

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

-----x

In the Matter of	:	
RYE CITY SCHOOL DISTRICT	:	Case No. M2007-051
	:	Factfinder's
"District"	:	Report and
	:	Recommendations
- and -	:	
RYE TEACHERS ASSOCIATION	:	
	:	
"Union"	:	

-----x

APPEARANCES

For the District
INGERMAN SMITH, LLP
 Gus Mountanos, Esq., Attorney
 Emily Lucas, Esq., Attorney
Dr. Edward Shine, Superintendent of Schools

For the Union
Christopher Harold, Esq., Attorney

BEFORE: HOWARD C. EDELMAN, ESQ., FACTFINDER

BACKGROUND

The parties were signatories to a Collective Bargaining Agreement which expired on June 30, 2007. Negotiations for a successor Agreement were not fruitful. Nor were efforts to mediate the dispute. Consequently, and pursuant to Section 209.4 of the Civil Service Law of the State of New York, the factfinding process was invoked.

I was selected as Factfinder to hear the dispute and make recommendations for its resolution. Hearings were held before me on March 10 and 25, 2008. Thereafter, the parties submitted written closing arguments in support of their positions. Also, an executive session was held with counsel on June 3, 2008. At its conclusion I closed the record. These Findings and Recommendations follow.

POSITIONS OF THE PARTIES¹

Union

The Union seeks a two year Agreement. It maintains that in times of economic uncertainty a longer labor contract subjects the parties to grave uncertainties were the Agreement to exceed two years.

¹To expedite these findings, I have summarized the parties' positions.

As to wages, the Union asks for base wage increases of 3.75 per cent for each year. It contends that an analysis of wage improvements in comparable Westchester County Districts suggests that 3.75 per cent is approximately the median increase in these locations.

Moreover, the Union urges, the District can well afford raises of 3.75 per cent since it has high property values, high per capita income and very low taxes. Thus, the Union concludes, raises of this magnitude will not unduly burden the residents of Rye.

As to health insurance, the Union acknowledges that costs in this area are rising and that the trend is toward teachers paying a higher proportion of the premium. Consequently, it proposes that teachers pay nine per cent of the premium, effective June 30, 2009.²

Concerning longevity, the Union asks that this stipend be increased by \$400, effective July 1, 2007 and an additional \$350, effective July 1, 2008. Such increases are fair and ought to be implemented, it submits.

With respect to Welfare Fund contributions, the Union asserts the Fund requires a six month reserve to

²The Union makes an alternate wage and health insurance proposal of a 3.5 per cent annual salary adjustment and no increase in health insurance premiums.

properly anticipate insurance premium increases. Consequently, it asks that the District contribute an additional \$100 per member to the Fund for each year of the contract.

The Union also makes a number of other proposals, as follows:

- a. six half days per year for elementary school teachers to conduct conferences;
- b. three half days per year for middle school teachers to conduct conferences;
- c. utilizing the first day of the school year as a self directed professional development day;
- d. releasing students at Noon on the first student attendance day of the year;
- e. eliminating two professional development days currently in existence.

In sum, the Union believes its proposals are fair in light of the relevant data before me. Consequently, it asks that they be recommended as presented.

District

The District acknowledges it currently has the ability to pay reasonable wage increases. However, it argues, its current ability to do so must be analyzed in light of an increasingly precarious National and State economy, as well as tax rates which march inexorably upward.

In this context, the District suggests that both Rye

and Westchester County are experiencing an increasing foreclosure rate as well as a decline in sales of single family homes approaching ten per cent.³

Moreover, the District maintains it faces declining revenue and increasing costs in the near future. It faces four major tax certiorari challenges which jeopardize over thirteen million dollars in tax revenue, it suggests. Also, the District asserts, health insurance premiums, social security taxes and fuel prices are escalating far beyond the rate of inflation. Thus, the District concludes, any wage and benefit settlement must reflect these economic realities.

In addition, the District argues its family income is low when compared to comparable school Districts. It notes, for example, that its median family income for 2006-07 was \$133,231 while Bronxville's was \$200,001; Scarsdale's was \$200,001; and Chappaqua's was \$174,579.

