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Greece Central School District and Greece Teachers Association

Dennis J. Campagna

In the Matter of Fact-Finding Between Greece Central School District and Greece Teachers Association. PERB Case No. M2007-072. Before: Dennis J. Campagna, Esq. – Fact Finder.

Keywords
New York State, PERB, fact finding

NEW YORK STATE
PUBLIC EMPLOYMENT RELATIONS BOARD

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GREECE CENTRAL SCHOOL DISTRICT PERB Case No. M2007-072

-And-

GREECE TEACHERS' ASSOCIATION

Before: Dennis J. Campagna, Esq. – Fact Finder

APPEARANCES:

a) For the District:

Laura M. Purcell, Esq., Counsel

b) For the Association:

Stephen Monks, L.R.S. - NYSUT

BACKGROUND

a) The Parties

The Greece Central School District ("District") and the Greece Teachers' Association ("Association") are parties to a Collective Bargaining Agreement with effective dates July 1, 2004 through June 30, 2006. ("CBA") Negotiations for a successor to the 2004-06 CBA began on May 24, 2006. Subsequently, the parties met 18 times between May 24, 2006 and May 17, 2007. On May 17, 2007, the parties filed a joint declaration of Impasse seeking assistance from the Public Employment Relations Board ("PERB").

On July 9, 2007, the PERB appointed Adam Kaufman as the mediator to this impasse. Subsequently, Mr. Kaufman conducted mediation sessions on September 19, November 14 and December 11, 2007. Unresolved, the Superintendent requested the PERB to move the impasse to Fact-Finding. The undersigned was appointed by PERB as the Fact Finder in this matter on

February 15, 2008. Subsequently, one meeting with the parties occurred on April 2, 2008 at which time the parties were encouraged to continue their negotiations before submitting any remaining issues to Fact-Finding. The parties subsequently met on May 6, July 14, August 5, August 14 and September 5, 2008. The parties mutually agreed at the September 5th session to proceed to Fact-Finding on the following three issues:

- Health Insurance
- Salary
- Staff Development

b) The District

The District is the eighth largest school district in New York State, and the largest suburban school district in Monroe County, New York. The total population within the 42-square mile District is approximately 90,000, including the majority of residents in the Town of Greece.

The District is comprised of thirteen elementary schools, three middle schools, three high schools and one middle/high school (a secondary school of choice), housing a student population of over 13,000. The District employs more than 1100 faculty, 100 administrators and 1130 support staff. In addition, the District's staff is supplemented by over 350 substitute teachers and 371 community support teachers.

c) A Mandate for Interest-Based Bargaining

Article IV (Negotiations), at Section (D) of the 2004-06 CBA provides:

> 1. From this point forward, negotiations between the parties shall be interest based.
> 2. In the event that opportunities arise for mutual gain brought on by new insurance programs or by state retirement incentive legislation, the parties will meet to engage in an interest based bargaining process within fourteen (14) calendar days to determine whether such opportunities are of mutual benefit.

By its very nature, interest-based bargaining ("IBB") takes positions espoused by each party and flushes out "interests", defined as the underlying concerns, needs and desires of each party – the reasons underlying each position. Given Article IV's mandate, the Fact Finder will analyze each open issue using, to the extent possible, an IBB approach.

d) Review of the Open Issues

1. Contract Duration:

Each party hereto has indicated their willingness to explore terms for a four-year agreement covering 2006-07, 2007-08, 2008-09 and 2009-10. However, for the reasons that follow, I **recommend a contract with a five (5) year duration for contract years 2006-07 through and including 2010-2011.**

2. Health Insurance - Overview

The District is a member of the Rochester Area Schools Health Plan II, a Consortium comprised of nineteen (19) Monroe County school districts. The Consortium offers its members an experienced rated plan at cost savings as compared to the surrounding area community-rated plans. Currently, Excellus Blue Cross, Blue Shield is the exclusive provider of health insurance for the Consortium. Health Plans currently available through the Consortium are limited to:

- BluePoint2 Extended
- BluePoint 2 Select
- BluePoint 2 Value

During the 2007-08 school year, of approximately 1061 unit members, about 1028 subscribe to the District's health insurance plan. Of those enrolled, approximately 876 are enrolled in the Select plan, 141 in the Extended plan and about 11 unit members are enrolled in the Blue Million plan. Health insurance options and co-pays are dependent on an individual's date of hire. Currently, such options and co-pays are as follows:

