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John Callahan

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Union-Endicott Central School District and Union-Endicott Maintenance Workers Association

Abstract

In the Matter of: PERB Case # M2007-103 Union-Endicott Central School District and Union-Endicott Maintenance Workers Association. Before: John Callahan, Fact Finder.

Keywords

New York State, PERB, fact finding

In the Matter of:
PERB Case # M2007-103
Union-Endicott Central School District
and
Union-Endicott Maintenance Workers Association

Fact-Finding

-HISTORY-

The Union-Endicott Maintenance Workers Association (hereafter the "Association") is the duly recognized bargaining agent for a unit consisting of sixty-four civil service employees who are employed by the Union-Endicott Central School District (hereafter the "District").

Though all terms and conditions of employment go forward, as prescribed by law, the four year agreement between the parties expired on June 30, 2007.

The parties conducted five negotiation sessions in an attempt to secure a successor to the 2003-2007 collective bargaining agreement. These sessions, conducted on May 7; May 18; June 10; and July 13, 2007, failed to produce an agreement.

At the final negotiation session, the parties issued a joint declaration of impasse. In response, the Public Employment Relations Board (hereafter "PERB") appointed Anthony Zumbolo as mediator.

Mediator Zumbolo, according to the Association, "quickly and accurately surmised the major stumbling block between the parties as the retiree health insurance issue". Mediation sessions were conducted on October 22, 2007 and March 6, 2008. Though there was considerable dialogue between the parties, all attempts to resolve the issues were for naught.

On June 18, 2008 the District requested PERB to assign a fact finder. On or about July 14, 2008 the undersigned was appointed and met with the parties on August 13, 2008. I witnessed sincere and exhaustive attempts by both parties to reach a compromise on the issue of retiree health insurance. Once again those attempts failed to reach closure.

The District and the Association initially set September 26, 2008 as the deadline for submission of briefs. Later, the District and the Association mutually agreed to extend the deadline for submission of briefs to October 3, 2008. The briefs were received from the parties in a timely fashion. What follows are the recommendations and rationale of the fact-finder regarding the issues put forth by the parties.

ISSUE: HEALTH INSURANCE

- . Retirees**
- . Premium payments**
- . Major Medical Deductions**

Currently, for bargaining unit members hired prior to July 1, 1997, continued health insurance coverage upon retirement is determined by the percentage of unused sick leave accumulated on the last day of employment prior to retirement, as well as other requirements (see attached Fig. 2).

The Association has proposed an “enhancement” of this provision, which would require the District to eliminate the current practice (based on accumulated sick leave) and continue to maintain premium payments toward health insurance at the level in effect at the time of the employee’s retirement.

The Association presented numerous pages illustrating “potential” savings to the District for each of the twelve members eligible or soon to be eligible for retirement. It is the Association’s position that many members cannot afford health insurance coverage in retirement and thus tend to work well beyond retirement age.

The District is opposed to the idea of “enhancing” the health insurance retirement benefit and claims that the reason some Association members cannot afford health insurance coverage in retirement is “because their attendance at the time of retirement was poor.”

The District has nine bargaining units representing full-time employees. Each of those bargaining units uses the same formula as the Maintenance Workers Association to compute health insurance premium payments for retirees (see Fig. 2 attached). The only exception is the teacher and administrator benefit which is somewhat better for those who retire with less than 50% accrual. In all other respects they are identical.

The District has achieved a very high degree of parity under the health insurance article of its nine bargaining units. The Association’s proposal to “enhance” this benefit would set them apart as the only unit so “advantaged”. While the Association claims that it would be a ‘boon’ for the District, the District views it as a ‘bust’.

The District, in its brief, stated: “Anytime a long term Association member retires from the District, the District will save money by replacing that individual with a new hire at a lower salary. The District’s savings, as referred to in labor relations, its ‘breakage’, can only be reduced if the District agrees to pay more for the retiree’s health insurance. The District will not save money, it will actually lose money if it agrees to the Association’s proposal”

As the Association’s proposal to “enhance” employee health insurance benefit in retirement deviates so far from the obvious pattern established district-wide, it is the fact finder’s recommendation that the Association’s proposal be rejected. Rejected not

because it is different but because it is so different.

Turning to the matter of health insurance premium contributions, the District seeks to reduce its current individual policy premium payment from 95% to 90% and its current family policy premium payment from 90% to 87.5%. Again, the District has gained an all-encompassing pattern here as well. Each of the remaining eight bargaining units has agreed to the identical increase in premium payments spoken to above, the latest three effective July 1, 2007. The Association has indicated its willingness to agree to this but only if the District agrees to the Association's proposal to "enhance" the retiree health insurance benefit.

