CORRECTED PAGE ONE---ADDED PERB CASE NUMBER 11/9/2016

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD
M2015-114

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In the Matter of the Fact-Finding Between

MINEOLA UNION FREE SCHOOL DISTRICT

and

MINEOLA TEACHERS ASSOCIATION

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FACTFINDER'S REPORT AND RECOMMENDATIONS

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BACKGROUND

The Mineola School District, located in Nassau County, New York, is comprised of approximately 2,800 students from pre-kindergarten through 12th grade. It has five buildings, including three (3) elementary schools, one (1) middle school and high school. During the 2015-

2016 school year, the District employed approximately 267 full time equivalent teachers, 16 building-level and district wide administrators, 8 central office administrators including the Superintendent, 67 paraprofessionals, 34 clerical employees, 41 transportation employees, and 40 custodial and maintenance employees.

In January 2015, the Mineola Union Free School District ("District") and the Mineola Teachers Association ("Association" or "MTA") began negotiations for a successor Collective Bargaining Agreement ("CBA" or "contract") to the predecessor July 1, 2011 to June 30, 2012 agreement. The parties held bargaining sessions commencing on or about January 21, 2015 on eight separate occasions through June 2015 but were unsuccessful in negotiating a new CBA.

On June 18, 2015, the parties filed a joint Declaration of Impasse pursuant to Civil Service Law Section 209, otherwise known as the Taylor Law. The Public Employment Relations Board ("PERB") appointed a mediator, Jay Siegel, Esq. who conducted three sessions with the parties, but despite his best efforts the parties were unable to reach an agreement.

On March 31, 2016, the parties filed a joint request with PERB to commence fact-finding and to request the appointment of Rosemary A. Townley, Esq., as Fact-finder. PERB appointed Ms. Townley on April 25, 2016 as the Fact-finder in this matter. (District Brief at 1).

The parties and their respective representatives met in a session on June 21, 2016, at which time they proffered oral arguments and submitted extensive documents and exhibits for by the fact finder. Thereafter, in August 2016, the parties submitted supplemental information related to their original presentations at the session. All such arguments and documents have been fully considered by the factfinder in order to reach her recommendations.

The major issues at fact-finding were annual salaries and increments; the duration of the CBA; the employee contributions to health insurance premiums and the amount and usage of non-attendance leave time.

The MTA also proposed other issues that are addressed within this report, such as the following: extra pay for nurses that conduct physicals after school for student athletes and for summer bus drivers to be compensated at their hourly rate of pay; teachers who prepare videotaped lessons after school should be paid at their hourly rate of pay; teachers on "extended day field trips" shall be compensated at the Audience Control rate and thereafter the overnight rate shall apply to the hours from midnight to 8 am; the establishment of a sick bank for the individuals who exhaust their sick time with the District contributing 200 days annually; and the elimination of the 200 accumulated sick day cap.

ABILITY TO PAY- FINANCIAL DATA

One of the criteria that a Fact-finder must consider when making recommendations concerning a new CBA is the District's ability to fund any increases in salary, benefits, or other items that are related to a new agreement. The parties' have set forth the relevant data and argue with respect to this issue as summarized below.

The District

The District argues that the Property Levy Tax Cap legislation signed into law on June 24, 2011 and extended for another four years during the spring of 2015, restricts increases to a school district's annual tax levy to the lesser of two percent (2%), or in this matter the prior year's unadjusted Consumer Price Index for all Urban Consumers ("CPI"), subject to certain limited exceptions and adjustments. It argues that the use of the CPI in this formula is problematic when the inflation rate runs low, as is the case at present due to falling oil prices.

Thus, despite the common reference to the legislation as the 2% Tax Cap in reality it is much lower, given the allowable growth factor link to the CPI, thus creating volatility and uncertainty in the finance management of a school district. The District notes since July 31, 2013, the inflation factor has been less than 2% and thus the allowable growth factor has been equal to one plus the inflation factor. This inflation factor has steadily decreased since the implementation of the tax cap law, resulting in a depressed allowable growth factor unable to reach a full 2% during the last three years.

