

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

IN THE MATTER OF THE FACT-FINDING BETWEEN:

**POLAND CENTRAL SCHOOL DISTRICT
(EMPLOYER, BOARD)**

-AND-

**POLAND TEACHERS ASSOCIATION
(ASSOCIATION, TEACHERS, UNION)**

PERB CASE # M 2013-170

Before: Jerry Fabiano, Ph.D.

Date: January 6, 2015

Appearances:

**For the DISTRICT
Andrew A. Lalonde**

**For the ASSOCIATION
James Henck**

Pursuant to Section 209 of the New York State Civil Service Law, and under the authority vested in the New York State Public Employment Board (PERB) under Sections 209 and 205.5(k) of the statute, the undersigned was appointed fact finder 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. Mediation was effectuated and a PERB assigned mediator met with the parties but was unable to reach a settlement. Mediator Cliff Dunn made written recommendations, however, that were not accepted by the parties. The undersigned was subsequently appointed as fact finder and attempted to further mediate the issues. No agreement was reached and accordingly the parties agreed to a fact-finding process whereby briefs and affidavits would be submitted in support of the remaining open issues. In lieu of a separate fact-finding session both parties filed briefs in support of their positions.

BACKGROUND

Whereas the New York State Public Employment Relations Board (PERB) has determined that an impasse exists between the Public Employer, the Poland Central School District (hereinafter the “District” or “Board”) and the Employees Organization, The Poland Teachers Association (herein-After “Teachers” or “Union”), the undersigned was appointed as Fact Finder on June 24, 2014 by the Director of Conciliation under Section 209 and Section 205.5(k) of the Civil Service Law.

Said appointment directed the undersigned to “...inquire into the causes and circumstances of the dispute and after hearing shall immediately transmit his findings of fact and recommendations for resolution of the dispute to the chief executive officer of the government involved, and to the employee organization involved and shall within five (5) days of such transmission make public such findings and recommendations.

The Fact Finder held a mediation session on August 13, 2014, to try to resolve the dispute. Prior to this meeting he spoke with both chief negotiators advising them that his goal was to settle the impasse during the mediation session and asking each spokesperson to meet with his team prior to the meeting. Each was advised that they should review their positions with their respective teams and that their last position on the unresolved issues would need to change if they expected to resolve the impasse. Each representative agreed to meet with his team prior to August 13, 2014. Although several issues were clarified, the parties remained apart on two significant issues: wages and health insurance contributions.

Consequently, the parties agreed to submit briefs to the Fact Finder no later than September 19, 2014. In mid-September, the parties contacted the Fact Finder and asked for an extension for their submission of briefs and the extension was granted. The parties also requested to meet with the Fact Finder prior to the submission of their briefs. A meeting with the parties took place on October 27, 2014 in Johnstown, New York. A number of possibilities were discussed and the representatives agreed to review these with their teams with the hope of arriving at a settlement. However, no agreement was reached and the parties asked to submit their briefs by December 19, 2014. The Employer asked to extend this deadline to December 29, 2014. The extension was granted.

Poland Central School District Background

The Poland Central School District is located in the village of Poland, Herkimer County, New York. The Village has a current population of 504 citizens. The medium per-capita income in 2012 was \$27,100.00 with the median family income at \$59,694.00. In 2012 approximately nine percent (9%) of the population was deemed to be living in poverty.

There are currently 627 students in the District. There are approximately 57 classroom teachers (FTE). The graduation rate is eighty-eight percent.

The average teacher salary is \$50,364.00. (Data presented by District).

Fact Finding Discussion

The goal of the District from the beginning of negotiations was to reduce the 3.12% automatic step increases and increase the employees' health insurance contributions. The Union argues that it did this during the bargaining for the 2010-2013 contract in order to show "solidarity with the District taxpayers during uncertain times...." It is not ready to do that again.

Often in salary negotiations each party implores the other to be "realistic" regarding its demands and usually each walks away from negotiations with a perception that the other party was "unrealistic". This is the case in the current impasse.

The District seeks to lower an increment that is guaranteed by the Triborough Amendment enacted in 1982 by the New York State Legislature. This action, on the part of the Legislature and Governor, made it improper for an Employer to refuse to continue all the terms of an expired agreement,

including increments, until a new agreement is negotiated. With this statute firmly in its pocket, why would the Union agree to a lower increment? The District argues that it has depleted its fund balance and provided an early retirement incentive in order to maintain the current work force. This has not impressed the Union enough to scale back the existing increment.

What's next; reducing after-school activities; eliminating a foreign language, reduction in staff? Will those actions change the landscape from the Union's perspective? Perhaps, but based on this writer's experience probably not. If change of this magnitude is to occur it will take action on the part of the executive and legislative branches of state government to effectuate a change (See Governor Scott Walker and Wisconsin).

Governor Cuomo's Mandate Relief Council released its report in 2011 without any significant recommendations that would lessen the burden of state mandates, including revisions of Triborough, on local governments.

The same realistic approach is necessary for the Union regarding the District's proposal on increasing the employees' health insurance premium contribution. Currently, tenured employees contribute 11% toward the health insurance premium, and non-tenured teachers contribute 12.5% until tenured at which point they would pay whatever the tenured teachers are paying. The District proposes that new teachers pay 20% of the health insurance premium and then 15% after they receive tenure.

