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## Green Island Union Free School District and Green Island Teachers Association

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## Green Island Union Free School District and Green Island Teachers Association

### **Abstract**

Proceeding Between Green Island Union Free School District And Green Island Teachers Association. PERB Case No. M 2009 - 069. Report and Recommendations of Fact Finder, June 23, 2010 Donna Trautwein, Ph.D., Fact Finder.

### **Keywords**

New York State, PERB, fact finding

State of New York  
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Proceeding Between  
Green Island Union Free School District  
And  
Green Island Teachers Association

PERB Case No. M 2009 - 069

Report and Recommendations of Fact Finder  
June 23, 2010

Donna Trautwein, Ph.D. Fact Finder

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## Background

Green Island is a small town located just outside Albany. It encompasses .70 square miles with just under 2300 residents. This small urban School District has 339 students and 37.6 employees in the Teachers Association. It ranks 309 out of 676 New York State school districts in per pupil expenditures of \$19,015.

The Green Island Union Free School District (herein after “District,” and also referred to as “Heatly School” or “Heatly”) and the Green Island Teachers Association (herein after “GITA”) are parties to a collective bargaining agreement covering the period July 1, 2006 through June 30, 2012.

GITA is recognized as the exclusive bargaining agent for the approximately thirty-seven (37) teachers, counselors, and social workers who comprise the Unit.

Article XXI of the collective bargaining agreement specifies:

A. Salary Plan

1. The Salary Plan for the first three years of the contract is attached
2. The final three years will be negotiated before the 2009-2010 school year.

Pursuant to Article XXI(A)(2) of the agreement, the parties met on four occasions to negotiate salaries for the period July 1, 2009 through June 30, 2012. Meetings commenced on February 26, 2009 and formal proposals were exchanged on April 8, 2009. Revised proposals were exchanged on April 22, 2009 and May 13, 2009.

At the fourth meeting on May 13, 2009, the District proposed making salary increases dependent on the District being removed from the New York State School In Need of Improvement (SINI) List. A letter of June 10, 2009 from the District Contract Negotiating Team to Jenny Starr, GITA President, stated the District’s conclusion that GITA was unwilling to discuss the inclusion of merit pay in the contract negotiations. Based on this conclusion, the District Negotiating Team reoffered its initial salary proposal.

On June 18, 2009, GITA filed an Impasse petition with the New York State Public Employment Relations Board (PERB). PERB appointed Louis Patack as Mediator. Mr. Patack conducted two mediation sessions on August 12 and September 29, 2009. The mediation sessions did not bring about an agreement, and GITA filed a request for fact-finding with PERB on January 4, 2010.

On January 28, PERB notified the Parties that Donna C. Trautwein had been appointed as the Fact Finder. Fact-finding hearings and an additional unsuccessful effort at mediation with both Parties present were held on March 23 and April 12, 2010.

## **Outstanding Issue**

Salaries are the single issue submitted to the Fact Finder. Within that issue, the principal concept that is at the center of the parties' failure to reach agreement is what the District referred to as "merit pay" in a June 10, 2009 letter to Jenny Starr, GITA President. Subsequently, in the fact-finding brief of March 2010, the District referred to the concept as a "teacher accountability/student achievement pay provision."

GITA has written two memos countering the idea of merit pay, the first on October 7, 2009, entitled, "Reasons Why Merit Pay Tied to Test Scores Won't Work at Heatly." The second memo was written to the President of the Green Island Board of Education on February 26, 2010, subsequent to mediation to resolve the impasse but prior to the beginning of the fact-finding process. It included a "Preliminary 'Merit Pay' Supposal from GITA," which outlined six actions or concepts that GITA felt were possible elements of a merit pay plan.

The Supposal was not viewed by the District as an impetus to reopen discussions with GITA and both sides continued to pursue fact-finding.