When the depressed allowable growth factor is coupled with past state aid cuts and freezes, the tax cap has placed the district in jeopardy, along with other districts, as the allowable growth factor, as published by the New York State Comptroller on January 20, 2016, was capped at 0.12%, which is even lower than the cap of 1.62% for the 2015-2016 school year. Moreover, it points out that the Comptroller determined that the maximum allowable growth for Mineola school district for the 2016-2017 school year was -0.12% compared to the statewide average of 0.7%. Such a negative property tax cap figure prohibits the District from raising revenue through the tax levy in order to maintain the District's operational costs, as evidenced by the District's decrease of the prior year's tax levy (2016-2017) by $10,343.

The District avers that although the tax cap law provides for the piercing of the cap, a district would need to obtain 60% of the "yes" vote on its budget from the community members. It notes that since 2012, only slightly more than half of the budgets that sought a supermajority were approved, with a very low passage rate in Long Island. (Brief at 4-6)

The District maintains that regardless of a school district's perceived wealth, the tax cap law serves as the great "equalizer' as it places all district in the same position by limiting the ability to raise revenues. Thus, it contends, there is no advantage that could arise from the school district's property wealth or income wealth, especially when the Mineola school district's negative allowable growth factor is coupled with the high percentage of tax levy support required of taxpayers. Moreover, the District receives a de minimus amount of State Aid, for example, 6.72% of the budget in 2014-2015 and 7.14% in 2015-2016, with Federal aid being virtually non-existent. Thus, it concludes, the District's taxpayers must carry the burden of any financial increases.

With respect to the teachers who recently retired from the District, it points out that it paid approximately $700,000 in retirement benefits to these employees, which when combined with increases in health insurance and other areas, resulted in a minimal net savings. In addition, the replacement teachers will be receiving increments, as they are on schedule, unlike the retirees who were not on schedule and had hit the maximum. Moreover, it points out that the increment increase averages greater than 3.5%.

The Association

The Association argues that the actual school district expenditures have been less than the budgeted level in two of the three years resulting in the District under-spending its budgets between 2013-2015 by a net total of $7,443,808. It notes that the percent difference between actual and budgeted expenditures ranged from 5.7% under budget to 0.8% over budget over the same three-year period. The Association avers that the actual revenues received were greater than the levels projected in every year of its three-year analysis ranging from 0.4% to 0.6% over projection and averaged 0.5% over projection. It notes that actual revenues exceeded District projections by a total of $1,239,409, with approximately 90% of the revenues coming from real estate taxes.

With respect to its operating surplus, the Association contends that the District's difference between budgeted and annual expenditures, combined with the difference between projected and actual revenues which determines the operating surplus or deficit, shows that the District had a surplus in two of the three years of 4.3% (2013-2014), -0.5% (2014-2015) and 6.2% (2015-2016).

The Association points out that the District's unrestricted assigned appropriated fund balance for 2014-2015 showed the need to appropriate $250,000 of it to budgeted expenditures, which were greater than projected revenues. Thus, the unrestricted fund balance contained a balance of the following for each of the three years: (2013-2014), $5,219,648, (2014-2015), $5,497,857 and (2015-2016), $6,583,101.

It points out that the Unrestricted Fund Balance (less funds appropriated for the subsequent year) is also known as the Unexpended Surplus, which is available to the school district for any authorized expenditure. Under the Real Property Tax Law Section 1318, the maximum that a district may carry in an Unexpended Surplus is 4.0% of the total projected general fund expenditure. It argues that the District exceeded the maximum as set forth in the law in every year as follows: (2012-2013) -5.8%, (2013-2014) 6.0% and (2014-2015) -7.2%. It also notes that the District uses a non-spendable fund and five restricted accounts for required payments such as Workers Compensation and Employees Benefits the value of which at the end of 2014 was $8,047,328, which was an increase over the past two years of $3,316,888.

The Association argues that its analysis shows that the District will end the 2015-2016 school year with an annual operating surplus of about $5,420,000 and if no transfers are made to restricted accounts, it will close out the year with an unrestricted fund balance of $13,055,000 prior to appropriating funds for the next year's budget. (UX-D).

The Association also contends that the District has received cost reductions from the retirement of the thirteen teachers and the hiring of lower salaried replacements.

