

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF THE FACT-FINDING BETWEEN
THE HUDSON TEACHERS ASSOCIATION,
(NYSUT)

-And- Association,

PERB Case No. M2014-150
Before: John T. Trela

HUDSON CITY SCHOOL DISTRICT
District.

APPEARANCES

a. For the District:

Stuart S. Waxman, Esq.
Melissa N. Knapp, Esq.

B. For the Association

Pamela Melville
NYSUT- Labor Relations Specialist

GENERAL BACKGROUND INFORMATION

The undersigned was appointed as fact-finder in this Matter pursuant to Section 209 of the *Civil Service Law* of the State of New York by correspondence dated June 30, 2015. Prior to this appointment, a PERB assigned mediator held three mediation sessions, during which the parties were unable to generate a

successor agreement. In lieu of a formal fact-finding hearing, the parties requested an additional mediation session, which was held by the undersigned on September 24, 2015.

With no agreement being reached, the parties submitted their respective briefs, exhibits and other proofs and the record was closed when received on or about February 16, 2016.

The process of fact-finding is mandated by statute and has long been considered an extension of the negotiations process. The process provides that an impartial factfinder (third party) renders a report in writing that would constitute a reasonable basis for settlement by the individual with that charge.

The written report is generated after a review and analysis of the facts presented by the parties to the impasse, taking into account many factors. The factors include: the financial impact on the community; ability to pay; tax burdens; the New York State tax cap; the consumer price index, and, comparability to other political subdivisions.

At present, political subdivisions in New York State at every level are in an extremely difficult financial climate and have been for a number of recent years. These conditions are relevant to these negotiations and this report, as the economy affects the ability to pay for salaries, retirement plans, health insurance, and every other employee benefit.

Virtually every local municipality in New York State government and school district, including Hudson, has suffered employee layoffs, a reduction in State aid, and other forms of reduced revenue flow in general. Municipalities are further

hamstrung in generating local revenue by the tax cap mandated into the law, by the New York State Legislature. School District budgets are tight and Boards are continuously looking for ways to cut costs and yet be fair to teachers and other employees. This can be very difficult given that employee and retiree expenses represent (in Hudson) approximately 50% of the total budget and there are many State mandates that do not allow for other means of cost control. Simply stated, this is a very challenging balancing act.

However, consideration must also be given to a public employee(s) and unions' rights to maintain and improve working conditions, benefits and salary structures for their unit members. In this current economic climate, many employees (especially those not eligible for a salary increment or longevity) have received little or no salary increases in recent negotiations. Accordingly, a fair balance with a combination of both employee and employer (taxpayer) considerations is required when engaging in an evaluation of each impasse situation. It is the hope of the undersigned that this report will provide a fair and balanced combination.

DISTRICT INFORMATION/UNIT PROFILE

The Hudson City School District ("District" or "Employer") and The Hudson Teachers Association ("Association" or "Bargaining Unit" or "HTA" or "Union") are parties to a Collective Bargaining Agreement ("CBA" or "agreement") dated July 1, 2011 through June 30, 2014 (Association Exhibit A). The Association is recognized as the sole and exclusive representative for all full time professional employees by the District in a bargaining unit as set forth in the parties current CBA, including classroom teachers, school psychologist, social workers, guidance personnel, nurse, librarians, special teachers, registered nurses, coordinator, such as but not limited to health and computer and heads of departments. Full-time employees are defined as those who work in excess of half time, and the term teacher used herein, refers to all member(s) of the bargaining unit.

The District, which is located in Columbia County, is established and organized pursuant to the *Education Law* of the State of New York, and as of this writing serves a student population of some 1,760 students. Columbia County is comprised of the following school districts, which including the Hudson City School District, are: the Taconic Hill Central School District, the Germantown Central School District, the Ichabod Crane Central School District, and the New Lebanon Central School District.

During the 2013-2014 school year, this bargaining unit was comprised of 172 teachers and three nurses. The base payroll for teachers during this period of time was \$11,992,754.