Given these data the District advances the following wage and health insurance proposals:

- Effective July 1, 2008 - 3.5% increase
- Effective July 1, 2009 - 3.5% increase
- Effective July 1, 2010 - 3.5% increase
- Effective July 1, 2008 - payment of fifteen per cent of health insurance premium.

³See Westchester-Putnam Multiple Listing Services 2007 Fourth Quarter Report, January 30, 2008.

In addition, the District seeks a \$1000 reduction in each salary step after the application of the increases set forth above; or, in the alternative, the introduction of "gates" at steps 1, 4, 7, 10 and 13 of the salary schedule which freeze these steps for one year.

In the District's view, these proposals are necessary to reduce the spiraling built-in increases of the current salary schedule structure. Moreover, the District urges, these proposals are fair since Rye's salaries, particularly at the higher steps, exceed those in virtually all other Westchester County Districts. Indeed, it points out, 25 year cumulative earnings rank Rye third among Westchester Districts.

Given these factors, the District insists its proposals, as cited above, are justified. Thus, it asks me to recommend them.

In addition, the District makes the following demands:

- a. add 45 minutes to the K-12 work day;
- b. freeze the health insurance buyout at current levels for the life of the contract;
- c. granting APPR pursuant to supervisor's approval;
- d. eliminate the BA + 30 and MA + 15 schedules for new hires;
- e. add three new teacher training days;

- f. delete reference to religious holidays;
- g. require that FMLA leave runs concurrently with contract leave entitlements;
- h. add three instructional days to the school year;
- i. make modifications in the granting of credit for on-line courses.

FINDINGS AND RECOMMENDATIONS

Several introductory comments are appropriate. The criteria set forth in the Taylor Law for the resolution of disputes between employers and unions are applicable here. These include the ability of the employer to pay, including the impact of cost items upon the public, as well as a comparison among terms and conditions of employment for this bargaining unit and other similarly situated employees. Also of relevance are increases in the Consumer Price Index and private sector wage and benefit data. It is with these and other appropriate factors in mind that I address the issues before me.

1. Length of Agreement

The prior Agreement expired June 30, 2007. A two year Agreement, as proposed by the Union, is far too short. It would return the parties to the bargaining table approximately six months from now. Indeed, there is no guarantee that the current impasse will be resolved

by then.

Also, the record demonstrates that most settlements are three years or longer. The parties certainly need a reasonable period of labor relations harmony before they bargain a new labor contract.

In my view, a four year Agreement best meets the needs of the parties. It reflects the fact that only three years are prospective. It affords labor relations stability for some two and one-half years before negotiations resume. Consequently, I recommend that the successor Agreement commence on July 1, 2007 and expire on June 30, 2011.

2. Wages

The item of greatest concern to the parties is wages. It is the most significant term and condition of employment for bargaining unit members. It has the greatest impact upon the employer's budget.

A review of the record demonstrates that the District has the ability to pay reasonable increases. Despite initial concerns about 2008-09 State Aid, the payment have not decreased, but have increased by a reasonable amount. Also, the tax rate for 2008-09 has risen by less than six per cent, an increase which is in line with advances in other Westchester School Districts.

Perhaps most significant is the current Rye ranking in school taxes. Of some 46 Districts reporting, Rye City ranks 40th, or in the lowest quartile. See Employer Exhibit C. Clearly, when compared to other Westchester Districts, Rye enjoys a favored tax rate status.

Also, while some other Districts' residents earn more than those here, the 2005 adjusted gross income figures place Rye City at number four among Westchester School Districts. Even if only relatively high wealth Districts are reviewed, Rye's residents earn more than those in Bedford, Byram Hills, Mamaroneck and Garrison, the record indicates. Employer Exhibit 3. Given these factors, there can be no doubt the District can well afford reasonable salary increases for its teachers.

On the other hand, Rye's teachers are already well paid. As the District correctly noted, cumulative earnings here place Rye third in the County. Clearly, career teachers receive appropriate compensation when compared with their counterparts elsewhere.

