

**PUBLIC EMPLOYMENT RELATIONS BOARD
FACT-FINDING REPORT**

**Case Number: M 2010-302
In the Matter of Fact-Finding Between**

**Marcellus Central School District
Marcellus, New York**

And

Marcellus Substitute Teachers Association

Impartial Fact Finder:

Ben W. Budelmann

For the Marcellus Central School District (The District):

**David G. Maestri, BOCES Labor Relations Specialist and Spokesperson
Craig J. Tice, Superintendent of Schools
Debra B. Eichholtz, School Business Official**

For the Marcellus Substitute Teachers Association (MSTA):

**James D. Matthews, Labor Relations Specialist and Spokesperson
Patricia G. Rao, President, MSTA**

BACKGROUND

The dates of the last Agreement between The District and MSTA were July 1, 2009- June 30, 2010. Bargaining sessions for a new Agreement were held on November 8; November 30; and December 16, 2010. The fifth and last session was held on January 6, 2011. At that time, open items for bargaining included: wages, grievance procedure, training, building and classroom access, and email notification (communication) of significant issues.

The parties requested PERB Mediation and after two sessions (April 7, 2011 and May 19, 2011) were held, the parties were still at impasse. Since neither The District nor MSTA were optimistic another session would result in a new Agreement, they requested a PERB fact-finding session. The undersigned Fact Finder was appointed and met with both parties on September 28, 2011.

At the time of the fact-finding hearing, the parties were still working under the Agreement dated 7/1/09-6/30/10. A few of the items discussed were able to be settled by discussion and understanding of current policy. The open items left for bargaining on September 28, 2011, were wages, grievance procedure and duration of agreement.

The Association consists of approximately sixty (60) per diem substitute teachers. The District has approximately 2000 students and 150 teachers. The MSTA substitute teachers provide coverage for more than 2700 days per school year. MSTA is an independent unit, unaffiliated.

WAGES AND DURATION OF AGREEMENT

THE DISTRICT PERSPECTIVE

Currently, the certified substitutes receive \$98.00/day and the uncertified substitutes receive \$87.00/day. The District has the sixth (6th) highest per diem substitute wage rate among the more than twenty (20) reporting districts and BOCES.

The District has felt the same budget reductions other districts are experiencing and cannot justify increases to MSTA members. The budget reductions and the increases in retirement contributions have already forced the District to eliminate more than 20 permanent job positions. The priority for the District is to preserve programs and services to students with a reduced budget.

Call-ins for substitute teachers indicate there have been few problems filling these per diem positions. Only 82 of 2433 (or 3.4%) positions were not filled during the 2010-2011 school year. This is a much lower percentage than the other schools reporting. At this time the District believes their substitute teachers appreciate working for them and will continue to do so even if wages are frozen. They also noted the number of unemployed teachers in the area provides sufficient substitutes to fill their needs.

The District believes it is important to provide a competitive wage for substitute teachers. To them, this means they can compete for quality substitutes without wage increases for at least five (5) years.

MSTA PERSPECTIVE

The 2004-2009 Agreement between the parties provided wage increases based on an average daily rate of other neighboring districts plus 4%. In 2005 and through 2009, MSTA members received a wage increase of 4%. The 2009-2010 Agreement provided an increase of 4.25%, leading to the current \$98.00 and \$87.00 daily rates.

The initial MSTA proposal in November 2010 was a four year agreement with a 4% wage increase each year. At that time the District proposed no increase for an undetermined length of time. In December 2010, MSTA proposed a four year agreement with a 2.75% increase each year. The District held firm with no increase in wages.

At the fact-finding hearing and currently, MSTA proposes:

		Certified	Uncertified
2010-2011	2% retroactive	\$100/day	\$89/day
2011-2012	1% with a give back =0%	\$100/day	\$89/day
2012-2013	2% with a give back =0%	\$100/day	\$89/day
2013-2014	2%	\$105/day	\$94/day
2014-2015	2%	\$107/day	\$96/day

MSTA has also provided examples of wages in other districts which show Marcellus is not exceptionally high compared to others. This is somewhat difficult to compare since some of the data shows ranges rather than an actual wage. In addition, MSTA claims the total cost of their proposed increases would cost the Marcellus District approximately \$60,115.00 which is .00378% of the District's local tax levy.

FACT FINDER RECOMMENDATION

The District is trying to respond to the financial issues and is taking a hard look at where they can trim their expenses. There have been some tough decisions with more to come but they have decided to put a higher priority on programs than in other areas. In this case, the District is willing to sacrifice the cost of some wages with the belief they will not lose quality substitute teachers.

Other units have had salary increases for 2010-2011, but voluntarily agreed to lower the negotiated wages (up to 2% less) or frozen wages for the 2011-2012 school year.

The substitute teachers have no compensation/benefits for the services they provide other than wages and deserve some reward for responding to the District's needs and the District states they feel obligated to remain competitive and find quality substitutes. Although not regular employees of the District, it does cost these substitutes more to travel to work, pay for child care, etc. Keeping those facts in mind, I believe an offer of no increase for multiple years too severe. My recommendation is a four year contract with the following wage increases:

Effective July 1, 2010	1% increase, retroactive
Effective July 1, 2011	1% increase with a give back (=0%)
Effective July 1, 2012	1% increase
Effective July 1, 2013	2% increase

These wage increases are below the norm for similar positions in other school districts. The increases would provide something for those who continued to work anticipating some increase in pay for 2010, and time to prepare for minimal increases in 2012 and 2013. These increases should cause little stress to the District's overall budget and may keep them competitive when recruiting substitute teachers.

GRIEVANCE PROCEDURE AND BINDING ARBITRATION

THE DISTRICT PERSPECTIVE

The issue of a grievance procedure and binding arbitration has been discussed in past negotiations with the District proposing a procedure to resolve disputes and issues of possible contractual disputes. More than once MSTA has rejected district proposals that end short of binding arbitration. Providing an arbitration clause could cause the district additional expenses for a substitute teacher who could work as little as one day per year.

MSTA PERSPECTIVE

Grievance procedures with binding arbitration can be found in a number of bargaining units in per diem teacher contracts in Syracuse and a number of surrounding communities. MSTA believes the potential of binding arbitration can expedite resolution of issues faster than having an Agreement without this clause.

FACT FINDER RECOMMENDATION

At this time there is no grievance procedure in the Agreement. My recommendation is for the parties to develop a procedure to handle contractual disputes. This procedure could either be in the Agreement or developed as a “side agreement”.

Since there have been little to no serious issues with the Marcellus Central School District and the Marcellus Substitute Teachers Association, and there has been little history of arbitration at other local school districts, I see no need for the procedure to include binding arbitration.

I Ben Budelmann, do hereby affirm my oath as fact finder that I am the individual who executed this instrument which is my recommendation.

Dated: December 1, 2011

**Ben Budelmann
Fact Finder**