

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of Fact-Finding Between:

WAPPINGERS CENTRAL SCHOOL DISTRICT,

PERB CASE NO.
M2006-193

-And-

WAPPINGERS FEDERATION OF WORKERS

Before: Dennis J. Campagna, Esq.

APPEARANCES

A. For the District:

John M. Donoghue, Esq., Counsel
Stuart S. Waxman, Esq., Counsel

B. For the WFW

Steven M. Berman, L.R.S. - NYSUT
Debra A. Cassidy, WFW President

BACKGROUND

A. Background

The Wappingers Federation of Transit, Custodial and Maintenance Workers, (“WFW” or “Union”) and the Board of Education of the Wappingers Central School District (“District”) are parties to a collective bargaining agreement with effective dates July 1, 2002 through June 30, 2005. (“CBA”) Negotiations for a successor to the 2002-2005 CBA began on or about May 12, 2005. Subsequently, the parties engaged in approximately 16 bargaining sessions until October 6, 2006 when the parties jointly declared an impasse in the negotiations. The Public Employment Relations Board (“PERB”) was notified of this impasse, and designated the undersigned as the Mediator to the dispute. During the three mediation sessions that followed, the parties made substantial progress but the impasse remained. Following a request by the District to move the matter to Fact-Finding, PERB continued the appointment of the undersigned to assist the parties, this time in the role of a Fact Finder.

B. The Parties to This Dispute

The District is organized and exists under the Education Law of the State of New York, and is located geographically in Dutchess County, the home of thirteen school districts, including Wappingers. The District encompasses portions of the following towns: East Fishkill, Fishkill, LaGrange, Poughkeepsie, Wappinger, Kent and Philipstown.

The WFW is the bargaining agent for approximately 344 employees, 195 of whom are full-time salaried employees, and 149 of whom are hourly employees. Employees are classified into Transportation, Facilities and Maintenance, and Safety and Security. Representative unit titles include Automotive Mechanic, Automotive Mechanic Helper, Bus Driver, School Courier, Custodian, Groundskeeper, Maintenance Mechanic, Sewage Treatment Plant Operator, Audio-Visual Technician, Senior School Security Monitors and Electronic Technician.

C. The Outstanding Issues

UNION'S PROPOSED ISSUES

1. **Duration** – July 1, 2005 through June 30, 2010, for a total of five (5) years.
2. **Compensation:** An increase to the existing base wage schedules of 4.0% in 2005-06, 4.0% in 2006-07, 3.8% in 2007-08, 3.8% in 2008-09 and 3.8% in 2009-2010.
3. **Health Insurance Plan** – While the Union would prefer to maintain the status quo, it realizes that without a change in the way the District funds Health Insurance benefits for its employees, there will never be a successor Contract. Accordingly, in response to the District's current efforts to place all of its employees under one health care provider, offering one plan, the Union proposes the following:
 - That any plan offered be “substantially equal” to the current alternate PPO.
Substantial equality must include portability for those unit members traveling outside

of the Wappingers coverage area, and a comparable number of providers in the region encompassed by the District, as well as throughout the U.S.A.

- Should the District elect a self-funding option, the Plan must have a credible Third Party Administrator, experienced in the area of self-funding, and with a successful track record.
- The Plan must be protected against excessive losses, using a combination of Specific Stop-Loss and Aggregate Stop-Loss coverage.
- Plan participants must be fully educated regarding the Plan. Common language booklets explaining plan usage should be provided.
- The Plan should be overseen by a joint Labor-Management Advisory Board, consisting of an equal number of Labor and Management Representatives.
- Finally, under any circumstance, the District must provide for an HMO option, preferably MVP.

4. Health Insurance Contributions – The Union proposes that the current five (5) tiers be reduced to three with the following employee contribution obligations:

TIER (Hire Date)	A/O 7/1/07	A/O 7/1/08	A/O 7/1/09
1 (PRE 9/20/94)	\$800*	\$800	\$800
2 (After 9/20/94)	6% Premium Cost	7% Premium Cost	8% Premium Cost
3 (After Ratification)	10% Premium Cost	10% Premium Cost	10% Premium Cost

* The Salary schedules for this Tier would be reduced by \$800 as of 7/1/07 in order to pay this premium share.