### ***District Position***

#### **Proposals**

The District's original proposal for wages and health insurance dated March 25, 2009 recommended the following:

July 1, 2009 – June 30, 2010

Teachers below the top salary – Increment only

Teachers above the top salary – Increment only

July 1, 2010 – June 30, 2011

Teachers below the top salary – 1.5% of beginning salary plus increment

Teachers above the top salary – 1.0% of beginning salary plus increment

July 1, 2011 – June 30, 2012

Teachers below the top salary - 3.0% of beginning salary plus increment

Teachers above the top salary – 1.5% of beginning salary plus increment

Medical and Dental Proposal:

The provisions for Medical and Dental Insurance to remain the same as in the current contract.

Green Island does not have a salary schedule, per se, but has what is termed a “salary scale” that is included in the contract. The recently expired contract lists salary amounts at the Masters level for each of twenty (20) steps for each of the three years covered in the contract (2006-07, 2007-08, and 2008-09). Teachers “possessing lesser degrees” received a one thousand dollar (\$1000.00) salary deduction on their appropriate step.

“Beginning salary” is defined as the step 1 salary from the prior year. For 2009-10, the base salary would be the step 1 salary from 2008-09, \$36967.00. According to the contract, for 2008-09 salaries were calculated by taking 2.5% of the base for teachers on step, or 1.5% of the base for teachers off step, plus the increment.

Increments were specified as:

Years 2 + 3	\$500.00
Years 4-10	750.00
Years 11-15	1000.00
Years 16-20	1250.00
Years 21-40	1500.00

The value of the increment for 2008-09 is 2.1%. Over the life of the District’s three year salary proposal (2009-10 through 2011-12), the increment would be worth 1.82%/1.74%/1.66%. The District stated in the fact-finding brief that increments are not guaranteed, but the teachers have always received a pay raise.

In the June 10, 2009 letter, the District Contract Negotiating Team stated that “...merit pay could be included in the contract as a way to reward all teachers for students’ success on the state exams as well as positive student academic progress.” The letter further stated that merit pay would be based on criteria agreed upon by both the District and GITA.

This letter went on to say that based on “GITA’s unwillingness to discuss any inclusion of ‘Merit pay’ in the contract negotiation process,” the District would forego additional meetings and enclosed their contract proposal with the letter. That proposal restated the provisions of the offer made March 25, 2009.

However, the District’s brief for fact-finding states that during mediation, the District reiterated its concept from the May negotiations regarding a type of merit pay or “teacher accountability/student achievement” salary provision. They state that this proposal offered:

2009-10	Increment only
2010-11	1.5% plus increment, contingent upon an agreement with GITA to form a committee to devise a system of accountability, “which included improved student achievement in future years, linked to the District being released from its SINI status.”
2011-12	The District would be willing to discuss additional compensation for this year.

The District stated that teacher accountability/student achievement pay would “create a monetary incentive to teachers, enforce curriculum mapping and aid the school in the race to drop the SINI school status.” Being removed from SINI status requires that the District meet its Adequate Yearly Progress (AYP) targets as calculated by the State Education Department (SED).

### **Ability to Pay and Salary Levels**

The District feels that its taxpayers are unable to pay for greater salary increases than it has proposed. Despite having had no increase in tax rate for the past three years (not including the most recent budget voted on in May 2010), the District asserted that with the increase in district property value and the substantial decrease in the equalization rate, taxes have increased and some home owners have actually seen their property taxes double.

Although the District has a reserve fund of approximately \$1.2 million, about 19% of its annual budget of \$6,966,569, it stated several reasons why this money should not be spent for salaries. They asserted that State aid is not keeping pace with the growing budget, and teaching salaries currently comprise nearly one-third of the budget. Health insurance costs continue to escalate and, in combination with teacher salaries, account for over one-third of the budget. In addition, they point out that the District recently undertook a building project of approximately \$12 million dollars. At the end of the 25-year payment period, District taxpayers will have been responsible for paying \$6.6 million of the project cost.

Each year, CASDA collects salary data from member districts in the extended capital region. Six smaller school districts selected by the District from these data for comparison purposes have starting salaries at the BA/BS level that range from \$31,925 to \$42,425. Green Island’s starting salary is \$36,967. Top salaries in those districts range from \$57,543 to \$73,925. Green Island’s top salary is \$61,932.