Salary increases for 2007-08 range from a low of 3.00 per cent in White Plains to 4.25 per cent in Blind Brook. More significantly, higher wealth Districts received the following increases for 2007-08:

Ardsley	-	3.25 per cent
Bedford	-	3.50 per cent
Briarcliff	-	3.50 per cent
Bronxville	-	3.50 per cent
Chappaqua	-	3.25 per cent
Edgemont	-	4.00 per cent
Pocantico Hills	-	3.75 per cent
Pelham	-	3.80 per cent
Irvington	-	3.50 per cent
Katonah	-	3.60 per cent

I am not bound to adopt the exact average of these figures. I note that the mode is 3.5 per cent. It is also a figure which will at most reduce Rye's ranking for cumulative earnings by one and it is consistent with recent rises in the Consumer Price Index. Thus, it ensures that Rye's teachers particularly the career ones, will continue to be well paid when compared to other, similarly situated communities.

It is true that for succeeding years, wage increases do rise slightly over the 2007-08 figure. For example, Ardsley receives a 3.75 per cent increase in 2008-09 compared to 3.25 per cent for 2007-08; Edgemont - 4.25 per cent for 2008-09 compared to 4.00 per cent for 2007-08. However, these improvements do not dramatically alter the overall figures listed above. Also, in light of other recommendations⁴ below, I am not convinced that increases above 3.5 per cent are warranted for the

⁴See, for example, my determination concerning health insurance premiums.

remaining years of the contract. Thus, I recommend that for each of the four years of the Agreement, wages be improved by 3.50 per cent plus increment.

Also, with respect to salary schedules, I find that a modest increase in longevity payments is reasonable. While current longevity compensation is fair, there is no doubt these amounts are likely to increase elsewhere. Thus, I find, a \$100 adjustment effective July 1, 2008 should be implemented.

In addition to the base wage increases recommended above, I find that improvements of 3.0 per cent per year in extra pay stipends ("EPEW") are fair. Thus, they are recommended, as well.

Finally, with respect to wage adjustments, I reject the District's proposals that the increases be effective July 1, 2008 and that either the schedule be reduced by \$1000 per step or that "gates" be implemented. As to the former, I ascribe no blame to either the Union or the District for the length of the negotiations process. As all are aware, public sector bargaining is often an extended process and I am not convinced that either party has acted in bad faith.

As to the reduction in the steps or the imposition of "gates," neither proposal is justified. A \$1000

reduction in each step represents a loss of over one per cent to each teacher, resulting in a net raise of under 2.5 per cent. Clearly, this result is not warranted in light of the data analyzed above.

Concerning the imposition of gates, any such change constitutes a major alteration in the salary schedule structure. The District has not persuaded me that the structure here is so out of line with schedules elsewhere that gates should be imposed.

However, there is one other proposal regarding the salary schedule that has merit, I am convinced. All new teachers must hold or obtain a Master's Degree. There is, as a result, no real need to retain the BA + 30 column on the salary schedule, except that it provides a temporary benefit to those seeking the M.A. Also, its elimination will encourage new teachers to further their education as quickly as possible, thus benefitting students and staff alike. Therefore, I recommend the abolition of the BA + 30 column for all teachers hired after the ratification of the Agreement by the Board and the Union.

3. Health Insurance

After wages, this is the most significant economic issue to the parties. Health insurance costs have risen

substantially over the last few years. Employers have a right to seek additional contributions from employees to help offset escalating premiums. Thus, there can be no doubt the District is entitled to some relief in this area.

On the other hand, the District's demand that teachers pay fifteen per cent of the insurance premium is unwarranted, I find. The record reveals that as of the 2008-09 school year only two Districts, Blind Brook and Croton-Harmon, will require more than ten per cent in health insurance premiums of 28 Westchester Districts reporting. Also, it is significant that of twenty Districts reporting for 2009-10, eight require ten per cent premium contributions. What this means is that even by 2010-11 it is unlikely the majority or even a substantial minority of Districts will require contributions above ten per cent.

It is true, as the District pointed out, that administrators here will pay fifteen per cent in premiums by 2009-10. If such were the case for teachers in other communities a recommendation of fifteen per cent here might well be warranted. However, that is not so. Thus, I cannot recommend that amount or any figure close to it.

