

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

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**In The Matter of Fact-Finding Between:**

**PINE PLAINS SCHOOL RELATED PERSONNEL,**

**-And-**

**PINE PLAINS CENTRAL SCHOOL DISTRICT.**

**PERB Case No M2009-175  
Before: John T. Trela  
Fact Finder**

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**APPEARANCES**

a. For the District:

David S. Shaw, Esq.

b. For the Association

Daniel C. Turgeon, L.R.S. - NYSUT

C. Frederick Ott, L.R.S. – NYSUT

**BACKGROUND**

The Pine Plains Central School District (“District”) and the Pine Plains School Related Personnel (“Association” or “Union”) are parties to a Collective Bargaining Agreement (“CBA” or “agreement”) dated July 1, 2006 through June 30, 2009. Negotiations for a successor to the agreement currently in place commenced on July 15, 2009. Thereafter, three bargaining sessions were held through and ending on August 13, 2009, when a mutual impasse was declared.

The parties filed a mutual Declaration of Impasse with the Public Employment Relations Board, requesting the appointment of Jay Siegel as

Mediator. After Mr. Siegel conducted two mediation sessions which did not bring the parties to an agreement, the parties mutually requested PERB to appoint the undersigned as fact-finder.

Thereafter, the undersigned was appointed as fact-finder pursuant to the provisions of Section 209 of the New York State *Civil Service Law* by correspondence dated September 10, 2010. Subsequently, meetings were held on November 4, 2010 and February 24, 2011. Final closing briefs were submitted and received on May 6, 2011 when the record was closed.

### **District Profile**

The Pine Plains Central school District is located in both Dutchess County and Columbia County and covers approximately 140 square miles. Twenty percent of the district population is located in Columbia County and eighty percent in Dutchess County. The majority of the residents reside in the Towns of Pine Plains and Stanford. The district is bordered by Columbia County to the North and the contiguous school districts in Dutchess County of Red Hook and Rhinebeck to the west, Webutuck to the east, and Millbrook to the south (Union Brief p. 2).

The District operates four buildings, which include a high school, a middle school and two elementary schools with a total enrollment of approximately 1100 students in grades K-12 for the 2010-11 school year.

The union, which is affiliated with the New York State United Teachers (NYSUT) represents a bargaining unit of approximately 115 non-teaching members who are employees of the District in the job titles of Bus Driver, School

Courier, Maintenance Worker, Custodial Worker, Custodial Worker/Substitute Bus Driver, Custodial Worker/Bus Driver, Laborer/Bus Driver, Part Time Typist, Teacher Aide, School Monitor, Cook Manager (Head Cook), Cook, Senior Food Service Worker, Food Service Worker, Registered Nurse, Automotive Mechanic, Automotive Mechanic Helper, and Health Aide.

### **Preliminary Statement**

The fact-finding process is statutorily mandated and has long been considered an extension of the negotiations process whereby an impartial fact-finder renders a report in writing that would constitute a reasonable basis for settlement. The written report is generated after a review and analysis of the facts presented by the parties taking into account factors such as financial impact on the community (ability to pay), tax burdens compared to other communities, Consumer Price Index, and comparability to other school districts.

The undersigned also believes that the environment of the public and private sectors in New York State, and in the nation as a whole, must also be taken into account given the current economic conditions. It is clear that public employers in political subdivisions (such as towns, villages, counties and school districts) in our State and our nation are currently in an extremely difficult financial climate, one that has not been seen for years.

The financial condition of New York State and its political subdivisions is a relevant factor regarding these negotiations and this instant report, as the economy affects the ability of our school districts and our political subdivisions to pay for salaries and benefits. Virtually every school district in New York State has

suffered a reduction in State aid, which has resulted in a reduction in revenue for all school districts in general. Given the state of the economy, these factors may very well be in place for at least the next school year. This will result in a continued reduction in State aid to schools and municipalities. This set of circumstances and its probable impact, cannot be ignored when rendering the recommendations herein.

Subsequent to receiving closing briefs from the parties in this matter, the undersigned was advised that the District budget was rejected by the taxpayers and the future of the budget is unclear as of this writing.

