.

Article IV: Rights of Professional Employees, Section H: Evaluation and Writing Procedure

District Proposal: The District is proposing the deletion of Section H. The District maintains that both parties are aware of Act 82 of 2012 which has provided for extensive changes and has outlined new rating procedures. Act 82 has also provided that language in collective bargaining agreements can not conflict with the new rating procedures.

Association Proposal: The Association seeks a modification of paragraph 4 of Section H as follows:
No employee shall be required to sign a blank or incomplete evaluation form. An employee has the right to respond in writing to any item in his personnel file. The District shall have the responsibility for administration of the evaluation system. Constant daily work habits will be considered in the rating, where possible.

The Association acknowledges that the Pennsylvania Department of Education is modifying the evaluation system. Nothing in the modified language above is contrary to what is allowed under the PDE. Rather, it provides professional employees with certain rights in the administration and response to the process. This modification is more proper than the total elimination of the provision if the District is seeking to conform to the new evaluation system. The Association did not describe its reasoning for its proposed changes to paragraph 4.

Recommendation: It is recommended that the current language of Article IV, Section H be maintained.

Article VI: Teacher Work Year, Hours and Conditions, Section A: School Year

District Proposal: The District proposes to amend Section A to increase the normal school year by two days from 185 days to 187 days by increasing the in-service days from two days to four days. The District argues that the purpose of these days would be for the review of student assessment results, evaluation of student data and the additional time needed for professional development

pertaining to curriculum development and review. These days would be scheduled at the discretion of the District. Section A would read as follows:

Section A: School Work year. The normal school year is defined herein as one hundred eighty-seven (187) days which shall include:

1. Two (2) consecutive in-service days on the first workdays prior to the first day of attendance for students.
2. One (1) in-service day scheduled on the last workday prior to the students' last day of attendance. If, however, student report cards are mailed out by the District, this day may be scheduled the following workday after the last day of student attendance.
3. Four (4) in-service days scheduled between 1 and 2 above at the discretion of the District.

Association Proposal: The Association argues that the current contract language should not be changed. The Association argues that teachers are often left without structured activities on the two in-service days already provided for in the Agreement and the District should use those days to accomplish its goals. It also represents that none of the school districts in the county works more than one hundred eighty five days (185) and none have more than five in-service days (three have 185 work days and 5 in-service days, two have 184 work days and 4 in-service days, one has 183 work days and 3 in-service days, one is listed with 185 work days with no in-service days, and one is listed with 185 work days and "flex" in-service days).

Recommendation: It is recommended that the current language of Article VI, Section A be maintained.

Article VI: Teacher Work Year, Hours and Conditions, Section B: School Day

District Proposal: The District proposes to increase the normal day from 7 hours, 35 minutes to 8 hours. The District maintains that this would provide additional instructional time in both buildings. It would also provide more flexibility and options in the student schedule and would allow for additional scheduled remediation periods for students.

Association Proposal: The Association argues that the current contract language should not be changed. The Association notes that the District seeks to add twenty-five extra minutes to each working day, as well as expanding the start and quit time by fifteen minutes - without additional compensation being offered. In the course of the one hundred eighty five day school year, this is a total of seventy-seven (77) additional non-compensated hours. The Association states that the current language is in line with other school districts in the county (one district with 8 hours; two districts with 7 hours, 45 minutes; one district with 7 hours, 40 minutes; one district with 7 hours, 35 minutes; and three districts with 7 hours, 30 minutes).

Recommendation: It is recommended that the District proposal be accepted and that the language of Article VI, Section B be modified as follows:

Section B: School Day: A normal work day shall not exceed eight (8) hours consecutively, including a thirty (30) minute duty-free lunch each day. The workday, with respect to starting and quitting time, is defined herein as follows: Starting time to be no earlier than 7:15 a.m. and quitting time not later than 4:00 p.m. All employees are entitled to a scheduled thirty (30) minute lunch period free of supervisory or other duties. Employees may leave their respective buildings during such period provided they record the time of their departure and their return with the principal or their designee.

It is recommended that the language of the fifth paragraph of the existing Article VI, Section D be modified as follows:

The length of the workday shall remain eight (8) hours.

