

**STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD**

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**IN THE MATTER OF THE FACT-FINDING BETWEEN  
PARAPROFESSIONAL UNIT OF THE ROUNDOUT  
VALLEY FEDERATION,**

**-And-**

**PERB Case No M2009-278  
Before: John T. Trela  
Fact Finder**

**ROUNDOUT VALLEY CENTRAL SCHOOL  
DISTRICT.**

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**APPEARANCES**

a. For the District:

Michael K. Lambert, Esq.

b. For the Association

Jeffrey R. Benton, L.R.S. - NYSUT

**BACKGROUND**

The Roundout Valley Central School District (“District”) and the Paraprofessional Unit of the Roundout Valley Federation (Federation” or “Union”) are parties to a Collective Bargaining Agreement (“CBA” or “agreement”) dated July 1, 2003 through June 30, 2008. Negotiations for a successor to the agreement currently in place commenced on November 19, 2008. With no agreement being reached, an impasse was declared with the District filing impasse papers with PERB dated December 28, 2009.

Accordingly, PERB assigned a mediator who met with the parties on two formal occasions and engaged in many additional communications in an effort to bring the parties to an agreement. After no agreement was reached the parties requested the appointment of a fact finder.

Thereafter, the undersigned was appointed as fact finder pursuant to the provisions of Section 209 of the New York State *Civil Service Law* by correspondence dated January 14, 2011. Subsequently, a meeting was held on March 16, 2011 to gather information and discuss relevant issues. It was determined that in lieu of a formal hearing, the parties would submit arguments, and supporting data in the form of written briefs which were received on May 13, 2011 when the record was closed.

### **District Profile**

The District is located in Central Ulster County, contiguous to the Kingston School District, the New Paltz Central School District, the Ellenville Central School District, the Tri-Valley Central School District, and the Onteora Central School District. The District consists of one high school, one middle school, and three elementary schools with an approximate area of 152 square miles. The student population was 2,331 for the school year 2009-10.

The paraprofessional unit represents approximately 100 non-teaching paraprofessionals as defined by Article 1 of the contract as follows:

*“The Roundout Valley Board of Education has recognized the Roundout Valley Federation (hereinafter the ‘Federation’) for purposes of the collective negotiations as the exclusive bargaining agent for all paraprofessional teaching assistance and specialized paraprofessionals employed by the RVCSD (hereinafter the ‘District’).*

The Federation is affiliated with the New York State United Teachers (NYSUT).

### **Preliminary Statement**

The fact-finding process is statutorily mandated and has long been considered an extension of the negotiations process whereby an impartial fact-finder renders a report in writing that would constitute a reasonable basis for settlement. The written report is generated after a review and analysis of the facts presented by the parties taking into account factors such as financial impact on the community (ability to pay), tax burdens compared to other communities, Consumer Price Index, and comparability to other school districts.

The environment of the public and private sector in New York State (and the nation as a whole) must also be taken into account given the condition of our economy. At present, our political subdivisions at every level are currently in an extremely difficult financial climate, one that has not been seen for years. The condition of the State and political subdivisions is relevant to these negotiations and this report, as the economy affects the ability of our school districts and our political subdivisions to pay for salaries and benefits.

Virtually every school municipality in New York State has suffered a reduction in State aid, which has resulted in a reduction in revenue in general.

Based upon written reports and projections the same will hold true for a least the next school year as far as a reduction in loss of revenue is concerned. This set of circumstances and the resultant financial impact may not be ignored by the undersigned and directly effect the recommendations made herein below.

As stated by fact finder Mike Lewandowski in PERB M2009-99, p.3:

*“... it would be futile to recommend increases that cannot be paid for by the district. It would further be reckless for me to recommend increases that would result in the district having to seek tax increases at a time when there is a proposal to limit property tax increases to 2% a year, but even if that proposal fails, this is not the time to approach taxpayers with increases in taxes recognizing that these same people are struggling with the effects of the recession, including reductions in the wages and hours.”*

Subsequent to the receipt of closing arguments from the parties, the New York State Legislative leaders and the Governor announced that an agreement had been made for a 2% property tax cap. While this legislation has not been enacted into law as of this writing, one must be aware of this probability and its impact on collective bargaining.