As stated by Independent Fact-Finder, M.S. Lewandowski, in a recent report:

*“... it would be futile to recommend increases that cannot be paid for by the district. It would further be reckless for me to recommend increases that would result in the district having to seek tax increases at a time when there is a proposal to limit property tax increases to 2% a year, but even if that proposal fails, this is not the time to approach taxpayers with increases in taxes recognizing that these same people are struggling with the effects of the recession, including reductions in the wages and hours.” (See PERB M2009-99, p.3)*

### **The Issues**

- Duration
- Salary
- Health Insurance Premium Contributions

## **Duration**

The Union proposes a three-year contract and the District proposes a two-year contract. The current collective bargaining agreement between the parties provided for a three-year term. The Union argues that over the past 21 years, the parties have agreed to three-year terms in all of the negotiated contracts. A two-year contract, the Union argues, would entail beginning negotiations for a successor agreement immediately after the conclusion of the current negotiations. The Union believes that it is best for both parties if there was a hiatus in between negotiations (Union Brief, p. 7).

The Union states that when the District proposed a two-year contract the state aid amounts were unknown and it was understandable why they were seeking a shortened contract term. Now that the 2011-2012 State aid projections are established, it makes sense to agree to a three-year contract term because revenues and State aid amounts are now known to the parties. The 2011-2012 District budget has been finalized and State aid and other revenues have been established by the District.

Knowing the established State aid for the 2011-2012 school year will enable the District to anticipate and successfully plan for the upcoming school budget. There will be no new data to assist the parties in reaching agreement for the 2011-2012 contract year (Union brief p. 7).

The District initially proposed a three-year agreement but during the course of negotiations stated a preference for a two-year contract. In closing briefs, the District did not present any strenuous objection to a three-year

agreement and, in fact, indicated proposals for both a two-year and a three-year agreement.

**Recommendation:** In that the parties are close to the end term of a second year agreement, the undersigned recommends a three (3) year contract to encompass the school years of 2009-10, 2010-11 and 2011-12. This will give the parties an additional year of labor stability and an opportunity to review the direction of the economy and revenue streams for the future.

### **Salary - Union Position**

The Union's proposal for salary is an increase of 2.5% on Schedule C of the contract in each year of a three-year agreement plus a salary increment. The value of the increment and new longevity based on 115 staff members as of June 2009 is 1.55% in school year 2009-10, 1.40% in school year 2010-11, and 1.28% in school year 2011-12 (Union Brief, p.14). This proposal amounts to a total increase including increment of 11.73% over three years.

The Union states that the District's projected unreserved fund balance for the 2011-2012 school year is \$1,118,602. This is a slight increase of \$43,935 based on an unreserved fund balance of \$1,074,667 for the 2010-2011 school year. It is clear that the District could use a small portion of its fund balance to meet the Union salary demand without having an impact on the District tax rate. The projected tax revenue for the current school year is \$19,573,382. A 1% increase in the tax rate would generate \$195,573 of additional revenue for the District. The union proposal results in a three-year increase in unit salaries of \$168,457 before taking into account breakage for year three. If the Union

proposal was fully funded by taxes, the total increase in the tax rate would be .86 percent or less than .28 percent per year over three years (Union Brief, p. 14).

The tax rate per \$1000 of property value for the 2008-2009 school year was \$8.58 which was 609 out of 671 New York State school districts reporting. Pine Plains taxpayers pay rates in the lowest 10% of taxpayers. In 2008-2009, personal income per-pupil was \$271,817 ranking 70th out of 696 school districts reporting in New York State. Personal income per New York State tax return was \$102,349, ranking 69 of 676 districts responding. Personal income was higher than that of 90% of school districts in the State. The Union asserts that the District has the ability to pay with little to no impact on District taxpayers (Union Brief, p.14).

In justification of its salary proposal comparability, the Union states that the average 2009-2010 salary increases for school related personnel units in Dutchess County range from 3% to 4%. The average salary increases for ten SRP units over this time in Dutchess County was 3.69% with a median increase of 3.75%. The average 2010-2011 salary increases for SRP units in Dutchess County range from 3 to 4.25%. The average salary increases over the time for eight Dutchess County SRP units was 3.71% with a median increase of 3.75%. In 2011-2012 average salary increases for SRP units in Dutchess County range between 3.41% to 4%. The average salary increase for three SRP units in Dutchess County is 3.72% with a median increase of 3.75% (Union Brief, p.15).