Article VI: Teacher Work Year, Hours and Conditions, Section C: Additional Hours

District Proposal: The District proposes to increase the number of additional hours in the Agreement from three to six per year. The District argues that this would allow District Administration to meet more regularly with staff to address student and educational concerns. The District's proposed revised language as follows:

Section C: Additional Hours. Nine (9) hours per year without additional compensation will be made available after the close of the normal school day for purposes of departmental meetings or faculty meetings.

Association Proposal: The Association argues that the current contract language should not be changed. The Association asserts that this has not been a problem in the District and that there is no real need to increase this uncompensated time.

Recommendation: It is recommended that the current language of Article VI, Section C be maintained.

Article VI: Teacher Work Year, Hours and Conditions, Section D: Preparation Time

District Proposal: The District proposes to eliminate an additional 60 minutes of preparation per week. The District's proposed revised language as follows:

Section D: Preparation Time. The employer shall guarantee each employee a minimum of two hundred (200) minutes of preparation time per week. The daily preparation period shall be equal to the length of the teaching period in each building.

The District also seeks to delete the following sentence from Section D: "The length of the work day shall remain seven (7) hours and thirty-five (35) minutes." This is in line with the District's proposal in Section B and its rationale is to add additional instructional time in each building with the goal of improving scores on State Assessments, and providing time for remediation.

Association Proposal: The Association argues that the current contract language, which gives teachers two hundred and sixty minutes of preparation time per week should not be changed. The District is seeking to reduce the overall preparation time allotted to a teacher by one hour, or 23%, per week. The Association asserts that if the District proposal is put into effect, the teachers won't have the necessary time to adequately prepare for their lessons which will impact the quality of education delivered to the students.

Recommendation: It is recommended that the current language of Article VI, Section D be maintained.

Article XI: Professional Compensation - Appendix A. Salary Schedules

District Proposal: The District has proposed wage freezes for the next two years and also a wage freeze in year three with a \$400.00 bonus. The District also proposes the establishment of a two tier salary schedule with no reduction for current professionals but changes for teachers hired in the future. The proposal is more fully outlined by the District as follows:

Year 1: The District is not proposing an increase in the first year of the Agreement. It is proposed that bargaining unit members on Step 7 or higher shall be compensated the same salary in 2013-2014 as they received in 2012-2013. For those currently at Step 6 and below, they shall be placed on a different schedule beginning in 2013-2014.

Year 2: It is proposed that bargaining unit members on Step 7 or higher in 2012-2013 shall be compensated the same in 2014-2015 as they received in 2012-2013. Individuals who were placed on the new schedule shall move to the next step on the proposed schedule for 2014-2015.

Year 3: It is proposed that bargaining unit members on Step 7 or higher in 2012-2013 shall be compensated the same in 2015-2016 as they received in 2012-2013. Individuals who were placed on the new schedule shall move to the next step on the proposed schedule for 2015-2016.

The District proposes a payment of \$400 in 2015-2016 for all bargaining unit members. The District also notes that under its proposal, horizontal movement is predicated upon graduate credits only.

The District supports its proposal for this freeze for three years with the proposal of a \$400.00 bonus in year three and this two tiered schedule with its presentation more fully supported in the Discussion on Financial Issues above, underscoring that its ability to raise funding is severely limited.

The District also points out with respect to the Association's comparables, no information was presented that the other comparables provided by the Association are similarly situated.

Further, the District argues that the comparables show that of the 8 school districts in the county, for 2012-2013 Bachelor Degree Salary Step 1, the District's salary of \$51,052.00 is surpassed only by Indiana Area at \$59,534.00 and Homer Center at \$54,149.00. Blairsville Saltsburg is at \$48,840.00, Purchase Line is at \$47,239.00, ICTC is at \$46,482.00, Marion Center is at \$40,761.00, and United is at \$40,000.00.¹ For 2012-2013 Bachelor Degree Salary final step, the District's salary at \$72,947.00 is the second highest in the county, following only Indiana Area at \$77,769.00. Following the District are United \$72,676.00, Homer Center at \$69,039.00, Blairsville Saltsburg at \$68,461.00, ICTC at \$68,252.00, Marion Center at \$66,883.00, and Purchase Line at \$50,739.00.

¹ Step 2 at United is at \$56,572.

