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Arlington School District and Arlington Teachers Association

Robert J. Rabin

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Abstract
In the matter of the fact-finding between the Arlington School District, employer, and the Arlington Teachers Association, union. PERB case no. M2014-156. Before: Robert J. Rabin, fact finder.

Keywords
New York State, PERB, fact finding

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And

Arlington Teachers Association

PERB # M2014-156

Report and Recommendations of Fact Finder

Robert J. Rabin, Fact Finder,

Introduction and Background

I was appointed fact finder in this matter on June 1, 2015. The parties had earlier attempted to mediate this dispute with the assistance of a mediator appointed by PERB, but without success. The principals of each side then attempted to explore settlement informally, but couldn't reach agreement. When I began my fact finding assignment, the parties agreed that I would put on the temporary hat of mediator to help the parties try once more to reach agreement. When I refer in this report to what happened in mediation, I speak of the events on my watch, and not in the earlier mediation.

The fact finding meeting was held on August 26, 2015. Prior to the meeting, the parties fully briefed the issues before me in fact finding, and on August 26 and afterwards had the opportunity to submit additional materials and to further amplify their positions.

The parties made a valiant effort to resolve the dispute during our lengthy session on August 26. The parties started far apart on many issues, including salaries and health insurance, and during our discussions made substantial moves to close the gap, each granting significant concessions along the way. I applaud the negotiating teams for their thoughtful and constructive efforts. However, just as the last mile of a marathon is the hardest, bridging the last few dollars standing in the way of agreement can be formidable. The parties were unable to close out the few remaining issues that stood in the way of a deal. I now wear the fact finder's hat and submit this report and recommendations.

In preparing this report and recommendations, I considered all the arguments and data presented by each side on every issue. However, I can't overlook the fact that in the course of mediation the parties reached tentative agreement on almost every issue before me, separated only by the salary issue.

A complete agreement would have fallen into place if only agreement could have been reached on salary. My recommendations draw upon and are supported by the data and arguments presented in fact finding. However, they are also built in substantial part around the tentative agreements reached by the parties. For in a healthy system of bargaining, the parties should be the primary architects of the agreement that will govern their relationship.

An overview of the key issues and economic factors

Revenue limitations.

Both sides share the laudable goal of providing a fine education for the students in the District. The Association seeks an economic package that recognizes and supports the excellence of the teachers. The District agrees with this goal, but must be mindful of the substantial fiscal restraints that limit its ability to improve economic benefits.

The primary fiscal constraint in recent years has been the limitation imposed by law on the ability to raise revenues through local tax increases. The "tax levy limit" caps a district's yearly tax increases at 2%. While these limits can be exceeded under certain circumstances by a super majority vote, this is not a realistic avenue for raising more money. Worse, since the formula is tied to cost of living increases, there is some risk that the cap might be even tighter during the life of this agreement, perhaps even down to zero. Arlington has kept its tax levies below 2%, and proposes to do so for the life of this CBA. While there is some dispute on the exact figures, the District's rebuttal letter shows that the District is close to the 2% limit. 66% of the financial support for the District's educational program comes from property taxes, so the tax cap is a significant factor in these negotiations.

The District presents data that shows that its ability to raise money through taxes is limited, as Arlington ranks near the bottom of Dutchess County districts in its Combined Wealth Ratio, an accepted metric that is used to help calculate State aid. At the same time, Arlington's tax efforts are at the top of the County rankings, as measured by true value tax rates. This means that the District's taxpayers have contributed their fair share relative to their resources.

Most of the balance of financial support, in this case 27%, comes from State Aid. That support is at risk because of recurrent ceilings and cutbacks on State Aid, through the State's Gap Elimination Adjustment. Nobody can be sure of the extent of state aid that will be provided during the life of this agreement.

That's it. These are the only realistic sources of funding, and they are limited. Bake sales and raffles won't provide significant additional resources. The Board, as the fiduciary for the community, must make sure that any settlement with the Association can be properly funded through these resources.

The Association argues that the comfortable Fund Balance in each budget year is a further source for financing teacher economic benefits. However, the Fund Balance, properly used, serves as a cushion for unexpected expenditures and to even out cash flow. It is not a sustainable resource to fund economic improvements. Arlington's fund balance is well within the recommended ranges.