Based on the foregoing data, the MTA concludes that the District can well afford to fund the salary and benefit increases, as well as other issues requested during negotiations. (UX-D)

ABILITY TO PAY- DISTRICT COMPARATORS

The District identified several Nassau County school districts and argued that such should serve as comparators with respect to its Combined Wealth Ratios ("CWR"). While emphasizing that the Tax Cap legislation has effectively made all districts roughly equivalent in their ability to increase revenues, the CWR provides a historical base line for economic comparisons. The CWR measures a district's wealth and is based on the actual valuation of its real property and the income of the residents of a district. Also, the CWR is a reliable index as it is a equally weighted combination of Pupil Wealth Ratio ("PWR") and Alternate Pupil Wealth Ratio ("APWR") which measure a district's property wealth per pupil and income wealth per pupil respectively, compared to the statewide average of 1.0. A district with a CWR of less than 1.0 has wealth below the statewide average, while a district with a CWR of more than 1.0 has a wealth above the statewide average. The most recent school year when results were available, the 2013-14 school year, the wealth measure data or CWR of Mineola was 1.876, which ranked fifteen (15) out of fifty-six (56) school districts in Nassau County, and ranked sixth out of the 11 school districts in the Town of North Hempstead. (District Brief at 10-13).

The District notes that although the Pupil Wealth Ratio ("PWR") for the 2013-2014 school year was 2.377, or 10th out of 56 school districts, it has steadily decreased from 2009-2010. It also contends that its APWR of 1.377 for the 2013-2014 school year, although 19th out of 56 Nassau school districts, was ranked below the median at seven (7) among the 11 North

Hempstead School Districts. It points out that its APWR has not returned to its value of the 2008-2009 school year. (District Brief at 16). The District says that its PWR, which reflects property value, is at 2.377. It says that in light of its CWR, the APWR which reflects income is considerably less at 1.377 which is attributable to the value of its taxable real properly, mainly because of the many commercial properties located within the District, rather than the personal wealth of its residents. It points out that the District is ranked the third lowest among income wealth among school districts in Nassau County with comparable CWRs and thus its residents are less able to pay school taxes when compared to other districts with similar CWRs. (District Brief at 15-17).

The District further maintains the burden on the taxpayers is underscored by comparing the Per Capita Income, or the average income earned per person in a given area, of its residents to that of the average salary of a teacher in the District. It notes that the District's Per Capita Income for 2014 was $38,847 while the average teacher's salary for 2013-2014 was $115,379 and for 2014-2015 was $115,433, or 2.9 times more than the income of the average person in the District.

The District avers that its Local Revenue Effort Rate ("LRER") which measures a District's local revenues divided by property value assumes that jurisdictions with high revenue efforts are poor and need to main high revenue efforts compared with their revenue base in order to provide basic services to their residents. It points out that a high LRER equates to a high burden on the District's residents. In 2013-2014, out of the 56 school districts in Nassau County, the District ranked 30th and among the 11 North Hempstead districts and ranked 6th in terms of the highest rate, which was at the median. If the teacher salaries were to be significantly increased, there would be more pressure on the taxpayers for additional revenues, despite the fact of the negative allowable growth factor and the tax cap issue.

The District cautioned that although certain indices of the ability to pay appear healthy, consideration must be afforded to the fact that its wealth is heavily predicated on its real property value that can be attributed to the high concentration of commercial and institutional businesses located within the District, and not upon the wealth of the residents. The burden on the taxpayers cannot be dismissed as slight, and the State does not provide substantial aid to the district. Given the disparity in the average income of a resident of the District and that of an average teacher, it must be argued that the Association's proposal is out of touch with that of the community.

In light of the foregoing concerns, and the spiraling costs that the District faces, such as increases in health insurance, pensions, utilities, etc., the District cannot afford to create a large "financial hole" given the current economic climate.

The Association

The MTA did not identify specific school districts to serve as comparators but rather suggested that the data of all school districts in the entire county be relied upon for comparative purposes.

The Association argues that the District has recently realized a cost savings in teacher salaries due to the retirement of 13 high salaried teachers at the end of the 2015-2016 school year, with a replacement of teachers at the lower salary levels. The Association contends that the terms of the previous Memorandum of Agreement ("MOA") that expired on June 30, 2015, resulted in teacher salary schedules that are significantly lower than those for teachers in other Nassau County school districts. The Association also maintains that salary rankings for the teachers in the District have fallen from 2011 to 2016 and points to the salary ranking tables provided in its exhibits to support this proposition. (UX-J).