For 2012-2013 Masters Degree Salary Step 1, the District's salary of \$54,580.00 is surpassed only by Indiana Area at \$61,934.00 and Homer Center at \$56,644.00. Blairsville Saltsburg is at \$50,290.00, Purchase Line is at \$49,614.00, ICTC is at \$48,457.00, Marion Center is at \$41,961.00, and United is at \$41,000.00.² For 2012-2013 Masters Degree Salary final step, the District's salary at \$75,374.00 is the second highest in the county, following only Indiana Area at \$80,169.00. Following the District are United \$73,676.00, Homer Center at \$70,739.00, ICTC at \$70,227.00, Blairsville Saltsburg at \$70,081.00, Purchase Line at \$68,824.00, and Marion Center at \$68,283.00.

The District concludes that, bottom line, the District's teachers are well paid when compared to the other districts in the county.

Further, the District argues that as to the Association's evidence relating to increases in four other county school districts, the first year of those contracts was with 2009-2010 and will end in the 2013-2014 school year in the case of Blairsville Saltsburg. With Homer-Center, ICTC and Marion Center, the contract began in 2010-2011 and ends with 2013-2014. The average wage increase in those contracts were 3.023%, 1.75%, 2.675% and 2.84% for Blairsville Saltsburg, Homer-Center, ICTC and Marion Center respectively. By contrast, the average increase for the Association's current Agreement with the District is 4.15%, substantially exceeding the increases for the other comparable districts.

With respect to the two tier portion of this proposal, the District notes that PSERS has essentially established a two tier system with a second tier for those teachers who will come into the system in the future.

Association Proposal: The Association's initial proposal included salary increases of 4.6% in each year of the Agreement. The Association offered to develop the salary schedules and the annual increases which would be applicable to all salary figures in the Agreement.

The Association states that its initial wage proposal which is bring presented to the Fact Finder was to be its starting point for negotiations. For the current agreement, the bargaining unit received 4% increases in each of the first two years of the current Agreement and 4.25% increases in each of the last three years of the current Agreement. The Association states that it understands the current financial climate in the state and as such, is simply requesting raises similar to other professionals who are working in the county and negotiating in this same climate.

The Association states that its position is simple - the District is not in a unique situation. It hasn't received cuts any greater than those of other districts in the county. It references Blairsville Saltsburg's 6 year agreement beginning in 2009-2010, with an average 3.024% wage increase; Homer-Center's 4 year agreement beginning in 2010-2011 with an average 1.75% wage increase; ICTC's 4 year agreement beginning in 2010-2011, with an average 2.6% wage increase; and Marion Center's 4 year agreement beginning in 2010-2011 with an average 2.84% wage increase.

The Association points to the District administration receiving at least 2% increases each year, and although the Superintendent's salary is frozen, the Association asserts that he received increases totaling over \$25,000 from 2006 to 2010.

The Association also points out that, to date, none of the six surrounding counties has created two salary schedules, nor have they reduced starting salaries.

The Association states that the District will also realize significant additional savings from ten (10) teacher retirements during the first year of the new Agreement. It notes that under the 2012-2013 salary schedule, there is a difference of almost \$25,000.00 between the Master's maximum salary of \$75,372 and the Bachelor's degree starting salary of \$51,053.00. The Association maintains that if all ten retirements are filled in the first year of the new Agreement, the payroll deduction would be at least \$250,000.00. The Association also states that the District reduced the overall teaching staff by seven in 2010-2011, and an additional five retirements last school year were not replaced. The Association states that this equates to a payroll deduction for those two years of approximately \$1,000,000.00.

Recommendation: The use of comparables for wage increases in the other districts in the county is not a persuasive argument to support significant increases in the District pay, particularly in light of the 4.25% annual increases currently in place in the District, which are the highest in the county. It is recommended that there be a freeze in year one and 1% increase in wages each of the two remaining year of the new Agreement - that is, a wage freeze in 2013-2014, a 1% increase in 2014-2015, and a 1% increase in 2015-2016. Also, given the early stages of the negotiations on this Agreement, the two tier proposal of the District is not recommended. The appropriate schedules are attached.

² Step 2 at United is at \$57,570.

Article XI: Professional Compensation - Appendix B. Fringe Benefits - Section A: Hospitalization

The District has made several health care proposals with regard to Appendix B. They will be addressed separately.

Health Care Proposal One

District's Proposal: The District seeks new language with regard to employee health care premium contributions. It also wishes to have the right to select another health care provider so long as "comparable" coverage and benefits are provided rather than "equal or better" coverage and benefits as currently required by the Agreement. The District's argument is cost based and is further outlined in the Discussion on Financial Issues, above. It also cites uncertainty in the health care coverage area as to the comparison of available plans.