Given these data I recommend premium contributions

of ten per cent in the last year of the proposed Agreement. Such a recommendation would likely place Rye in the upper quartile of Districts. Such a result is justified, particularly in light of Rye's favorable economic condition. Accordingly, I am convinced a graduated schedule which ends in a ten per cent contribution is appropriate. Thus, I shall recommend the following health insurance premium payments:

Effective July 1, 2007	- 8.5 per cent
Effective July 1, 2008	- 9.0 per cent
Effective July 1, 2009	- 9.5 per cent
Effective July 1, 2010	- 10.0 per cent

However, I find that there should be a modification in one area related to health insurance. For 2006-07 employees who opt out of the health insurance program received \$4950 if they were eligible for individual coverage and \$6600 if they were eligible for family coverage. Clearly, these figures are quite high and I see no need to increase them for the successor contract, since teachers are free to select coverage if they are so inclined. Consequently, I shall recommend the District's proposal that the health insurance buyout be frozen for the life of the 2007-2011 Agreement.

4. Benefit Trust

It is true that the Benefit Trust has approximately a five month surplus. However, as all are aware, health

reserves are necessary to protect against escalating premiums and reductions in benefits. Consequently, while contributions to Rye's Benefit Trust compare favorably to other Districts, a modest adjustment is in order. Accordingly, I shall recommend a \$25 per member increase for 2009-10 and an additional \$25 per member increase for 2010-11.

5. Work Day and Work Year

Both parties submitted proposals on these topics. In essence, the District asked that the work day and work year be increased. The Union proposed a modification in student-contact time as it relates to the beginning of the school year and conferences during the year.

In my view, none of these proposals should be incorporated into the successor labor Agreement. While the school day is shorter than in most other Districts, the school year is longer, on average, than elsewhere.

On the other hand, one alteration in the work year is justified. Instructional time is of paramount importance. The more students face their teachers, the more learning takes place. Therefore, I shall recommend that the District, at its option, may convert one conference day per year into a teaching day. This recommendation will not increase the teachers' work year

but will permit the District to increase student-teacher contact time.

Finally, I have reviewed the other proposals advanced by the parties. I do not find sufficient evidence in the record to recommend any of them.

In sum, the findings reached above constitute my best judgment as to what elements the new Agreement should contain. I urge the parties to agree to them. Otherwise, a dispute which has lasted approximately one year is certain to continue for some time. Such a result is to be avoided and is in no one's interest.

RECOMMENDATIONS

1. Length of Agreement

The successor Collective Bargaining Agreement shall commence on July 1, 2007 and expire on June 30, 2011.

2. Wages

A. Base wages shall be increased as follows:

2007-08	3.5 per cent plus increment
2008-09	3.5 per cent plus increment
2009-10	3.5 per cent plus increment
2010-11	3.5 per cent plus increment

B. Longevity stipends shall be increased by \$100, effective July 1, 2008

C. Extra Pay for Extra Work ("EPEW") stipends shall be increased by three per cent in each year of the proposed Collective Bargaining Agreement

3. Salary Schedules

Effective upon the ratification of this Agreement by the parties, the BA + 30 salary schedule shall be eliminated for all new hires.

4. Health Insurance

A. Health Insurance premiums shall increase to the following amounts:

Effective July 1, 2007	- 8.5 per cent of premium cost
Effective July 1, 2008	- 9.0 per cent of premium cost
Effective July 1, 2009	- 9.5 per cent of premium cost
Effective July 1, 2010	- 10.0 per cent of premium cost

B. Buyout

The health insurance buyout shall be frozen for the life of the 2007-11 Agreement.

5. **Benefit Trust**

The District's contribution to the Benefit Trust Fund shall increase by \$25 per unit member, effective July 1, 2009 and by an additional \$25 per unit member, effective July 1, 2010.

6. **Work Day and Work Year**

Effective July 1, 2008, the District shall have the discretion to convert one teacher conference day into a regular instructional day each year.

7. All other proposals of the parties, whether or not addressed herein, are not recommended.

DATED: June 23, 2008

Howard C. Edelman
HOWARD C. EDELMAN, ESQ., FACTFINDER

STATE OF NEW YORK)
) S.:
COUNTY OF NASSAU)

I, Howard C. Edelman, Esq., do hereby affirm upon my oath as Factfinder that I am the individual described in and who executed this instrument, which is my Award.

DATED: June 23, 2008

Howard C. Edelman
HOWARD C. EDELMAN, ESQ., FACTFINDER