At the MA/MS level, starting salaries for those same selected districts range from \$36,284 to \$42,925. Green Island’s starting salary is \$36,967. Top salaries for those districts range from \$58,143 to 74,425. Green Island’s highest salary is \$75,043 (includes payments for other



factors in addition to the top salary on the salary scale). Green Island feels that their salaries at the BA level are competitive with the selected school districts at the BA level and even more competitive at the Masters level. The District makes a further comparison of the Step 10 Green Island teacher's salary of approximately \$47,173 with the Green Island median household income of \$32,500. This, they state, in addition to the current economic climate, including New York State's fiscal difficulties, provides further evidence for the District that salary increases larger than they already have offered are unwarranted.

The District also stated that over the past ten years, teacher salary increases have averaged 2.2% for teachers with more than 20 years in the District, and 3.71% for teachers with fewer years. Also over the past ten years, salaries for step one have increased 34.43%; for step 10, 23.19%; and for step 20, 25.22%.

In summary, the District thinks its salaries are competitive, its taxpayers are already shouldering a large burden, and that its reserve fund monies should be used for one time expenditures and not ongoing expenses such as salaries.

### **Teacher Performance/Student Achievement**

The District provided numerous examples from State test results, and BOCES student achievement predictions based on state and local test data in support of its assertion that beyond being classified for SINI status, student achievement is unacceptably low in Green Island. One example is the chart that showed the Regents Exams passing rates for June 2009 and January 2010. The June passing rates for the eleven exams range from 30% to 100%, with a median passing rate of 55% and an average rate of 65%. The January passing rates for the eight exams range from 0% to 100% with a median rate of 32% and an average passing rate of 30%.

The District provided further information that for many of the exams, students are passing with scores at Levels 2 (55-64%) and 3 (65-84%) rather than with scores at Level 4 (85-100%). Increasing the percentage of students who score at the higher levels (3 and 4) would also contribute toward the District making AYP and being removed from SINI status.

For the past four years, the District has provided each teacher with detailed analyses of student answers on the exams each one has taught. In the past year or two, training or coaching has been provided to teachers on such topics as curriculum mapping, alignment of the lower grades' curriculum with higher grades' curriculum, and testing strategies for testing students with disabilities. Teachers and Administrators from the District also are involved in revising their state-mandated Annual Professional Performance Review (APPR) through the APPR committee. They are redesigning the professional evaluation process, basing it on the model the state favors which should result in the alignment of teacher training with student instructional needs.

They also have invested in curriculum mapping software; training for its use is in process. The District also provided data to show that few of the teachers are using the software, and those who are, use it primarily during release time and for less than the required 30 minutes per week.

The District cited a number of articles and other sources that have shown the tremendous impact teacher quality and low expectations have on student achievement. They also quoted President Obama's call for "a new culture of accountability," and his emphasis on incentive pay and administrative oversight as mechanisms to improve quality.

In summary, the District feels that teachers must be held responsible for immediate and sustained improvements in student achievement and that salary increases should be tied to this.

## ***GITA Position***

### **Proposals**

Consistent with the original 2006-2012 Bargaining Agreement, GITA's April 8, 2009 proposal addressed only salaries. The proposal used the existing methodology of a percentage added to base salary plus increment (described above) to calculate salaries for the twenty steps for each of the three years from 2009-10 to 2011-12. Salaries for 2009-10 range from \$38,004 at step 1 to \$64,719 at step 20; for 2010-11, \$39,714 at step 1 to \$67,631 at step 20; for 2011-12, \$41,501 at step 1 to \$70,675 at step 20. The proposal was for a 4.5% increase to the schedule in each year of the agreement, resulting in an increase of just over 7% in each year.

A compromise proposal to increase salaries by 3% per year plus increment, for each of the three years, was offered by GITA during the original negotiations, at a cost of: 2009-10 – 4.82%; 2010-11 – 4.74%; 2011-12 – 4.66%. For the purposes of fact-finding, GITA also reverted to its initial salary proposal.