5. **Longevity:** - The 2005 Longevity amount of \$713.00 shall be increased by the wage schedule percentages.
6. **All Other Salary Items:** - Shall be increased by the foregoing wage schedule percentages.

7. **Welfare Trust Fund:** - The Current amount of \$600 shall be increased as follows:
- **For 2006-07:** Increase by \$250 per member to \$850.00
 - **For 2007-08:** Increase of \$75.00 to \$925.00
 - **For 2008-09:** Increase of \$75.00 to \$1000.00
 - **For 2009-10:** Increase of \$75.00 to \$1075.00
8. **Mid-Day Shift:** - The District shall appoint 12 new 10-month full-time bus drivers. The second shift shall start no later than 9:30 a.m.
9. **Work Year** – The Union agrees with the District’s proposal to increase the work year from 195 to 196 days in order to provide an additional day for training.
10. **Grounds Keeper Position:** In addition to the percentage increases noted in (5) above, the Union proposes to increase the salary for the Grounds Keeper by \$1500.00 effective July 1, 2007 (The District is in agreement with this proposal).
11. **Payroll Pay Periods:** - The Union rejects the District’s proposal to change from a pay system of every two weeks to a pay system on the 15th and 30th of each month.
12. **Paycheck Corrections:** - The District’s proposal to correct any errors greater than \$60 (Regular) or \$90 (Overtime) no later than the close of business the following day or the close of business 5 days after the issue date of the paycheck is not acceptable to the Union.
13. **Safety Shoes:** - The District’s proposal to select safety shoes from Shoes-for-Crews is unacceptable to the Union which maintains that the selection of proper safety shoes should be a personal decision left to each employee.
14. **School Security Officers** – The Union has proposed the extension of benefits heretofore enjoyed by other full-time bargaining unit members to the School Security Officers

including (but not limited to): Ten sick days annually, with an unlimited accumulation of unused days, five bereavement days, two personal leave days, fourteen paid holidays, 1 additional week’s pay in lieu of vacation in the last paycheck in June, and an annual buyout of \$2500 for any SSO not receiving health insurance.

THE DISTRICT’S PROPOSED ISSUES

1. **Duration** – July 1, 2005 through June 30, 2010, for a total of five (5) years.

2. **Compensation:** An increase to the existing base wage schedules of 4.0% in 2005-06, 4.0% in 2006-07, 3.5% in 2007-08, 3.5% in 2008-09 and 3.25% in 2009-2010.

3. **Health Insurance Plan** – The District proposes that should be entitled to accept the proposal of the lowest responsible vendor that responded to the jointly developed RFP to replace the current array of health insurance plans for all eligible employees in the bargaining unit. Acceptance is contingent upon the coverage and the provider network being equal in the aggregate to the current coverage, with disputes referred to a neutral third party whose decision shall be binding upon the parties.

4. **Health Insurance Contributions¹** – The District proposes that the current five (5) tiers be reduced to one tier with the following employee contribution obligations:

TIER	A/O Ratification	A/O 7/1/07	A/O 7/1/09
1	10% Premium Cost	11% Premium Cost	12.5% Premium Cost

5. **Longevity:** - The 2005 Longevity amount of \$713.00 shall be maintained. Any additional amounts shall come from monies earmarked for salary increases.

6. **All Other Salary Items:** - If any, shall come from monies earmarked for salary increases.

¹ Hourly employees were not included in the District’s proposal.