The Association further argues that the District has not fully expended its budgeted line items for teacher support. The evidence doesn't indicate whether this is the result of teacher retirements, conservative budgeting practices, or other unanticipated savings, but this too is not a sustainable resource for funding a settlement.

In recent years, school districts have dealt with these significant constraints on revenues by providing only modest raises to their teachers. In most of the districts in this County, teachers have accepted a one-year freeze on new salary during the past several years. In contrast, says the District, Arlington teachers did not take a salary freeze in recent years, and so they should not be given a raise in the first year of this Agreement. This is a significant issue, which I will discuss in further detail later.

<u>The cost of salary increments and District attempts to revise the schedule</u>

Teacher salaries are normally generated by a salary schedule that provides for step movement each year. This is in addition to any general salary increases. Once teachers reach the top of the schedule, which in this District consists of some 20 steps, the only salary increase they receive in any given year is the general salary increase that is provided that year, together with any applicable longevity payments. Some 25% of the Arlington faculty is above the top step. The District contends that the Arlington salary schedule provides for step increases that are too costly to be sustained. Further, these steps do not move up uniformly, but some are disproportionately steep, ranging between 3.5% and 6.5%. The District says in its brief that the salary schedule "contains significant step irregularities and strangling step costs that are simply not sustainable." The District points out that merely implementing the salary schedule alone eats up most of the available money for salary increases. It says that for 2014-2015 the cost of step advancement, along with applicable longevities, exceeds the increased revenue generated through tax increases.

The District has sought some relief from these recurrent salary costs by proposing a new salary schedule with a more even step progression and a lower overall cost. The significance of this revision is underscored by a provision in the most recent CBA that called for a joint study committee to explore a revised salary schedule. The CBA provided that if agreement could be reached "on a recalibrated salary schedule, which will only apply to new unit members," the old CBA would extend into 2014-2015, with a 1.95% salary increase. The parties were unable to reach agreement on such a schedule, and as a result the CBA terminated prior to the 2014-2015 year, and the projected 1.95% salary increase was not implemented.

In the mediation session on August 26, the District made several proposals to adjust those portions of the current salary schedule that in its judgment most distorted the costs of increments. These proposals went nowhere. The District did not pursue this demand in its final package of proposals during the mediation.

Health Insurance

All school districts face the pressure of ever escalating health insurance costs. In most districts, including Arlington, the district pays for the lion's share of the health insurance costs, with the teacher paying a comparatively smaller percentage, usually in the low to middle teens. There are only two ways for the District to deal with the increasing cost of insurance. One is to increase the teacher's share of the health insurance premiums, which means the percentage shouldered by the District is reduced. The other is to find a less expensive insurance plan. However, the lower premium cost of some of these alternative plans is usually achieved by imposing higher co pays or other co insurance costs upon the covered employee. Thus, while the employee and the District may pay a lower premium cost, the employee's savings may be negated by increased copays and other costs

The health insurance coverage in Arlington is provided through DEHIC, a consortium of districts in the County that is governed by a board that includes employee participation. Teachers currently pay 12 ½% of the premium costs. This is a fairly low share compared to other districts, many of which impose a 14-15% share on their teachers. Arlington teachers currently enjoy the choice of a couple of outside plans, as well as a DEHIC product known as PRO. DEHIC now offers two less expensive alternatives. One is Healthy Advantage. This plan costs a few thousand dollars less per year, but imposes higher copays and co-insurance upon teachers, and for this reason may be objectionable. The other is EPO 20. EPO 20 produces far more significant savings on premium payments, and does not substantially increase copays or co insurance costs to teachers. However, EPO 20 coverage is limited to network providers. Since the network is Blue Cross Blue Shield, a very extensive program, these network limitations may not be significant. However, every teacher's needs are different, and EPO 20 may not be attractive to all teachers.