Salary

Association Position on Salary:

The Teachers Association has proposed a four-year contract, encompassing school years 2014-15, 2015-16, 2016-17 and 2017-18 calling for a salary schedule increase of 2% plus increment and longevity each year, with retroactivity to July 1, 2014. The proposal also calls for Nurses to receive salary increases of 2% as of July 1, 2016, and an additional 2% as of July 1, 2017. Nurses' salaries for 2014-15 and 2015-16 are currently covered by a side Memorandum Agreement that the parties had previously negotiated.

In support of its salary proposal, the Association argues that in the 2011-2014 contract, the parties did not improve the salary schedules across the board because the District pleaded "financial difficulties." The District, they now maintain, is no longer financially strapped. In support of this position, the Association submitted an article from the Columbia Green dated April 29, 2015 which states that Hudson schools are no longer financially stressed. Therefore, the Association maintains that as the District is no longer financially stressed, it can well afford the union proposals. It also argues that a budget analysis conducted by its parent affiliate NYSUT supports the argument that the money is available for funding the sought-after increases.

The Association further argues that they made financial sacrifices for each year of the previous contract to allow the District to recover from its previous poor financial condition. In addition, the retirement of 8 to 10 long serving faculty members provided serious breakage, estimated at roughly \$800,000 per year. In

addition, the taxpayers of the district approved a 2014-2015 budget, that dramatically increased the teacher salary budget. The District has not claimed economic hardship and simply stated -- it has the ability to pay.

In further support of its position the Union submits a number of settlements that were reached in the Columbia County Greene County region most recently. In a Cairo-Durham School District the settlement included \$1000 plus step for 2013-14, 1½% plus step for 2014-15 1.5% plus step for 2015-16. In the Cocksackie-Athens School District increases for 2013-14 were 2% plus step, in 2014-15, 2% plus step, in 2015-16, 2% plus step and in 2016-17 2% plus step. In Germantown the settlement included 1.7% plus step, in 2015-16, 1.7% plus step, in 2016-17 plus step, in 2017-18 1.7% plus step and in 2018-19 1.7%%. Greenville School District settled at 1.25% plus step for school years 2012-13, 2013-14, 2014-15. Finally the New Lebanon School District settled at 3.77% including increment 2015-16, 3.74% in 2016-17, 3.95% in 2016 to 17, and 3.92% in 2018-19.

For these reasons, the Association argues that its position on salary should be supported by the fact finder. Data regarding the Cost of Living (CPI) was not submitted.

District Position On Salary:

The District argues that despite the fact that teachers in this unit compare favorably to other districts in Columbia County it has offered a very reasonable salary proposal to the Association.

The District is proposing the payment of step (increment only) for the 2014-15 school year and the 2015-16 school year and that steps 1 through 27 of the schedule be increased by 2% in the 2016-2017 school year and 2% in the 2017-2018 school year. This proposal however, is contingent on the Union's agreement to make some 2 changes in health insurance which will be discussed in the section below.

The District notes that the salary schedule in this contract contains a BA and advanced degrees of study. The contract provides for an additional compensation of \$73 per credit hour per year for all educational credits up to 30 hours. This schedule is based on a 27 step schedule and provides that teachers move from one step to another each year by receiving a salary increment. The cost to the District for moving teachers up from one step to another is approximately 2% of payroll yearly. Therefore, the cost of the Union proposal is in excess or 4% each year including increment costs.

For steps 1 through 23 the salary schedule provides for a flat dollar difference of \$1,719 between steps. This equates to a yearly percentage increase between steps ranging from 4.12% when moving from step 1, to step 2 and 2.21% when moving from step 22 to 23. Teachers moving from step 23 to step 24 receive a step increase of \$4,578 or 5.76%. Step movement for the remaining three steps, namely step 25, 26 and 27 is a flat dollar amount \$1,000, representing a wage increase of 1.6% to 1.19%. Those teachers moving from step 25 to step 26 also receive a \$500 longevity payment if employed in the district for 25 years. After 35 years of service there is an additional \$1,000

longevity. With the addition of steps in the last agreement, almost every member of the unit received salary increases each year of the previous contract.

The base payroll for teachers for 2013-14 was \$11,992,754. Longevity costs were an additional \$21,000, while additional credits cost an additional \$196,166 for the total of all three amounting to \$12,209,920. The District also notes that the average teacher salary, not including stipends for 2013-2014, was approximately \$71,000. During the 2008-09 school year, there were approximately 210 employees in this unit however since then, layoffs occurred because of fiscal restraints.

