

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

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In the Matter of the Fact-Finding Between  
SCHALMONT CENTRAL SCHOOL DISTRICT  
AND  
SCHALMONT TEACHERS ASSOCIATION  
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FINDINGS AND  
RECOMMENDATIONS

PERB Case No. M2006-107

APPEARANCES: For the District

Ferrara, Fiorenza, Larrison, Barrett & Reitz, P.C.  
By Mark H. Reitz, Esq.

For the Teachers Association

Michael Foley  
Chief Spokesperson

BEFORE: Peter A. Prosper  
Fact Finder

## BACKGROUND

The Schalmont School District (hereinafter called the “District”) and the Schalmont Teachers Association (hereinafter called the “Association”) are parties to a collective bargaining agreement that covered the period from July 1, 2003 through June 30, 2006. The parties began negotiations for a successor agreement in February 2006, and held nine meetings without concluding a successor agreement. The District declared impasse and the Public Employment Relations Board appointed Supervising Mediator Anthony Zumbolo as mediator. Despite the efforts of Mr. Zumbolo in three mediation sessions, no agreement was reached. The District filed for Fact-Finding by letter dated July 31, 2007. The undersigned was appointed as Fact Finder on August 22, 2007 pursuant to Section 209 of the New York State Civil Service Law, and under the authority vested in the New York State Public Employment Relations Board (NYPERB) under Sections 209 and 205.5(k) of the statute for “. . . the purpose of inquiring into the causes and circumstances of the dispute involving the aforementioned parties” and, to make such recommendations and findings of fact as deemed necessary.”

At the request of the Association, a “pre-fact-finding” session was held in order to define the open issues and hopefully to reduce the number of outstanding issues. A formal fact-finding hearing was held on January 28, 2008 at which the parties presented data, memoranda, exhibits and argument defending their position on each of the outstanding issues, and also were afforded full opportunity to respond to the other party.

At the commencement of negotiations in 2006, the Association presented a total of thirty-eight (38) issues, and the District forwarded approximately five issues and sub-issues. At the pre-

fact-finding hearing, the Association, although reducing the number of issues, still listed a number of proposals and the District listed approximately eight proposals.

The Association's representative notified the District and the Fact Finder prior to the January 2008 fact-finding session that it was withdrawing all proposals except salary, and noted that its withdrawal from fact-finding did not indicate that it dropped the issues totally from negotiation. At the conclusion of the fact-finding hearing, the District requested to file post-hearing briefs, which was granted. The Association stated that it would not file a brief.

The issues submitted for fact-finding are as follows: Health Insurance, Health Insurance Premium Contribution, Salary, National Board Teacher Certification Payment, Middle School Teaching Responsibility, Length of School Day.

### **HEALTH INSURANCE**

The District proposes a Blue Shield PPO 813 Plan available through the regional health consortium, CASHIC (Capital Area School Health Insurance Consortium) to replace the Schalmont Self-Funded Health Plan. The Association opposes the change.

The District argues that the benefits of the proposed plan, while not exactly matching those of the self-funded plan, are reasonably comparable. The District has suggested the inclusion of a significant number of riders to the 813 Plan to enhance the possible benefits to Association members.

The District states that only twenty-four teachers are enrolled in the self-funded plan, although there are 88 retired teachers in the plan.

The District states that the cost of the self-funded plan is significantly higher than the 813 Plan. According to District's data of actual enrollments, the cost of the self-funded plan is \$1,617,460, while the cost of the 813 Plan is \$1,316,824, a savings of \$300,635. The District states that there will be savings to individual employees who currently are in the self-funded plan. An employee in the self-funded plan who has individual coverage will save \$10.70 per month in premium payments; an employee with two-person coverage will save \$19.19 per month; and an employee with family coverage will save \$36.24 per month.

The District points out that in the most recent round of negotiations with the Schalmont School Related Personnel Association and the Schalmont Administrators Association, both groups agreed to eliminate the self-funded health plan as an available option to its members.

The District asserts that it can be seen that even though the self-funded plan would no longer be available, the health insurance options to Association members are still very favorable when compared with comparable area school districts. The District notes that Association members enjoy a superior vision care insurance plan and a dental plan which includes orthodontics.

The Association opposes the proposed 813 health insurance program because it is disadvantageous to many of its members. Although there are substantial monetary savings to the District, Association members are substantially disadvantaged. The Association states that there are twenty-four Association members and eighty-eight retirees who currently have "out of network" physicians. The cost to them is substantial. There is a twenty percent coinsurance cost, that is, the Association member must pay twenty percent of the medical costs for physicians. Under the current plan, there is no difference between in network and out of network physicians.