Association Proposal: The Association has not proposed any modifications in what it terms its initial proposal but states that it is willing to modify the plan as other school districts in the county have done as part of its total compensation package. The Association provided summaries of insurance coverage for recent settlements in Indiana County. It points out that no school district in the county has both an in-network deductible and a premium payment.

Recommendation: The District's proposal is recommended. It is recommended that the first paragraph of Appendix "B", Section A be modified to read as follows.

Section A: Hospitalization. The Employer will provide each employee with a PPO Blue Medical plan for employee, spouse, and dependent coverage. Employees electing medical insurance coverage shall contribute toward the cost of the premium, via payroll deduction, five percent (5%) of the premium in the first year of this agreement and (6%) in each of the second and third years of this Agreement.

The District reserves the right to select another provider. The Penns Manor Education Association reserves the right to have the proposed provider's plan analyzed and evaluated by a neutral third party, selected by the District, to ensure comparable coverage and benefits before the new proposed plan is implemented. The proposed healthcare plan shall provide comparable benefits to the current plan and shall have the comparable degree of availability of services within the geographic area. If the neutral third party determines the proposed plan does not, in fact, provide comparable coverage to the current plan in the collective bargaining agreement, the healthcare provider will not be changed.

Health Care Proposal Two:

District Proposal: The District seeks to modify the deductibles and co-payments, and substitute a qualifying event for the 30-day notice period to re-enter the District health care program. The District's argument is cost-based and is further outlined in the Discussion on Financial Issues, above.

Association Proposal: The Association has not proposed any modifications in what it terms its initial proposal. The Association states that it did not include any modifications to the current healthcare plan, and it is willing to modify the plan as other school districts in the county have done, as part of its total compensation package. The Association provided summaries of insurance coverage for recent settlements in Indiana County. It points out that no school district in the county has both an in-network deductible and a premium payment.

Recommendation: It is recommended that the District's proposal be adopted and that Appendix "B", Sections 1 and 2 be modified as follows:

1. *The PPO Blue medical plan will provide a \$500 individual/\$1000 family aggregate in-network deductible and a \$1000 individual/\$2000 family aggregate out-of-network deductible effective July 1, 2013.*

Beginning July 1, 2013, the co-payment for physician office visits shall be Twenty dollars (\$20.00) per visit. Beginning with the 2013-2014 school year, the co-payment for emergency room visits will be one Hundred Dollars (\$100.00) per visit. The copayment for generic prescriptions drugs will be Five Dollars (\$5.00) and a Twenty Dollar (\$20.00) co-payment for brand name prescription drugs (30 day supply). A mail order program with two times the co-payment and ninety (90) day supply will be added. A calendar year deductible of \$100 per person/per calendar year on prescriptions shall begin on July 1, 2013

2. *Any member of the bargaining unit who elects not to participate in the District's health insurance program shall receive annually a sum of One Thousand (\$1,000.00) Dollars. Said employee shall be entitled to re-enter the District's health*

insurance program at any time, regardless of health, based upon a qualifying event. Payment shall be made in twenty-six (26) equal payments, included with the employee's paycheck.

This provision shall be in accordance with the provisions of Section 125 of the Internal Revenue Code.

Health Care Proposal Three:

District Proposal: The District proposes to add a new language to the Agreement which would limit the circumstances under which it would make coverage available to employed spouses of District employees who have health care coverage available through their employer. The District's argument is cost based and is further outlined in the Discussion on Financial Issues, above. At the Fact Finding hearing regarding the District Professional Support employees held on June 20, 2013, the District stated that it may be willing to restrict this provision to those spouses who are employed by a federal, state or local government entity, and it is assumed that the District has the same position here. The District did not know how many employees' spouses this would impact but stated that for each such employed spouse, the savings would be in the area of \$7,000.00 plus utilization.