### **The Issues**

- Duration
- Health Insurance Premium Contributions
- District Contribution to Benefit Trust Fund
- Compensation/Salary

## **Duration**

### Union Proposal On Duration

The union has proposed a four-year contract for the successor agreement. The history of the parties' negotiations experience shows that agreements have been for terms of between 3 and 6 years. The current agreement between the parties was for a term of six years. The union states that while this round of bargaining has been contentious and the parties have not been successful in reaching an agreement to date, a four-year agreement seems to be the perfect solution for both sides to take a step back and have a one year cooling-off period, before negotiations resume for a successor to this contract. There are two other units in the District with contracts that expire in 2012, and all of the participants in the collective bargaining process will have ample time to survey the landscape for the future. Many of the concerns that the District has voiced throughout these years of bargaining has centered on uncertainty and without a doubt a fifth year of this agreement only would increase that level of concern (Union Brief p. 6).

### District Proposal On Duration:

The District has proposed a five-year agreement and notes that shortly, on July 1, 2011, the fourth year will begin since the expiration of the current negotiated agreement. The district also states that these negotiations have at times been contentious and have taken a toll on labor management relations. Quite simply the parties need to put some space between the negotiation of the July 1, 2003 through June 30, 2008 successor agreement and the subsequent

successor agreement. A four-year successor agreement would not provide for such space, as the parties will be back to the bargaining table in the middle of year four. Moreover, the District will be commencing negotiations with the other two bargaining units during the 2011-2012 school year. It is in neither party's interest to have all three of these contracts expire at the same time. Finally, there is no basis to believe that the financial landscape is going to change in the way that would make the terms of a fifth year materially different (Employer Brief p.10).

Fact Finder Recommendation On Duration:

A five-year agreement is recommended by the undersigned. In just a few short months the parties would be starting the fourth year since the expiration date of the previous contract. The undersigned believes that labor-management stability would best be served by a contract of no less than five years. This will give the parties an additional year of labor stability and an opportunity to review the direction of the economy and revenue streams for the future.

**Health Insurance Contributions:**

Union Proposal On Health Insurance Contributions:

The union proposes no increase to the current health insurance contribution rates in effect and also proposes switching from the current DEHIC alternate PPO to the Orange Ulster (OU) health insurance plan. The union originally proposed contributing 10% of the DEHIC premium for individual or family coverage upon ratification in exchange for reasonable compensation that could

sustain a 10% contribution toward health insurance premiums. They also proposed the right to switch to a self-funded insurance plan in the future should the current health insurance costs continue to skyrocket. The success of the Kingston Trust Fund warrants the exploration of such a plan and whether or not it could be viable in this District, potentially saving hundreds of thousands of dollars a year in premiums. These proposals were ignored (Union Brief p.8).

The union argues that without a fair and just salary increase to the lowest paid employees of the District it is inconceivable to expect the union members with an average salary of just over \$21,000 to pay the same premiums as the District's other employees with much higher salaries. This position the union maintains is supported by a determination of Eugene Kaufman, a Fact Finder in the Edgemont Union free School District, who wrote "*...considering the difference in salaries it is my opinion that to expect members of the clerical unit to contribute the same dollar amount as teachers is unfair*" (Union Brief p.8, Union Exhibit 5).

A far better solution the union argues at this time is for the District to move the Federation Paraprofessionals into the Orange Ulster (OU) plan. The union points to the District's data in its PowerPoint presentation which shows that 55 family plans and 24 individual plans, would equate to over \$122,000 in savings to the District. The lowest paid employees in the District should not contribute more monies towards health insurance premiums when the District can enroll in a comparable more cost-effective plan (Union Brief p.9).

The union has also rejected the District proposal to have new hires contribute up to 20% of the premium for health insurance contributions. For the

2011-12 school year, 20% of the DEHIC family premium would be \$3,786 which equates to 18% of the current average salary and 25% of a newly hired paraprofessional salary starting at \$15,000 (Union Brief p.9).