Of the 172 teachers in the district, 140 teachers (81%) are at step 10 or higher. Accordingly, in order to get a true indication of how well-paid the Hudson teachers are paid as compared to teachers in the surrounding County districts, one should focus on the salary scale for step 10 and higher. Regardless of educational level obtained, Hudson teachers at step 10 or higher are well-paid in comparison to all teachers in the remaining districts in Columbia County with the same years of service. As evidenced in District Exhibit J, Hudson teachers compare favorably to their County peers. Out of the Columbia County districts on the master schedule, Hudson ranks 1 out of 8 on step 10; 1 out of 6 on step 15; 1 out of 6 on step 20; 1 out of 6 on step 25; and 3 out of 6 at 30 years. There are many other factors presented by the District which will be discussed below.

Health Insurance - District Proposal:

The current collective bargaining agreement provides that the School District pays 88% of the unit member's individual and family health insurance premiums. The agreement provides for the Blue Shield preferred organizational health insurance plan with drug copayments of \$5 for generics, \$10 for non-preferred brands, \$25 for preferred brands, and two co-payments for mail order. Health insurance benefits are currently provided through the PPO 812 Plan. For unit members who retire on or after July 1, 2008, the District funds 94% of the premiums in retirement. For unit members that retired before July 1, 2008, the District funds 100% of the premiums.

The District originally proposed four (4) modifications to the health plan of which the parties agreed to 2 changes in prior negotiations for the new contract. The items agreed to include: 1.) increasing current employee premium contributions from 12% to 15% over the life of the contract; and, 2.) Increasing future retiree contributions (after ratification of this agreement) from 6% to 8%.

The District has two proposals for changes in health insurance. The first is to replace the current PPO 812 plan with the PPO 815 plan. The District notes that both plans provide "in-and-out-of-network" benefits and the same network of participating providers: Neither plan has an in-network deductible and the out-network deductible would increase from \$250/\$500 to \$500/\$1000. The District states that it is important to note that for the 2013-2014 school year, 96.5% of claims were in-network and in the 2014-15 school year, 98% of claims were in-network.

The District also proposes an increase in co-payments for doctor visits to increase from \$10 per visit to \$25 per visit. The District also points out that there are some other differences in such areas as Emergency Room Visits and Inpatient Hospital Care, but that overall the benefits are still excellent.

The sole reason for replacing the existing PPO 815, with the PPO 812 is cost savings and more specifically to help offset the 2% salary increase on schedule in the 3rd and 4th year of the contract. During the 2015-16 school year, a family plan 812, including the ESI prescription drug plan costs \$25,453.44 annually; a two-person plan cost \$24,166 annually and individual plans cost \$9,352 annually. The family plan for CDPHP and MVP are approximately \$7,000 less per enrollee, the two-person approximately \$5,500 less expensive per enrollee and the individual plan \$2,000 less expensive per enrollee. The total health plans cost for active employees is approximately \$3,120,672 annually with the District paying 88% of that cost or \$2,746,191.

The employee contribution is \$374,480 towards premiums annually, and retiree health insurance costs some \$1,750,174 with the District absorbing all but \$24,768. Considering active employees and retirees in the unit the District spends almost \$4.5 million on health insurance per year.

The proposed plan change preserves the out-of-network benefit, a benefit that is becoming less common in health plans. It provides the same network of participating employers as the current 812 Plan. The major difference is increased out-of-pocket expenses which are still low, comparatively speaking.

The District notes that the change being sought herein is the same change agreed to by other bargaining units within the District, including the clerical, operations and management units, and food service units. It was also agreed to by the District administrators as well as nonunion personnel. The only bargaining unit to date that did not accept the change in plans is the aide unit, but they accepted a salary freeze for five years encompassing 2012 through 2017 in exchange for keeping the 812 Plan. The District also notes that aides do not receive salary steps.