With the above in mind, it is the recommendation of the fact finder that retroactive to July 1, 2007, members of the Association shall contribute 10% toward the individual health insurance premium and 12.5% toward the family health insurance premium.

Finally, to the matter of major medical deductions. The District has finalized negotiations with each of the other eight bargaining units. In each of those negotiated agreements there is a provision which increases major medical deductions from the current \$75/\$225 to \$100/\$300 effective July 1, 2010.

It is the recommendation of the fact finder that this pattern be adopted by the parties on the effective date.

ISSUE: COMPENSATION

- . **Base Salary Increases**
- . **Starting Salary Increases**

In its brief, the District presented a four year (2007-2011) proposal illustrating base salary increases which have been previously agreed to by the parties (see below):

Base Salary Increases: 2007-2011

2007-2008	4%
* 2008-2009	3.9%
2009-2010	4%
* 2010-2011	3.9%

- * Flat dollar equivalent that includes breakage

The District stated that the above proposal is conditioned on the Association's acceptance of increased premium payments by its members to individual and family health insurance plans.

The Association has indicated that the above proposal is conditioned on the District's acceptance of its proposal to "enhance" health insurance coverage for retired unit members. (The fact finder has previously addressed the Association's proposal to "enhance" the retirement benefit for unit members and further comments are not

necessary.)

The District has indicated that all other units in the District have agreed to have their base salary increases tied to the effective date of their agreement to increase employee health insurance premium contributions. Not one unit was given a full salary increase in the 2007-2008 school year without having to increase their health insurance contributions in that year. The District has made the same proposal to the Association that has been agreed to by every other unit in the District (see Fig. 1 attached).

It is the recommendation of the fact finder that base salary increases illustrated above and the increased health insurance contributions by members be retroactive to July 1, 2007. The pattern has been established district-wide.

As to the matter of starting salary increases. The District has proposed to increase starting salaries by 1.0% less than the agreed upon base salary increase for unit members. The District stated "Not one unit was given a full salary increase in the 2007-2008 school year without having to increase their health insurance premium contributions in that year." The Association has indicated that this is acceptable.

The fact-finder recommends that the parties adopt the District proposal to increase starting salaries by 1.0% less than the agreed upon percentage of base salary increases for the school years 2007-2011.

Note: The recommendation regarding base salary increases strikes a middle ground between the District's desire to grant a flat dollar increase and the Association's desire to grant a percentage increase.

ISSUE: OVERTIME

(Subcontracting)

The Association seeks acknowledgement from the District of its exclusivity of bargaining unit work. It is the position of the District that the bargaining unit does not have exclusivity over certain work performed by bargaining unit members. The parties have discussed this matter several times over the past two years and their respective positions have not changed.

It is the recommendation of the fact finder that either or both parties place this matter before PERB for review and determination by an Administrative Law Judge.

ISSUE: DISASTER RELIEF

While open to the concept, the District is opposed to the creation of a disaster relief bank for bargaining unit members who could not work due to a natural disaster.

The District indicated a willingness to allow bargaining unit members to donate vacation and personal days to fellow members who have exhausted such days due to a natural disaster.

The Union, however, did not address this matter in its brief.

The fact finder recommends that the parties explore the District's willingness to allow bargaining unit members to donate vacation and personal days to fellow members who have exhausted such days due to a natural disaster.

ISSUE: UNIFORMS

The parties appear to be very close to agreement on this matter. All that remains to be decided is which job titles will be issued uniforms. Previous discussions lead the fact finder to believe this matter is best resolved between parties.

ISSUE: EVALUATION

It is the District's position that a public employer has the right to conduct employee evaluations without prior negotiations. Further, the criteria for employee evaluations are non-mandatory subjects of negotiation. The District, however, is willing to negotiate the procedural aspects of the evaluation process. It is the understanding of the District that the evaluation form, as proposed, is agreeable to the Association.

It is the Association's position that the parties are in agreement that the fourth column of the evaluation form should be labeled "Comments" instead of "Problems". The only conflict before the fact finder is the contractual language which accompanies the form.

The Association's proposal regarding the contractual language to accompany the evaluation form is as follows:

"In consultation, the head custodian, the Director of Plant Operations, or his/her designee may request that the head custodian evaluate an employee using the evaluation form attached to the collective bargaining agreement."

It is the recommendation of the fact finder that the language, as stated above, is appropriate contractual language.

