

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA LABOR RELATIONS BOARD

IN THE MATTER OF FACT FINDING McGUFFEY SCHOOL DISTRICT and McGUFFEY EDUCATION ASSOCIATION)))))))))	Case ACT 88-09-39-W
--	-----------	---------------------

FACT FINDER'S REPORT AND RECOMMENDATIONS

Benjamin Pratt, Esq., for the District
Colleen Imbriale, for the Association
Before Matthew M. Franckiewicz, Fact finder

Background

This proceeding involves a successor agreement to the July 1, 2006 through June 30, 2009 agreement between the parties. The undersigned fact finder was appointed by the Pennsylvania Labor Relations Board on October 20, 2009.

I met informally with representatives of both parties on November 4 and November 9, 2009. A formal hearing was held on November 19, 2009 at Claysville, Pennsylvania. Both parties were afforded a complete opportunity to bring to the fact finder's attention all the facts and arguments which they desired to present.

Prior to my involvement in this case, the parties reached tentative agreements in some areas. I recommend that all these tentative agreements be incorporated in the new collective bargaining agreement.

There remain disagreements in several areas. Set forth below are my recommendations for changes to the previous collective bargaining agreement. To the extent that I have not specifically recommended any change from the predecessor agreement, I recommend that the provisions of the predecessor agreement be retained unchanged in the new collective bargaining agreement, except where the parties have reached tentative agreements for modifications.

Recommendations

1. Article II - Term of Agreement

The District proposes a three to five year term for the new agreement, while the Association prefers a five year term. I recommend a five year term for the new agreement, and my other recommendations are premised on an agreement of five years.

Specifically, I recommend that Article II be modified to read as follows:

The term of this agreement shall run for five (5) years beginning on July 1, 2009 and extending in force until June 30, 2014, with salaries reflected in Appendix "A" for July 1, 2009 to June 30, 2010; Appendix "B" for July 1, 2010 to June 30, 2011; Appendix "C" for July 1, 2011 to June 30, 2012; Appendix "D" for July 1, 2012 to June 30, 2013; and Appendix "E" for July 1, 2013 to June 30, 2014.

2. Article V - Work Year

The District proposes an increase in the work year of three days over the course of the agreement. I recommend an increase of one in-service day, with the Association to design a plan for utilization of the additional day. Since the calendar for the current year has already been published, I recommend that the additional day be added in the 2010-2011 school year rather than the current year.

Accordingly, I recommend that Article V be modified to read as follows:

The work year shall consist of 180 teaching days plus seven (7) in-service or professional work days, for a total of 187 professional days. All personnel, full time and part time, shall work seven (7) in-service days. Two (2) of the in-service days shall be clerical days. One of the in-service days shall be for parent-teacher conferences scheduled from 12:00 p.m. to 7:30 p.m.

Commencing in the 2010-2011 school year, the work year shall consist of 180 teaching days plus eight (8) in-service or professional work days, for a total of 188 professional days. All personnel, full time and part time, shall work eight (8) in-service days. Two (2) of the in-service days shall be clerical days. One of the in-service days will be for enhancement of professional skills, pursuant to a curriculum designed by the Association. One of the in-service days shall be for parent-teacher conferences scheduled from 12:00 p.m. to 7:30 p.m.

3. Article VI - Length of Day

The District proposes changes relating to Department grade level meetings, and an increase in the length of the work day. I do not recommend any changes in this respect.

The District also proposes changes with respect to faculty meetings. I recommend a somewhat modified version of this proposal, as set forth below. The Association proposes increases in the hourly rate. The District also proposes increases, but of lesser amount. On average, the difference between the two proposals is \$0.25 per hour. My recommendation, set forth below, is a middle ground between the two.

Accordingly, I recommend that the paragraphs of Article VI set forth below be modified to read as follows, but that the remaining paragraphs of Article VI be retained unchanged.

Faculty meetings will be mandatory for all teachers and considered part of the teacher's contractual day. There will be a maximum of ten (10) faculty meetings in a school year. Each faculty meeting will last 40 minutes. Faculty meetings shall begin promptly as scheduled and end promptly as scheduled.