The Association also argues that pre-certification is required for all admissions and certain other services such as MRIs and MRAs. There is also a higher prescription drug co-payment under the proposed plan.

Because there are so many Association members and retirees who have chosen out of network physicians, a change to the 813 Plan would create a substantial financial burden to them. For those reasons, the Association resists the proposed change in health insurance.

## **DISCUSSION**

The proposed change in health insurance is estimated by the District to save substantial amounts of money each year. The plan is an established one in the area and is supported by the consortium. Yet, there are disadvantages to some Association members. For Association members who have engaged physicians who are “in network” under the 813 Plan, several items will cost more, but they will save on monthly premiums. The major cost is to those Association members and retirees whose physicians are “out of network” under the 813 Plan. They have a co-insurance of twenty percent. In addition, prescription drug costs are higher under the new plan for all employees.

Although the 813 Plan has a twenty percent coinsurance, there is an out-of-pocket maximum which prevents extremes in payments for services. Those payments are mitigated by the lower premium costs to the employees.

The District compares its health insurance plans with eleven local districts including Bethlehem, Burnt Hills, Duanesburg, Guilderland, Mohonasen, Niskayuna, North Colonie, Schenectady, Scotia-Glenville, Shenendehowa and South Colonie. All have traditional plans such

as CDPHP, MVP, Blue Shield, Blue Cross, and others. Only Schenectady School District has a self-funded plan along with MVP and CDPHP.

In evaluating the arguments of both parties, it is concluded that although there are disadvantages to a number of employees (the major impact is on the retired employees of the District), the cost savings to the District outweigh the disadvantages to some individuals. The 813 Plan is comparable for all participants who have “in network” physicians, and is somewhat costlier to those who have “out of network” physicians. It is universally agreed that in recent years health costs have increased dramatically. Many school districts, other public agencies, governmental units, and even private enterprise seek ways to reduce the impact of the spiraling health care costs. The District can reduce its costs by eliminating the self-funded plan without great burden on its employees. I find no sufficient reason to prevent that change.

**It is RECOMMENDED that the Traditional PPO 813 Plan with riders be adopted in replacement of the Schalmont Self-Funded Health Plan, effective July 1, 2008.**

#### **HEALTH INSURANCE PREMIUM CONTRIBUTION BY EMPLOYEES**

Currently, individuals contribute five (5.0%) percent of premium costs for health insurance. The District has proposed to increase the employees’ share to fifteen (15.0%) percent by 2010. The District argues that Schalmont employees’ contributions for health insurance are lower than many other school district employees in the area.

Considering the large change in health insurance for Schalmont employees, this is not the appropriate time to change the employees’ percentage contribution. Therefore,

**It is RECOMMENDED that the employees' contribution to health insurance remain at five (5.0%) percent.**

### **SALARY**

The Association proposes a salary increase of five (5.0%) percent plus increment for the 2006-07 school year and a salary increase of five (5.0%) percent plus increment for the 2007-08 school year. The District proposes a four (4.0%) percent increase in salary inclusive of increment for 2006-07, a four and-a-quarter (4.25%) percent increase in salary inclusive of increment for 2007-08, a four and-a-half (4.5%) percent increase in salary inclusive of increment for 2008-09, and a four and-a-half (4.5%) percent increase in salary inclusive of increment for 2009-10. The Association calculates increments as being approximately 2.7%.

The Association argues that the District's fund balance is one of the key factors to assess its financial condition. The Association states that the unreserved fund balance for 2006-07 is \$4,254,125. In addition to the fund balance, the Association argues that the District has understated revenues and overestimated expenses. Further, argues the Association, the District has over-budgeted the teachers' salary portion of its budget by approximately seven (7.0%) percent.

According to the Association, the District has sufficient monies to provide the salary increases asked.

The Association presents salary data for other area districts, including Bethlehem, Burnt Hills, East Greenbush, Guilderland, Mohonasen, Niskayuna, North Colonie, Saratoga, Scotia-Glenville, Shenendehowa, South Colonie and Albany. According to the Association, its teachers rank eighth relative to the other districts in most salary steps except at the highest steps, displaying the need for increases to bring teachers up to the area average.

The District asks that the Fact Finder bear in mind the impact of health insurance premiums on the earnings of a teacher. The District argues that fringe benefits are a significant value to employees and a significant cost to the District, adding that it is not fair to either party to look at any one factor standing alone.

The District replied to the Association's figures regarding unreserved fund balance. It states that the Association's information was garnered from the unaudited Annual Financial Report. Since that time the District has transferred funds from the unreserved fund balance to the Tax Certiorari Reserve Fund in the amount of \$2,351,337 and to the newly created Retirement System Reserve Fund in the amount of \$300,000. These designated reserves are not available for general expenditures.