7. **Welfare Trust Fund:** - The Current amount of \$600 shall be increased by \$65.00 effective July 1, 2007 (to a total of \$665), and a \$50.00 increase for each year thereafter.
8. **Mid-Day Shift:** - The District proposes to hire no less than 6 and no more than 8 additional 10-month full-time bus drivers. The second shift shall start between 9:30 a.m. and 11:00 a.m.
9. **Work Year** – The District proposes to increase the work year from 195 to 196 days in order to provide an additional day for training at no extra pay.
10. **Grounds Keeper Position:** In addition to the percentage increases noted in (5) above, the District proposes to increase the salary for the Grounds Keeper by \$1500.00 effective July 1, 2007 (The Union is in agreement with this proposal).
11. **Payroll Pay Periods:** - The District proposes to change from a pay system of every two weeks to a pay system on the 15th and 30th of each month.
12. **Paycheck Corrections:** - The District proposal to correct any errors greater than \$60 (Regular) or \$90 (Overtime) no later than the close of business the following day or the close of business 5 days after the issue date of the paycheck is not acceptable to the Union.
13. **Safety Shoes:** - The District proposes to select safety shoes from Shoes-for-Crews or from an alternative vendor/manufacturer recommended by the District's Safety Committee.
14. **School Security Officers** – The District has proposed the continuation of the current health insurance benefit provided to SSOs (at a contribution rate of 95% for individual coverage for SSOs working 6 or more hours), the addition of a uniform benefit and safety shoes as noted in item (13) above. All other benefits afforded to

SSOs shall remain status quo. The District rejects the Union's annual buyout proposal of \$2500 for any SSO not receiving health insurance.

DISCUSSION AND RECOMMENDATIONS

1. Duration

The parties are in agreement on the duration of the new agreement. Accordingly, I **RECOMMEND** that the term commence July 1, 2005 and continue through June 30, 2010, for a total of five (5) years.

2. Compensation:

Regular straight time salaries for the bargaining unit for 2005-06 were approximately \$10,165,149. With overtime, the salaries for 2005-06 increased to approximately \$11,433,558. Accordingly, using the Regular salary figures, a 1% increase in the base payroll would cost approximately \$101,652. While the District has neither shown nor claimed an inability to pay, it argues that salary increases must take into consideration any gains made by Unit members in fringe areas, and must be in line with other settlements in neighboring school districts. By way of example, the District notes that in Hyde Park, the parties agreed to an average increase of 3.85%, a figure that took into consideration "significant health insurance concessions." The Union on the other hand suggests that its proposals also consider concessions the WFW is prepared to make in the area of health insurance, together with the fact that the Union took no wage increase in the first year of its 1997-2002 agreement.

The parties are in agreement for the first two years of the new agreement. Accordingly, I **RECOMMEND** a 4.0% increase on the salary schedule for each of 2005-06 and 2006-07. Schedule increases beyond 2006-07 shall be viewed together with the Health Insurance proposals.

3. Health Insurance Plan and Employee Contributions

Over recent years, few items have experienced such dramatic increases as the rise in costs associated with health care. In 1960 the United States spent approximately 5.2% of the Gross Domestic Product (“GDP”) on health care, and by 2004, that percentage rose to 16%. Health Care premium increases have risen substantially faster than the Cost of Living, peaking in 2002 with an average national increase of 13.7%. For the years 2004-2005, premiums rose nationally by approximately 8.8%. Currently, the average cost of a family plan is approximately \$12,000 Statewide. The current monthly cost of the District’s three offered family plans are \$1119.50 (or an annual premium of \$13,434 for the DEHIC Plan), \$1153.91 (or an annual premium of \$13,846.92 for the CDPHP Plan) and \$1230.37 (or an annual premium of \$14,764.44 for the MVP Plan).

There are currently ninety-six (96) employees enrolled in the DEHIC Plan, twenty-one (21) employees enrolled in the CDPHP Plan, and one hundred thirty-two (132) enrolled in the MVP Plan.

The District’s contributions for full-time employees range from 100% for **tier 1** employees hired prior to 9/20/94, 100% of the lowest individual or family plan for **tier 2** employees hired 9/20/94 to 4/19/99, 95% of the lowest individual or family plan for **tier 3** employees hired after 4/19/99. The District’s contributions for **hourly employees** range from 100% of the lowest individual plan for hourly employees hired 9/20/94 and 95% of the lowest individual plan for hourly employees hired after 4/19/99.

For the 2006-07 school years, 249 WFW employees received health coverage. Of those employees covered, 143 employees made no contribution (the District paid 100% of the premium cost), representing 57% of those unit members enrolled in the District’s health plans. Total health insurance costs for the WFW represented unit exceed \$2.5 million dollars annually.

