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Chautauqua Lake Central School District and Chautauqua Lake Teachers Association

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Chautauqua Lake Central School District and Chautauqua Lake Teachers Association

Abstract

In the Matter of Fact Finding between Chautauqua Lake Central School District and Chautauqua Lake Teachers Association. PERB Case No. M2007-231. Fact Finder: Miriam W. Winokur PhD.

Keywords

New York State, PERB, fact finding

NEW YORK STATE
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of Fact Finding

between

CHAUTAUQUA LAKE CENTRAL SCHOOL DISTRICT

and

CHAUTAUQUA LAKE TEACHERS ASSOCIATION

ANALYSIS

AND

RECOMMENDATIONS

PERB Case No. M2007-231

FACT FINDER: Miriam W. Winokur PhD

APPEARANCES:

For the ASSOCIATION

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For the DISTRICT

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PROCEDURE

The Hearing in the instant matter took place on December 18, 2008, in the District Offices, Mayville, NY. Post-hearing briefs were forwarded by the parties on January 23, 2009 and the record was closed upon their receipt.

The District and the Association are parties to a Collective Bargaining Agreement covering the period from July 1, 2004 through June 30, 2007. The parties began negotiations for a successor agreement on April 30, 2007, and continued to meet until December 10, 2007, when the Association declared impasse. Mediation sessions with PERB appointed Mediators were unsuccessful and upon request of the Association, PERB assigned the undersigned Fact Finder to conduct a hearing and submit recommendations for resolution of the impasse.

In view of the number of unresolved issues remaining, and pursuant to the time limitations for the factfinding procedure, the Fact Finder directed the District and the Association to meet again to further narrow the issues. The parties met informally on September 16, 2008, but were unable to resolve any issues and the Fact Finder requested that they detail all remaining issues for her consideration by submitting pre-hearing briefs, with the understanding that she would determine those issues she would consider at the hearing, with any unresolved issues to be considered either agreed to or withdrawn.

BACKGROUND

The Chautauqua Lake Central School District (hereinafter "District") is organized pursuant to Article 37 of the Education Law. It is located in Chautauqua County and generally within the Village of Mayville and portions of the surrounding towns of Chautauqua, Ellery, North Harmony, Portland, Stockton, and Westfield. Student enrollment in the 2008-2009 school year is approximately 813 students. The number of students has been dropping over the last several years, which is consistent with other school districts within Chautauqua County. The District came into existence by a consolidation of two previous school districts; Mayville Central School District and Chautauqua Central School District. The consolidation was completed in approximately 1997 and subsequently, the District built a new modern campus, that housed all students.

The Chautauqua Lake Teachers' Association ("CLTA" or "Association") is affiliated with NYSUT. There are approximately 95.5 FTE positions in the bargaining unit and using the staff of record previously agreed to, the 2008-2009 salaries for this bargaining unit amounted to \$4,935,756.00. That figure does not take into account

the cost of medical insurance, pension costs or any other benefits. The total District budget for the current school year is \$18,684,237.00.

All issues that had been tentatively agreed to during the negotiations prior to my designation as Fact Finder will be incorporated into the successor Agreement that is executed by the parties. During the hearing, the Parties agreed to Four-Year percentage increases for Teaching Assistants removing the issue from the necessity for a recommendation. The Association withdrew Proposals: #8 Chaperone Compensation; #9 Extra-Curricular Compensation; and #10 Life Insurance Increase.

The following unresolved issues were presented for recommendations: Association proposals' #6 Graduate Hours; #7 Approval of Course Work; #13 Retirement Award; #15 Duration; and #16 Appendix C Teacher Salary Schedule. District proposals: #4 Extra-Curricular Reports; #6 Leaves of Absence; #7 Compensation; #8 Insurance; #9 Dental Insurance; #10 Optical Insurance; Duration.

Following is a statement of the parties' respective proposals and positions, followed by my discussion and recommendations for a resolution of the differences which contributed to the impasse.

DURATION

POSITIONS

The Association notes that since the current agreement expired almost 2 years ago, they prefer a multi-year agreement. The District has indicated that it wants a successor agreement to be for four years, i.e: 2007-2008 through 2010-2011. The parties have been exchanging proposals, including salary schedules, that are based on a four year agreement, therefore the following recommendations anticipate a contract of four years' duration.