District Proposal On Health Insurance Contributions:

The District proposals for health insurance contributions are as follows:

- increase contribution by 1% effective July 1, 2010 for unit members hired prior to mutual ratification of the successor agreement;
- increase contribution by 1% effective July 1, 2011 for unit members hired prior to mutual ratification of the successor agreement;
- increase contribution by 1% effective July 1, 2012 for unit members hired prior to mutual ratification of the successor agreement.
- In addition the District proposes to establish a 20% contribution for unit members hired on or after mutual ratification of the successor agreement.

The District argues that health insurance costs undoubtedly constitute a substantial component of the pay and benefit packages for employees. Economic pressures facing employers have typically resulted in a significant cost-shifting to employees, although public employees have been protected more so than others.

School districts are labor-intensive employers and as a result they are greatly impacted by rising health insurance costs. The percentage of budgetary expenses of the school employees' health care in the 2007-08 school year on a statewide basis was approximately 8.6%. In 2002-03 the percentage was 7.4%. Excluding capital projects, health insurance represents the second largest school



non-salary District expenditure. Only teacher salaries are higher (District Brief p.17).

School districts rightfully seek fiscally responsible strategies such as greater sharing of the cost of health insurance premium contributions with employees to ease budgetary distress. Paraprofessional bargaining unit members in the District currently contribute 5% toward the cost of individual and family coverage. The District has proposed slight increases for current bargaining unit members and more significantly rates for new hires. The District's proposal would have current members of this bargaining unit move in a gradual incremental way from among the lowest contributors in the County to a more reasonable amount. It should be noted that these slight increases do not even get this unit to the next level of contributors in the County and do not come close to the top contributors (District Brief p.19).

The District notes that teachers, secretaries and custodial staff pay 10% of the premium, administrators currently employed pay 11% of the premium, new administrators pay 15% and new cafeteria workers pay 20% of the premium. The District states that its health insurance proposal would continue to treat the current paraprofessionals in very favorable standing among the District's bargaining units as it relates to health insurance contributions.

Regarding the proposal for new hires, given the fact that the District just reduced its staffing levels by 18 teaching assistants and 8 teacher aides, the fact that those who will be laid off will be placed on seven year PEL lists, the likelihood

of a new bargaining unit member being affected by 20% contribution in the foreseeable future is remote (District Brief p. 20).

Fact Finder Discussion/Recommendation On Health Insurance Contributions:

The undersigned recognizes the union's reluctance to embrace any of the District proposals, which increase an employee's contribution for health insurance premiums. The undersigned also recognizes the union's objections to tiering benefit packages as the District has proposed for new hires. However based on the record, the amounts that the District is seeking for current employees' contributions of 1% a year is reasonable, based upon comparisons, the skyrocketing costs of health insurance premiums for employers and the current economy. Likewise, an increase in premiums for new employees is reasonable given the current market and economic circumstances and due to the fact that new administrators are paying 15% and new cafeteria workers are paying 20%.

Effective July 1, 2011 health insurance contributions for bargaining unit members shall increase by 1% for unit members hired prior to mutual ratification of the successor agreement; effective July 1, 2012, health insurance contribution for bargaining unit members shall increase by 1% for unit members hired prior to mutual ratification of the successor agreement.

New employees hired subsequent to July 1, 2012 shall pay 15% of the individual or family premium.

**Benefit Trust Fund:**

Union Proposal On District Contribution To Benefit Trust Fund:

The union proposes incremental increases to the Benefit Trust Fund until the District's contribution equals that of the other units that participate in the trust. The Benefit Trust Fund in the District is one of the more high-performing ones in the Hudson Valley. This is in part due to the fine job the trustees and the fund administrators perform each year and also because of the nature of the Federation. All three units have the District's contribution pooled into one fund. The current District contribution is lagging behind the other two units by \$380 and next year that difference will be \$470. Effectively, the other units are subsidizing the contribution of the Federation in an effort to provide equal benefits. As the disparity between the contributions continue to grow, it will eventually become impossible to maintain the current level of benefits unless all the participants receive the same District contribution to fund a trust (Union Brief p.12).

