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TESTIMONY ON

PUBLIC HEARING ON TEACHERS' STRIKES IN PENNSYLVANIA AND PROPOSED LEGISLATIVE RELIEF

PRESENTED TO
THE PENNSYLVANIA SENATE EDUCATION COMMITTEE

APRIL 18, 2018 – 1:00 P.M.

HEARING ROOM 1

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THE GENERAL ASSEMBLY OF PENNSYLVANIA
THE PENNSYLVANIA SENATE EDUCATION COMMITTEE

Public Hearing on Teachers' Strikes in Pennsylvania and Proposed Legislative Relief

April 18, 2018 – 1:00 p.m. Hearing Room 1

TESTIMONY OF JEFFREY T. SULTANIK, ESQUIRE
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SENATE EDUCATION COMMITTEE TESTIMONY ON TEACHERS' STRIKES AND PROPOSED LEGISLATIVE RELIEF

I. INTRODUCTION

Good afternoon. I am Jeffrey T. Sultanik, Esquire, Chair of the Education Law Group of Fox Rothschild LLP, which is the largest law firm in the Commonwealth of Pennsylvania regularly representing school entities. For the past 39 years, I have been practicing education law in the Commonwealth of Pennsylvania and have negotiated hundreds of teachers' and support staff contracts and have been involved as chief negotiator in school districts where there have been recent work stoppages, including but not limited to the Stroudsburg Area School District (Monroe County) and the Methacton School District (Montgomery County). I have been involved in nearly every form of dispute resolution either directly contemplated or arguably contemplated under Act 195, as well as Act 88 of 1992, as amended, including fact-finding, non-binding arbitration, binding arbitration (by agreement), super mediation, mediation, win/win negotiations, and the like. I believe I can speak from direct experience as to both the impact of work stoppages in the Commonwealth of Pennsylvania, as well as potential improvements to our current legislative framework to mitigate the impact of a system that is still stacked against the interests of the

taxpayers, parents, students, administrators, and school boards in this Commonwealth of Pennsylvania.

I last spoke to this Committee on April 22, 2009, about some of the same issues. However, the landscape is rapidly changing.

II. RECENT EXPERIENCES INVOLVING WORK STOPPAGES AND NEGOTIATIONS

During the Great Recession, which extended from October 2008 through most of 2013, teachers' strikes became virtually non-existent in the Commonwealth of Pennsylvania. The teachers' unions recognized the enormity of the crisis impacting school entities, including but not limited to geometric growth in PSERS costs, declining real estate tax assessments on school property, declining investment yields, substantively reduced earned income tax receipts, historically low interest rates, and a historically low Act 1 index, which, as you may be aware, is an index that is comprised of the Statewide Average Weekly Wage and the Employment Cost Index for Secondary Schools. The Employment Cost Index for Secondary Schools, a national index, went into the negative territory because of the shrinkage in staffing in most labor unions due to furloughs or attritional savings as the result of not filling positions during the economic crisis. Even the wealthiest of school districts in the state experienced serious economic shortfalls during the Great Recession without even being adequately prepared to address the revenue losses.

Though the school industry is certainly doing economically better in 2018 than it was during the Great Recession, the school economy has **not** completely recovered. Indeed, the base Act 1 index for the current fiscal year is 1/10th of a percent lower than it was in the prior year. The base level Act 1 index for the upcoming 2018–2019 fiscal year is 2.4% versus the 2.5% number in effect for the 2017–2018 fiscal year. Even though PSERS costs are beginning to level off, they still represent a huge chunk of a school's budget, reflecting 17 cents on the dollar for salary spent

for employees of school entities and healthcare increases also represent a trend level of 8% for medical costs and as much as 15% for prescription costs, which are both substantively higher rates than the Act 1 index.

Part of the difficulty in negotiating successor labor contracts right now is if a school district prudently wants to keep their costs within the base Act 1 index or its adjusted Act 1 index, there usually is not enough dollars to cover vertical step movement cost on a salary schedule (longevity), column movement cost for educational attainment, increased health benefit and prescription costs, increased district security costs, ever increasing special education responsibilities and increased capital and/or technology costs to deal with infrastructure requirements.

The challenge now is that the membership of the teachers' unions believe that since the real estate market is growing again, earned income tax receipts are increasing, and the Act 1 index is now higher than it was during the depths of the recession, the union membership perceives it is the union's turn to recoup some of the losses they experienced during the Great Recession. There is a definitive increase in militancy at this time and the incidence of strikes are now increasing. Evidence of this militancy is not only shown through going through strikes, but even highly paid school districts such as the Lower Merion School District and the Tredyffrin Easttown School District have had their faculty unions engage public relations firms to justify why their bargaining unit members, many of whom are earning an excess of six figures per year not including extra duty contracts, deserve a substantive compensation raise.

During the most recent round of negotiations, I have experienced strikes in two districts, namely, the Stroudsburg Area School District in Monroe County and my home district, the Methacton School District in Montgomery County. Methacton School District's three-day strike eventually settled through an agreed upon voluntary non-binding arbitration process, while the

Stroudsburg Area School District still has not had a settlement because the union ended the strike one day prior to the mandatory deadline to engage in the impasse procedure of non-binding arbitration. The Stroudsburg Area School District case is complicated by the fact that the teachers' union enjoys a health benefit plan of unparalleled richness in that it has an approximately 99% actuarial value (almost a perfect health benefit plan utilizing the federal calculator mandated by the Affordable Care Act that determines the relative value of health benefit plans).