ARTICLE 6 - COMPENSATION

GRADUATE HOURS (Section 6.02)

PROPOSALS

THE ASSOCIATION (Proposal #6) is proposing the following changes to Section 6.02 Graduate Hours – New Hires as of 7/1/97:

.....

b. For the next twenty-four (24) graduate hours . . .

c. Individuals hired on or after 7-1-97 who came to the District with a Masters degree will be paid for that degree in the same

manner as individuals hired prior to 7-1-97. Individuals hired between 7-1-97 and 7-1-2000 who came to the District with a Masters degree shall be paid in the same manner as individuals hired prior to 7-1-97 effective 7-1-2006. (NOTE: This requires a retroactive adjustment for an unspecified number of members).

1) c. After the attainment of twenty-four (24) hours referred to in (b.) above. . .

THE DISTRICT proposes the following new language for Section 6.02 - New Hires as of 7/1/97:

Beginning with the 2008-2009 school year, the district will compensate all current Post '97 employees with Masters Degrees as it compensates Pre '97 employees annually (Masters Degree = \$769 plus \$41/Credit Hour for 30 hours of Masters Degree credit). Current employees without Masters Degrees, at the signing of the complete negotiated agreement, will be eligible for similar compensation upon completion of their Masters Degree. And they may access the provisions of Section 6 (6.02) of the current agreement until July 1 st 2010.

This change in the Masters Degree language will amount to approximately \$74,000 in "new money", in the 2008-2009 school year.

Beginning on July 1, 2010, new employees with Masters Degrees, will be compensated using the new salary schedule only. The new salary schedule for 2010-11 will have the existing Masters Degree compensation added into the base Steps.

Furthermore, beginning on July 1, 2010, new employees without a Masters Degree will be paid at eighty-five percent (85%) of the established step.

The existing language in Section 6 (6.01 and 6.02) will sunset on July 1, 2010.

POSITIONS

The Association wants to increase the amount of graduate hours that will be paid and also wants new language added to the contract so that individuals hired on or after 7-1-97, who came to the District with a Masters degree, will be paid for that degree. The Association contends that it wants to eliminate the 2 tier system for graduate hours; that this proposal is a top priority and is an equity issue; and that it wants everyone to be treated the same with regard to graduate hours. The Association feels that the District would like to address this issue as well.

The District finds the Association's proposal unacceptable, because the District would be obligated to pay for double the amount of graduate hours that it is currently paying its Post 1997 employees; and also that it makes the current Pre and

Post 1997 language obsolete, because it creates a Pre and Post July 1, 2000 category, and it unfairly pays for a period of time that was under the old contract (July 1, 2006, through June 30, 2007).

The District contends that the Association failed to justify either the doubling of the payment for credit hours, or the rest of its proposal; that the Association stated that it is a "top priority" and also seeks to eliminate the two tier system", but its' proposal does the opposite; and the Association did not offer a justification for increasing its request for payment of more graduate hours, and on top of the other demands, all it would do is add more costs for the District.

DISCUSSION AND RECOMMENDATION

When the two districts merged, issues existed over different methods of payment for graduate hours because each district was paying employees a different way. At that time the resolution of the problem was to adopt a two-tier system which would continue to pay for graduate hours of new hires as of pre- and post 7/1/97. The parties now would like to change the system, but have been unable to agree on how a change should be implemented.

The Association proposes two changes: first, to double the amount of graduate hours a teacher will have their salary adjusted, by the agreed on credit hour stipend from twelve to twenty-four; and second, add a new subsection with language that would create a new category of teachers who were hired between July 1, 1997 and July 1, 2000, and who had already obtained their first Masters degree, and would be paid for their Masters degree and graduate hours as if they had been hired prior to July 1, 1997. The effective date of that adjustment would be July 1, 2006, before the previous contract expired, which would result in changing the Pre and Post July 1, 1997 language in the contract to Pre and Post July 1, 2000, thus putting all teachers who began before that date into the same category.

The District points out that a number of those individuals had already benefited under the current language by already having been paid for securing their Masters and Graduate degrees; and also that the Association's proposal would not only pay people who are employed during those three years in a different manner, but it would also be required to go back and increase their salaries from July 1, 2006 to June 30, 2007, which is in addition to any increases that occur under a successor contract. (District Post-Hearing Brief, p. 14).