District Proposal On Contribution To Benefit Trust Fund:

The District has proposed increasing contributions to the fund by \$100 effective July 1, 2011 and by increasing contributions by an additional \$100 effective July 1 2012, in exchange for a commitment that it will receive detailed information in the form of an audited financial statement detailing what the money is being used to purchase. For the 2010-11 school year, the District contributed \$542,660 for the fund and believes that there should be accountability for this

large amount of money. The District position with respect to this proposal is fairly straightforward. Economic packages must be viewed in their entirety.

It is inappropriate, unreasonable and wrong, the District argues, to look at individual benefits in a collectively negotiated agreement in isolation, and conclude that they are below the average of other similar individual benefits. Regard must be given to the costs and the overall financial impact of the other elements of the economic package. A dollar is a dollar, whether it is paid into a Benefit Trust or salary schedule (District Brief p.23).

The District knows very little about the trust, other than the contractual language in Article 10.2 that it “... *shall be used for the purchase of various employee insurance plans selected by the Federation.*” No effort was made during the course of bargaining to identify what insurance is purchased, what the financial condition of the trust was or any indication that there were any additional insurances that were desired but were unaffordable by virtue of the financial condition of the trust. The District notes that the only point that was made by the union was, that other units, both in and out of the District, received more on a *per capita* basis, and that, therefore, they want more. This type of logic can serve to accomplish nothing more than the financial ruin of the District. Particularly at a time when the District is forced, due to dire financial conditions, to reduce its workforce in such a dramatic way as called for in the proposed 2011-2012 budget, throwing money at a benefit solely upon the fact that other units receive a greater amount for that particular benefit is the very definition of financial lunacy (District Brief p.24).

Fact Finder Recommendation On District Contribution To Benefit Trust Fund:

Effective July 1, 2011, contribution shall be increased by \$100; effective July 1, 2012 contribution shall be increased by \$100. It is also recommended that the union provide the District with an annual audited financial statement for the trust commencing with the 2011- 2012 school year.

**Compensation/Salary:**

Union Proposal On Compensation/Salary:

The union states that it is proposing a salary increase that is commensurate with the settlements of other Ulster County SRP locals during the same period. The union proposes advancing eligible members 2 steps on the salary schedule each year of this agreement and applying 3% to the top step, the current \$5,000 longevity, and the current \$25 per credit hour compensation rate. The average new money settlement for Ulster County SRP locals was 3.3% in 2008-09; 3.35% in 2009-10; 3.40% in 2010-11; and will be 3.3% in the upcoming 2011-12 school year.

Many of these settlements, the union argues, include increases in other areas of the contract off-schedule, such as longevities, credits and such, so the actual new money percentage for these settlements is somewhat greater than the average. With these percentages in excess of 3% across Ulster County, it is inconceivable that a similar unit would be able to settle for anything that would not be considered a comparable new money settlement (Union Brief p.14).

The original intent of the Federation with its proposal was to turn the current schedule into a much more manageable 10-step schedule and keep career longevities that exist already beyond the 10 steps. This was rejected by the District and yet at every turn, the District has attempted to raise the issue of increment as a deterrent in its ability to offer a reasonable salary increase. The District mentions increment in the November 9, 2010 presentation several times in misleading terms. The District's continued raising of increment as a defense against a reasonable settlement actually makes the argument for the union's original plan to ultimately reduce increment obligations with the shorter salary schedule.

For these reasons and all the additional reasons set forth in its fact-finding brief, the union asks the fact finder to recommend a settlement that is commensurate with the settlements of all Ulster County SRP locals during this time. This includes a recommendation advancing each eligible unit member two steps on the current schedule, as well as a 3% increase each year of this agreement on the top step, the current \$5000 longevity and the current \$25 per credit hour compensation figure.