III. DECLARING STRIKES UNLAWFUL – FINDING ARBITRATION IS NOT THE ANSWER

A. Declaring Strikes Unlawful Will Not Solve the Problem.

Declaring strikes simply unlawful will not solve the difficulties created by teachers engaging in a strike. If that were to occur, the lack of a strike will need to be replaced by another procedure. Historically, the legislature and the labor unions have considered dealing with the alleged "strike" problem by recommending the consideration of binding arbitration. Binding Arbitration is not only an extreme remedy where a third party who is a non-resident tax payer effectively determines what taxes will be in place for that entity in the future, cannot be imposed upon school entities because it would be violative of the Pennsylvania Constitution.

B. Constitutional Requirements.

Article III, Section 31 of the Pennsylvania Constitution, only permits police and firefighters to have their contract disputes settled through compulsory bonding arbitration. The Pennsylvania State Legislature is not permitted to make any law that calls for compulsory bonding arbitration. A third party that has no vested interest in a particular jurisdiction, such as an arbitration panel, a judge, a fact finder, should not be permitted to impose his/her brand of industrial justice on a particular school entity and determine, in large part, what the taxes on the community will be over the duration of labor contract.

Our Pennsylvania Supreme Court in Erie Firefighters v. Gardner, 406 Pa. 395, 178 A.dd 691 (1962), considered the Erie Firefighters Union suit against the city of Erie in an attempt to compel city council to implement the decision on an arbitration panel in a contract dispute. The Pennsylvania Supreme Court interpreted Article I, Section 20, of the then Pennsylvania Constitution which stated: "*the General Assembly shall not delegate any special commission, private corporation, or association, any power to make, supervise, or interfere with any municipal improvement, money, property, or effects, whether they are held in trust or otherwise, or to levy taxes or perform any municipal function whatsoever.*" The Pennsylvania Supreme Court ultimately ruled that the action of the arbitration panel would be an unauthorized delegation of municipal power.

As the result of the Erie Firefighters case in order to implement Act 111 that covers police and firefighters binding arbitration, on November 7, 1967, the Pennsylvania State Constitution was amended. A new Article III, Section 31, was created, which incorporated the language of former Article I, Section 20, and added the following: "*Notwithstanding the foregoing limitation are any other provision of the Constitution, the General Assembly may enact laws which provide that the findings of panels or commissions, selected in acting in agreements with the law for the adjustment or settlement of grievances or disputes or for collective bargaining between policemen and firemen and their public employers shall be binding upon all parties and shall constitute a mandate to the head of the political subdivision on which the employer or to the appropriate officer of the Commonwealth, if the Commonwealth is the employer, with respect to matters which can be remedied by administrative action, and to the law making body of such political subdivision of the Commonwealth, with respect to matters which require legislative action, to take action necessary to carry out such findings.*"

The bottom line is that such a proposal would be unconstitutional.

Beyond the constitutionality, there are serious questions as to whether the Commonwealth should be delegating these types of decisions to outsiders who have no vested interest in the outcome of the proceedings, other than attempting to make both parties happy so that they would be selected again as a paid neutral arbitrator.

Further, if the legislature simply makes strikes illegal, the recent examples in West Virginia and Oklahoma are indicative of the fact that even if strikes are unlawful, strikes do occur. According to State Attorney General Patrick Morrisey of West Virginia, the West Virginia strike was indeed unlawful and that was supported by other influential legal theorists from the state. The opinion was simply that there is no right to strike in that of the absence of express legislation there cannot be a strike - but the employees struck anyway. The commonwealth will not be able to stop the longstanding behavior and implied right of employees seeking to redress their grievances by withholding services. If this is the case, what should we do?

IV. SUGGESTED LEGISLATIVE REMEDIES

A. Changes to Pennsylvania Limited Right to Strike Law.

There are a number of changes that could be made to Pennsylvania's already existing Limited Right to Strike Law for Teachers (Act 88 of 1992) that could be implemented that will not necessarily eliminate all strikes. It is recognized that strikes are problematic, but if the legislature were to limit the effectiveness of possibilities or duration of work stoppages, these modifications will have a greater likelihood of surviving what will be a legislative battle and a potential gubernatorial veto.

B. Bulleted Suggestions of Statutory Modifications.

- **Authority to Implement the Last, Best, and Final Best Offer Consistent With the National Labor Relations Act and dealing with status quo obligations.** As

the result of the Philadelphia Housing Authority v. PLRB, 620 A.2d 594 (Pa. Cmwlth. 1992) court decision and decisions that followed it, public entities cannot likely implement their last best offer even if they bargain to impasse under Pennsylvania Law. On the other hand, the federal National Labor Relations Act does permit this to occur if a genuine impasse results.

- In the case of a recent teachers' association strike, the association elected to go on strike because the district was proposing to modify the teachers' union's 99% actuarial value health benefit plan, there would be little incentive on the part of the union to settle unless the district provided enough dollars to offset the greater out of pocket or premium share contributions that achieves the top Platinum level under the Affordable Care Acts federal calculator to a health benefit plan that has a range of actuarial values from 86-90% (a Gold level health benefit plan). As long as a substantive majority of the teachers' union will be financially better off in remaining in status quo, there will likely be no settlement. Even after a work stoppage in a situation where the teachers have not had a signed labor contract for two years, the teachers have precious little incentive to settle a collective bargaining agreement unless the district provides for sufficient salary increases to offset the health benefit concessions so that every bargaining unit member will be made whole as the result of this modification. Otherwise, the teachers could operate in "status quo" in perpetuity under Pennsylvania state law.
- In order to understand the need for this change, there needs to be a review of the "status quo" obligations of a public school entity following contract expiration and

the liabilities based by a school entity in the event there is a breach of the status quo. That discussion follows:

(1) <u>Status Quo Obligations Under PERA</u>.