An analysis of the Association's proposal suggests that rather than offer a solution to the present problem, it would further add to the disparity between the two

groups and does not achieve the parties' objective to do away with the present system. The District's proposal to change the current system is comprehensive and logical, and would gradually phase in a different method of compensating all employees, with and without Masters Degrees, so that by July 1, 2010, all employees will be treated appropriately and there will no longer be a two-tier system. Having considered the facts submitted by the parties: **I RECOMMEND** that the District's proposal be accepted.

The District had originally proposed that the clause would sunset on June 30, 2010. Given more than a year and one-half that has elapsed since the proposal was made, it may now be prudent to extend it to the final year of the contract, if a four year contract is proposed or agreed to, the sunset date would be June 30, 2011.

ARTICLE 6 – COMPENSATION

(Section 6.03 – Approval of Course Work)

PROPOSALS

The Association (Proposal #7) proposes to eliminate the language that specifies that the Superintendent's decision "is not subject to the grievance procedure".

POSITIONS

The Association claims that bargaining unit members currently have had no recourse for course approval or denial and that this is an area of mutual concern, as well as an equity issue.

The District objects to this proposal, arguing that it is management's prerogative regarding courses to be taken and that the Association wants to delete language which makes failure to approve any course work subject to the grievance process. The District maintains that the Association did not point to any prior conflicts or problems in administering or the payment under the current agreement and that it is not aware of any situation during the life of the last contract when a request for course approval was denied, and the District asks that the proposal be rejected.

DISCUSSION AND RECOMMENDATION

There is no factual evidence that the Superintendent has arbitrarily or unreasonably withheld bargaining unit members' approval for course requests and I find no compelling reason why the current language should be eliminated, therefore: **I RECOMMEND** that the Association's proposal be withdrawn.

RETIREMENT AWARD - ARTICLE 9.05

PROPOSALS

The Association (Proposal #13) is proposing the following changes to the existing clause (per Post-hearing Brief Blue Pages 17-18):

The District shall make available to eligible teachers and teacher assistants a sick leave conversion at the time of their retirement pursuant to the following terms and conditions:

The teacher or teacher assistant must submit an irrevocable retirement notice to the District at least ninety (90) calendar days prior to the effective retirement date. The effective date of retirement, in order to receive this benefit, must be at the beginning or end of a semester and in no case during a semester.

The teacher or teacher assistant must retire from active service with the District under the guidelines of the NYSTRS as they apply to a service retirement.

C. The teacher or teacher assistant must have at least ten (10) years of service with the District.

D. Sick days will be converted based on the following schedule. If the employee has less than the maximum number of sick days, they will receive the conversion amount or \$7,500 whichever is higher.

Tier System: Minimum \$7500 payout with at least 10 years service to the District or

10 THROUGH 19 years of service: \$90.00/day - maximum 250 days

20 THROUGH 24 years of service: \$100.00/day- maximum 250 days

25 THROUGH 29 years of service: \$125.00/day - maximum 250 days

30 THROUGH 34 years of service: \$150.00/day - maximum 250 days

35 THROUGH 40 years of service: \$200.00/day - maximum 250 days

Note: 41 years or greater no benefit.

To be eligible, a teacher or teacher assistant must apply for this incentive by submitting an irrevocable letter of retirement not later than 90 calendar days prior to the effective retirement date.

The payout from this conversion will be deposited directly into a 403(b) plan.

A. It will be the employee's responsibility to open with Aetna/ING.

B. It is the responsibility of the employee to make sure that they have an active plan available at the time of separation from the District. Should an individual not have this plan available, they will have until the end of the calendar year in which they retire to establish such a plan.

C. Failure to do so will result in the forfeiture of the above referenced sick leave conversion.

Both the District and the Association realize that individuals may already have available to them an existing 403(b) plan which they have been using for the purpose of a 'tax shelter'. However, as the money generated by the conversion of unused sick leave as described above is not considered regular payroll, the District and Association have restricted where the money can be deposited.

This was done for the purpose of providing the District and the Association with an indemnification and hold harmless agreement with Aetna/ING.

Once the money has been deposited into the employee's account, the employee may if he/she wishes take steps, they deem appropriate, with regard to:

Maintaining the account with Aetna/ING.

Accessing the account.