The Association avers that the District's "tactic" of relying on the amount of the Tax Levy Cap to justify keeping teacher salaries at a low level is belied by the fact that the District ended the 2015-2015 school year with an unrestricted fund balance in the amount of $6,333,101. This fund balance is well in excess of the 4% maximum level as required by New York State Education Law, by approximately $ 2,798,530. In sum, the Association argues, the District has more than enough money to pay the teachers a fair salary without the need to "break" the Tax Levy Cap.

Comparable School District Agreements[1]

SALARY RECOMMENDATION

I find the most relevant comparators for purposes of this fact-finding to be those CWRs of the school districts in the Town of North Hempstead and have narrowed the list to Carle Place, Glen Cove, Hewlett-Woodmere, Syosset, Island Park and East Williston. The range of CWRs of these districts is 1.567 to 2.294 with Mineola at a CWR of 1.876, which is close to the center point or median of the range. Also, these school districts had Tax Base Growth Factors for the 2013-2016 time frame in the same or similar range to that of Mineola. (See Table Tax Base Growth)

For school years 2015-2016 and/or 2016-2017, there were five comparator districts in which salary increases were granted in at least one of the years: Carle Place (0.5%/full increment); Glen Cove (1%, half increment); Hewlett Woodmere(0.5%/full increment each year); Syosset (1%, half increment each year); Island Park ($2,000 off full schedule/1.5% and no

[1] Contract details per MTA Fact Finding Binder, Section I. Recent Nassau County Settlements

increment) and East Williston (1.0% (for Step 16+, then .0.60%, then 0.790%). (See Table Comparable District Contract Data). All districts provided a full or half increment for 2015-2016, but the annual increases were less than 1% and typically at 0.5%. In two districts, Glen Cove and Syosset, where a half increment was provided in 2015-2016, the annual increase was 1%.

Tax Base Growth Factors

District	Carle Place	Glen Cove	Hewlett Woodmere	***Mineola***	Syosset	Island Park	East Williston
CWR	1.567	1.582	1.803	**1.876**	1.949	2.156	2.294
TAX BASE GROWTH FACTORS							
2013	1.0000	1.0009	1.0000	**1.0002**	1.0000	1.0039	1.0000
2014	1.0000	1.0018	1.0060	**1.0008**	1.0058	1.0008	1.0151
2015	1.0031	1.0029	1.0046	**1.0027**	1.0000	1.0015	1.0090
2016	1.0015	1.0046	1.0043	**1.0000**	1.0045	1.0000	1.0098

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Comparable District Contract Data

District	Carle Place		Glen Cove		Hewlett Woodmere		**Mineola**		Syosset		Island Park		East Williston	
Contract Date	May 2014		May 2014		June 2014		November 2012		November 2014		September 2014		November 2015	
Contract Term	2011-2017	6 Years	2011-2016	5 Years	2013-2017	4 Years	2011-2016	4 Years	2014-2017	3 Years	2014-2017	3 Years	2015-2018	3 Years
CWR	**1.567**		**1.582**		**1.803**		**1.876**		**1.949**		**2.156**		**2.294**	
	Salary Changes		**Salary Changes**		**Salary Changes**		**Salary Changes**		**Salary Changes**		**Salary Changes**		**Salary Changes**	
Year	Increase	Increment	Increase	Increment	Increase	Increment	Increase	Increment	Increase	Increment	Increase	Increment	Increase	Increment
2013	No Increment; 1% +$1000 cash for on step, 2% + $1000 cash for top		0	80% + 1.5% on base on 5/1/14	0.0%	full	0.5%	half						
2014	0	0	1%	half	0.5%	full	0.5%	half	0	Full + $650 Cash to non-increment				
2015	0.5%	full	1%	half	0.5%	full			1%	half	$2,000 of schedule	full	1.00%	(only for St. 16+)
2016	0.5%	full			0.5%	full			1%	half	1.5%	none	0.60%	full
2017											1.5%	none	0.70%	full
2018														
Health Insurance Changes	13% in 2014, 14% in 2015, 15% in 2016, new hires 20%		NA		no change 20%				Increase from 17% 20% by 6/30/17		2015 16% to 17.5%, 2016 to 19%		increase to 21%	

There were no instances among the comparable districts where an increase of 1% or greater was combined with the payment of a full increment. There was one instance, Island Park, in which the annual increase was 1.5% with no increment. There were two instances, Carle Place and Island Park, where a cash bonus not on base was provided to those who were off step and received no salary increase.