Under Pennsylvania Employee Relations Act (PERA), there is "a duty to maintain the status quo when a collective bargaining agreement expires and no successor agreement is in place." *Philadelphia Fed'n of Teachers v. Sch. Dist. of Philadelphia*, 109 A.3d 298, 309 (Pa. Cmwlth. Ct. 2015); *Coatesville Area Sch. Dist. v. Coatesville Area Teachers' Ass'n/Pennsylvania State Educ. Ass'n*, 978 A.2d 413, 418 (Pa. Cmwlth. Ct. 2009) ("[T]here can be no change in the status quo during the interim between bargaining agreements."). "The status quo comes into effect when a CBA expires and no successor agreement is in place." *Luzerne Intermediate Unit No. 18 v. Luzerne Intermediate Unit Educ. Ass'n, PSEA/NEA*, 89 A.3d 319, 328 (Pa. Cmwlth. Ct. 2014). "Good faith collective bargaining would be impossible if the status quo as to the terms and conditions of employment were not maintained while the employees continue to work." *PLRB v. Williamsport Area School District*, 406 A.2d 329, 332 (Pa. 1979).

"Maintenance of the status quo is merely another way of stating that the parties must continue the existing relationship in effect at the expiration of the old contract." *Fairview Sch. Dist. v. Com., Unemployment Comp. Bd. of Review*, 454 A.2d 517, 521 (Pa. 1982). "The underlying rationale for the status quo requirement is that during the interim period between contracts, the employer may continue operations and the employee may continue working, while the parties are free to negotiate on an equal basis in good faith." *Id.* "Only once the parties have reached an impasse is the burden to maintain the status quo eliminated." *Sch. Dist. of Philadelphia v. Philadelphia Fed'n of Teachers*, 164 A.3d 546, 551 (Pa. Cmwlth. Ct. 2017).

(2) Status Quo Obligations Under the UCL.

"Section § 402(d) of the Unemployment Compensation Law provides that employees who are unemployed because of a labor dispute are entitled to unemployment compensation benefits only if the work stoppage is due to a lock-out." *New Castle Area Sch. Dist. v. Unemployment Comp. Bd. of Review*, 633 A.2d 1339, 1343-44 (Pa. Cmwlth. Ct. 1993). "[W]hen a contract has, in fact, expired and a new agreement has not yet been negotiated, the question of whether the work stoppage is the result of a lockout or a voluntary strike must be decided by determining which party first refused to maintain the status quo during the course of negotiations." *Portec, Inc., RMC Div. v. Com., Unemployment Comp. Bd. of Review*, 522 A.2d 1180, 1181 (Pa. Cmwlth. Ct. 1987).

Under the UCL, the "key . . . is to determine which side refused to continue operations under the status quo after the contract had technically expired, but while negotiations were continuing." *Zappono v. Unemployment Comp. Bd. of Review*, 756 A.2d 1195, 1198 (Pa. Cmwlth. Ct. 2000). The relevant question is "has the employer agreed to permit work to continue for a reasonable time under the pre-existing terms and conditions of employment pending further negotiations? If the employer refuses to so extend the expiring contract and maintain the status quo, then the resulting work stoppage constitutes a lockout." *Vrotney Unemployment Compensation Case*, 163 A.2d 91, 93-94 (Pa. 1960). "Any change in the status quo by the employer constitutes a lock-out." *Schulmerich Carillons, Inc. v. Unemployment Comp. Bd. of Review*, 623 A.2d 921, 923 (Pa. Cmwlth. Ct. 1993).

Additionally, the Commonwealth Court has held that there is no "de minimis rule of deviation" from the status quo whereby the employer may agree to permit work to continue for a reasonable time under "substantially the same preexisting terms and conditions of employment pending further negotiations." *Chichester Sch. Dist. v. Unemployment Compensation Bd. of*

Review, 415 A.2d 997, 999-1000 (Pa. Cmwlth. 1980); *New Castle Area Sch. Dist.*, 633 A.2d at 1344 ("[T]he fact that the actions taken by the School District in the present matter could be deemed *de minimis* in nature does not vitiate the resultant change they made to the status quo.").

"A public employer under PERA commits an unfair practice when it alters the status quo as represented by existing terms and conditions of employment following contract expiration." *Palmyra Area School District*, 26 PPER ¶ 26087. The Commonwealth Court and Supreme Court have adopted restrictive interpretations of an employer's "status quo" obligations under the PERA.

According to the Supreme Court, "the parties must continue the existing relationship ***in effect at the expiration of the old contract***." *Fairview*, 454 A.2d at 521 (emphasis added). "[T]here can be ***no change in the status quo*** during the interim between bargaining agreements." *Coatesville Area Sch. Dist.*, 978 A.2d at 417 (rejecting District's contention that "contract provisions involving inherent managerial policy can be changed once the contract in which those provisions are contained has expired") (emphasis added); *Sch. Dist. of Philadelphia*, 164 A.3d at 551 ("[W]e reiterate [] that an employer must maintain the status quo of an expired contract until a new contract has been negotiated."). This precedent suggests that any schedule modifications, irrespective of whether they were permitted prior to the CBA's expiration, are potentially unlawful, since such changes would alter the status quo. *See Northampton County Deputy Sheriff's Association v. Northampton County*, 47 PPER ¶ 56 ("[T]he Commonwealth Court . . . has rejected the idea that the terms of an expired contract could create a dynamic status quo").