Transferring the account to another provider
BEFORE ANY SUCH ACTION IS TAKEN HOWEVER, THE EMPLOYEE IS ADVISED TO
CONSULT WITH HIS/HER FINANCIAL ADVISOR IN ORDER TO AVOID ANY ADVERSE
TAX CONSEQUENCES.

POSITIONS

The Association claims that this proposal is a top priority; that it is a win-win for both sides; that it sets up the positive behavior of saving sick days; that it is a cost-saving feature for the District as they capture the breakage. The Association claims that the District faces declining enrollment so the increase in retirement award will allow veteran teachers to retire, thus saving new hires from potential lay-off.

The District contends that the Association's proposal would add significant amounts of money to the plan; that there would be a minimum \$7,500 paid to any employee, even if they had no sick leave; that there would then be a sliding scale depending on the years of service; that starting with 10 years of service and 250 days and employee would be paid \$22,500 up to and including those with service of 40 years who would be paid not less than \$200 a day through a maximum of 250 days and it would amount to as much as \$50,000 per employee for those employees. The Association would also impose certain requirements on the employees and the District to place the money that is going into the 403(b) account with certain companies having ties to NYSUT. The District asserts that at time of retirement, the current award reimburses a unit member \$90 a day for their remaining sick days up to 200 days. In addition, for any sick days above that, the District will pay \$50 per day; that for those employees who have a substantial number of sick days, that could amount to \$18,000 for the first 200 days and an unlimited amount of additional money thereafter; that, for example, if someone had 50 more sick days (for a total of 250 sick days) that would amount to another \$2,500 dollars or a total of \$20,500. This can then be used for post-retirement health coverage provided by the health insurance provider for the District or be placed into a non-elective 403(b) account; and that there are no further restrictions or requirements in the contract.

DISCUSSION AND RECOMMENDATION

There is merit to the District's opposition to being bound to place or force an employee at retirement to place their money with a certain private insurance company with ties to NYSUT. The District also maintains that it cannot agree to the huge increase in the retirement award under any circumstances; that for most employees

in the retirement category, it would mean a doubling of the size in the retirement award; and that the cost, especially in light of the fiscal crisis that the State of New York is now in, is unacceptable and would be financially irresponsible for the District.

A change of the magnitude of the Association's proposal should be achieved through direct negotiations and agreement by the parties, therefore: **I RECOMMEND** that the Association's proposal be withdrawn.

ARTICLE 4 - TEACHING HOURS AND TEACHING LOAD

PROPOSALS

The District (Proposal #4) proposes the following changes/additions to Section 4.11 Teacher Assignment:

Each regularly scheduled teacher will complete a Teacher Planning Form, and return to the District by March 15 of each year, and will include the following:

1. Intent to return
2. Interest in teaching assignment
3. Interest in extra-curricular activity assignments

All coaching and co-curricular assignments will include completion of pre and post assignment reports. When a teacher accepts work for After School Instruction, a work plan will be codeveloped with the Principal and compensation will be based upon successful completion of the plan.
(REMAINDER OF SECTION IS UNCHANGED).

POSITIONS

The District explains that this proposal has two parts, the first to change the filing of the Teacher Planning Form from "May 1" to "March 15" which would facilitate an improved ability to find coaches and advisors for unfilled positions and enhance the district's ability to improve continuity of co-curricular activities; the second to require completion of pre and post assignment reports by the people holding coaching and co-curricular assignments. The district contends that it presently has no way to establish goals and assess efficacy of paid after school programs and services to students.

The Association responds that although it is opposed to the District's proposed change to "March 15", because it is in the middle of the month, it would be agreeable to "April 1" as a compromise. The Association is opposed to the language the District is proposing to add to Section 4.11, because, among and not limited to those concerns, the assignment reports would have to be negotiated; the District has never shown or negotiated any reports; the language is incomplete and vague; After-School Instruction (AFI) varies from day-to-day; that there is no set class roster for

“AFI” so there is no way to develop a “work plan”; will the ‘plan’ be co-developed and when?; will teachers be compensated for time spent “co-developing”?; who decides that the plan was successful? The Association contends it will never agree to the language because it has too many “holes” in it.

DISCUSSION AND RECOMMENDATION

The Association has indicated that it would be agreeable to changing the date to “April 1” as a compromise, therefore: **I RECOMMEND** that the date be changed.