The CBA duration in these 6 comparable districts ranged from three years to six years (50% of the districts had three years, one each had 4 year, 5 year and 6 year CBAs).

This comparator analysis provides some indication of a pattern between a full increment and a 1% annual increase, so that the comparable CBAs essentially provide either:

A) 0.5% annual increase with a full increment,

Or

B) 1% annual increase with a half increment.

District Salary Proposal

The District argues that the overall cost of the increment as a percentage of base payroll is 1.1 %, but emphasizes that there are several examples whereby the value of the increment is significantly greater than 1.1%. The District's proposal is as follows:

- For teachers on steps 1-15: 0% annual increase, ½ increment per year during the term of contract.
- The addition of half steps on schedule.

- For teachers on "Frozen" steps (16-19 and 21-24), an annual payment of cash, not added to base, of $500 or $1,500 as noted below.
- No annual increase to the salary table.
- A five-year contract period.

		For members on schedule	For members off schedule
Year 1	2015-2016	0% + Increment	$ 1,000
Year 2	2016-2017	0% + ½ Increment	$ 500
Year 3	2017-2018	0% + ½ Increment	$ 1,000
Year 4	2018-2019	0% + ½ Increment	$ 1,500
Year 5	2019-2020	0% + ½ Increment	$ 2,000

Association Proposal

- Full step increments per year.
- 1.25% annual increase to the salary schedule (as proposed June 21, 2016, down from original proposal 3%/yr.)
- A modification of the Salary Schedule as follows:
  - o Add Step 35 at 2% above Step 30.
  - o Add MA 75 Column between MA 60 and Doctorate.
- Nurses to be compensated based on the Teacher's BA schedule or the MA schedule if the nurse holds a master's degree.
- A three-year contract period.

		For members on schedule	For members off schedule
Year 1	2015-2016	1.25% + Step	1.25%
Year 2	2016-2017	1.25% + Step	1.25%
Year 3	2017-2018	1.25% + Step	1.25%
Year 4	2018-2019	na	na
Year 5	2019-2020	na	na

The Association further argues that the terms of the previous MOA that expired on June 30, 2015, resulted in a CBA salary schedule significantly lower than those other districts in

Nassau County. In the past, it argues, Mineola ranked for the most part, among the top ten school districts in teacher salaries; however, it has now fallen among the top 20 districts.

Recommendation

In light of the foregoing comparator data, the District's ability to pay and the arguments of the parties, I recommend that the parties adopt a three-year contract as follows:

2015-2016	0% plus Increment (already paid)
	$1000 cash to off step/who did not receive increment
2016-2017	0.50% plus increment (already paid)
	$1500 cash to off step/who did not receive increment
2017-2018	0.50% plus increment
	$1500 cash to off step/who did not receive increment

Issue	**Recommendation**
Nurses: conducting after school and summer Bus Driver and Student Athlete Physicals shall be compensated at their hourly rate of pay;	Recommended.
Teachers who prepare videotaped lessons after school shall be paid at their hourly rate of pay;	Not recommended.
Teachers on "extended day field trips" shall be compensated at the Audience Control rate (for 14-15 such rate was $39.81 per hour) and thereafter the overnight rate shall apply to the hours from midnight to 8 a.m. (for 14-15 such rate was $160.34 per night);	Not recommended.

Contract Duration

The agreements in the comparable districts ranged from three (3) to six (6) years in duration. I understand that by recommending a three-year contract, the parties would be returning to the table within 18 months, given the retroactivity of the first year (2016-2017). In light of the turmoil within the economy, given the elections and the ongoing global market changes, it might be a good time to take the short view as a means of containing any impact upon the finances of the District.

HEALTH INSURANCE

Premiums

The comparable information concerning the health insurance contribution to premiums was available for five of the six comparable districts. In Hewlett-Woodmere, the employee contribution had reached 20% of the premium. In the other four districts, the contribution was increasing in 1% steps to a 20% contribution, with one district noted only as "increase to 21%".