The District argues that a review of the data make clear that Schalmont teachers are treated very fairly when compared with other colleagues. The District asserts that when comparing wage increases in comparable school districts, it must be recognized that many of the contract settlements included some form of concession, particularly in the area of health insurance benefits.

The District states that it recently settled its contacts with both the SSRPA and the SAA. The SSRPA settlement included instituting the CASHIC 813 Plan with riders. The overall wage increases, inclusive of increment cost were 5.95% for 2007-08, 5.24% for 2008-09, 4.49% for 2009-10, and 4.20% for 2010-11. The District states that the SAA settlement was solely for wage increases.

## **DISCUSSION**

The District has already stated that the proposed health insurance program will result in substantial savings to the District and that part of those savings can be allocated to teacher salaries.

The District has awarded wage increases to other units amounting to almost six percent in some instances and above five percent for other years. Yet, it offers a four percent increase including increment to Schalmont teachers.

The Association's budget analysis was reviewed with great care. It demonstrates that the District has had a substantial fund balance in recent years. It is curious that the District chose, during negotiations with the teachers for contract terms from 2006-07 forward, to transfer over \$2,600,000 from its unreserved fund to special reserve funds. While it is understandable that the District must set aside monies for such items as the Tax Certiorari Reserve Fund, a question is raised as to the amounts and propriety of creating a Retirement System Reserve Fund at the same time as it negotiates salaries.

The recommendation below is for a three year period because a two year agreement would expire at the end of June 2008, which means that the parties would be required to be currently in negotiation for another successor agreement.

**It is RECOMMENDED that salaries be increased for the 2006-07 school year by 3.3 percent, exclusive of increment.**

**It is RECOMMENDED that salaries be increased for the 2007-08 school year by 3.5 percent, exclusive of increment.**

**It is RECOMMENDED that salaries be increased for the 2008-09 school year by 3.7 percent, exclusive of increment.**

### **NATIONAL BOARD TEACHER CERTIFICATION**

Presently, the District pays teachers who attain National Board Certification five thousand dollars per year for ten years. There are twenty-one teachers who are National Board Certified. The

District proposed to grandfather those teachers receiving the stipend, but to reduce the amount for teachers who attain National Board Certification in the future to \$2,500.00 for the first year and \$1,000.00 per year for the remaining years of the certification.

The District states that teachers in Niskayuna receive \$2,000 per year, and teachers in Schenectady receive \$4,000 per year. The District provides no information for teachers who become National Board Certified in the other area schools.

The payment is incentive for teachers to work for and attain National Board Certification. What the reduction in payment would do to that incentive is unknown. The District has presented no persuasive argument to change the amount of payment.

**It is RECOMMENDED that there be no change in payment to teachers who attain National Board Teacher Certification.**

#### **MIDDLE SCHOOL TEACHING RESPONSIBILITY**

Currently, Middle School teachers are assigned up to five instructional periods per day. The instructional resource period is not considered an instructional assignment. The instructional resource period is a time when students are scheduled into a core teachers classroom (similar to a study hall.) Students may select another subject teacher for assistance. The District proposes to change the instructional assignment to a remedial assignment, permitting students to be scheduled into the teacher's classroom for remedial work rather than relying on a student to seek out a teacher for such assistance.

If the District's proposal were put into effect, some teachers would have one more assignment than they now have. Instructional resource assignments are not instructional assignments. Remedial assignments are instructional assignments.

If a student asks for remedial help from a specific teacher, that teacher must remain in the classroom to assist that student. The change proposed by the District will not, in itself, increase the number of students helped, but will increase teachers' instructional assignments.

**It is RECOMMENDED that the District's proposal not be adopted.**

### **LENGTH OF SCHOOL DAY**

The District proposes a change in the school day for middle school and high school teachers. Currently, those teachers are scheduled to work from 7:30 a.m. to 2:30 p.m. Monday, Tuesday and Thursday unless a student requests their help, as well as Wednesday if a meeting is not scheduled. Teachers may leave the building on Friday if they have completed their duties.

The District proposes to require teachers to remain in the building until 3:30 p.m. each day except Friday, regardless of whether a meeting is scheduled for that day.

The District provides no rationale for increase teachers' work day.

**It is RECOMMENDED that the District's proposal not be adopted.**

The above constitute all the items placed before me for evaluation and recommendation.

Respectfully Submitted,

Clifton Park, New York  
February 16, 2008

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Peter A. Prosper  
Fact Finder