HIRE DATE	PLAN OPTION	DISTRICT CONTRIBUTION

Prior to June 1, 1997	Select, Extended, Blue Million	90% of Select
On or after June 1, 1997	Select, Extended, Blue Million	90% of Select, 80% Others
Following Ratification of the 2004-06 CBA	Select	90%

The Select plan carries a $15 per visit co-payment, $20 co-payment for a specialist, a $50 emergency room co-payment and a prescription-drug co-pay of $5/$20/$35. Unit members selecting the Select Family plan contribute 10% of the premium share, or $1,162.92 per year based on current rates, while the District's contribution of 90% for the same time period amounts to about $10,466.28.

The District's total premium share associated with the foregoing plans amounted to approximately $7,737,762 for 2007-08 and such amount increased to $8,591,655 for the current 2008-09 year.

In addition to the health insurance offerings, the District also offers an IRS Section 105 plan, with a current District contribution of $800 per unit member.

Position of the Parties on Health Insurance

A. The Association's Position

The Association proposes that effective with the ratification of a successor agreement, that:

- BluePoint 2 Select would become the base plan for unit members. Accordingly, the approximately 141 unit members currently enrolled in the Extended plan would move to the Select plan. The Association estimates the savings to the District as a result of this change alone would amount to approximately $141,00 per year based on 2007-08 premium rates;
- Current unit members would be entitled to voluntarily enroll in the Value plan;
- The District contribution level would be capped at 90% of the Select premium rate, and

- New hires would be enrolled in the Value plan as their only choice at a 90% District contribution rate.
- That the District increase its contribution to the Section 105 plan by $200.

The Association maintains that its proposal would provide substantive savings to the District, particularly given the move from the Extended to the Select plan for about 141 unit members. In addition, offering the Value plan to new hires with a maximum District premium contribution of 90% would not only result in savings for new employees, but would tend to encourage the shift by other unit members from the Select to the Value plan due to reduced out-of-pocket costs to unit employees making this move. Finally, the Association notes that its proposed $200 increase to the Section 105 plan would help to ease the burden placed on unit employees who shift from the Extended to the Select plan or from the Select to the Value plan.

In addressing future Consortium changes, the Association maintains that its agreement to switch health insurance carriers and/or providers without specifics as to the level of benefits that any given plan contains is tantamount to giving the District a "blank check" to change not only providers but benefits. While the Association notes its support for taking the insurance plans to market, it simply cannot afford to grant the District the blank check it seeks.

B. The District's Position[1]

The District proposes as follows:

- That the Association participate in a study committee comprised of all District bargaining units to review proposed changes in the District's health plans;
- The Association will agree to sign onto any changes adopted by the Consortium;
- Current unit members enrolled in the Extended plan will transfer to the Select plan;
- New hires would be enrolled in the Value plan as their only choice at a 90% District contribution rate.

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[1] Subsequent to the District's submission, rate increases were released by the Consortium. Rates for BluePoint 2 Select and BluePoint 2 Value increased by 1.7% and 9.5% respectively over 2008 rates.

- Prospectively, the District's contribution level for the 2008-09 school year would be capped at 85% of the premium level of the Select plan (with the unit member assuming 15% of the cost), and that for the 2009-10 school year, the District's contribution would be capped at 90% of the premium level of the Select plan.
- That there be no additional contribution above the current $800 level for the Section 105 plan.

It is the District's position that its proposal is eminently reasonable when considering the economic climate of the State and the County. It is not unlikely that the economic conditions will ultimately result in a substantial decrease in the District's allocated State aid amounts, the District asserts. Accordingly, the District urges the need to rein-in health care costs which have consumed 10.27% of the District's budget and is projected to increase substantially over the next couple of years. The District's proposal is designed to do just that, the District adds. Thus, by District calculations, the elimination of the Extended plan for 2007 & 2008 would have resulted in savings of $170,632 and $141,016 respectively, and the decrease in District contributions to the Select plan from 90% to 85% will act to reduce District expenses on a per-premium basis for the 2009-10 year by approximately $257 per single participant, $592 per 2-person participant, $648 per family/no spouse participant, and $682 per family participant. Moreover, the District adds, there is a County-wide move to the Value plan due to the dire need to save money in this costly area.