The proposed salary increase by the Union for this unit is 2.5% in each year of a three-year contract plus increment. This proposal is 1.2% less than the

average increases in other Dutchess County districts, is 1% less than the lowest reported settlements in 2009-10 and 2010-11 and .9% less than the lowest reported settlement to 2011- 12. The Union's proposed salary increases are 1.3% less than that for the teachers in 2009-10 and 1.5% less than the teachers in 2010 is 2011. Additional SRP unit salary settlements in the mid-Hudson area since late 2009 range between 2.15% and 3.8%. The average salary increase for these units is 2.83% with a median increase of 3%. All of the negotiated settlements for both SRP and teacher associations are substantially higher than the Union proposed salary increase (Union Brief p. 16).

The Pine Plains unit members typically exist paycheck to paycheck and are not afforded the luxury of reducing non-discretionary expenditures. According to the Bureau of Labor Statistics, gasoline prices have increased \$1.97 to more than \$4.00 per gallon from April 2009 to April 2011. Unit members drive an average of 30 miles to and from work each day. At 20 miles per gallon, a full-time employee working 210 days per year uses 1.5 gallons per day or 315 gallons per year driving to and from work. The increase in annual cost for gasoline to drive to and from work is \$620. It is entirely possible that gasoline prices may reach five dollars per gallon, increasing the yearly cost by another \$315 (Union Brief, p.16).

Home heating fuels have increased by \$1.89 per gallon from April 2009 to April 2011. Assuming a family uses 600 gallons of fuel per year, the additional cost would be \$1,134 per year. The increase in gasoline, fuel oil and food alone result in additional yearly costs of \$2,091 in year 2011. The Union has proposed

a three-year increase in the average salary of \$1,746. After taxes it is clear that this falls far short of covering the additional expenses of food, gasoline and fuel oil. The union is mindful of the economic climate and has therefore proposed a salary increase less than District teachers and other school related personnel in Dutchess and Ulster counties. It claims its proposal results in a hardship to its members and therefore it cannot accept less. For all of these reasons, the Union asks the fact finder to recommend a yearly increase of 2.5% per year over a three-year term (Union Brief, p.18).

### **Salary - District Position**

The District is not making a traditional inability to pay argument in support of its position because ability to pay, in isolation, does not rightly inform the fact-finding process what is now at hand. The District has proposed a 2 year (or 3 year) agreement with no salary increase in each of the years other than the payment of increment (steps) which are required by the Triborough Doctrine. The fixed costs of the ERS pension plan, step increments and health insurance premiums that are beyond local control call for a significant recalibration of the expectations of public sector unions in this economic time. It is crucial for the negotiating parties, mediators and fact finders to consider the cost of step increments to be part of an equation in order to achieve a successful bargaining outcome that will be understood and respected by the taxpayers who fund our schools. The loss of their confidence predictability, budget failure, along with program and staff reductions can be avoided through “realistic for the times” bargaining outcomes. For these reasons it is critical for the fact finder to

recognize the difference between settlements that occurred before the great recession and those that are occurring in real-time (District Brief, p. 4).

The economic outlook in New York City and the rest of the State remains grim. Statewide, about 767,000 residents were unable to find work in March 2011, down from 686,600 in February 2011. More than one-third of those unemployed New York residents were not collecting benefits; many residents had already exhausted their 99 weeks of unemployment insurance premiums. Similarly, the unemployment rate in New York State and New York City in March 2011 stands at 8% and 8.7% respectively, while in Dutchess County, the unemployment rate is 7.7% as of March 2001 (District Brief p. 6).