Both parties have taken a positive approach towards changing plans. The District says that moving to these other plans would generate enough savings to fund a significant salary increase. The Association initially took the position that teachers should keep their existing choices and that the other alternatives should be available as options, with the lower teacher contribution percentages serving as an incentive to switch. By the end of our discussions, the Association agreed to give up the existing plans in favor of a choice between either of the newer plans. A principal motivation for the Association to move in this direction is the capture of cost savings to fund a generous salary increase.

In the course of mediation, the District agreed to keep the teacher percentage of premium for Healthy Advantage at 12.5%, the current rate of contribution for existing plans, and to set the percentage for EPO 20 at 10%, numbers that were agreeable to the Association. The parties further agreed to 8% if a certain number of employees switched to EPO 20. The Association sought to reduce the contribution even further if still more employees switched, but the District was not receptive to this proposal.

On the difficult issue of health insurance coverage, where the parties must harmonize the very different interests of the plan participants, the fact finder best serves the parties if he recommends a solution that the parties have indicated is acceptable to them.

<u>Application of the general factors to the specific open issues</u>

<u>Salaries</u>

The District took the position in our mediation discussions that no adjustment should be made to the salary schedule for year one, 2014-15. The District observed that over the last four years, teachers in most of the other comparison districts absorbed one contract year in which they received no new salary increases, and were limited to schedule progression. These freeze years, says the District, enabled other districts to cope with the revenue restrictions imposed by the economy and especially by the tax cap. In contrast, teachers in Arlington enjoyed four successive increases of 1.95%. Accordingly, the District proposed to provide permanent increases to the salary schedule only in years two and three of the contract in issue (2015-16 and 2016-17), and to make no salary adjustment for 2014-15. For year one, the District initially proposed a one-time bonus payment that would not be incorporated into the salary schedule, and therefore would not be a permanent, recurrent part of the salary. The Association, in contrast, asked for a salary schedule increase in year one as well as in the remaining years.

In the course of our discussions these differences became moot. The Association did not seek any retroactive pay for year one, so the salary increase for year one is limited to step movement plus longevities. In effect there has been a freeze for year one. The Association then took into account the increase it was seeking for year one and incorporated a portion of it into its demands for years two and three. The District essentially agreed with this approach. Instead of offering a one time bonus for year one, the District took that offer off the table and reconsidered and improved its salary offer for years two and three.

In our mediation discussions, I suggested that the parties focus less on the issue of a freeze, and look realistically at where Arlington teachers now stand relative to their counterparts in the County. What salary adjustment is needed in the coming years for them to maintain their appropriate standing in the County? The salary positions that each side presented in mediation undoubtedly reflect their respective assessments of the comparative standing of Arlington teachers. When the parties put hard numbers on the table for years two and three, they came remarkably close to agreement. Just a few hundred dollars separated them. The question is precisely where this settlement point should fall, something that eluded the parties during our mediation.

<u>The relative standing of Arlington teachers and a comparison with other settlements</u>

The parties each used the same data in making their salary comparisons. There are 11 comparison districts within the County. This doesn't include the two city districts within the County, and the BOCES, which all have different funding considerations, and which the parties agreed to exclude from the comparisons.

Arlington teachers now rank in or near the top half of these comparison districts at almost every point on the bachelors and masters schedules. At many points they rank fifth or sixth, and rise as high as second, third or fourth at certain cells. The Arlington salary is above the median salary at most comparison points. The District contends that Arlington teachers made it into the top half only as a result of the increases given them over the past few years, when teachers in other districts took a freeze. The District's data bears this out.

Four other districts recurrently appear above Arlington at various comparison points. They are Spackenkill, Rhinebeck, Red Hook, and Wappingers. The Poughkeepsie school district is sometimes up there as well, but the parties agree this is not an appropriate comparator because of different funding considerations.

Here's what happened in those four districts in the four year period that covers Arlington's most recent agreement, starting with 2010-11 and ending with 2013-14. I take this from data in the District's brief, which the Association did not dispute.

Spackenkill: 3.7, 2.8, 1, 1. (8.5 = 2.13% per year)

Rhinebeck: 3.8, freeze, 1.50, 1.0. (6.3 = 1.58% per year)

Red Hook: 1.6, 1.6, 1, .4%. (4.6% = 1.15% per year).