Next, the District maintains that when considering the contribution level other bargaining units are or have been asked to make, its position relative to these negotiations becomes all the more reasonable. For example, the Administrators and Supervisory unit in the District agreed to a 70% District and 30% individual contribution rate. In addition, the United Support Staff ("GUSS") agreed to an 85% District contribution for Select and a 90% contribution for Value. There are employees in each of these bargaining units making substantially less than the average Greece teacher the District adds, thereby making its case that its proposal is indeed reasonable.

DISCUSSION ON HEALTH INSURANCE

When reviewing the foregoing proposals, it is clear that in IBB parlance, each party has staked out its position relative to Health Insurance. However, a careful reading of the briefs submitted in support of these positions reveals the following "interests" or reasons underlying each position:

From the District's standpoint, the focal point of its interests is providing a good quality health care program at an affordable price. The Association, on the other hand, has as the focal point of its interests the goal of seeking agreement on a plan that provides good coverage, but at an affordable price – that is, at a price that minimizes, to the extent possible, a unit member's out of pocket contribution. Given my vantage point as a Fact Finder, I find both sets of interests very reasonable. The question now becomes how to accomplish this task.

First, I find consensus on the District's proposed study group. Lest the discussion would tend to become one-sided, I would not limit the group's attention to those changes the District proposes to its health insurance plans. The goal of the group should be to have a spirited and interactive dialogue about the issue of health insurance generally, not limited by any suggestions or proposals advanced only by the District. As the committee begins its dialogue, I would urge that it seriously consider separating the prescription drug program from the Consortium offered plans, and begin a review of the mechanism necessary to self-fund this portion of the plan. Given the size of the District, a move to a well-designed self-funded plan is not only possible, but it also makes sense. Since the Rx portion of any "off-the-shelf" plan occupies the lion's share of the premium amount, a move to a well-designed self-funded plan with a capable Third Party Administrator will save the District a substantial sum of money, while providing Unit members with an excellent Rx alternative.[2] In this regard, I would urge the committee to meet with the administrator of the ERIE ONE BOCES Health Trust who has managed the Trust for all

[2] In fashioning a self-funded Rx program, there are numerous and creative ways to save money. For example, in the Central NY area, parties were able to save $222,000 a year for those taking Lipitor, a cholesterol drug, by changing the scrip from 10mg (at an average cost of $66.00 for a 30 day supply) to 20mg (at an average cost of $95 for a 30 day supply and simply cutting the 20mg tablet in half). 12,000 scrips per year, at an average savings of $1.23 per scrip saved about $222,000 each year.

the years of its existence. The Trust has managed to experience single digit increases yearly while providing perhaps the best health care program offered in the area.[3]
Second, in examining the current Value plan, I find that except for an increase in employee co-pays, the Value plan mirrors the Select plan, and a move to the Value plan would save the District, using recently released 2009 rates, approximately $630 per family plan. Further review of the Value plan as compared to the Select plan reveals that on the average, in order to compensate a unit member converting from the Select plan to the Value plan, the district would need to contribute an additional sum of approximately $150 to the Section 105 plan for single plans, and about $300 for family plans. Assuming, arguendo, that the Association was amenable to this change, when considering the additional amounts added to the Section 105 plan, there would be virtually no difference in coverage and out-of-pocket expense as compared to the Select plan. At the same time, the District would experience a net savings of approximately $330 per family plan. In addition, the move of all unit employees currently enrolled in the Extended or Select plans would add an additional $141,000 to the District's savings.

Finally, given the fact that the District participates in a Consortium, an Article 5G Municipal Trust, with approximately 7 Union votes to 19 Management votes, it is understandable that the Association has taken the position it has relative to its blind acceptance of any Consortium resolution that results in changes in providers and/or benefits. As noted above, the IBB approach requires that the parties work together in fashioning a plan that meets their interests, and blind acceptance of a plan over which both the District and the Association may have little influence could cause irreparable problems to the Labor-Management relationship. I would therefore respectfully recommend against the District's proposal in this regard.

Accordingly, I recommend:

- That the parties begin their mutual IBB dialogue noted and discussed above as soon as possible;
- That the Value plan become the District's base plan;

[3] ERIE One's Trust has recently noted its increase for 2009-10 to be approximately 8.9% over the 2008-09 rates. In addition, the Trust has a self-funded Rx three-tiered program with a $0 generic co-pay ($0/$15/$30), a move that has saved the Trust a substantial amount in its Rx costs due to the encouraged move to generic drugs.