Looking ahead, the RFP was a joint Labor-Management creation, and accordingly, signified a willingness by the Union to look at alternative plans. For the District, this is a good thing.

Inherent in the RFP's design was a mutual goal to find a plan that provides excellent coverage but at the same time saves the District money. The Union's concerns, particularly as they relate to coverage, providers and portability are significant. In response to these Union concerns, the District's proposal suggests that its chosen plan be "equal in the aggregate to the current coverage". While the Union correctly raises a question as to what is meant by "aggregate", I find that the District's use of the word "aggregate" reflects, in the eyes of this Fact Finder, a reality that while no two plans are identical, they can be measured in the totality. For purposes of my recommendation therefore, "aggregate" shall include things such as the Plan's coverage, provider network and portability. Portability is of practical importance for both the short term, such as for those who leave the network for 3 or fewer months, as well as for the long term, for those who leave the network for more than 3 months. Accordingly, measured in the aggregate, it must be demonstrated that the overall benefits of the proposed plan, including coverage, the provider network and portability, are generally equivalent to the DEHIC Alternate PPO.

The District's proposal giving it leeway to select the proposal of the "lowest responsible vendor" while responsive to the Union's concerns, raise questions as to what qualifies as a "responsible bidder." The Union's suggestions as to a list of benchmarks that can be used to determine "responsibility" makes sense, particularly if a Third Party Administrator is ultimately used by the parties to administer the selected plan. Finally, the mutual agreement to use the services of a neutral to resolve differences makes sense, provided that the process used is an expeditious one.

Next, with respect to the question of **employee contribution**, I note that both parties are amenable to reducing the number of Tiers. This makes eminent sense. While at one time the idea of cost savings translated into treating employees based on their hire date differently, we are now left, years later, with tremendous in-fighting among rank and file members, the most recent of whom want to know why, if they are bargaining unit members in the same District, and paying the same union dues as more senior members, they are paying substantially more than other more senior employees. Accordingly, a recommendation must be made with an eye toward a serious reduction of Tiers, signified by a willingness of both the District and the Union to share in this effort.

Finally, in regard to a cost sharing effort, since the District has every reasonable intention of experiencing significant savings in the move to a single plan, it must be recognized that such cost savings will not be possible without the Union's cooperation. In addition, the following recommendation takes into account the fact that WFW employees do not earn what teachers and administrators earn. Accordingly, while it might be reasonable, from the District's perspective, to expect teachers and administrators to pay a fair percentage of the premium's cost, it must be remembered that the premium a carrier charges for health coverage is the same for all District employees, regardless of income.

With the foregoing established, I make the following **RECOMMENDATION**:

A. The Plan

The District shall have the right to select the proposal of the lowest responsible vendor to replace the current health plans for all employees in the bargaining unit. The District shall give the Union at least 90 days notice of its intent to move its employees into such plan, and give a full description of such plan to the Union. The Union shall then have 30 days to review the plan, within which time it must notify the District of its intention to challenge the plan under the criteria set forth below. Such challenge shall be handled expeditiously using a neutral selected by the parties. Time limits shall be follow the AAA's Rules for Expedited Arbitration. The Plan selected by the District must incorporate the following criteria such that in the aggregate, it is generally equivalent to the DEHIC Alternate PPO:

- Coverage
- Provider Network
- Portability
- The Plan should, to the greatest extent possible, duplicate the DEHIC Alternate PPO plan currently in effect.
- The Insurance Carrier, if this option is selected over self-funding, must be a responsible vendor, in sound financial condition with a proven track record of client satisfaction.

- If the District elects a non-self-funding option, the Plan should be of the type that is registered with the N.Y.S. Insurance Department.
- If the District elects a self-funding option, it shall provide evidence of an appropriate stop-loss.
- Whether the District elects to provide coverage of a Taylor-designed plan through a third party administrator, or elects a self-funding option, it is urged that the parties utilize a Section 44 Trust to accomplish this task. The Trust provides for a joint Labor-Management operation. The Trustees shall then jointly select any Third Party beneficiary, and oversee the overall operation of the Trust.