However, the Association has raised many legitimate concerns regarding the new language the District wants to add. Currently the language of Section 4.11 provides:

“With respect to extra-curricular activity assignments (which include coaching), the administrator will review the teacher planning forms, giving first consideration to those teachers who have expressed an interest in a respective activity, and provide notification to the candidates of their pending recommendation to the Superintendent. The District retains the authority to assign, reassign, or terminate extra-curricular assignments from those who have expressed an interest. ”

The District did not offer evidence that the change it wants is warranted, and in consideration of the concerns and questions raised by the Association: **I RECOMMEND** that the District’s proposal for the addition of new language be dropped.

ARTICLE 5 – LEAVES OF ABSENCE WITH AND WITHOUT PAY

PROPOSALS

The District (Proposal #6) proposes the following changes/additions to Section 5.07 Parental Leave:

A parental leave of absence without pay will be available for a period up to one (1) years for the purpose of caring for a child in the first years following birth, adoption, or placement in foster care.

.....
Should another birth or adoption occur during a parental leave, the employee shall be allowed, upon request, to use the balance of any unused parental leave, as specified in the paragraph above.

An employee on parental leave is only entitled to return to work at the beginning of a semester. The maximum leave available for parental leave purposes shall be a period of one (1) years. An employee on parental leave will notify the District of his or her intention to return from leave by June 1 st if returning in the first (Fall) semester, or by November 15t if returning in the second (Spring) semester.
(REMAINDER OF SECTION IS UNCHANGED).

POSITIONS

The District claims that it is difficult to provide continuity of substitute teachers because of this and other long-term leave provisions and it wants to shorten

the length of these leaves. At the Hearing the District observed that instead of granting up to two years for each event, it wants to grant one year, and if a second event occurs while the teacher is out on one year leave, then district would provide additional leave limited to the balance of the year. The District maintains that this in no way affects a teacher who comes back from a leave and then the clock starts again.

The Association responds that it will not allow a diminution of benefits regarding parental leave; that the District brought this proposal forward as a "slap in the face" to all expectant parents; that there is an ongoing grievance regarding use of prep time, the basis for which is that new mothers were pumping breast milk for their children during prep time and the members of the Association are extremely angered over this issue and feel they are linked. The Association submits language from eight (8) other Districts, all of which surround Chautauqua Lake Central School District. To establish that the Chautauqua Lake Associated Support Staff has two (2) years; Bemus Point Faculty Association and Bemus Point Support Staff Association both provided for two (2) years; BOCES Support Staff has two (2) years; Westfield Teachers has two (2) years; Sherman Teachers' Association has two (2) years, Panama Faculty Association has two (2) years; and, Jamestown, the largest District, has no limit, and they have no trouble getting substitutes (Post-hearing Brief, pp. 37-46).

DISCUSSION AND RECOMMENDATION

The District explains that it made this proposal because substitutes are difficult to come by and it would help with the district's sub problem; and that the proposal in no way affects a teacher who was out and come back and then the clock would start again.

The Association is strongly opposed to the District's proposal, based upon facts it submits to provide support for its unwillingness to agree to the changes sought by the District. The District did not dispute the Association's contention that many of the surrounding districts have parental leave similar to Chautauqua's.

The District does not have a rationale for making this change, therefore, I **RECOMMEND** that the proposal be dropped.

ARTICLE 8 - INSURANCE

PROPOSALS

The District submitted proposals for Sections 8.01 - Health Insurance, (Proposal #8); 8.02 - Dental Insurance, and (Proposal #9); and 8.03 - Optical Insurance (Proposal #10), seeking to: (1) eliminate language in those sections that

deals with the previous contract and is now unnecessary; and (2) where indicated under the Section in each entitled **Comparable Benefits**, to eliminate the words "or better".

POSITIONS

The District contends that its proposal does not seek to make any substantial changes to health insurance nor is it submitting in any proposals to make the insurance more expensive to the individual members in any way; that the purpose for this proposal is to remove obsolete language which dealt with prior years and also to remove the term "or better" from each of the three parts of the insurance. The District also notes that each Section has similar language and, to quote one of the sections, "The District reserves the right to provide a comparable, or better, plan through any carrier." The District contends that this proposal will mean no difference to the Association; that under the contractual language it has a duty to provide comparable insurance to Association members; and that the mechanism to have the Association review and possibly challenge any change in medical insurance also remains the same. The District indicates that it feels that it should not be burdened by the addition of having the language "or better" remain in the contract.