The Association argues that the current level of employee contribution to premium of 15% must be maintained.

The District argues that it will face many financial and operational challenges in attempting to comply with the Affordable Care Act ("ACA") given the mandate that employers with 50 full-time equivalent employees are offered health insurance, which includes those working an average of 30 hours a work or 130 hours a month. School districts will face a steep penalty for non-compliance, as it must offer the opportunity to apply to at least 95% of full-time employees, including dependents, for minimum essential coverage. It points out that penalties will be assessed if at least one full-time employee is certified as having enrolled for that month in a qualified health plan on the exchange in which that employee received a premium tax credit or cost sharing reduction, thereby increasing the District's health insurance costs.

The District points out the so-called "Cadillac Tax" which was added to the Internal Revenue Code as a result of the ACA imposes a 40% excise tax on applicable employersponsored health care coverage if it exceeds a statutory dollar limit adjusted annually. This tax would be imposed on the amount of the premium above certain threshold of over $10,200 for single coverage and $27,500 for family coverage (both times the health cost adjustment), with other adjustments. Coverage providers are responsible for calculating and paying the tax, such as health insurers but for self-insured plans such as NYSHIP, the plan sponsor would be the liable entity. At this time, the IRS is considering public comment (Notice 2015-52, July 30, 2015) as to which entity should be responsible for the tax. The District argues that if it is held responsible, then an additional cost will be passed down to it. Although this tax has been delayed until January 1, 2020, there is no permanent reprieve and all New York State plans must take into account any increase at that time. It notes that if the tax were to be effect in 2017, it would have cost the District $324,230 based on the anticipated costs of health insurance premiums during that year for the District teachers.

With respect to the contribution rate, the District argues that it has paid 85% of both individual and family coverage health insurance premiums, while the MTA members contributes 15%. All proposals by the District whether a flat dollar amount or a percentage increase were rejected by the MTA. The District argues that a majority of Nassau County districts contribute 80% to the premiums with the employee contributing 20%. It maintains that with the ever-increasing premium payments, it cannot sustain the contribution rates under the current economic climate.

District Proposal

The District proposal that for new hires as of July 1, 2015, the employee health insurance contribution rate shall increase to 25% as of July 1, 2016. It also argues that for all those employees hired before July 1, 2015, the employee contribution rate shall increase as follows: 17% effective July 1, 2017, 18% effective July 1, 2018 and 20% effective July 1, 2019.

RECOMMENDATION

The comparable information concerning the health insurance contribution to premiums was available on five of the six comparable districts. In Hewlett-Woodmere, the employee contribution had reached 20% of the premium. In the other four districts, the contribution was increasing in 1% steps to a 20% contribution, with one district noted only as “increase to 21%”.

I recommend that staff covered by the CBA begin increasing their contributions to their health insurance premiums, an ever-increasing, unpredictable and high cost item. A review of the comparable districts shows that the teachers are currently paying or increasing their health insurance premium contributions towards an eventual 20% contribution to the cost of health insurance during a similar time frame. Moreover, the “Cadillac Tax” looms on the horizon despite its non-implementation at this time.

I recommend that the health insurance premium contribution be increased to 17% as of July 1, 2017, then to 18% as of July 1, 2018 and 20% as of July 1, 2019. It is recommended that the salary tables for the nurses remain in effect and be increased annually at the same rate as applied to the instructional staff schedules.

NON-ATTENDANCE DAYS

In those districts with comparable CWR’s, the data indicates a trade off between the annual number of non-attendance days and accumulation with a payout of accumulated days. The districts with the greater number of sick days per year did not provide for an accumulation and therefore no payout upon retirement. In the districts where accumulation occurred, the number of days per year ranged from 12 to 15 days with a maximum accumulation ranging from

165 to 235 days. The payout provision at retirement in these districts ranged from 20% to a nominal 65% (dependent on the number of persons receiving a payout in a given year).