Association Proposal: The Association argues that no school district in the county had so restricted coverage to employee spouses. It maintains that the District's proposal does not take into account the level of coverage or cost to the employee's spouse that the healthcare coverage may represent. The argument that the District has made to the Association for this addition has been one of principle as they cannot determine which of the employees this would affect, and have no way of determining what the cost savings may be if this language is added. The Association maintains that the cost of insuring an individual by the district was just under \$5,900.00 for the last school year. The cost for the District to ensure a husband and wife for the same period was about \$15,800.00. Consequently if an employee's spouse had coverage available to them, but they wanted to continue on the District's healthcare, the employee would have to pay \$5,000.00 per year for that coverage. For many employees, this would equate to almost 25% of their earnings annually. In addition, most of the members of the Association whose spouses work and have benefits available to them will be forced to take subpar insurance or pay a large portion of their income to maintain adequate benefits. Further, no other employee in the District has a restriction like this placed on their spousal eligibility for healthcare coverage. The Association also maintains that the addition of this provision could be devastating to the financial well-being of the members of the Association who accepted their positions with fully-paid health care for their family as part of their compensation package. Eliminating coverage for spouses would unfairly alter the terms of their employment and negatively affect their overall financial well-being.

Recommendation: It is recommended that the District's proposed new language concerning limiting coverage of spouses who have coverage with other employers not be adopted. As pointed out by the Association, the District has not quantified the cost savings that would be available if this provision were implemented.

Health Care Proposal Four:

District Proposal: The District seeks to limit health care for new hires to individual coverage, with the employee being responsible for paying fifty (50%) of the premium for any additional persons' coverage. The District's argument is cost based and is further outlined in the Discussion on Financial Issues, above. The District maintains that it needs to do whatever is possible to address its fiscal crisis. It represents that fact finders have come to the realization that new hires cannot continue to receive the same level of benefits as existing employees. It cites recent collective bargaining agreements at Williamsburg Community School District and Washington School District, each of which provides for only individual coverage for new hires.

Association Proposal: The Association has not proposed any modifications in what it terms its initial proposal. The Association states that it did not include any modifications to the current healthcare plan, and it is willing to modify the plan as other school districts in the county have done, as part of its total compensation package. The Association provided summaries of insurance coverage for recent settlements in Indiana County. The Association points out that no district has reduced coverage to employees only for new hires.

Recommendation: It is recommended that the District's proposal be accepted and that the following language be added to Appendix "B", Section A:

For any employees hired on or after July 1, 2013, the District shall provide individual health insurance with the same copays and premium share copayments as outlined above. If the employee elects different coverage beyond individual, the employee shall be responsible for paying fifty percent (50%) of the premium for the other elected coverage.

Health Care Proposal Five:

District Proposal: The District maintains that the health care provided by this Agreement is a top of the line "Cadillac" plan that, if not altered in some substantial way, will fall victim to the provisions of Obamacare and ultimately cause penalty provisions of

that legislation to be imposed on the District in 2018-2019. As the health care provisions of the Agreement are the product of collective bargaining between the parties, the District argues that it should not bear this alone. It proposes the following language:

It is agreed between the parties that during the term of the contract, federal legislation has the authority to impose taxes and monetary assessments to employers for health care plans that do not meet the cost index for group employer health care plans as set forth under the health care reform legislation. The parties agree to modification of plan provisions during the term of the contract to ensure that the district's health care plan provided to the Association's members are maintained within the cost index thus limiting any imposed tax, penalty or consequence as set forth under the federal legislation. It is further agreed, if the district's health insurance plan provided hereunder contains terms or has costs which would trigger additional cost or other consequences as referenced above, the Association will agree to (1) timely (so as to avoid taxes, penalties or other consequences as aforesaid) plan modifications necessary to keep the plan terms and costs under applicable index; (2) pay by pro rata deduction from employee's pay, the cost to the District of any taxes, penalties or other consequences, or (3) a combination of both (1) and (2) to ensure cost remains below the cost index as set forth under the federal health care reform legislation.

Association Proposal: The Association notes that the District's proposal is for a three year agreement and, if accepted, these provisions of the Affordable Care Act addressing Cadillac plans will not be effective during the life of the Agreement and may or may not exist in 2018. The Association maintains that the provision is not relevant at this time and not appropriate for inclusion in the Agreement.

Recommendation: As it is recommended that this Agreement be for a three year term ending on August 23, 2016, it appears that the provisions of Obamacare addressing Cadillac plans will not be effective until after the expiration of the Agreement and these concerns can be more appropriately addressed in those negotiations.