A few cases illustrate the restrictive nature of the status quo obligation. First, in *Palmyra Area School District*, the PLRB held that, even assuming there were no changes in benefit levels, a school district's change from an established health insurance company to employer self-

insurance "disrupted the status quo" and thus was unlawful. *See Palmyra Area School District*, 26 PPER ¶ 26087 ("The change from an insurance company . . . to employer self-insurance . . . warrants more than a mere reminder to the Employer that it should not engage in such conduct during contract hiatus."); *cf. Scott Township*, 26 PPER ¶ 26189 (ordering return to status quo where township unilaterally went from using insurance provider to becoming self-insured for workers' compensation benefits, notwithstanding that the employees' benefit levels and manner of receiving benefits remained unchanged). This is arguably analogous the schedule modifications the District proposes—the District would not be increasing the math teachers' total hours worked (as those would remain unchanged), but there would be a modification to their existing schedule (just as there was a modification to the types of insurance carriers in the health benefits cases)

Two additional PLRB "status quo" decisions are also instructive, although the cases arose in the post-certification, pre-contract context. First, in *Moshannon Valley Education Support Professionals*, 41 PPER ¶ 58, the PLRB determined that, although a 3-year compensation and evaluation plan, which predated the union's election and granted the District the ability to "increase [] wages and contribution rate[s] for healthcare premiums and [to] allocate[e]sick days on a monthly basis," implementation of those contractually permitted modifications after the union's certification "changed the status quo." Similarly, in *Bucks County*, 38 PPER ¶ 99, *aff'd on other grounds sub nom. County of Bucks v. PLRB*, 39 PPER ¶ 105 (C.C.P. Bucks County 2008), the PLRB held that although an employee handbook in existence before employees became represented reserved to the employer the right to unilaterally change employees' healthcare coverage, implementation of those modifications during the "status quo" period was unlawful. These cases stand for the proposition that, even if an employer has a contractual right to modify certain mandatory subjects of bargaining, such changes are probably unlawful, irrespective of the

point at which they occur in the collective bargaining relationship, if they are implemented during a "status quo" period.

(3) <u>The Status Quo Analysis is Identical Under the PERA and UCL</u>.

According to the Commonwealth Court, an employer's "status quo" obligations are identical in the labor and unemployment contexts:

"[T]he status quo is always the 'last actual, peaceable and lawful non-contested status which preceded [a] controversy.' (citation omitted). It is a theoretical level playing field on which the parties begin negotiations for a successor agreement. ***It matters not whether the underlying controversy involves a labor dispute or eligibility for unemployment benefits.*** In our view, it would only lead to confusion to define the status quo differently from one situation to the next."

Pa. State Park Officers Ass'n v. Pa. Labor Relations Bd., 854 A.2d 674, 682–83 (Pa. Cmwlth. Ct. 2004) (emphasis added).

The impact of all of this legal authority is that a teachers' union can go on strike and if there are any substantive changes in the status quo a lockout will occur, which will cause an average size school district to pay millions of dollars of unemployment compensation during the course of a lawful work stoppage.

(4) <u>*New Castle* Confirms that Lawful Modifications to Working Conditions Under the PERA Can Be Impermissible Modifications Under the UCL When Implemented During the Status Quo Period</u>.

The *New Castle* case is relevant in the unemployment context because the Commonwealth Court held that contractually permitted scheduling changes, even if lawful under the PERA during the status quo period, still can render a work stoppage a "lockout" and thus make employees eligible for unemployment compensation benefits. *See New Castle Area School District*, 633 A.2d at 1341 (rejecting school district's arguments that it did not violate the status

quo because (i) "changing the number of class periods at one of its nine school sites . . . was solely administrative in nature and was not a topic covered by the Agreement" and (ii) "establishing the number of class periods per day is part of its managerial prerogative and does not fall within the ambit of collective bargaining").

Notably, the Commonwealth Court stated:

> "The fact that the actions taken by the School District in the present matter could be deemed *de minimis* in nature does not vitiate the resultant change they made to the status quo. (citations omitted) Considering the case *sub judice* in light of the foregoing precedent, the School District, in violation of its understanding with the Union, unequivocally and unilaterally effectuated multiple changes in the status quo by: altering class schedules at one of its nine schools; paying certain teachers' salary increments based on academic credits while not paying increments to others based on longevity; and authorizing Coca–Cola machines, when the selection of faculty lounge beverage machines was to be made by a designated faculty committee. We therefore concur with the Board's finding that the School District's actions caused the work stoppage which, therefore, can only be deemed a lockout."

Id. at 1344. Thus, even if the District's schedule changes are lawful under PERA precedent, the modifications, if undertaken during the status quo period, may transform a labor dispute into a lockout and render teachers eligible for unemployment compensation under the UCL.

However, *New Castle* can potentially be distinguished, as the schedule changes at issue were not made by the school district until ***after*** the agreement expired and the union agreed to return to work under the same conditions as existed under the expired agreement. In the present case, if the scheduling changes are made prior to the CBA's expiration, the District can contend that *New Castle* is inapplicable and no status quo violation occurred, since the working conditions as existed at the time of the CBA's expiration included the modified schedules for math teachers. *See Persico v. Unemployment Comp. Bd. of Review*, 710 A.2d 134, 136 (Pa. Cmwlth. Ct. 1998) ("[T]the status quo has been defined as the terms and conditions in effect at the expiration of the

agreement."). The risk is that because such schedule changes will affect the 2018-19 school year, and not the present school year, whether or not such changes are made while the CBA remains in place could be deemed irrelevant. *See Presbyterian SeniorCare v. Unemployment Comp. Bd. of Review*, 900 A.2d 967, 974 (Pa. Cmwlth. Ct. 2006) ("To preserve the status quo, the working relationship must continue as if the expired contract were still in effect, and even small changes may be considered a disruption of the status quo.").[1]

The following language is suggested for inclusion in the law:

Section 1128-A. Final Resolution

If an agreement has not reached 180 days after impasse has occurred, the employer may unilaterally implement its most recent offer of settlement. A decision by the employed implement its final offer should not be considered an unfair labor practice or deemed a lockout.