B. Employee Contribution

The following Recommendation is based on the adoption and implementation of a Single Plan. The Recommendation is designed to answer the District’s need to save money, primarily through the conversion to a single plan, show a fair employee contribution, and reduce the number of Tiers over the life of the agreement:

TIER (Hire Date)	A/O 7/1/07	A/O 7/1/08	A/O 7/1/09
1 (PRE 9/20/94)	\$800*	\$800	\$800 or 9% whichever is less
2 Full-Time Hired After 9/20/94	5% Premium Cost	7% Premium Cost	9% Premium Cost
2 Full-Time Hired After 4/19/99	5% Premium Cost	7% Premium Cost	9% Premium Cost
3 Full Time Hired After Ratification)	9% Premium Cost	9% Premium Cost	9% Premium Cost
4. Hourly Hired 9/20/94 – 4/19/99	5% Premium Cost (Indiv. or Fam Plan)	7% Premium Cost (Indiv. or Fam. Plan)	9% Premium Cost (Indiv. or Fam. Plan)
5. Hourly Hired After 4/19/99	5% Premium Cost (Indiv. Plan Only)	7% Premium Cost (Indiv. Plan Only)	9% Premium Cost (Indiv. Plan Only)

* The Salary schedules for this Tier would be reduced by \$800 as of 7/1/07 in order to pay this premium share. In addition, upon retirement, this Tier shall revert to non-contribution status.

4. Welfare Trust Fund

The current CBA provides for a District contribution of \$600 per unit member to a welfare trust fund. The fund provides unit members with benefits such as dental, life, optical, and long-term disability insurance. The Union proposes an increase of \$250 for the first year (2006-07) and an increase of \$75 per year for 2007-08, 2008-09 and 2009-2010, for an increase of \$146,000, or 1.3% of the payroll. The District proposes an increase of \$65 beginning July 1, 2007, and is not adverse to increases thereafter so long as any such increases come from monies targeted for salary increases. Contributions by other Dutchess County school districts range between \$700 (Spackenkill) and \$1310 (Rhinebeck). This point notwithstanding, the Union notes that contribution on behalf of WFW unit members lag behind the contribution for other District personnel as noted in the chart below:

BARGAINING UNIT	DISTRICT CONTRIBUTION
Administrators	\$950
Teachers (WCT)	\$950
Clerical	\$850
Nurses	\$800
STEPS	\$800
WFW	\$600

Following a careful consideration of the foregoing, I make the following **RECOMMENDATION**:

	A/O 7/1/07	A/O 7/1/08	A/O 7/1/09
TRUST CONTRIBUTION Per Unit Member	\$730	\$800	\$875

5. Mid-Day Shift

The District proposes to hire no less than 6 and no more than 8 additional 10-month full-time bus drivers. The second shift shall start between 9:30 a.m. and 11:00 a.m. The District urges that this time be recommended due to the need to cover extracurricular and sporting events that take place

until 9:00 p.m. The Union has proposed a shift time starting no later than 9:30 a.m. Accordingly, the 10-hour shift schedule proposed by the District would effectively end at 7:30 p.m. Neither side has provided the Fact Finder with the frequency of those occasions when a driver would be required after 7:30 p.m. Accordingly, additional data is required in order to make any meaningful recommendation on the time associated with the mid-day shift. In the interim, however, I do **Recommend** the acceptance of the District's proposed number of additional full time drivers.

6. Work Year

The District proposes to increase the work year from 195 to 196 days in order to provide an additional day for training at no extra pay. While the District has indicated that it is not prepared to pay any additional sum for this extra day, the Union, while agreeing on the additional day, has not commented on additional pay for the day. I will await the Union's position before making my Recommendation.

7. Grounds Keeper Position

In addition to the percentage increases noted in (5) above, the District proposes to increase the salary for the Grounds Keeper by \$1500.00 effective July 1, 2007. Since the Union is in agreement with this proposal, I **Recommend** its adoption.

8. Payroll Pay Periods

The District proposes to change from a pay system of every two weeks to a pay system on the 15th and 30th of each month. The Union proposes a continuation of the status quo. Since the District has not provided a meaningful reason for the adoption of this change, and since the Union has persuaded this Fact Finder that adoption of such change will adversely affect bargaining unit members, the Fact Finder **RECOMMENDS AGAINST** the proposed change.