- That the District increase its Section 105 contribution by $200 (thereby bringing the total contribution to $1,000.00); and to further ease the move to the Value plan,
- I would recommend that the District's contribution level be set at 90% of the Select plan for the duration of the Agreement; and
- That the District's contribution for employees hired following ratification of this agreement be set at 90% of the cost of the Value plan.

3. SALARIES

Position of the Parties on Salaries

A. The Association's Position

Based upon the cost of incremental increases of 4.22% for 2006-07, 4.02% for 2007-08, 3.89% for 2008-09, and 3.55% for 2009-10, the Association's position on salary is as follows:

- A "new money" wage increase of 1.25% for the 2006-07 school year;
- A 1.9% "new money" wage increase for each additional year of this Agreement;
- That extra-curricular and coaching stipends be adjusted by 0.5% of the cost of payroll for salaries during the 08-09 and 09-10 school years.
- The elimination of Step 22, thereby creating a 22 step salary schedule.

It is the Association's position that its salary proposal is just and reasonable. The Association offers the following in support of its position.

First, the Association notes that while incremental costs associated with the current salary schedule continue to decrease, the CPI is currently running at a rate of 5.2% for the Monroe County region, thereby demonstrating that in terms of actual purchasing power, unit members have continued to fall behind.

Next, the Association asserts that the fiscal condition of the District is very healthy, showing an operating surplus following completion of the 2005-06 school year of approximately $4 million, and when combined with the existing fund balance, the District's balance is over $7 million. Moreover, based on the May 13, 2008 Fund Balance Update, the District had an estimated fund balance of over $9 million at the end of the 2007-08 school year. Accordingly, the Association's proposal for new money with an estimated cost of approximately $1,592,400 is well within the ability of the District to pay.

B. The District's Position

The District's 2007 position on salary proposed a three (3) year contract with:

- Increment only for the 2006-07 school year
- Increment plus 1.2% "new money" for the 2007-08 school year;
- Increment plus 1.2% "new money" for the 2008-09 school year.

In its most recent proposal for salary dated August 27, 2008, the District proposed:

- 2008-09: A salary increase of $3,029,000 (4.7%) inclusive of increment;
- 2009-10: A salary increase of $3,045,500 (4.5%) inclusive of increment.

It is the District's position that its proposal is reasonable and should therefore be recommended. The District offers the following in support of its position.

First, the District notes that the cost for funding the current step system without any "new monies" ran to more than $7.5 million for a period beginning with the 2005-06 school year and continuing through the current school year. This is not a paltry sum when considering the current economic climate facing the State the District notes.

Next, the District maintains that its salary proposal keeps unit salaries generous by regional standards. In this regard, the District notes that when measured against the current salaries of the schools and BOCES within Monroe County, salaries of unit personnel are generous by any standard, placing unit members at or near the top of any salary ranking. Taken against this backdrop, the District notes that when considering its 1.2% proposed new money for each of two years, the result “would not significantly decrease the standing of District personnel as among the most well-compensated in Monroe County.”

Next, the District asserts that its salary proposal is generous in light of the current economic climate. When faced with a “staggering” unemployment rate of 21.2% in Monroe County, high levels of taxation, a steady decline in population, viewed together with the current fiscal crisis facing New York State, the District asserts that the “millions” necessary to fund the Association’s proposal is simply unreasonable. Moreover, given the State’s current budget deficit of $47 billion over the next four years, it is conceivable that state aid received by New York schools generally and the Greece CSD in particular could be cut substantially. The District notes that its residents have repeatedly related their aversion to increased spending by rejecting three budgets since the year 2000. The Association’s proposed salary increases, with incremental costs, would add an additional $16,185,416 to the District’s budget for the four year period at issue, the District adds, only adding to the increasing economic burden the District faces, a position not justified by reasonable standards.

Finally, the District asserts that the Association’s proposed three-year package disregards the interaction between salary and health care costs, only compounded by the hiring of additional teaching staff and the consequent increase in the numbers of teachers enrolled in the District’s various health care plans. Accordingly, the District urges the adoption of its proposal.