- **Do Not Force a School District to Make Up Days Lost By a Strike Even if They Do Not Have the Requisite 180 Days of School and 900 Hours of Instruction**. These requirements should be relaxed during a strike so it will be clear that teachers will lose money. As an aside, in the Methacton School District Non-Binding Arbitration Award, a copy of which is attached, all teachers effectively lost three days of pay during the three-day work stoppage, which amounts to the equivalent of about a 1.5% salary increase that they would have otherwise received.

[1] If the District was opening a new school building, the same analysis outlined in Sections IV and V of this memo would apply, although it could potentially differ, depending on who was hired to staff the new school building. If existing bargaining unit employees were transferred to the new building, then the analysis in Sections IV and V most likely applies with the same force. If the District hired new teachers during the "status quo" period, then the District could potentially argue that it is setting schedules for new employees consistent with the CBA and thus not "modifying" any working conditions during the status quo period. *See Mifflin County Educational Support Personnel*, 38 PPER ¶ 37 (school district did not commit unfair labor practice when, following the expiration of a collective bargaining agreement, the district hired an educational interpreter into an open position at a rate higher than called for in the expired collective bargaining agreement, because exigent circumstances applied and the "Union did not show that there was any candidate within or without the bargaining unit willing and available to accept the position").

- **Hold Union Officials Personally Liable For Not Strictly Complying With the Requirements of Act 88 of 1992.** Establishing financial liability for illegally based strikes or engaging in work to rule will limit the leverage of teachers' unions. With respect to work to rule, this permits the union without the teachers going on an official strike to withhold services that are not specifically enumerated in job descriptions or the collective bargaining agreement, such as not going on the fourth grade overnight trip, not posting grades, not decorating a classroom, not volunteering to direct the student play, and so on.
- **Loosening the Rules to Subcontract Bargaining Unit Services.** Pennsylvania is quite strict in not making it easy to subcontract bargaining unit work. The Labor Board has taken a far more aggressive anti-subcontracting rule of law than that which exists in the national sector. Determining when impasse is reached and allowing subcontracting to occur post-impasse based upon a clear definition would reduce the possibility of work stoppage and teachers' union leverage.
- **Bargaining Unit Members should lose pay as the result of a work stoppage and a school district should not be paid if they go on strike, even if the district does not have the requisite 180 days of school and 900 hours of instruction.**

Most teachers' contracts specify the number of workdays that the teachers' union must work during the course of the school year. As the result of negotiations efforts over the years and the need for further professional development, many teachers' contracts have extended beyond a 180-day work year. In many districts, the length of the contract work year may be as high as 194 or 195 workdays. If the teachers' union were to engage in a work stoppage in a school district that has 195 workdays, the teachers could theoretically lose 15 workdays if they are not student

calendar days and are professional development days that the district would cancel in the event of a work stoppage. The problem is that the teachers' union will then file grievances under the collective bargaining agreement, which theoretically require the 195 workdays and a school district is ultimately forced to bargain with the union about what days would be made up in the event of a work stoppage. This situation has also caused districts to take an aggressive stance in the development of its calendar and negotiations by placing all of its professional development days at the end of the work calendar so that if there were to be a work stoppage, it would be possible for the days not to be made up. This is particularly significant, since in many school districts, a day of pay is often equivalent to a half of percent of a salary increase. Accordingly, if a teacher theoretically would lose 15 days of pay, they could lose something in the neighborhood of a 7% salary increase during the year in which they engage in a work stoppage.

In order to have a balance in the negotiations process, there needs to be a true penalty imposed upon the teachers' union. I was successful in convincing the arbitration panel in the Methacton School District to have the striking teachers lost the equivalent of three days of pay as the result of their three-day work stoppage. A copy of the Non-Binding Arbitration Award that eventually the teachers' union and the board accepted is attached as Exhibit "A." On the other hand, boards that have not prepared appropriately have allowed teachers' unions to be able to not lose any pay during the course of the work stoppage and the unions have successfully forced many districts, with through collective bargaining or through the grievance process to make up all of the loss days that occurred during the work stoppage. There absolutely needs to be financial implications for a teachers' union engaging in a work stoppage. That is historically the *quid pro quo* that exists in the private sector for engaging in a work stoppage. Employees have the right to withhold services, but they don't get paid for services during the course of the strike. It is my

suggestion that Section 1133 should be modified to deal with the imposition of financial penalties on teachers for each day of strike that interrupts the delivery of scheduled educational services.

Section 1133 Modified Compensation for Strikes.

(b) Payroll Deduction - Whenever an instructional or in-service day in accordance with the officially adopted original calendar approved by the board of directors is lost or rescheduled as the result of a strike, each employee who participates in the strike shall have his/her annual contracted pay reduced by a sum equal to twice his/her daily rate of pay for each day or part of a day the employee participated in a strike resulting in a lost or rescheduled instructional or in-service day. Such rate of pay shall be computed as of the time of such participation in a strike. The school business official of the school entity involved shall withhold or deduct from the compensation of such public employee the appropriate amount no earlier than fifteen nor later than sixty days following the date of such determination in paragraph (f) of this section. In computing the fifteen to sixty day period of time following the determination of participation in a strike and where the employee's annual compensation is paid over a period of time which is less than fifty-two weeks, that period of time between the last day of the last payroll period of the employment term in which the strike participation occurred and the first day of the first payroll period of the next succeeding employment term shall be disregarded and not counted. Notwithstanding the failure to have received such notice in paragraph (f), no school administrator or school business official having knowledge that such employee has so engaged in such a strike shall deliver or cause to be delivered to such employee any cash, check or payment, which, in whole or in part, represents full compensation for the period of the strike.