9. Paycheck Corrections

The District proposes to correct any errors greater than \$60 (Regular) or \$90 (Overtime) no later than the close of business the following day or the close of business 5 days after the issue date of the paycheck. The District urges that this change is needed in a practical sense since it has over 1000 employees on its payroll, and while it pledges its best efforts at being error free, errors do unfortunately occur from time to time. In such cases, it is not always possible to correct such errors by the close of business the following day. Moreover, the District notes, this change would only apply to errors affecting overtime since errors affecting regular wages would be addressed by the close of business the following day.

The Union, however, objects to any such change because a number of Unit Members live from check to check, and overtime monies are the “bread and butter” for these individuals.

While I understand the District’s proposal, I am moved by the necessity for some WFW members to have sufficient funds to support themselves and their families. Accordingly, I **RECOMMEND** that the payment for overtime errors remain per the current practice.

10. Safety Shoes

The District proposes to select safety shoes from Shoes-for-Crews or from an alternative vendor/manufacturer recommended by the District’s Safety Committee. The Union objects to a “one size fits all” approach. The District’s proposal is designed to get the most for its dollar, while providing employees with equipment designed for their ultimate safety. On this point, the parties agree. Accordingly, I make the following **RECOMMENDATION**:

Add the following to the existing language: Each year at a designated time, the District’s Safety Committee shall determine the vendor(s)/manufacturer(s) that will be used for the purchase of Safety Shoes.

11. School Security Officers

The District has proposed the continuation of the current health insurance benefit provided to SSOs (at a contribution rate of 95% for individual coverage for SSOs working 6 or more hours), the addition of a uniform benefit and safety shoes as noted in item (13) above. The District asserts that all other benefits afforded to SSOs shall remain status quo, thereby specifically rejecting the WFW's proposal of an annual buyout of \$2500 for any SSO not receiving health insurance. The Fact Finder has taken notice of the fact that the overwhelming if not all SSOs currently on staff are retired police officers who enjoy the benefit of retiree health insurance paid for by their former employers. Accordingly, I cannot recommend the Union's proposal on health insurance, or the health waiver. I would, however, Recommend the continuation of the current benefit in this regard, at a contribution rate noted in the contribution chart noted in (3) above. I do, however, **RECOMMEND** the following:

- Addition of the SSOs to the Recognition Clause.
- Provide SSOs with a detailed job description.
- Referral to the District Safety Committee of the SSO's concerns regarding cell phones.
While the proposal appears to be quite valid, the Safety Committee is in the best position to deal with this important issue.
- Provide Uniforms consisting of two (2) jackets, one (1) long-sleeved polo shirt, one (1) short-sleeved polo shirt, and three (3) pair of gender-specific pants.
- The SSOs should be covered by the safety shoe provisions of the CBA.
- That SSOs shall be entitled to three consecutive bereavement days commencing with the date of death for death of a parent, grandparent, children, sibling, spouse and in-laws.

Any proposal not specifically addressed above shall be deemed rejected.

12. Salaries

I make the following **RECOMMENDATION** regarding the salary increase for all bargaining unit members:

a. Schedule Increases

2005-06	2006-07	2007-08	2008-09	2009-2010
4.0%	4.0%	3.5%	3.5%	3.75%

b. New Employees

Effective January 1, 2007, employees hired following ratification of this agreement shall be placed on Step 1 of the salary schedule and shall not be subject to step movement for two years.

c. Longevity

Having taken into consideration the costs, benefits, savings to the District, and the District's ability to pay, I **recommend** that the current longevity figure of \$713.00 be increased by the foregoing salary schedule percentages.

CONCLUSION

This Fact-Finding Report was designed to assist the parties in their current impasse. It is not, nor should it be seen as a substitute for good-faith collective negotiations. While it is this Fact Finder's hope that the parties will adopt his findings, it is also hoped that the discussion herein will, at a minimum, provide a platform for further substantive discussions.

Respectfully submitted this 18th day of April, 2007.

Dennis J. Campagna
Dennis J. Campagna, Esq.
Fact Finder