For this bargaining unit the change in plan would save the District approximately \$263,000. Assuming the enrollees in each of the plans remain the same. This amounts to an excess of 2% of payroll. If a change is made correspondingly, to retirees, the District would save an additional 3% of payroll. Employees and retirees share (to some extent) the cost of health insurance premiums and both groups would realize a reduction in their share of the premiums that would offset the additional out-of-pocket expenses. For unit members who do not frequently access the benefits of the plan, the 815 Plan would be less expensive than the 812 Plan, as their contributions are based on a percentage of the Plan's premium.

The District has also voiced concern about the Cadillac Tax that is set to go into effect during the 2019-2020 school year. This tax is a 40% excise tax that will be imposed on high-cost employer-sponsored health insurance plans. The Cadillac Tax imposes statutory limits on employer-sponsored health insurance plans of \$10,200 for individual coverage and \$27,500 for family coverage. If a

plan exceeds those thresholds a 40% tax will be imposed on any amounts in excess of those thresholds.

The District notes that the change to the 815 Plan has recently been agreed to by both the Germantown Central School District and the Taconic Hills Central School District and was negotiated with their teacher units.

Association Position on Health Insurance:

The Association stated up-front that it has repeatedly rejected the District proposals with regard to changing from the preferred PPO 812 health insurance to the PPO 815 plan and the increases in co-pays. The Association explains that it rejected this proposal for a number of reasons.

First, while a bargaining unit member in the PPO 815, would experience savings in the premium contribution amount, the 815 co-pays are far greater than the preferred PPO 812.

Second, the PPO 815 leaves those bargaining unit members who take the CDPHP, PPO 812 or MVP with the financial liability of paying the difference between the District contribution for the PPO 815 and the annual premium for their selected plans. According to the District, the projected 2015-2016 rate increase was 13% for MVP and 15% for CDPHP and this would result in a much greater contribution for the bargaining unit member who would stay with these plans.

In addition to this inequity between co-pays, an Association member in the PPO 815 would receive salary increases with the 2% annual raise and continue to pay less in premium contributions. However, doctor visits, prescription drug

and other co-pay costs would increase dramatically. Further, the Association negotiating team does not support the District proposal because it has a detrimental impact on those employees who have children with numerous intermittent illnesses, related doctor visits and prescriptions.

The concern is also cost related for the numerous employees who are prescribed maintenance medications for the remainder of their lives.

During negotiations, the Association proposed to allow the move to PPO 815, as an option for members to decide if the option worked for them. The Association also proposed \$10 for generic drug contributions, \$30 for no preferred brands, and \$50 for preferred brands for voluntary enrollment by a bargaining unit member. This is in addition to the Capital District Physician's Health Plan and MVP, both of which are offered and have respective drug plans.

Discussion on Salary and Health Insurance:

Participants in public sector collective bargaining are keenly aware that the issues of salary and health insurance combined are the major stumbling blocks in reaching contract settlement during these economic times. School Districts are under extreme pressure to hold down taxes for residents and work under restrictions such as the Property Tax Cap. For the last seven plus years, all forms of government have gone through an unprecedented financial downturn that has affected and complicated the bargaining process.

In addition to this, and perhaps because of this, there has been a top-down revision and reassessment of taxes that was initiated in the change of philosophy

by the New York State Legislature and the Governor's Office of Employee Relations regarding the statutory tax cap mandates. Simply stated, this revision has been a directive to keep costs down. What was initially perceived as a 2% Tax Cap, is in reality a cap of 2% which is restricted to reach that number by the CPI. Thus, the 2% is a maximum and can only go to that number if the CPI is at 2% or above.

There is no question that this has placed a tremendous burden on both school districts and union members within those districts to decelerate salaries, step increments and to increase health insurance contribution rates by employees. The existing reality here is that there has been a diminishment in the ability of school boards to raise expenditures on a year-by-year basis as they have in the past. While the parties can hope for more State Aid, quite often that source is either categorical or "one shot" payment with no continuation after one year.

Based on a review of the record, the District proposals on salary and health insurance reflect the ongoing economic downturn and pattern of economic realities in this school district and throughout the State of New York.

The Hudson School District is not sheltered from this reality. The economic realities that emanated in the 2008 school year continue to have a significant impact on the District, on resident taxpayers, and on union members. While the District herein has through smart fiscal conservancy kept its current fiscal picture in control, they are clearly "not out of the woods".