Services required beyond the above hours in one day or in excess of the 188 days in the contract year shall be compensated at \$27.00 an hour for 2009-2010, \$27.50 an hour for 2010-2011, \$27.75 an hour for 2011-2012, \$28.00 an hour for 2012-2013, and \$28.00 an hour for 2013-2014 school year, or fractional parts thereof, but in no case, less than one-half (½) of the applicable hourly rate.

4. Article VII - Preparation Time

The Association proposes a modification regarding parent conferences during preparation time. I recommend a somewhat different change than proposed by the Association.

Specifically, I recommend that Article VII be modified to read as follows:

A. Secondary/Middle School

Each teacher shall receive no less than one (1) normal school day period, or equivalent of five (5) school day periods per week, of preparation time. Conferences may be scheduled during these periods upon prior notification to the teacher. If an Administrator causes an employee to lose more than one preparation period per week for conferences, the employee shall be reimbursed at the class coverage rate for all subsequent lost preparation periods due to these conferences.

B. Elementary

Elementary teachers shall have in every case one (1) forty (40) consecutive minutes duty free preparation period each day. Conferences may be scheduled during these periods upon prior notification to the teacher. If an Administrator causes an employee to lose more than one preparation period per week for conferences, the employee shall be reimbursed at the class coverage rate for all subsequent lost preparation periods due to these conferences.

C. Conferences

Conferences may consist of parent-teacher, administrator-teacher and teacher-teacher conferences and can be scheduled by an administrator, supervisor, guidance counselor or teacher.

5. Article VIII - Professional Employee Salary Schedule

The Association proposes a modification to the language of Section C. I recommend a somewhat different change. Specifically, I recommend that Section C be modified to read as set forth below:

- C. Any employee of the McGuffey School District who willingly terminates his/her employment with the District and subsequently is rehired shall be placed on the salary scale pursuant to Pennsylvania law.

6. Article IX - Extra Services Compensation

Both parties propose increases in the rates for extra services compensation, although not in the same amounts. I recommend a middle ground as set forth below. The Association proposes hourly compensation for IEP preparation, while the District proposes a flat stipend for IEP preparation. I concur with the District's position. In addition, the District

proposes new language dealing with co-teaching, and I recommend adoption of this proposal. Since Homebound Instruction is paid at the same rate, I also propose a simplification that would eliminate a duplicate table.

Specifically, I recommend that the table set forth below be substituted for that included in Article IX of the predecessor agreement, and that the following new language be added:

For Periods	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014
Up to 30 Minutes	\$13.50	\$13.75	\$13.88	\$14.00	\$14.00
31-59 Minutes	\$27.00	\$27.50	\$27.75	\$28.00	\$28.00
1 Hour/Over (Per Hour Rate)	\$27.00	\$27.50	\$27.75	\$28.00	\$28.00

Teachers who perform Homebound Instruction shall be paid at the hourly rates set forth in the table above.

Teachers who prepare IEPs will be compensated in the amount of \$750 per year.

4. Co-Teaching - For co-teaching assignments, if one of the co-teachers is directed by the Administration to serve in another official capacity, the Administration agrees to use reasonable efforts to provide coverage to the co-teaching classroom. In the event coverage is not secured, the remaining co-teacher will receive extra duty compensation pursuant to this Article. If one of the co-teachers is absent during a co-teaching assignment, the District will use reasonable efforts to secure a substitute teacher and/or a non-paid coverage teacher for the co-teaching classroom. After reasonable efforts if a substitute and/or a non paid coverage teacher is unable to be secured the remaining co-teacher will not receive extra duty compensation.

7. Article X Section A - Hospitalization Insurance

The District proposes increases in various co-pays. I recommend an increase in the premium co-pay only, as reflected in the following table, which will replace the fourth paragraph of the 2006-2009 agreement:

Year	2009-2010	2010 -2011	2011 -2012	2012 -2013	2013 -2014
Employee Premium Share Per Month (Single/ Family or other)	\$15/\$30	\$15/\$30	\$20/\$40	\$20/\$40	\$25/\$50

The District also proposes changes to the seventh paragraph, and language to address issues of dual spouse coverage. I recommend somewhat different modifications as set forth below. The District also proposes a “housekeeping” modification to the last paragraph of this Section, which I shall recommend.

Specifically, I recommend that the seventh paragraph of Article X Section A be modified to read as follows, and that the following new language be added to this section:

The McGuffey School District will pay 50% of the total monthly premium to any employee who elects not to participate in the District’s medical, dental and/or vision benefits plans. The payment will be based upon the individual plan only.