At the time of the Triborough Amendment paid health insurance by the employer was a given and seldom was a problem during the collective bargaining process. However, the cost of health insurance today is a significant factor in the District's budget. An increased contribution toward the health insurance premium is not an "unrealistic" proposal by the District. Public employees earning significantly less than the average teacher in the Poland District make greater contributions to their health insurance premiums and one-half of the employees in the private sector pay for their entire health insurance.

As is true with all negotiations, neither party ever gains all that it wants. In fact, the best settlement occurs when both parties walk away unhappy. The only way to move forward is to make reasonable compromises. Given the language in the CBA and the current status of health insurance costs, the recommendations cited below offer realistic solutions to the unresolved issues.

The Association makes the following proposals for settlement:

COMPENSATION:

TEACHERS:

Year 1: Increment only

Each July 1- Years 2, 3 and 4-Increment +\$250 additional for each teacher.

This would be accomplished by following Mediator Dunn's Recommendations.

In addition the Union proposes "off step" money that would then be added to each step so that all raises equal Step + \$250.

\$75 additional for people on Steps 1-10

\$125 additional for people on Steps 11-20

\$175 additional for people on Steps 20-29

TEACHING ASSISTANTS:

Year 1: Step only

Year 2: \$1000 inclusive of Step

Year 3: \$1,000 inclusive of Step

Year 4: \$1,000 inclusive of Step

NURSE:

Year 1: 3.2%

Year 2: \$1,500

Year 3: \$1,500

Year 4: \$1,500

Add a new provision beginning July 1, 2017-Nurse shall receive an automatic step increase of 1.5% on July 1 of each year.

STIPENDS

2% increase in years 2, 3 and 4.

HEALTH INSURANCE

The Union makes the following proposal regarding health Insurance:

Continue the terms of the current Agreement:

Tenured teachers-Contribute 11% of premium cost of individual or family plan;

Non-tenured teachers-Contribute 12.5% of premium cost of individual or family plan until they receive tenure; then, they pay the same amount as tenured teachers.

The District makes the following proposals for settlement:

COMPENSATION:

TEACHERS:

Salary increases of 3.12% in each year of a three-year contract.

TEACHING ASSISTANTS:

Year 1: Triborough

Year 2: Increase salaries by \$750.00

Year 3: Increase salaries by \$750.00

SCHOOL NURSE:

Year 1: Triborough

Year 2: Salary increase of \$1,400.00

Year 3: Salary increase of \$1,400.00

HEALTH INSURANCE:

Current employees: Increase contribution from 11% to 12%

New employees: 20% until tenure; then reduced to 15%.

Modification to Prescription Plan Language: District wants any change to the listed Tier be at the discretion of the health insurance provider.

RECOMMENDATIONS

Duration: Four years: 2013-2014, 2014-2015, 2015-2016, 2016-2017. The parties need the fourth year to mend wounds, re-establish trust, cooperation, mutual respect and time to explore other options.

Salary: I recommend the salary schedule proposed by Mediator Clifford Dunn in his letter to the parties dated February 3, 2014. It is realistic and provides for inequities that exist in the current schedule. It states the following:

The first two years' salary increases would be just the increment. For the third year for teachers amounts varying from \$175 at the lowest ten steps, to \$125 for the next ten steps, to \$75 at the nine highest steps would be added to the cells of the salary scale and for fourth year the same amounts would be added. In each year, teachers would move up the steps in the usual way

so they would receive increments plus whatever amount is added to the cell to which they move.

In addition, I recommend the following :

Nurse Compensation:

Year 1: 3.12% increase retroactive

Year 2: Triborough

Year 3: \$1,400.00

Year 4: \$1,400.00

Teaching Assistants Compensation:

Year 1: 3.12% retroactive

Year 2: Triborough

Year 3: \$750.00

Year 4: \$750.00

Coaching Compensation:

Year 1: 2% retroactive

Year 2: 2%

Year 3: 2%

Year 4: 2%

Health Insurance:

Beginning in the third year of the agreement, all those teachers who now pay 11% of the health insurance premium would begin to pay 12%. Current teachers who are untenured and paying 12.5% would continue to do so until they are tenured at which point they would pay whatever the tenured

teachers are paying at that time. Newly hired teachers (those hired for employment effective the 2015 school year) would pay 15% of the health insurance premium until they are tenured at which time they will pay the same as the tenured teachers. This same arrangement would apply to TAs and a new nurse.

All tentative agreements on the other issues made by the parties should be adopted.

All other proposals by both sides should be withdrawn.

If the parties do not have a Labor/Management Committee they should meet to form one within one month after the ratification of the new agreement. If the parties wish assistance in the formation of a Labor/Management Committee the undersigned would be willing to help. If one does exist, the Committee should meet within the time frame cited above and consider exploring the issues that will confront the next negotiating teams.

Among these issues I recommend that they consider the possibility of a different health insurance plan that provides cost containment for the District and continues existing benefits for the employees. To this end I recommend that one of the plans that the parties investigate is the NY44 Health Benefits Plan Trust. I do not have any horse in this race and I realize that one shoe does not fit everyone; however, I have observed that a number of Districts have been satisfied with this Plan.

I hope that these recommendations bring the parties to a resolution of their impasse and in doing so allow them to refocus on their most important mission of educating our future leaders.