(c) Nonwaiver - Deductions required under this section shall not be waived, suspended, reduced, reimbursed or otherwise recovered by the employee in any manner after the signing of a collective bargaining agreement or as a condition for the agreement. The scheduling of days to make up instructional or in-service days lost because of a strike shall constitute a basis for the payment of compensation only for the make-up day to a striking employee under this section.

- **Limiting the right of unions to engage in work to rule.** "Work to Rule" is that action or inaction of bargaining unit members that do not perform duties that are not specifically enumerated in the collective bargaining agreement. That would include services such as going on the fourth grade field trip, decorating the classrooms for elementary students, engaging or volunteering in extracurricular activities or any work project that is not compensated beyond the regular workday. Indeed, when to ask union officials as to whether or not a strike is a leverage tool for a community, they would say yes, but there is more consternation and often

more leverage that results from engaging in work to rule versus engaging in a strike. The following language should address this issue and some of the status quo concerns set forth earlier.

As examples of work to rule, often unions instruct their teachers not to intend voluntarily or chaperone student events such as concerts, dances, fund nights, award nights, fundraisers, plays, athletic events, field trips, mentoring for senior projects and so on.

Section 1133 shall also be amended to contain the following:

(d) Definition of Strike - As used in this section, the term "Strike" shall mean a concerted action in failing to report for duty, the willful absence from one's position, the stoppage of work, slowdown or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment for the purpose of inducing, influencing or coercing a change in the conditions or compensation or the rights, privileges or obligations of employment. The term "Strike" shall also mean a concerted action in failing to perform those actions and responsibilities that through pass practice were customarily performed by employees in the district that are not specifically enumerated in either the collective bargaining agreement, district job description, or district policy, including but not limited to performing activities beyond the regular work day, attending field trips, engaging in supplemental activities and supplemental/extra duty contracts, volunteering to mentor students, issuing letter of recommendation, engaging in study groups. Guidance groups or extra help sessions for students, attending evening meetings, special events, attendance as school events such as concerts, dances, fund nights, award nights, fundraisers, plays, athletic events, graduation, mentoring for senior projects and the like.

(e) Presumption - For purposes of this section an employee who is absent from work without permission, or who abstains wholly or in part from the full performance of his duties or non-written obligations without permission in the employees normal manner on the date or dates when a Strike occurs, shall be presumed to have engaged in such strike on such date or dates.

(f) Prohibition against consent to Strike - No person exercising on behalf of any public employer any authority, supervision or direction over any public employee shall have the power to authorize, approve, condone or consent to a Strike or the engaging in a Strike, by one or more public employees, and such person shall not authorize, approve, condone or consent to such Strike or engagement.

(g) Determination of Strike - If the chief school administrator determines that an employee has participated in a Strike, he shall notify each employee that he has found to have participated in a Strike, the date or dates thereof, and the employee's right to object to such determination. The chief school administrator shall also notify the school entity's business official of the names of such employees and of the total number of days, or part thereof, on which he/she has determined the employee participated in a Strike so that compensation can be modified or, in the event of an unlawful Strike, appropriate action can be taken.

- **Teachers' Unions Should Be Barred From Blocking Fact-Finding (an Impasse Resolution Procedure) By Advance Issuing a Notice to Strike.** Teachers' unions are avoiding the fact-finding impasse resolution procedure (they often don't want to know the facts of the economic circumstances of a district) by advance issuing a notice to strike. Teachers' unions are avoiding the fact-finding impasse resolution procedure (they often do not want to know the true facts of the economic circumstances of a district under Act 1 of 2006) by issuing a notice to strike well in advance of any possible strike date. The PLRB interprets this as a blocking action that will prevent entry into the fact-finding process. Unions should be prohibited from stopping this impasse procedure, which is often helpful in resolving a contract dispute.

- **Teachers' Unions Should Be Mandated to Go to Non-Binding Arbitration if One Party Moves Forward on that Basis and if it is Supported by the Bureau of Mediation.** The Methacton School District strike would not have settled without a third party involvement. Even though I have argued against third parties making mandatory binding arbitration decisions, if it voluntarily entered into, the parties should have an opportunity to have a third party issue a report that would assist them to resolve their differences, which ultimately happened in the Methacton case. (See the Attachment)

V. LEGAL STANDARDS

- **A Labor Union In Which A Majority of The Labor Union Members Are Present Can Only Vote To Go On Strike If A Majority, Through Secret Ballot Votes To Support The Strike**. This requirement will permit a reasoned analysis

of the union's position and would give those bargaining unit members who would often be disenfranchised by the louder union leadership voice to control their own destiny and avoid a situation where the union leadership is "out for themselves" or "other objectives." Typically, union leaders are on the maximum of the salary schedule, which does not benefit from step movement. They very often want their highest paying salaries to get an increase that would percolate through the salary schedule thereby costing more money.

Section 1113-A. Strikes Prohibited in Certain Circumstances.

A strike must cease where the parties request fact-finding for the duration of the fact-finding. A strike must end where the parties agree to go to arbitration. Strikes are prohibited:

(1) during the period of up to ten (10) days provided for under Section 1125-(a).

(2) during final best offer for arbitration, including the period of up to ten (10) days after receipt of the determination of the arbitrators during which the governing body of the school entity may consider the determination.

(3) before the arbitrators' determination becomes final and binding.

(4) "if not authorized by secret ballot vote cast by the majority of the members of the employee organization at a meeting held by the employee organization in which a majority of its membership is present. No proxies may be secured, solicited, obtained, or voted to establish a majority of the members of the employee organization being present or a vote related to a strike by the employee organization. If less than a majority of the members of the employee organization is present at this meeting, not vote related to a strike should be taken at such meeting. The meeting may not be conducted more than 72 hours prior to the effective date of the commencement of a strike set forth in the written notice of the intent to strike by the employee organization to the superintendent, executive director or the director."