District Proposal On Compensation/Salary:

The District has proposed a five-year contract which provides for a salary increase of increment only effective July 1, 2008, increment only effective July 1, 2009, 1% plus increment effective July 1, 2010, 1% plus increment effective July 1, 2011 and 1% plus increment effective July 1, 2012. The District proposes that

the increases shall apply solely to the salary schedule and not to the other items of the contract such as credit hours and longevity (Employer Brief p.11).

The District argues that the economic outlook in New York City and the rest of the State remains grim. Statewide, about 767,000 residents were unable to find work in March 2011, down from 786,600 in February 2011. More than one-third of those unemployed residents were not collecting benefits; many residents had already exhausted up to 99 weeks of unemployment insurance payments. Similarly, the unemployment rate in New York State and New York City in March 2011 stands at 8% and 8.7% respectively. In Ulster County the unemployment rate is 8.1% as of March 2011.

According to the office of the New York State Comptroller,

*“... school districts in the mid-Hudson region tend to exhibit the most signs of physical stress... these districts spend more per pupil than the statewide average (\$22,164 vs. \$19,082)... the majority of school districts located in the mid-Hudson region continue to struggle with declining property values—property values declined in more than 87% of the districts as compared to 35% statewide. And in over 25% of those districts, property taxes exceed 7% of income, as compared to 15% [of districts] statewide...”*

The most recent State budget reduces aid to schools by \$1.3 billion, one of the largest reductions in State history. According to the New York State School Boards Association survey of school district superintendents, more than 80% of the 319 responding, said they anticipated laying off employees, including more than 3,200 teachers. According to the same survey, 87% of superintendents responded that they would dip into reserves and the same percentage stated that

they would use federal bailout funds. Likewise, 85% of superintendents planned on requesting an increase in local property taxes (District Brief p. 12).

The District also cites increased costs to the New York State Pension Funds for teachers and non-instructional employees. The Employees Retirement System (ERS) pension assumptions are based upon 8% investment growth per year. In 2008, the ERS investments decreased by approximately 25%. The ERS rates applicable for this bargaining unit for the 2009-10 school year were 7.4% of payroll, have increased to 11.9% this year 2010-11 and are expected to escalate to 16.3% in 2011-12 (District Brief p.14).

The District states that paraprofessional bargaining unit steps (increments) have increased in 2007-08 to 2008-09 by 2.4%, 2008-09 to 2009-10 by 3.29%, 2009-10 to 2010-11 by 2.69% and 2010-11 to 2011-12 by 3.21% showing a four-year average of 2.92%. All but four unit members moved on step in the 2010-2011 school year and those that did not move, received a \$5,000 longevity payment. In putting forward its wage proposals, the union has not contended that the District schedule is inappropriate in terms of the dollar amounts reflected thereon. Rather, the union's position is that it simply takes unit members too long to advance to the top of schedule. While the number of steps in the Roundout contract is in fact greater than the number of steps of other paraprofessional units in the County, such fact is simply irrelevant in the time when the primary consideration should be the District's ability to pay and when such steps lead to a 25 year longevity in the amount of \$5,000 that is without precedent in the County.



This proposal must be viewed in light of some 49.6 positions being eliminated for budgetary reasons, including 18 teaching assistants and 8 teacher aides. The District notes that the development of the 2011-12 budget presented to voters on May 17, 2011 reflects the hard economic realities that the District is now faced with. As indicated in the 13-year longitudinal budget, analysis reflects a \$1,325,006 (2.2%) decrease from the 2010-2001 budget. In order to reach that budgetary decrease, the district eliminated 49.6 positions from the District (District Brief p.7).

Even with this dramatic budget-to-budget decrease, the proposed budget reflects a projected 4% tax levy increase for the next school year. The obvious and ominous conclusion that one must reach is that the current model is not sustainable, either in the short term or in the long term. The economic packages of public-sector employees must be looked at in their entirety, and in the context of what the school district can afford to pay in light of the real-time economic climate in which the bargaining is being conducted (District Brief p.8).