DISCUSSION ON SALARY

Using the IBB approach to the issue regarding salary, the District’s “interests” are as follows:

- An acceptable and affordable increase to attract and retain qualified and experienced personnel;
- An acceptable increase to achieve needed changes in the current health insurance area. In this regard, given the current mandates under Section 209(a)(1)(e), the District cannot alter the status quo regarding health insurance without the Association’s consent.

The Association's interest can be summarized as achieving the best possible increase given the current economic climate, without jeopardizing current benefits under the terms of the CBA.

When viewing the foregoing interests, it is apparent that the District and the Association are not far apart relative to their interests. The question therefore boils down to affordability. While the District has not challenged the Association's findings on available fund balance monies, it has suggested that these monies might very well be required to close any gap created by a reduction in State aid. In this regard, assuming the worst case scenario, estimating the District's potential aid cuts at $3.5 million, with a typical fund balance of approximately $7 million, the District will retain about $3.5 million of its typical fund balance. Given that 1% equals about $698,000, and given further that the 2008-09 step cost is about 3.55% and without taking into consideration monies saved from the Health Insurance conversion noted above, a 1.6% "new money" schedule increase is both reasonable and affordable and should pose no threat to the District's resources.[4]

As for the prior years of this successor agreement, including 2006-07 and 2007-08, I recommend that the salary schedule remain unchanged but that a fund be created based on a total District contribution of $1000 per FTE bargaining unit member, and that the Union (with District veto rights) determine the best way to distribute such available funds to unit members. This $1000 figure takes into consideration the District's proposed 1.2% new money for the 2007-08 contract year.

Given the foregoing, I recommend the following:

1. For the years 2006-07 and 2007-08, the salary schedule remain status quo, but that upon ratification, the District contribute a total sum equating to $1000 per each FTE in the bargaining unit. The Union shall the determine, with District veto rights, how such funds shall be distributed among unit members.
2. Beginning with the 2008-09 contract year and continuing each year through 2010-2011, that the salary schedule be adjusted with the addition of 1.6% "new

[4] Additional monies will no doubt be available should the parties jointly agree to future creative measures in dealing with their health insurance and Rx benefits. It should also be noted that the District signaled the availability of funds with its Professional Development proposal of $1500 per teacher (in exchange for a 35 hour annual commitment).

money". Accordingly, eligible unit members would receive an increment plus 1.6% for each of these three contract years.

3. That the parties be open to the possibility of increasing yearly salaries based on shared savings resulting from creative Health Insurance and Rx restructuring.
4. With respect to extra-curricular and coaching stipends, I recommend that these sums be adjusted by 0.35% of the cost of payroll for salaries during each of the 2008-09 and 2009-2010 contract years.

4. PROFESSIONAL DEVELOPMENT

During the early stages of these negotiations, the District proposed increasing the teacher workday by 30 minutes. The parties discussed this proposal but for reasons not necessary here, were unable to reach agreement on this issue. Subsequently, on July 14, 2008, the District introduced the concept of "Professional Development", consisting of an additional 30 minutes added to the typical workday. The Association expressed its opinion that while it was not opposed to the concept, more time was needed to work out the details of this proposal. On August 27, 2008, the District presented the Association with the following proposal:

Professional Development

- Annual hours: 35
- Annual Stipend: $1,500
- Joint Committee formed to review and make recommendations to Superintendent and GTA President.

Following the Association's receipt of the above proposal, the next and final bargaining session was held on September 5, 2008 after which the parties jointly remanded the impasse back to the Fact Finder without any discussion of the District's Professional Development proposal, or without a counter proposal from the Association.

Given the foregoing undisputed scenario, I find and conclude that there has been insufficient discussion by and between the parties on this issue. Given the fact that the $1500 amount proposed by the District is not an insignificant sum (amounting to approximately $1,650,00 assuming a faculty count of 1,100), it would be improper for this Fact Finder to render an opinion on an issue at this time, given that the parties have not sufficiently negotiated the subject.

Accordingly, I can make no specific recommendation at this time, except to recommend generally that this issue not hold up agreement on a successor agreement, but that the parties continue their discussions on this issue during the new contract's term.

CONCLUSION

The foregoing discussion and recommendations represent a just and reasonable approach to the open issues facing the parties. Accordingly, the parties are urged to adopt these recommendations as a means of breaking the current impasse.

DATED: February 9, 2009

Dennis J. Campagna

Dennis J. Campagna, Esq.
Fact Finder