Respectfully submitted,

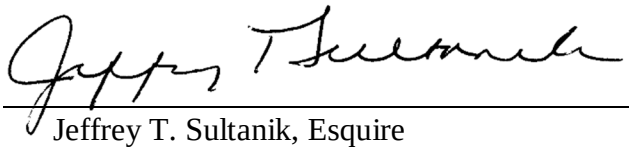
By: 

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EXHIBIT “A”

In the Matter of
Non-Binding, Final Best Offer Arbitration,
Pursuant to PA. Stat. Ann. Title 24,
Section 11-1125-A of the Public
School Code as Modified by the Parties

Methacton Education Association	)
	)
	)
and	)
	)
Methacton School District	)

Before
Timothy J Brown, Esquire, Neutral Arbitrator
Robert Creveling, Association Arbitrator, &
Steven Ludwig, Esquire, School District Arbitrator

Appearances:

For the School District: **Jeffrey T. Sultanik, Esquire**
Fox Rothschild LLP
10 Sentry Parkway, Suite 200
PO Box 3001
Blue Bell. PA 19422-3001

For the Association: **Bonnie Neiman, UniServ Rep.**
PSEA/NEA
601 Bethlehem Pike
Montgomeryville, PA 18936

Decision/Recommendation

Introduction

This matter relates to a successor agreement to the July 1, 2013 through June 30, 2017 collective bargaining agreement between the parties. The parties' efforts to agree upon a new agreement include a history of many bargaining sessions and a three-day work stoppage initiated on September 18, 2017. Notwithstanding that the parties were unsuccessful in reaching a complete successor bargaining agreement, throughout the process the parties did successfully

reach agreement on a significant number of issues. On September 25, 2017, the parties notified the undersigned neutral arbitrator of his joint selection to act as neutral arbitrator in this nonbinding, final best-offer arbitration.

The parties agreed that the matter would be conducted pursuant to PA. Stat. Ann. Title 24, Section 11-1125-A of the Public School Code as modified by the parties. As a consequence of such statutory language and the modifications by the parties, the parties have agreed that the arbitration panel shall render a decision relating to the open issues between the parties on an issue by issue basis, and will have the latitude to fashion a recommendation on each issue that may be different than what either party had proposed in its final best offer.

The respective final best offers of the parties were received and posted for a public comment period on or about September 27, 2017. Thereafter, the District provided the Arbitration Panel with comments received from members of the public during the comment period.

An arbitration hearing was held by the undersigned Panel on January 24 and 29, 2018 in Eagleville, Pennsylvania at which time the parties were afforded the opportunity to offer evidence and argument in support of their respective positions.

Considerations

In the course of its deliberations herein, the Panel has considered the comments submitted by the public in the matter; the public interest; the interest and welfare of the Association; the financial capability of the District; the negotiations of the parties prior to the submission of this matter to arbitration; changes in economic circumstances including the cost of living; the existing terms and conditions of employment of the District's employees and those of other

teachers and professional employees in other area school districts; and the voluminous documents offered by the parties in this arbitration. The decisions/recommendations contained herein are made after careful consideration of all of the evidence and argument offered by the parties with the undersigned Panel giving the utmost weight to the educational interests of the District's students and the desire of the parties to reach an agreement. When considered as a whole, this Decision represents the Panel's best effort to proffer a compromise that will allow the parties to move forward and focus their joint efforts upon the education of the District's students. Consequently, the Panel will not burden the parties with its rationale on a point-by-point basis and instead urges the parties to view this Decision in its entirety "through a lens" that recognizes that compromise is the most steadfast path to progress.

Open Issues

Based upon representations made by the parties, the following issues remain open:

1. Salary Schedules
2. Article 12 Insurance - Premium Share
3. Article 12 Insurance - Reopener
4. Article 12 Insurance - Medicare Eligibility of Retired Members
5. Article 12 Insurance - Grievance M-2-16
6. Article 12 Insurance - Prescription Drug Program
7. Article 27 Work / Week Work Day – Bus Duty
8. Article 27 Work / Week Work Day – High School - Six Instructional Period Program
9. Article 27 Work / Week Work Day – Middle School Team Structure
10. Article 28 Work Year – Number of School Days
11. Article 28 Work Year – Start of the Teacher Work Year
12. Article 37 - Preparation Time
13. Article 43 - Compensation for Extra class coverage
14. Employee Reimbursement of Healthcare During Course of the Work Stoppage
15. New Article – Co-Teaching

After full consideration of the arguments and careful study of the extensive submissions on the issues by the parties, the Panel recommends changes to the language of the Agreement to reflect the following:

1) Salary Schedules

A) The salary schedule shall be modified to remove current Step 1 on the Schedule and to add a new Step 16 to the schedule. As a consequence, the 2017-2018, 2018-2019 and 2019-2020 schedules shall be from step 2 to step 16. For the 2017-2018 school year the dollar amounts in each cell and column of Step 2 through Step 15 shall remain at the same levels as in the 2016-2017 school year schedule. For the 2017-2018 school year, each cell and column in the new Step 16 shall be equal to the corresponding 2016-2017 Step 15 amount plus $1,001.00 (One Thousand and One Dollars). For the 2018-2019 school year cells shall be modified consistent with the Salary Schedules attached hereto. For the 2019-2020 schoolyear step 16 shall be consistent with the Salary Schedules attached hereto. (The Doctoral salary shall continue to be noted on the bottom of the salary schedule.)