According to the office of the New York State Comptroller,

*“... school districts in the mid-Hudson region tend to exhibit the most signs of physical stress... these districts spend more per pupil than the statewide average (\$22,164 vs. \$19,082)... the majority of school districts located in the mid-Hudson region continue to struggle with declining property values—property values declined in more than 87% of the districts as compared to 35% statewide. And in over 25% of those districts, property taxes exceed 7% of income, as compared to 15% [of districts] statewide...”*

Governor Cuomo’s and the Legislature’s new budget reduces school aid by \$1.3 billion and is one of the largest reductions in New York State history. This loss of funds represents a significant challenge for school officials with potentially devastating results. According to the New York State School Boards Association survey of school superintendents, more than 80% of the 319 respondents said they anticipated laying off employees, including more than 3,200 teachers. According to the same survey, 87% of superintendents responded that they would dip into reserves and the same percentage stated that they would use federal

bailout funds. Likewise, 85% of superintendents planned requesting an increase in local property taxes (District Brief, p.7).

Further, due to losses on Wall Street, the New York State pension funds for teachers and non-instructional employees have suffered significant asset depletion. Based upon fiduciary requirements, they will be replenished through heightened payroll taxes that in and of themselves would constitute reasonable raises in a robust economy. The ERS pension assumptions are based upon 8% investment growth. The ERS rates applicable to this bargaining unit for the 2009 and 2010 school year were 7.4% of payroll, have increased 11.9% this year (2010-11) and are expected to escalate to 16.3% in 2011 – 12 (District Brief, p.8).

With fixed cost requirements of step increases, health insurance inflation and defined pension benefit replenishment costs, the budget will undoubtedly increase from the current 77.5% for labor costs -- an unthinkable margin for all other expenses of the educational enterprise. The District's most populated job titles for this unit are bus drivers (34); teacher aides (26); and food service helper (16), accounting for 76 of the 113 unit members. The wage rates, the District maintains, are extremely competitive to comparable districts.

### **Discussion on Salary:**

The controlling factors in this recommendation are the economy, the tax base and the uncertainty of future revenue streams. Voters in this District voted down the school budget and its future is uncertain at this time. Accordingly a recommendation may not ignore these factors at this juncture.

The data in the record shows that wage rates at the minimum step and maximum step for bus drivers ranks \$.20 per hour lower at the minimum than the highest-paid in the contiguous districts that employ bus drivers and the District maximum wage schedule rate is first by \$1.17 over the second place district. The wage rates at the minimum step and maximum step for food service helpers ranks \$2.90 per hour lower at the minimum than the highest-paid in the contiguous districts that employ food-service helpers, and the District maximum wage schedule rate is third, \$1.55 behind the second place district. The data also shows that the wage rates at the minimum step and maximum step for teacher aides ranks \$2.15 per hour lower at the minimum than the highest-paid in the contiguous districts that employ teacher aides and the District maximum wage schedule rate is fourth, \$2.18 and \$0.14 behind second and third districts respectfully. When viewed within the context of neighboring school districts, the Pine Plains salaries continue to stand out as highly competitive, not needing equity adjustments.

The record shows that the assessed valuation of properties declined by 2.71% in 2009-10 to 2010-11 and the true value tax rate increased from \$9.76 per thousand to \$11.67 per thousand or by 19.588% over the same period of time.

There is no question that salary settlements are declining based upon the economy. The most recent non-instructional unit contract settlement occurred in Newburgh City School District calling for no increase in salary schedules for the 2011-12 school year, step deferred until December 1, 2011 and no increase in employee health insurance contributions. That settlement was preceded by a

settlement of step only for step-eligible unit members and 1.5% percent for off-step unit members for the 2009-10 school year. The District's proposal in fact-finding without taking into account 1% increases in employee health insurance contributions, annually reflected a 1.8% overall cost increase for the unit for 2009-10 and 7.20% increase for the unit in 2010-11.

Accordingly the fact finder makes the following recommendations on salary: effective July 1, 2009, bargaining unit members eligible for an increment shall be paid the increment; effective July 1, 2010 bargaining unit members eligible for the increment shall be paid increment; effective July 1, 2011 bargaining unit members eligible for the increment shall be paid the increment; effective July 1, 2011 any bargaining unit member not eligible for an increment shall receive a 1% increase in salary.