The Association confirms that it is not opposed "cleaning up the language by removing the dates in each section" but is opposed to deleting "or better" in each section. The Association points out that the Support Staff has the exact wording in their contract; that if the District needs to make a change; for the sake of change, the Association would be willing to accept the wording "equal or better" contained in the Superintendent's contract (UX 11).

DISCUSSION AND RECOMMENDATION

The Association has indicated that it does not object to removing the obsolete dates from the contract, therefore: **I RECOMMEND** that the District's proposal to accomplish that be accepted.

The Association **does** object to the District's proposal to remove the term "or better" from the current Agreement, contending that the contracts for Support Staff and Superintendent include the term "or better". The District responds that the Parties' contract gives the Association the right to contest comparability, while the Superintendent does not have that right. The District also maintains that removing the term will not endanger or diminish the health insurance benefits for the Association in any way, and that it is not asking for any monetary concessions in

return for this minor language change. The District claims that the change it is proposing will mean no difference to the Association, and it realizes under the contractual language that it has a duty to provide comparable insurance to Association members, and also the mechanism to have the Association review and possibly challenge any change in medical insurance also remains the same.

The District argued that it should not be burdened by the addition of having the language "or better" remain in the contract, but it did not provide any reason for concluding that continued inclusion of the term would cause a burden. The District also stated that it considers its request a "minor language change". The terms of a jointly negotiated agreement should not be changed without substantial reasons to do so, therefore: **I RECOMMEND** that the District's proposal to delete the wording in question be withdrawn.

ARTICLE 6 - COMPENSATION

APPENDIX B - APPENDIX C - APPENDIX D

PROPOSALS

Appendix B. (Co-curricular and Coaching Schedule)

The District has proposed to increase the existing co-curricular and interscholastic sports compensation schedule four percent (4%) per year for the term of the proposed contract.

DISCUSSION AND RECOMMENDATION

The Association has withdrawn its proposal for this issue, stating that they would rather see any monetary increases reflected in the salary schedule where it benefits all members. Although the Association's intentions to maximize the money available for overall salary increases are understandable, the District's proposal is consistent with the salary increase it is proposing for teacher salaries and is reasonable in light of current budgetary concerns, therefore, **I RECOMMEND** that the District's proposal to increase the co-curricular and interscholastic sports compensation schedules by 4% per year for the term of their successor Agreement, be accepted.

ARTICLE 6 - COMPENSATION - [Appendix C]

PROPOSALS

The Association (Proposal 16) proposes to increase the salary schedule with new money, which does not include increment and is exclusive of graduate hours and longevity, as follows:

2007/2008 – 4.73% plus increment
2008-2009 – 8.42% plus increment
2009-2010 – 7.80% plus increment
2010-1011 – 7.78% plus increment

The Association reports that the total amount of new money it seeking for 2007-2008 is \$100,000; for 2008/2009 is \$275,000; for 2009/2010 is \$285,000 and for 2010/2011 is \$295,000. The Association has also emphasized that the exact number of FTE's need to be agreed upon before the finalization of a new contract, along with final percentages.

The District (Proposal #7) is proposing for Teachers' Salaries that it will work with the Association to install \$65,557 of new money into the step schedule for the 2007-08 school year, new Step 1 to be set at \$36,020 in the 2007-08 school year; and that it will install total money (new money plus increment) each year as follows:
2007/2008 - 4.0 % (\$65,557 New Money + \$122,343 Step Increment = \$187,900)
2008/2009 - 4.2 % (\$76,727 New Money + \$128,460 Step increment = \$205,187)
2009/2010 - 4.2 % (\$78,922 New Money + \$134,883 Step increment = \$213,805)
2010/2011 - 4.2 % (\$81,158 New Money + \$141,627 Step Increment = \$222,785).