### **Ability to Pay and Salary Levels**

GITA feels that Green Island School District is in excellent financial health despite the economic challenges being faced by the state and country. As evidence, it cited the District's unreserved fund balance that has substantially exceeded the State Education Department mandatory limits for each of the past six years. The June 2009 fund balance was \$1,316,768 or 19.7% of its 2008-09 budget of \$6,674,331.

For the 2009-10 budget, Green Island allocated \$183,299 from its unreserved fund balance. If no additional monies were placed in the unreserved fund balance at the close of the 2009-10 school year, the balance would be greater than \$1.1 million.

In its review of school tax rates, GITA made two comparisons. The first compares Green Island to thirteen nearby districts. Of those districts, the full value tax rate ranges from a low of \$12.44 @ \$1000 to a high of \$19.51 @ \$1000. The average full value tax rate for the fourteen districts is \$16.10. Green Island's full value tax rate is \$17.52.

The second comparison is with ten districts of similar size. Of these districts, the full value tax rates range from a low of \$8.96 @ \$1000 to a high of \$19.90 @ \$1000. The average for these smaller districts is \$14.59. This compares to the Green Island rate of \$17.52.

GITA recognizes that the Green Island tax rate is 16.7% above the first group's average, and 8.8% above the second group's average. However, it feels that these differences do not support the notion that district taxpayers "carry an inordinate tax burden relative to their neighbors."

GITA selected eight districts "immediately proximal" to Green Island plus Questar BOCES from NYSUT collected salary data at the MA level for comparison purposes. Six of those nine districts have salaries higher than Green Island. Of the other three, one is currently in negotiations and used its 2007-08 schedule for comparisons; one provides fully district paid health insurance; and one has higher salaries at steps 1-7, and lower salaries at steps 8-20. Among these six selected districts, starting salaries range from \$36,697 to \$40,476. Green Island's starting salary is \$36,697. Step 20 salaries for the six districts range from \$56,502 to \$72,200. Green Island's step 20 salary is \$61,932.

The payroll for District teacher salaries for 2008-09 was \$17,752,320 or 26% of the total District budget. A one percent increase in salaries costs the District approximately \$17,750.

In summary, GITA stated its current salary schedule is lower than those it used for comparison purposes. It stated that the District's large unreserved fund balance and, what GITA views as a tax rate comparable to its neighbors, provide the wherewithal to grant larger salary increases than Green Island has offered.

## **Teacher Performance/Student Achievement**

GITA provided articles that support its contention that there is no evidence that merit pay "increases the learning experience of a child, or that it has had a positive, long-term relationship to students' educational experience. They state that instead, merit pay encourages

an environment of teaching to the test as a means of improving student scores and teacher compensation.

In its letter of October 7, 2009, GITA has summarized eleven reasons why they think merit pay would not be successful. Several reflect the challenges of being a small school. Their statements include the following:

- Scheduling in a small school with few core subject teachers is difficult. This can result in some VoTec students missing parts of classes, even Regents classes. Teachers are not always assigned to teach classes for which they are qualified or certified.
- Students are sometimes placed in classes for which they may not be ready, because parents have requested the placement. For example, this year one student is taking both English 10 and 11, although she needed two years to pass English 9.
- Meeting the academic needs of special education students is also very challenging. One Regent's English class has three classified students but not the assistant required in their IEP's. In a combined fourth/fifth classroom, twelve of the thirteen students have two teachers. However, meeting the needs of both grade level math curriculums when the math teacher is left alone is not possible. This could affect the scores of these students on the NYS math assessment.
- Teacher observations by administrators have not been done on a consistent or regular basis. A chart provided during fact-finding shows that of the fifteen (15) non-tenured teachers in the District, eight (8) have received no evaluations and three (3) have received fewer evaluations than the contract requires.
- A number of student issues affect success in the classroom or on exams, including what the teachers think is ineffective discipline at the elementary level, poor student attendance, and transient students who enroll just prior to a state exam.
- A number of exam-related issues beyond the control of the teacher also affect student success, including noisy or distracting testing locations; incomplete administrative arrangements for exams such as materials not being ordered or provided to the teacher; changes by SED in the content of certain exams, such as from Math A to geometry; the small student cohort at Heatly that results in SED needing to use student scores twice to calculate District ratings. (For example, 2010 ELA ratings are calculated using the results from both the 2010 ELA exam AND the 2009 ELA exam.)