Duplicate coverage will not be provided for spouses employed for the McGuffey School District. One employee must take the opt-out provision for healthcare, dental and vision benefit plans, provided that the children of the employee required to opt out are covered under the benefit plans.

The District will continue to maintain an IRS Code Section 125 Plan to protect employee benefits. If any portion of this agreement or any such Section 125 Plan is deemed invalid or out of compliance with applicable laws and/or regulations, or if any portion of this agreement would cause the benefits of employees not selecting this option to become taxable, then this agreement will be null and void.

8. Article X Section D - Life Insurance

The Association proposes an increase to \$50,000 in coverage. I recommend the modification, with Section D to read as follows:

The District will provide a term life insurance policy of \$50,000 with Accidental Death and Dismemberment rider for each employee.

9. Article X Section L - Payment for Unused Sick Leave on Retirement or Death

Both parties recommend increases in this area, although not in the same amount. Once again, my recommendation represents a middle ground. Specifically I recommend that the second paragraph of this Section be modified to read as follows, and that the remainder of the Section be retained unchanged:

Payment for unused sick days will be at the following rate for the term of the agreement. Sixty dollars (\$60.00) per day for the first one hundred (100) days and sixty-five dollars (\$65.00) per day for each day in excess of one hundred (100) days.

10. Article X Section O - Retirement Incentive

The Association proposes an increase in the amount of retirement incentive, and the District proposes elimination of the provision. I recommend a smaller increase, and that the program need not be applied in more than three years of the five year agreement, with the District to select the years. The District would have the option to offer the incentive in additional years, if it so chooses. My recommendation would require that the second and sixth paragraphs of this Section be modified to read as follows:

The District will pay up to \$10,000 a year to a maximum of ten (10) continuous years or until the age Medicare takes over, whichever occurs first, the following:

* * *

The District agrees to offer this incentive at least 3 of the 5 years of this agreement. The years selected will be at the discretion of the District.

11. Article XI Section B - Tax Sheltered Annuity

The District proposes a housekeeping modification in this Section, which I recommend. Thus I recommend that this Section be amended to read as follows:

The Board will provide payroll deduction services to permit professional employees to participate in a tax sheltered annuity program with Board approved companies.

12. Article XI New Section

The Association proposes a new section dealing with Fair Share. Inasmuch as the topic is dealt with elsewhere in the agreement, I do not recommend adoption of this proposal.

13. Article XV Section E - Association Rights and Privileges

The District proposes additional language to address the situation when no substitute is available. I recommend adoption of this proposal, and that this Section be modified to read as follows:

Up to ten (10) days leave shall be granted for the McGuffey Education Association President and/or designee to attend conferences or conventions of state and national affiliate organizations. The Association shall pay the cost of the substitute, if a substitute is utilized, for all days used. If a substitute is unavailable, the Association will pay the cost of the classroom coverage based on the hourly rate for extra services compensation in this Agreement.

14. Article XIX Section F - Leave of Absence for Death in Immediate Family

The Association proposes extending coverage to certain additional relatives, and an increase in the number of days available. I recommend the former, but not the latter. Specifically I recommend that this Section be modified to read as follows:

No deduction shall be made in an employee’s annual salary for absences not exceeding 4 consecutive work days because of death of the employee’s child, spouse, parent, adoptive parent, step-parent, or step-child. One of these days must be the day of the funeral. No deduction shall be made in an employee’s annual salary for absences not exceeding 3 days because of death in the employee’s immediate family. Members of the immediate family shall be defined as brother, sister, parent-in-law, daughter-in-law, son-in-law, grandmother, grandfather, grandchild, step-sister, step-brother, grandparent-in-law, or near relative who resides in the same house, or any person with whom the employee has made his/her home.

15. Article XIX Section H - Other Leaves

The District proposes several changes. I recommend only a minor change in the second paragraph. Specifically, I recommend that the first paragraph of this Section be retained unchanged, and the second paragraph be modified to read as follows:

Unpaid leaves of absence are discouraged. Employees requesting unpaid leaves of absence must have prior School Board approval prior to the requested time for the leave of absence. Denial of a request for an unpaid leave of absence will not be made arbitrarily or capriciously and will be subject to the grievance procedure.