The undersigned has reviewed all of the pertinent data presented by both parties in the closing brief and has determined that the appropriate recommendation for the parties to adapt is the District proposal on salary.

Regarding health insurance, both parties have submitted data which shows increasing contributions by employees and concessions by unions as *quid pro quos* to obtain salary increases. In reviewing each of the collective bargaining agreements, it is virtually impossible to make true comparisons on a district-wide basis.

What is clear however is that where salary increases are granted on salary schedules, concessions are made with regard for more contributions by employees for health insurance to offset raises. There is no sign whatsoever that health insurance premiums will be decreasing in the future. Because of the continuation of health insurance costs escalating the future with no end in sight, the need for the District to move to a PPO 815 is recommended.

The union's concerns over increased out-of-pocket costs to its members however is recognized, understood and should be addressed. Accordingly, the undersigned is recommending that the District establish a fund in the amount of \$25,000 where teachers and/or retirees can be reimbursed for increased costs (co-pays and deductibles) by obtaining proof of payments and submitting a receipt for reimbursement. This should hold harmless unit members and put to rest union concerns of additional members' costs. This is the only way in which salary increases of 2% plus step can be justified in the last 2 years of this contract.

The undersigned defers the procedural mechanism for reimbursement to the parties, however it might best be accomplished with the use of the Association's Welfare/Benefit Trust Fund. Under that trust fund process, the District should make a certain amount of the \$25,000 (i.e. \$5,000 to start) available to the union for reimbursement for participants. When that amount is depleted, the distribution accounting would be given to the District for verification and an additional amount would be made available until the entire \$25,000 is exhausted. It is also noted that in these negotiations, the District agreed to increase contributions to the welfare fund. Those increases may very well be used for reimbursement of co-pays and deductible.

Department Chairpersons:

The District has proposed that if there are only two (2) teachers in a department, there would be no need for a Department Chair and this would be a cost savings for the District. The undersigned concurs as this is reasonable, however if a department exceeds two (2) teachers, the parties should meet and negotiate the addition of a chairperson.

Preparation Time:

The union has proposed an equalization of preparation time in all the schools. Because the record is void of enough information to recommend that proposal one way or the other, it is recommended that the issue should be deferred to labor/management committees in the future.

Previous Agreements:

Any and all previous agreements reached by the parties during these instant talks are recommended to be included in the new agreement. Any item brought forth by any party in these negotiations that is not addressed herein shall be deemed not recommended and should be withdrawn.

Recommendations

Compensation/Salary

1st year (2014-15)

For the 1st year of the contract, the recommendation is the payment of salary increment for eligible unit members and no percentage increase on the salary schedule.

2nd year (2015-2016)

For the 2nd year of the contract, the recommendation is the payment of salary increment for eligible unit members and no increase on the salary schedule.

3rd year (2016-2017)

For the 3rd year of the contract, the recommendation is a 2% increase on the salary schedule, plus increment for all eligible unit members. Nurses shall receive a 2% salary increase.

4th year (2017-18)

For the 4th year of the contract, the recommendation is a 2% increase on the salary schedule, plus increment for eligible unit members. Nurses shall receive a 2% salary increase.

- The recommendation for 2016-17 and 2017-18 salary increases are predicated on the following health insurance recommendation being accepted.

Health Insurance

Effective July 1, 2016 (or other date agreed to by the parties) the District proposal for the PPO 815 plan shall be implemented as well as the District proposal for increasing co-pays, deductibles, doctor visits, etc).

The District will establish a one-time fund of \$25,000 to reimburse plan participants for the increase in co-pays and deductibles, and the implementation to the PPO 815. The parties will negotiate the mechanism for distribution.

Department Chairs:

The District proposal for Department Chairs is recommended.

Preparation Time:

The Association proposal for preparation time is deferred to labor/management committees for further consideration.

Other Items:

All items previously agreed to by the parties shall be incorporated into the new agreement as agreed. Any item not specifically addressed herein shall be withdrawn from negotiation.

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.

March 1, 2016


John T. Trela,
Arbitrator