Wappingers: freeze, 1, 1, 1.25, (3.25 = 0.81% per year)

In this same period Arlington teachers received 4 increases of 1.95%, or an average of 1.95%. So Spackenkill teachers did better than Arlington teachers during this period, Rhinebeck teachers came close, and Wappingers and Red Hook were substantially behind Arlington for this four year period. In this same period, other school districts that are below Arlington in the standings imposed a freeze on their teachers and awarded increases that put them below Arlington.

For the years subsequent to the expired agreement, the years that are the subject of the dispute before me, the four districts that are ahead of Arlington in the standings provided the following salary increases:

Spackenkill: 1, 1, 1 (average = 1%)

Rhinebeck: 1.25, 1.15, 1 (average = 1.13%)

Red Hook: 1, 1.25, 1.5 (average = 1.25%)

Wappingers: 1.5, 1.75, no settlement (average = 1.625%)

So you can see a pattern. The two districts that provided the larger increases for the four year period prior to 2014-15 gave the smaller increases for the subsequent period, while the districts with the lower increases in the earlier period provided the higher increases for the later period. The districts can't all be like the children in Garrison Keillor's mythical Lake Wobegon, who are all above average. The law of averages requires that as some districts go up, others go down in the standings. All we can hope for is that districts improve at a fair and consistent rate and that the pattern of increases balances out.

These comparisons don't produce mathematical certainty. Different considerations and dynamics, not revealed by the numbers, go into each settlement. For example, the District says that the Wappingers settlement for 2016-17, which it calls the "best in class," was in exchange for changing health plans. Teachers contribute 14.5% for the new plans, a figure, we'll soon see, that is higher than Arlington's. Further, Wappingers may have been making up for the relatively low increases the previous time around.

<u>Recommendation on salaries</u>

Based upon all the facts and considerations I have discussed, I recommend as follows:

An increase of $1200 effective at the beginning of the 2015-16 school year, to be implemented retroactively to the beginning of this school year.

A further increase of $375 effective January 1, 2016. I accept the District's characterization of this as a "HIT" increase, that is, an increase that is financed in part by the anticipated cost savings to the District of moving to a different health plan, under terms that I will explain shortly. This increase is deferred until January 1, 2016 to allow time for teachers to enroll in the new plan and for the District to realize savings.

Another increase of $1200 effective at the beginning of the 2016-17 school year, together with a further $375 HIT increase, also effective at the beginning of the 2016-17 school year.

All of the above increases are incorporated into and become a permanent part of the salary schedule.

No adjustment is made to the schedule for 2014-2015.

All of these recommended increases are in addition to any increases that teachers receive through step movement or longevities.

This recommendation is based upon and justified by the facts presented in this proceeding. It also reflects the parties' own negotiation positions. It is in between the positions taken by the parties at the conclusion of our mediation session and extremely close to the figure that each side offered. It defers one of the increases proposed by the Association for a portion of the year, to allow insurance savings to take effect, but that increase ultimately becomes part of the permanent salary schedule.

It is a fair recommendation based upon a number of factors: The relative standing of Arlington teachers within the County and the ability to maintain their standing, the patterns of increases received by County districts, including Arlington, over the four year period covered by Arlington's predecessor agreement, the pattern of settlements and increases in other districts for the three year period covered by this agreement, the relative tax burden borne by Arlington taxpayers, particularly in comparison with their ability to pay as measured by relative wealth ratio, and the uncertainties and constraints faced by the District because of the tax cap and possible limitations upon State aid. The recommendation takes into account that the teachers have agreed to a new health insurance program that provides substantial savings to the District, but notes that the teachers' contribution to these plans does not exceed the current contribution level of 12.5%, and is considerably lower for the EPO 20 option, while teachers in most other districts pay a higher percentage of insurance costs. The recommendation also acknowledges that there has been no modification of the salary schedule that might lower its cost impact.

As I calculate the percentage increase represented by this recommendation, it falls right in the ballpark of the comparison settlements that cover the three school years from 2014-15 to 2016-17.

Other Issues

The parties submitted a dozen or so issues in fact finding, most of them economic issues that affect ancillary aspects of a teacher's overall compensation. The parties presented supporting data on each of these issues, showing, for example, how the particular economic issue was addressed in the comparison districts.