GITA also has stated that the lack of required administrative observations and evaluations denies probationary teachers constructive criticism that could help them improve their teaching. It also diminishes the District's knowledge regarding tenure decisions.

Although it provided numerous reasons why merit pay would not be successful, a February 26, 2010 letter from GITA to the President of the Green Island Board of Education presented a "Preliminary 'Merit Pay' Supposal from GITA." It suggested:

- Comprehensive professional development for all teachers and administrators, developed by an outside consultant in conjunction with Green Island teachers and administrators. The components could include topics such as, diverse instructional strategies and teaching techniques; school-wide coordinated instructional goals; measures to ensure a disciplined learning environment; using indicators of student growth and learning; ongoing introduction to best teaching practices; and development of methods to engage parents.
- Appointment of a Professional Development Chairperson by the teachers, with the approval of the administration. This person would coordinate professional development activities and have a reduced teaching schedule.
- Enhancement of a Mentor Teacher or Lead Teacher program to provide guidance to non-tenured teachers.
- Development of a comprehensive teacher evaluation program for non-tenured teachers and a continuous improvement component utilizing multiple measures of teacher performance.
- Additional compensation for teachers who gain National Board Certification as well as economic support for teachers who undertake this initiative.
- Additional compensation for teachers serving on a variety of school district committees.

## **Discussion**

Fact-Finding reports typically focus on the more traditionally discussed financial topics of negotiations such as salary levels, tax rates, and insurance costs, or instructionally related issues such as class size, teaching load, or length of day. The scope of this report, however, has been refocused by Green Island's call for salary increases to be determined through a merit pay or teacher accountability/student achievement provision and dependent on the District's removal from SINI status.

### ***Ability to Pay***

As would be expected, the districts chosen by Green Island for salary comparison purposes show the Green Island salaries to be competitive among selected smaller districts. And likewise, the districts chosen by GITA for salary comparison purposes show the Green Island salaries to be lower in comparison to nearby districts. There are many legitimate ways districts can be grouped to support differing points of view.

In a further review by the fact finder of the CASDA data provided by Green Island regarding 21 smaller school districts, it appears that at the BA level, 17 have higher starting salaries, and 17 have higher maximum salaries. Some of these districts take more steps to reach the maximum, but only 3 have salaries similar to or lower than Green Island at step 20. At the MA level, of the 21 districts, 18 have higher starting salaries, and 9 have higher maximum salaries.

Although the District stated that state aid has not kept pace with the growing budget, the percentage of the budget that state aid covers has increased from the 2004-05 budget to the 2009-10 budget that the District cited. In 2004-05, the \$1,486,717 of aid provided 33% of the \$4,455,346 budget. In 2009-10, the \$2,735,010 of aid provided 39% of the \$6,966,569 budget.

With regard to the full value tax rate comparisons, Green Island's rate is above the average for both nearby districts and smaller districts. Although GITA maintains that the percentages above the average are not substantial, the rates appear more so when the median income of the district is taken into account. As stated by the District, the median Green Island household income is \$32,500. This compares to a median household income in Albany County of \$42,936; a median income in Rensselaer County of \$42,905; and a Capital Region median household income of \$42,539. Green Island has a median income that is 75% of Albany County and 76% of Rensselaer County, but a full value tax rate that is 109% of the Albany and Rensselaer County districts GITA provided for comparison purposes.

Green Island is unusual, and possibly unique, among districts in that its full value tax rate has not increased in three years, as GITA has asserted. Nonetheless, the District taxpayers have experienced increasing tax burdens during that time due to increasing property values and the concomitant decrease in equalization rates. Past experience in school districts reinforces that taxpayers are less concerned about the causes of increasing school taxes and focused more on keeping the increases in the actual amount of taxes they pay relatively small.