16. Article XIX Section I - Maternity Leaves

The Association proposes modifications for consistency under the Family and Medical Leave Act. I recommend that the final sentence of this section be modified to read as follows, and that the remainder of this Section be retained unchanged:

Unpaid maternity leaves will run concurrent with the Family Medical Leave Act (FMLA).

17. Article XX - Long-Term Substitutes

The Association proposes changes in the amount of sick and personal leave for long-term substitutes. I recommend the former but not the latter. The Association proposes additional language changes that I do not recommend. Specifically, I recommend that the table set forth in this Article be modified as set forth below:

Benefit	One Semester	Full Year
Sick Leave Days	5	10
Personal/Emergency Days	1	1

18. Article XXIII Section D - Compensation for Mentor Teachers

The Association proposes an increase in compensation for mentor teachers. I recommend a lesser increase, namely that the amount be \$400 for a complete school year. In all other respects, I recommend no changes in Article XXIII.

19. Article XXIV Section A - Department Chairperson/Grade Level Chairperson Salaries

The Association proposes increases, as well as a provision clarifying Special Education. My recommendations are somewhat lower than as proposed by the Association. I recommend that the following tables be included in this Section, together with the explanatory language set forth below:

K-5	\$1250.00
HS/MS	
Departments Under 7	\$700.00

Departments of 7 or more (per person)	\$110.00
Special Education K-5	
Less than 7	\$700.00
7 or more (per person)	\$110.00
Special Education 6-12	
Less than 7	\$700.00
7 or more (per person)	\$110.00

Special Education includes: learning support, emotional support, life skills, speech, gifted, school psychologist, occupational therapists, and physical therapists.

20. Article XXV - Assault Protection

The Association proposes an increase in the amount of potential reimbursement to \$500, as well as “make whole” language. I recommend the former but not the latter. Specifically, I recommend that the amount listed in the paragraph titled “Limitations” be modified to \$500, but that no other changes be made in Article XXV.

21. Article XXVI - Sponsor Stipends - Clubs and Activities

I recommend that sponsor stipends be increased in each year of the agreement in the same proportion as the salary increases recommended in the Appendixes A - E.

22. Appendixes A - E - Salary Schedule

My specific recommendations for each step of the salary progression, at each level of educational attainment, for each of the five years of the new collective bargaining agreement are set forth in the appendixes attached to this report. I would note that the recommendations for 2009-2010 are to be retroactive to the beginning of the contract year.

23. Appendix D - Coaches Salaries

I recommend that coaching salaries be increased in each year of the agreement in the same proportion as the salary increases recommended in Appendixes A - E. In addition, I recommend that the position of Cheerleader Sponsor be moved from Class A to Class B as proposed by the District, and that a new position of Assistant Cheerleader Sponsor be added to Class C, as proposed by the Association.

I further recommend, as proposed by the District, that the Athletic Director be removed from this Appendix as a supervisor. However, I further recommend that the current Athletic Director be “grandfathered” through inclusion of the language set forth below.

The position of Athletic Director will remain in the bargaining unit until the current Athletic Director resigns or retires, or until the termination of this collective bargaining agreement, whichever is first.

The salary for Athletic Director, like the salaries for the other positions covered in Appendix D is to increase by the same proportion as the salary increases in Appendixes A - E.

Finally, Appendix D should be re-lettered because of the inclusion of additional Appendixes reflecting the longer term of this agreement.

24. Appendix G - Dress Code

Both parties proposes modifications to this Appendix. I do not adopt either proposal, and I recommend no change to Appendix G, other than its re-lettering in consequence of the additional appendixes reflecting the longer term of this agreement.

25. Addendum 1

The Association proposes elimination of Addendum 1 as obsolete. I agree and recommend deletion of Addendum 1.

26. New Language - Tutors

The Association proposes new language with respect to Tutors. This appears to be an issue under the jurisdiction of the Pennsylvania Labor Relations Board rather than the fact finder. There is also an issue of whether an August 12, 2008 agreement between the parties expires with the 2006-2009 collective bargaining agreement, or survives the expiration of that agreement. Again, this issue seems within the jurisdiction of an arbitrator rather than the fact finder. I accordingly conclude that the Association proposal is outside the scope of my jurisdiction, and I make no recommendation with respect to it.

Issued November 30, 2009

Matthew M Franchewitz