In the current CBA, Article XXV provides a total of fifteen (15) days, or "non-attendance days" for each employee in the unit, for the reasons specified in the provisions below:

- Five (5) days per year for the death of an immediate family member
- One (1) day per year to attend the funeral of an individual to whom the teacher feels a "definite" obligation (deducted from personal illness days)
- Permitted absence due to compliance with quarantine regulations
- One (1) day for a weather emergency (deducted from personal illness days)
- Fifteen (15) personal illness days four, (4) may be used for religious observance;
- Two (2) "non-attendance" i.e. personal days (can be used for religious observance).

District Proposal

The District argues that this provision has been abused by the teachers, as in the 2014-2015 school year on average each teacher was absent 13 days and it cost $403,000 in substitute teacher pay which averaged $2,200 a day. For the school year 2015-2016 and as of June 10, 2016, the average days used per teacher was 11, and the projected funds needed to pay for substitutes is estimated to be approximately $357,000 for an average of $1,980 a day. It points out that the teachers are able to accumulate up to a 200-day maximum of sick days at the rate of 15 days a year.

Moreover, at the fact-finding session, Superintendent Michael Nagler offered $2,500 cash per teacher in exchange for the elimination of the three (3) family illness days set forth in Section

25.04 of the CBA, a benefit of approximately $$695,250, which was rejected by the president of the MTA

In order to contain this problem, the District proposes the following:

For New Hires as of July 1, 2015

- Ten (10) "non-attendance" days for any of the above stated reasons.
- Two (2) non-attendance/personal days per section 25.05 of the CBA

All other members shall transition to the above effective provisions July 1, 2018.

Association Proposal

- A new teacher-wide Sick Bank: The District shall contribute 200 days annually to a sick bank, jointly administered by the District and the Association, for persons who exhaust their sick time.
- Eliminate the cap on accumulated sick days which is currently set at 200 days.

RECOMMENDATION

The usage of non-attendance days appears to be extremely high, given the numbers presented by the District, as the average time used per teacher would constitute approximately 8% of the work year of 184 days, assuming the total number of work days is correct. The numbers are very troubling and the amounts spent in substitute pay to cover the teachers that averaged $2,200 a day in 2014-2015 and $1,980 through mid-June 2016 when they are out on non-attendance day must be addressed.

Although the comparators have similar numbers with respect to their allowance, there was no evidence of the level of use as shown in Mineola.

Accordingly, the proposal of the District is recommended in order to contain this pattern:

For New Hires as of July 1, 2015

- Ten (10) "non-attendance" days for any of the above stated reasons.
- Two (2) non-attendance/personal days per section 25.05 of the CBA

All other members shall transition to the above effective provisions July 1, 2018.

The MTA's proposals to remove the 200-day cap on sick leave accumulation and to establish a sick leave bank of 200 days a year at the District's expense are not recommended for cost reasons.

Administrative Salaries/Retiring Teachers

The MTA presented information regarding the increases in administrative salaries during the fact-finding session but did not provide argument at that time, or thereafter in the August 2016 submission, as to its relevance to the salaries in this fact-finding. Moreover, the evidence shows that the District added new programs requiring the hiring of new teachers, such as for a "hand-on" lab for students in K-second grade and a partnership program with Queensborough Community College to offer junior and senior students the opportunity to earn up to thirty (30) college credits and a certificate in Internet and Information Technology, both of which add high value to the District's programming. Thus, absent some nexus to the issues before me, I cannot make any findings with respect to the amounts earned by the administrative staff of the District. With respect to other issues raised at the fact-finding, they have been considered and remanded back to the parties for future negotiations.

All remaining proposals have been considered and are remanded to the parties for further negotiation.

CONCLUSION

It is my opinion that the foregoing obligations represent a fair balance between the needs of the Association and its members, and the rights and obligations of the District. I strongly urge them to adopt the recommendations as presented, and to consider the alternatives, and allow the District, the staff and the students to return to a more positive labor-management relationship.

Dated: November 7, 2016
Larchmont, New York

Rosemary A. Townley
Fact-Finder

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss:

On this 7th day of November 2016, I, Rosemary A. Townley, Esq., Ph.D., affirm, pursuant to Section 7507 of the New York Civil Practice Law and Rules, that I have executed the foregoing as my FACT-FINDER'S REPORT AND RECOMMENDATIONS.

Dated: November 7, 2016

Rosemary A. Townley, Esq., Ph.D.
Fact-Finder