It is understandable that the District is trying to stabilize tax rates, especially in these economic times when state aid has been delayed and future aid levels are unclear, and with the continuing responsibility for payments on the building project. Nonetheless, with a one percent increase in salaries costing about \$17,500, the unreserved fund balance of over one million dollars does provide the District some flexibility to increase salaries. It is noted, however, that the District did not ask for any changes in the current health care provisions.

### ***Teacher Performance/Student Achievement***

All members of the Green Island school community should be frustrated by the poor student performance on tests at all levels of the school, not just the low Regents scores that led to the classification as a SINI school. A number of initiatives have been undertaken to address this

issue. The curriculum mapping will help teachers align curriculums across all grade levels in the district and identify areas or topics that are not covered adequately in the curriculum.

When this is completed, the school's curriculums will cover the areas tested on various state tests. Subsequent analysis of student test data will enable teachers and administrators to identify areas where students are performing poorly and provide guidance for changes in curriculum or instructional techniques. This also may help address some of the concerns raised by GITA about students who transfer into the district during the year when a test is administered because it will increase the likelihood that students will be learning similar material from one district to another.

The District has raised a number of issues regarding training and technology made available but barely used by the teaching staff. The teachers have also raised a number of issues regarding unfulfilled administrative responsibilities and the various instructional challenges such as classroom placement, the use of aides, and improving the performance of students who transfer to the school soon before tests are given. The instructional challenges are not unique to Green Island but are exacerbated by the small size of the school and the fact that it has only recently begun to engage in curriculum mapping and revision of its APPR to align professional development with student learning goals.

Teachers have just begun to participate in some of the necessary professional development to ensure that they are prepared to teach the revised and aligned curriculums, to analyze the test data made available through SED and BOCES, and to use the recently available technology. Teachers will need to use their curriculum maps and the student test information to adjust classroom teaching. Professional development needs will emerge from these efforts as teachers and administrators recognize knowledge, skills, or techniques that teachers need to acquire.

GITA has raised a number of issues regarding administrators not evaluating teachers both for improvement of instruction and tenure decisions. All required evaluations need to be conducted. Administrators will need to have training to conduct observations and evaluations required by the contract and in a manner consistent with the goals and standards set out in the revised APPR.

Although Green Island is new to the many improvements in teaching practice mentioned above, their work has shown early success. The current test results have shown marked improvement. A second year of similar scores should remove the District from SINI status.

Both parties submitted articles citing the success or failure of merit pay programs, and there are calls for merit pay as a strategy to improve education from many quarters, including the U.S. President. Nonetheless, there continues to be controversy about the efficacy of merit pay systems in education as well as other fields, with empirical research yielding no consistent

findings about merit pay's ability to improve performance. In addition, neither the District nor GITA provided a particular merit pay proposal which could have been evaluated by the fact finder.

## Recommendations

1. For 2009-2010, increase salaries by one and one-quarter percent (1.25%) plus the increment (1.82%)
2. For 2010-2011, increase salaries by one and one-half percent (1.50%) plus the increment (1.74%)
3. For 2011-2012, increase salaries of teachers below the top salary 2.0% plus increment; increase salaries of teachers above the top salary 1.5% plus the increment (1.66%). Also for 2011-12, create a merit pay pool of three-quarters of a percent (.75%) of salaries to be distributed on an equal basis (or prorated to those working less than 1.0 FTE) to each teacher meeting the following standards:
  - a. Compliance with the provisions of the APPR, including in such areas as setting and achieving annual goals and participating in professional development aligned with student learning goals.
  - b. Active use of curriculum maps and testing or performance projection information to adjust classroom teaching.
  - c. Collaboration across subject areas and grades to take advantage of the small school size.
4. Implement the APPR, including administrative evaluation of teachers at all stages of their careers to guarantee teacher use of effective teaching techniques.
5. Hold both teachers and administrators accountable for their respective responsibilities in this system to achieve instructional excellence that is currently being developed.



## CONCLUSION

All terms and conditions of employment not addressed in this Fact-Finding Report or mutually agreed to by the parties shall remain in full force and effect.

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Donna C. Trautwein, Ph.D.

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Date