The District reports that step increment cost for 2007/2008 has already been paid, that amount (\$122,343) representing 2.6% of this money (D. brief, p. 18). The District notes that increment cost for the remaining three years' is:

2.73%; for 2008/2009
2.87% for 2009/2010
3.01% for 2010/2011

POSITIONS

The Association contends that the District's offer is too low; that the current salary schedule is plagued with problems (Union Exhibit #3); that the monies the Association has asked for is to fix the salary schedule in the first year by making the steps equitable; that the District's own documents (District Exhibit #3 and #4) illustrate that their offer is low; that the settlements in those exhibits are from less prosperous Districts. The Union points out that Union Exhibit #4 shows that Chautauqua Lake is the wealthiest District in the area; and shows how much Chautauqua Lake Teachers are behind most Districts in earning power for 5, 10, 20 and 30 years, respectively; that Union Exhibit #5 illustrates that Chautauqua ranks in the bottom half of median teacher salary for enrollment, income per pupil and income per return; that the document explains each area in detail; that Union Exhibit

#8, which is a District produced document, that shows teachers are eligible for free and reduced price meals for the first seven (7) years of employment; that Step 7 on the salary schedule is \$38,833 and Union Exhibits #9 and #10 show the living wage for residents of the District and it would take a teacher to Step 9 (\$41,514) before they reached a living wage for two (2) adults and two (2) children.

The Association submits that a Budget Analysis for Chautauqua Lake (Exhibit #6) indicates that the District's Reserved Fund Balance has increased \$1,725,608 and Unreserved Balance increased \$155,678; that the District's expenditures ranged from 6.5% and 7.6% under budget; and that the District under-spent its budgets by \$3,687,477. They assert that the District has a new operating surplus of \$2,331,659, showing that the District has money available. The Union also maintains that beginning with the 2007-2008 school year and Chautauqua Lake can expect an increase in State Foundation Aid of \$471,520 or 12.6% over the next four years, money that can be used for teacher salary increases. Finally, the Union contends (Exhibit #7) that the TRS Contribution Rate decreased in 2008-2009; that the rate was 8.73% in 2007-2008 and dropped to 7.63% in 2008-2009, so the District had to pay 1.30% less.

The District observes that the cost to go to one system of payment for graduate hours will be not less than \$74,000 in new money and that the Association has not factored that additional money in as part of the annual compensation package, which the District calculates will add approximately 1.60% to the final annual cost of compensation for this bargaining unit; that it is a cost to the District and a benefit to the Association, but they have excluded it from the other compensation that they are demanding. The District claims that the Association makes it clear ("page 11, blue pages") that this is "all new money", and they do not take into account any of the increment costs that it has, or will in the future, cost the District, nor do they take into account the \$74,000 that the District estimates it will cost to level up all the staff with Masters degrees.

The District claims that Unit members are fairly compensated in relation to other teaching staff within the other school districts in Chautauqua County, and while Association members are not the highest paid, a review of the information submitted demonstrates that the compensation for members in this unit are in line with their counterparts in other districts, given the proposed increase by the District. There is no justification for the enormous salary increase sought by the CLTA other than they want to be "the leaders in the county". The District also claims that, as

indicated in District Exhibit #1, the Governor's budget proposal will continue to hurt schools not only this year but also in the future; that a new funding formula is going to be arrived at which will allow for no growth but rather an overall reduction in State aid; that the Association brought in "research" from NYSUT which suggested that aid, particularly foundation aid, would grow at approximately 12%. The numbers (see Association Exhibit #6) are not only overly generous but also are obsolete because of the current budget crisis, seeming to suggest that prudent physical management and building up of reserve funds should be dedicated to raises for teachers as opposed to the "rainy day funds" that they are designed to be used for, however, Governor Patterson has suggested explicitly that Districts would have to rely on their reserve funds to in part pay for expenses in the coming years.

While there is always some variation in interpretation in settlements, Instructional settlements from Chautauqua County (District Exhibit #2) go from 3.0% to the highest of 5.5% including increment. None of those come anywhere close to the increases the Association is asking for.