Appendix B. Fringe Benefits - Section H: Voluntary Early Retirement Incentive

District's Proposal: The District proposes deleting Section H of Appendix B from the Agreement, as the cost for the same is becoming prohibitive. The District's argument is cost based and is further outlined in the Discussion on Financial Issues, above. In addition and in particular with respect to the health care costs, the Voluntary Early Retirement Incentive provides that an employee can retire at 55 after 25 years of service with have employer-paid health care until he or she reaches 65 or is eligible for Medicare, whichever is later, and can purchase spousal and/or dependent coverage for up to four years. Payment of the premium may be made with blocks of 30 unused sick days, or \$1,800. Employees receive a monthly stipend ranging from 12-36 months pay? depending on their age at retirement. This provision was implemented in 1993, and single coverage in 1996-1997 when PPO Select Blue started coverage was approximately \$1,560.48 for an individual, \$4,201.92 for a family. The cost has soared to \$5,869.80 for an individual and \$15,827.64 for a husband and wife. The District maintains that it has an accrued liability under the existing retirement incentive of approximately \$1.5 million. The District maintains that it simply can no longer afford to pay exceptionally high salaries and absorb 100% of the health care costs in a non-wealthy area, and give retiring employees retirement incentives worth anywhere between \$146,000.00 to \$165,000.00 per retiree.

Association Proposal: The Association has not proposed any modification of the Voluntary Early Retirement Incentive. The Association states that the difference between the starting salary of a new teacher and the salary of a senior teacher is about \$25,000.00. This difference more than covers the cost to insure the employee and any payment they receive under the Voluntary Early Retirement Incentive. The Association maintains that if the District eliminates the provision, most teachers will continue to work until they are eligible to receive Medicare and the District will not see any savings during those years current teachers are eligible to retire under the Voluntary Early Retirement Incentive.

Recommendation: It is recommended that the District's proposal be accepted and that Section H of Appendix B be deleted from the Agreement.

Appendix B. Fringe Benefits - Section I: Tuition Reimbursement

District's Proposal: The District proposes to revise Section I to reduce the maximum number of credits to be reimbursed each year, require that the courses taken relate to the teacher's current teaching assignment, and limit on-line courses. It would add provisions requiring reimbursement to the District of all or part of the cost of the credits if the teacher leaves the District within certain time frames. The District proposal would also provide for partial payments for credits based upon the number of credits obtained from accredited colleges and universities, and that final approval for credits will be the prerogative of the School Board. The District's proposed language is as follows:

All employees covered by this agreement shall be reimbursed at a percentage of the cost per credit at Indiana University of Pennsylvania as outlined below for a maximum of twelve (12) graduate credits per year. Prior approval shall be considered if the courses meet any of the following criteria:

1. Courses in a Master's degree program in an educationally related field related to the teacher's current teaching assignment.
2. Courses to be applied to a second certification.
3. Courses in a field related to employee's present certification.
4. Graduate courses that would enhance the effectiveness of the employee in his/her current assignment.
5. Undergraduate courses that would enhance the effectiveness of the employee in his/her current assignment.
6. Courses in a Doctorate program related to a current certificate or teaching assignment.

Employees must achieve a minimum grade of "B" in order to qualify for reimbursement. Employees shall submit proof of successful completion of all courses prior to reimbursement.

No more than three (3) online credits may be taken per year.

The employee must stay with the District for one (1) year four (4) years following reimbursement for tuition, or the employee will be obligated to repay the District the tuition reimbursement for that school year as follows.

1. An employee who leaves the district within two (2) years of attaining credits, for which the District reimbursed, shall owe the District 100% of the amount of reimbursement.
2. An employee who leaves the district within three (3) years of attaining credits, for which the District reimbursed, shall owe the District 75% of the amount of reimbursement.
3. An employee who leaves the district within four (4) years of attaining credits, for which the District reimbursed, shall owe the District 50% of the amount of reimbursement.

Payment for Credits. Payment of 75% of actual cost of credits for the first 24 post-baccalaureate graduate credits earned. The employee will pay 25% of the actual cost for tuition for credits earned and other costs. Proof of payment must be submitted to the Superintendent's Office or a request for payment may not be honored.

For credit payment beyond the 24 level, the District will reimburse fifty percent (50%) for credits earned in the field of education or an area of certification. Said credits will be accepted only from fully accredited colleges and universities as listed by the Department of Education, Division of Teacher Certification, or four-year institutions accredited by the Association of American Universities and/or for the six Regional Associations or the National Council for Accreditation of Teacher Education from the U.S. Office of Education.