Finally, the District argues that its proposal is consistent with recent non-instructional fact-finding reports and points to the November 2010, report issued by Louis J. Patack regarding the Chappaqua CSEA units that calls for 1% plus step increase in 2009-10 and a 1.5% plus step increase in 2010-11. That report was rejected by the Board of Education and the ultimate settlement was step only for the 2009-10 and 2010-11 school years. The third year was 1.5% plus step with the agreement providing for significant health and shift change concessions. In Newburgh City a recent non-instructional contract settlement occurred calling for

no increase on the salary schedules for the 2011-12 school year, step deferred until December 1, 2011 and no increase in employee health insurance contributions. That settlement was preceded by a settlement of step only for step-eligible unit members and 1.5% for all non-step unit members for the 2009-10 school year.

The District accordingly is requesting a settlement reflective of the current economic crisis. Against this background, the Fact Finder should recommend the District position with respect to salary and wage increases for the 2008-2009 through 2012-2013 school years.

Fact Finder Discussion And Recommendation On Compensation/Salary:

The well-intentioned interests of the Federation are understood by the undersigned as the union seeks to make the lives of its members a little easier in this economy. Moving each unit member two steps on the salary schedule would clearly move towards the union goal of getting people to the top of the schedule faster. The record shows, however, that the union proposal for the first year alone, is in excess of 6%. Given the current economic times, this proposal and concept should be reassessed for another day when the economy turns for the better.

Given the economic times, and the fact that so many employees have already been laid-off in this unit, it would be irresponsible to make a recommendation embracing those increases at this time. The District is not in an economic position to embrace the union proposals. The reality is that some 49.6

positions are being abolished for the 2011-12 school year, of which approximately 24 are from this bargaining unit.

This District has suffered a reduction in State aid and like most districts in New York State, is suffering from revenue reductions. These factors and the probability of a 2% tax cap on municipalities precludes the undersigned from embracing the union's concept for salary increases.

The undersigned recommends: effective July 1, 2008, increment; effective July 1, 2009, increment; effective July 1, 2010 1.25% plus increment; effective July 1, 2011, 1.25% plus increment; and effective July 1, 2012, 1.50% plus increment. The increments shall be paid to those unit members eligible for movement on the salary schedule.

## **Fact Finder's Recommendations Recap**

### **Duration:**

Five (5) year contract from July 1, 2008 – June 30, 2013.

### **Compensation/Salary**

#### Effective:

- July 1, 2008 increment for all unit members eligible for increment.
- July 1, 2009 increment for all unit members eligible for increment.
- July 1, 2010 1.25% + increment for all unit members eligible for increment;
- July 1, 2011 1.25% + increment for all unit members eligible for increment
- July 1, 2012 1.50% + increment for all unit members eligible for increment
- These increase shall be applied solely to the salary schedule(s)

### **Health Insurance Contributions:**

- July 1, 2008 no change in premium contribution
- July 1, 2009 no change in premium contribution
- July 1, 2010 no increase in premium contribution
- July 1, 2011 1% increase in employee insurance contributions
- July 1, 2012 1% increase in employee insurance contributions
- Unit members newly hired after July 1, 2012 shall pay 15% in health insurance contributions.

### **District Contribution To Benefit Trust Fund:**

- Effective July 1, 2011 the District shall contribute an additional \$100
- Effective July 1, 2012 the District shall contribute an additional \$100
- Effective July 1, 2011 the union shall provide the District with an annual audited accounting of the benefit trust expenditures.

**Other Issues:**

The issues previously agreed to by the parties (Appendix A - District Submission) shall also be incorporated into the successor agreement.

With these recommendations, the undersigned has attempted to fashion a recommendation for the parties given the “real time” circumstances facing the people of the State of New York, school districts, and other political subdivisions. Accordingly, the parties are urged to adopt these recommendations as a means of resolution to this impasse.

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State of New York )  
County of Albany ) ss.:

I, John T. Trela, do hereby affirm my oath as a fact-finder that I am the individual described herein and who executed this instrument which is my recommendation.

Dated: June 1, 2011

**John T. Trela**  
Fact Finder