ISSUE: SICK LEAVE BANK

The Association has proposed that in the future, each unit member would initially donate two days to the sick leave bank. The sick leave bank would then be funded by unused accumulated days which could then be donated when a unit member's employment is terminated.

In view of the fact finder's recommendation that the district-wide language regarding days in the sick leave bank used to determine an employee's level of retirement benefit, the Association's proposal must be rejected.

ISSUE: VACATION PROVISIONS

The Association has agreed to increase the vacation request advanced notice requirement from five days to ten days. The Association has also proposed that the number of unused vacation days that a unit member may carry over into the next year be increased from the current five days.

The District is opposed to the additional carryover days. A review of the collective bargaining agreements establishes that the Association members have essentially the same vacation schedule as other twelve month employees.

As no specific problems or needs were brought forth by the Association, why are additional carryover days necessary? The fact finder recommends that the change in advanced notice spoken to above be adopted.

The fact finder thanks the parties for the wealth of information put forth in support of their respective positions.

John Callahan
Fact Finder

Date: October 20, 2008

Figure 1

1. Union Endicott District Office Personnel
2. Union Endicott Computer and Technology Services Association
3. Union Endicott School Aide Association
4. Union Endicott Transportation Employees
5. Union Endicott Teachers Association
6. Union Endicott Central Office Administrative Assistants
7. Union Endicott Cafeteria Workers
8. Union Endicott Administrators Association
9. Union Endicott Maintenance Workers Association

A. Contract duration:

2007-2011

All except number 9 (above)

2004-2007

B. Effective or retroactive dates that units increased employee contributions to individual and family health insurance premiums:

July 1, 2004 - number 1

July 1, 2007 - numbers 2, 3, 4, and 5

July 1, 2008 - numbers 6, 7 and 8

C. Effective date major medical increases from the current 75/225 to 100/300:

July 1, 2010 - numbers 1, 2, 3, 4, 5, 6, 7, and 8.

a) Computation of Unused Sick Days¹

$$\% = \# \text{ of Unused Days at Retirement} \times 100$$

Maximum Possible # of Sick Days

EXAMPLE:

$$\frac{100 \text{ Unused Sick Days}}{\text{Maximum Possible \# of Sick Days}} = .5 \times 100 = 50\%$$

Eligible for 80% individual or 75% family health insurance coverage
OR 75% individual health insurance coverage and \$3,000 or 60%
 family health insurance coverage and \$3,000.

- b) Benefit is available to a full-time employee retiring from service with the Union-Endicott Central School District and surviving spouse. Retiree (or surviving spouse) shall be responsible for portion of insurance premium not paid by the District. Failure of retiree or surviving spouse to pay the required portion of the insurance premium will result in cancellation of the policy.

2. Benefit for Members Not Enrolled in Health Insurance Plan

- a. Bargaining unit members not enrolled in the district's health insurance plan or those who choose to not participate in the health insurance plan after retirement shall have the option of receiving the following benefit for unused sick days (see chart below).

% Unused Sick Days	50 - 59.99%	60% +
Amount/Unused Sick Day	\$40	\$40
Maximum Payment FT	\$4,000	\$7,500
Maximum Payment PT	\$2,000	\$5,000

Figure 2

*Maintenance Workers Association Agreement
July 1, 2004-June 30, 2007*

29 RETIREMENT

- A. The New York State Employees' Retirement System Plan 75-I will be made available to members of the bargaining unit. Determination of mandatory and non-mandatory membership in the Retirement System will be determined by Retirement System rules.

- B. **Retirement Benefit**
 - 1. Application for Retirement Benefit
 - a. Qualifications
 - 1) Regular service retirement according to New York State Employees Retirement System rules.
 - 2) Minimum 15 years full-time service to Union-Endicott Central School District.
 - 3) Letter of resignation (for retirement) submitted a minimum of four (4) months prior to effective date of retirement.
 - b. Benefit - For bargaining unit members hired July 1, 1997 or thereafter. Unit members hired prior to July 1, 1997 will be "grandfathered" at the 1992-95 contract benefit schedule.
 - 1) Health Insurance or Health Insurance/Cash - Benefit to be determined by percentage of unused sick time accumulated on the last day of employment prior to retirement and the qualifications listed in Section "a." of this article.

% of Unused Sick Days	<30%	30 - 49.99%	50 - 59%	60%
Individual Policy	50%	75%	80% or 75%+\$3000	85% or 75%+\$6000
Family Policy	35%	60%	65% or 60%+\$3000	70% or 60%+\$6000