Credits will be defined as:

1. Graduate courses leading to or applicable to a higher degree, with emphasis in the field of expertise in which the professional is teaching.
2. Credits that must be taken to obtain certification so that the professional may teach another subject other than that specified on his/her certificate, but demanded because of administrative scheduling, or college courses in his/her teaching field or applicable to his/her techniques.

Final approval for credits taken will be the prerogative of the School Board.

The District states that the District currently pays 100% of the tuition reimbursement. It states that there are few, if any, restrictions on the earning of credits. The District notes that its cost for tuition reimbursement from 2007-2008 through 2012-2013 totaled \$236,434.55. It also notes that it is evidenced from the salary schedules in the Agreement that the District has one of the most expensive salary schedules in the region and in only 14 years a teacher can reach the top. The District notes that the cost of a credit at Indiana University of Pennsylvania is \$429.00. It notes that under the current provision the employee can request reimbursements of 18 credits at that amount totaling \$7,722.00 in any one year. The District believes that, with the costs associated with the salary schedule, it should not contribute 100% of the educational costs. It also notes that the current language is extremely loose with regard to the securing of required courses and/or credits. The District's argument is cost based and is further outlined in the Discussion on Financial Issues, above.

Association Proposal: the Association has not proposed a modification to this provision. The Association states that the District is seeking to modify the tuition reimbursement language to be more restrictive as to which classes can be taken and how much the teacher will be reimbursed, while increasing the amount of time the teacher must stay in the district to repay the reimbursement. The Association maintains that the current climate in education is requiring teachers to be more versatile to maintain their current

position. It states that often, teachers must obtain additional certification to avoid being furloughed. By reducing the payment and course offerings available to teachers, this would have a negative effect on their ability to increase their skill set and maintain their teaching position. The Association further points out that the District has made it clear that making AYP is an important goal. It maintains that allowing teachers to increase their education will further this District-wide goal and improve the overall quality of education delivered to students in the District.

Recommendation: It is recommended that the current language of Appendix B. Fringe Benefits - Section I be maintained.

Appendixes C & D. Extracurricular and Athletic Salaries

Association Proposal: The Association proposes to increase Extracurricular and Athletic salaries in the same percentage as the salaries for each year of the Agreement and relies on the past practice of the parties in support of the proposal. The Association has also proposed the inclusion of the Assistant Musical Director and Strength and Conditioning Coach into the Agreement. The Association asserts that this is merely a "housekeeping" matter as far as the Association is concerned. It asserts that prior to the start of each school year, the parties enter into a Memorandum of Agreement for these positions. The addition is simply one to eliminate the need for the annual Memorandum.

District's Proposal: The District proposes that Extracurricular and Athletic salaries shall remain at the current 2012-2013 rate for the term of the Agreement. The District does not oppose adding the two positions with salaries as follows: Assistant Musical Director - \$2,662.55 and Strength and Conditioning Coach - \$2,179.89.

Recommendation: It is recommended that the Association proposal be accepted. It is recommended that the Extracurricular and Athletic salaries be subject to a wage freeze in 2013-2014, a 1% increase in 2014-2015, and a 1% increase in 2015-2016. It is further recommended that the salary of the Assistant Musical Director be set at \$2,662.55 and Strength and Conditioning Coach be set at \$2,179.89 for the first year of the Agreement, and be subject to a to a wage freeze in the first year of the Agreement, a 1% increase in 2014-2015, and a 1% increase in 2015-2016.

This concludes the Corrected Report of the Fact Finder.

Respectfully submitted,

Pittsburgh, PA
July 8, 2013

Michael D. McDowell, Esq.
Fact Finder

CERTIFICATE OF SERVICE

This is to certify that, pursuant to the parties' agreement, .pdf and Word format electronic copies of the foregoing Corrected Report of the Fact Finder was emailed this 11th day of July, 2013, to the Pennsylvania Labor Relations Board at plrb@dli.state.pa.us; and emailed to Ms. Brooke E. Elliott, UniServ Representative for the Association at belliott@psea.org; and emailed to Carl Beard, Esq., attorney for the District at cbeard@andrewsbeard.com.

Michael D. McDowell, Esq.
Fact Finder