As we explored each of these issues in mediation, the parties reached tentative agreement on virtually every one of them. Final agreement on these issues was conditioned upon agreement on salaries, which was the primary and most difficult of all the issues before us. I take this to mean that if my recommendations on salary are accepted, the tentative agreements would fall into place.

I conclude that the tentative agreements reached by the parties constitute the optimal resolution of those issues. They are supported by the data submitted in fact finding and are well within the range of a supportable resolution. I adopt the parties' resolution of these issues and incorporate them into my report and recommendations.

In mediation the District prepared a proposed memorandum of agreement that covered all the open issues, and would have become the actual MOA had the parties reached agreement on salaries. I subsequently asked the parties to review the tentative MOA, as I assumed that it accurately reflected their agreement on these issues. Neither party offered any corrections to this document.

I will briefly summarize each of these open issues and indicate the parties' resolution, which is incorporated in my award. The parties may utilize the MOA as the basis for the language that appears in the final version of the collective bargaining agreement.

Here is a summary of my recommendations with respect to the remaining open issues, keyed to the numbers in the District's proposed MOA on August 26. Each recommendation is to be understood and implemented in accordance with the terms of the proposed MOA.

1. Elementary half-day. Change to provide for two additional half days as stated in MOA.

2. Health insurance. Change District's main plan from DEHIC Alternate PPO to DEHIC Healthy Advantage, with employee option to enroll in EPO 20 plan. MVP and CDPHP removed. Employee contribution to Healthy Advantage set at 12.5%, the same percentage that applies to the present plan. Employee contribution to EPO 20 set at 10%, with a further reduction to 8% should a sufficient number of employees elect the EPO 20 plan, in accordance with the terms of the MOA.

   In addition, District contribution rate towards Association welfare benefit trust fund is increased, depending on numerical enrollment in EPO 20, in accordance with terms of MOA.

With respect to health insurance percentage contributions, the Association proposed that if there were a further jump in enrollment in EPO 20, the employees' contribution would be further reduced to 6%. The Association withdrew that demand when we exchanged proposed final positions towards the end of the mediation (although all the demands presented in mediation were officially taken off the table 24 hours later). In my judgment, the potential reduction of premiums down to 8% is sufficient incentive for employees to choose the EPO 20 Plan. I do not recommend any further adjustment in the employee's share of the premium costs at this time. The parties may of course revisit this question in the next round of negotiations.

3. Health Insurance Buyouts. Buyout rate for termination of participation in family plans is increased to $2700 if a sufficient number of employees choose to terminate such participation, in accordance with terms of MOA.

4. Salary and Longevity. The salary portion of this provision of the MOA is replaced by the recommended salary increases in this report.

   Longevity Step 29 is increased by $500 to $1250.

5. Health Insurance in Retirement. 10 year minimum District service vesting requirement for this benefit for all employees who retire on or after September 1, 2015.

6. In service credit. In service credit hours recorded on hour by hour basis and compensated after 15 hours are accumulated, at current in service credit rate.

7. Increase rate of compensation for attendance at graduation ceremonies in accordance with MOA.

8. New provision for assignments to math or English labs, in accordance with MOA.

9. Extracurricular stipends: Increase by 2% 7/1/15 and 1% 7/1/16.

The above is the complete list of recommended changes to the parties' existing CBA. Additional demands of each side are either not recommended or were withdrawn by the parties. I do not recommend a change in the sick leave buyout provisions nor an increase in payments for graduate credit hours. I make no recommendation with regard to modification of the salary schedule.

CONCLUSION

I have paid careful attention to the parties' presentations both in the formal fact finding materials and in our mediation efforts. These recommendations build upon and incorporate the tentative agreements that the parties reached in our mediation session of August 26, contingent upon reaching agreement on salary. The salary increase that I recommend is very close to the figures that each party was prepared to accept on August 26, and it is supported by the data submitted in fact finding. The parties have worked hard and in good faith to arrive at an agreement they can live with. I hope that my recommendations will enable them to complete the agreement.

Respectfully submitted,

Robert J. Rabin
Fact finder
September 10, 2015
Red Hook, NY