DISCUSSION AND RECOMMENDATION

Using comparisons with other districts, each party contends that their respective proposals for teacher salaries are justified, however, neither parties' exhibits establish a sound basis with which to arrive at a reasonable and equitable salary increase. With reference to the parties' submission of comparative data to support their respective positions, the Fact Finder calls their attention to the fact that when making recommendations, she is required to consider the comparability of the wages, hours and conditions of employment of the Association's unit members when compared with the wages, hours, and conditions of employment of other employees performing similar services and requiring similar skills under similar working conditions, with employees in comparable communities, as well as the financial ability of the employer to pay. The documentation supplied by the Association is not meaningful for comparisons and have been given not weight: e.g., hourly employee rates do not meet the standard for comparison (Union Exhibit #2); districts selected for 50/50 Comparisons to establish Chautauqua's rankings for such factors as income per return, expenditure per pupil (Union Exhibit #5) included districts from counties across the state (e.g. Westchester, Central Islip, Albany, Saratoga, St Lawrence, Broome, Essex, and Otsego) obviously skewing the median ranking which locates Chautauqua in the bottom half for three of the six factors reported

On the other hand, the District has used average salaries of more contiguous districts to establish the relative standings for Chautauqua's salaries, but notwithstanding that it chose appropriate Districts for comparison, an average is not a true reflection of the actual salary, since an extremely high or low salary will impact on the final result. Based on labor contracts that were agreed to prior to the recession, teachers will get an average increase of approximately five (5%) percent this year. After consideration of the Parties' positions, **I RECOMMEND** that in the 2007-2008 year the parties install a new Step 1 in the Salary Schedule at \$36,020 **and I ALSO RECOMMEND** the following salary increases for the four year term of the Agreement:

2007/2008 – 4.0% including increment

2008-2009 – 5.0% including increment

2009-2010 – 5.0% including increment

2010-1011 – 5.0% including increment

The District reports that step increment cost for 2007/2008 has already been paid, that amount (\$122,343) representing 2.6% of this money (D. brief, p. 18).

Pursuant to the Association's request, the exact number of FTE's is to be agreed upon before the finalization of a new contract, along with the final percentages.

ARTICLE 6 - COMPENSATION - [Appendix A]

Graduate Hours, Permanent Service Stipend, Longevity, Professional Service Stipend

PROPOSALS

The District proposes that was previously known as the "professional service stipend" would become the same for all employees, would be changed to: \$750 at 10 years; \$1,500 at 20 years; and \$1,500 at 30 years.

POSITIONS

The District explains that it wants to equalize the "Permanent Service Stipend", "Longevity", and "Professional Service Stipend" for all employees as listed, claiming that it proposed, and the Association has, by and large agreed, to equalize and simplify the longevity steps. **The Association** has not made a proposal addressing this issue, stating that it would like to see the area of Graduate Hours equitable for all but at this point in negotiations, is willing to leave it the same as it has been. The Association does not want any of the longevity monies touched for pre and post-97 staff, and maintains that the District keeps placing a cost factor on this

issue. The Association asserts that it has withdrawn the Graduate Hour proposal to assist the District and for the purpose of the Fact-Finding only and would like to see any increases reflected in the Salary Schedule Appendix C.

The Association claims that the District's Proposal to combine the Permanent Service Stipend, Longevity and the Professional Service Stipend would result in a loss of \$500 per year for veteran staff members which would impact their final average salary for retirement. The Association asserts that it would rather maintain the status quo in this area then go backwards. The Association has a proposal in this area but would rather see any increase reflected in Appendix C the Salary Schedule. Lastly, the Graduate Hours, Permanent Service Stipend, Longevity and Professional Service Stipend impact all of the members. It is better not to address these areas than to change them.

DISCUSSION AND RECOMMENDATION

The Association is opposed to changing "Longevity" at this time does not agree with the District's proposal. The Association observes that the proposal would result in a loss of \$500 per year for veteran staff members which would impact their final average salary for retirement and the Association would rather maintain the status quo in this area then go backwards. The Association would rather see any increase reflected in Appendix C, the Salary Schedule. Further, the Graduate hours, etc would impact all the members and it is better not to address these areas than to change them. (Association Response blue pages).

I am persuaded by the District's contention that its' proposal is consistent with the changes that will be made in pre and post 97 Grad Hours (Section 6.02) and that over time, employees would gain and not lose with the change, therefore, I **RECOMMEND** that the District's proposal be accepted.

The foregoing recommendations were framed in a spirit of compromise, the essence of the collective bargaining process. I trust they will provide the parties with the basis for a resolution of the differences which resulted in the instant impasse. I commend the parties for the thoroughness of their presentations and the courtesy and cooperation they extended to me.

Respectfully submitted,



Miriam W. Winokur, Ph.D.
PERB Fact Finder

Dated: May 19, 2009
Hamburg, New York