### **Health Insurance - Association's Position**

The Association has proposed no change to the current health insurance provision in the contract and vigorously opposes any increase in employee contributions for the successor agreement. The Association argues that the District proposal would result in the lowest paid employees paying the highest rate for health insurance coverage and these employees can't afford the additional cost for health insurance sought by the District (Union Brief p.11).

The Association notes that in the contiguous district of Red Hook for 2010-11 school year, non-teacher units pay 8% of family and 5% of individual premiums and in the contiguous district of Rhinebeck, non-teacher units pay 8% of the plan.

Finally Wappingers cafeteria workers contribute 5% for individual and family coverage (Union Brief, p.11).

### **Health Insurance - District Position**

The District has proposed a 1% increase in each strata set forth in the current collective bargaining agreement effective July 1, 2010. In support of its position, the District argues that health insurance constitutes a substantial component of the pay and benefits package for employees. The percentage of budgetary expenses devoted to school employees' health care in the 2007-08 school year on a statewide basis was approximately 8.6% while in 2002-03 the percentage was 7.4%. Excluding capital projects, health insurance represents the second-largest school non-salary district expenditure. Only teacher salaries are higher. The district rightfully seeks fiscally responsible strategies such as greater sharing of the cost of health insurance premium contribution with employees, to the ease budgetary distress (District Brief, p.14).

The District continues that during the 2009-10 school year unit members contributed health contributions as follows: \$42,000 or more -- 10%; \$26,252 -- \$41,999 -- 8.5%; \$15,001 -- \$26,251 -- 6%; \$15,000 or less -- 5%. By comparison non-instructional bargaining units in nearby Rhinebeck contributed 8% of individual and family coverage; in Millbrook unit members who earn under \$20,000 contribute 7% of the individual or family health premiums; employees earning between \$20,000 and \$29,999 contribute 8% of the individual or family; and, employees earning \$30,000 or more contribute 9% of the individual or family insurance premium costs. In nearby Webutuck, employees contribute 15% of

individual and family premiums and in a 2009 settlement, the nearby Arlington District Teaching Assistants unit agreed to contribute 10.5% of individual and family premium. Against this background it would be fair and reasonable for this fact finder to issue a report that recommends health insurance contribution rates commensurate with surrounding comparable school districts and accept this proposal to increase employee health insurance rates by 0% during the first year and by 1% during the second year of the agreement.

**Discussion on Health Insurance:**

There can be no question that the costs of health insurance have escalated tremendously over the years. However given the undersigned's recommendation on salary and given the salaries earned by members of this bargaining unit especially when compared to the salaries of other District employees and their health insurance contribution amounts, it is recommended that the contribution rates remain the same for the life of this agreement that currently exists. Simply stated, the health insurance percentages shall remain the same for school years, 2009-10; 2010-11; and 2011-12.

## Recommendation Recap

Duration:

Three year contract from July 1, 2009 – June 30, 2012.

### Salary

Effective:

- July 1, 2009 - increment for all unit members eligible for increment.
- July 1, 2010 - increment for all unit members eligible for increment
- July 1, 2011 - increment for all unit members eligible for increment
- July 1, 2011- 1% for off-step unit members not eligible for increment.

### Health Insurance:

July 1, 2009 - no change in premium contribution

July 1, 2010 - no change in premium contribution

July 1, 2011 - no change in premium contribution

### Other Issues

The issues previously agreed to by the parties set forth in the Appendix A and Appendix B documents shall also be incorporated into the successor agreement. These include two memorandums of agreement and two memorandums of understanding.

These recommendations represent either more or less than what the parties had hoped for, however, the undersigned has attempted to fashion a recommendation for the parties given the “real time” circumstances facing the burdened taxpayers of the State of New York, school districts, and other political subdivisions. At this time of economic uncertainty a basic rollover agreement can provide an opportunity for the parties to better determine the District’s economic future and State aid revenues during the next contract negotiations. Accordingly, the parties are urged to adopt these recommendations as a means of resolution to this current impasse.

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State of New York )  
County of Albany ) ss.:

I, John T. Trela, do hereby affirm my oath as a fact-finder that I am the individual described herein and who executed this instrument which is my recommendation.

Dated: June 1, 2011

**John T. Trela**  
Fact Finder