B) There shall be step and column movement for each year of the Agreement.

C) The step and column movement for the 2017-2018 school year shall be retroactive to the start of the school year.

D) Even a cursory review of the salary schedule by the Panel led to the conclusion that the schedule is in abject need of reform to make step movements within the schedule more consistent and equitable. To that end, the Panel directs that no later than July 1, 2018 the parties shall form a joint labor/management task force consisting of four (4) labor representatives and four (4) management representatives who, together with their respective advisors, shall explore improvement to the schedules and that no later than March 1, 2019, the Task Force shall make a joint recommendation to the parties for improvement to the schedules for a successor agreement.

E) The following footnotes shall be added to the 2017-2018 Salary Schedule:

1) Retroactive salary increases will be given to those actively employed bargaining unit employees employed by the district as of the date of contract ratification and who were also employed by the district as of the first teacher workday of the 2017–2018 school year. This shall include step increases for those teachers who were employed during the 2016-2017 school year and still remain actively employed by the district as of the date of contract ratification, and horizontal movement to those eligible for such under the terms of the collective bargaining agreement who remain actively employed as of the date of contract ratification.
2) Bargaining unit members who were on the first step of the salary schedule as of the last teacher day of the 2016–2017 school year and are still actively employed by the school district as of the date of contract ratification, will move to step 2 (which will become the first step on the new schedule) of the 2017-2018 schedule retroactive to the beginning of the 2017–2018 school year.

3) Bargaining unit members who were on step 15 of the salary schedule as of the last teacher day of the 2016–2017 school year and are still actively employed by the school district as of the date of contract ratification will move to step 16 of the salary schedule.

2) Article 12 Insurance Premium Share & 6) Prescription Program

The District shall offer employees the following plans at the following premium share rates:

Plan	2017-2018 Premium Share	/ 2018-2019 Share	/ 2019-2020 Share	/ As of 6-29-2020
Open Choice 1	13%	15%	16%	17%
POS	10%	14%	15%	16%
Open Choice 2	12%	14%	15%	16%
Open Choice 3	n/a	6%	7%	7%
Prescription/Dental Vision	13%	15%	16%	17%

All language relating to percentages in Article 12 shall be modified to be consistent with the above.

3) Article 12 Insurance - Reopener

Add the following language to Article 12:

If an additional plan, other than the newly proposed 4th plan in the BMCSHCC informally referred to as the "Open Choice 3 Plan" is introduced during the duration of this Agreement, the Association and the District agree to open the Collective Bargaining Agreement to exclusively decide the amount of premium share.

If an existing plan is substantively modified so as to reduce or increase its actuarial value more than 1% as calculated by the third party administrator for the BMCSHCC, the parties agree to meet and discuss over the impact of such modifications to the premium share of Bargaining Unit Members. Immediately upon a written request to so meet and discuss from either party, the parties shall jointly agree upon a neutral arbitrator who shall, in the event the parties do not reach an agreement within ten calendar days of the request to meet and discuss, hear and decide the issues presented on an expedited basis. Unless otherwise agreed upon by the parties, said expedited Decision shall be issued by the arbitrator within 30 calendar days of the written request to meet and discuss. Such Decision by the arbitrator need only provide resolution of the issues presented and need not recite the facts, arguments of the parties or rationale of the arbitrator.

4) Article 12 Insurance - Medicare Eligibility of Retired Members

Add the following language to Article 12:

Effective July 1, 2018, (1) Bargaining Unit Members who are retired or will retire from the District and (a) are Medicare-eligible or (b) achieve Medicare eligibility, and (2) said retired member's eligible dependents, will no longer be eligible to participate in any of the District's health benefit plans and/or the prescription, dental, and vision plans of the District.

5) Article 12 Insurance - Grievance M-2-16

As agreed upon by the parties during the arbitration hearing herein, upon ratification of this Agreement, the Union shall withdraw, with prejudice, its grievance M-2-16, and the Association shall further remise, release, and forever discharge the District from any claim, cost, reimbursement or liability raised pursuant to that Grievant. In the event the Association fails to withdraw said grievance within thirty (30) calendar days of ratification, the grievance is hereby dismissed.

7) Article 27.3 -Work / Week Work Day – Bus Duty

Modify the language of Article 27. 3 to provide:

The District shall seek volunteers to adjust his/her work day schedule in order to provide district-assigned bus duty/student supervision coverage beginning at 7:15 AM at the High School and 7:45 AM at the Intermediate School. The District will seek seventeen (17) volunteers at the high school level. If the seventeen (17) volunteer threshold is not reached, the District will work cooperatively with the Association to identify the persons to meet the 17-person threshold and to establish a schedule that will be implemented to meet the administrators' timeline for implementation. The day of each affected employee shall either be adjusted at the end of the day to maintain the thirty-seven (37) hour work week or the employee can choose to receive compensation equal to the Supplemental Contract Pay Rate (Article 25). Such duties are defined in Paragraph 4 herein.

8) Article 27 Work / Week Work Day – High School - Six Instructional Period Program

Delete existing Section 27.4. Article 27.4 shall be modified to provide:

a. Effective July 1, 2018, the standard High School day shall consist of five instructional periods, a duty, and a preparation period per day, or six instructional periods per day and a preparation period per day.

b. For the 2018-2019 school year, the Administration will seek volunteers from the classroom teaching staff who would be qualified to teach certain courses/programs as determined by the District for a sixth period per day. Up to twelve (12) of the then current high school classroom teachers may be assigned to teach six instructional periods per day if twelve (12) volunteers that the District deems qualified to teach the courses/programs for a sixth period are not achieved. In the event said twelve (12) teachers with the required qualifications to teach the classes identified by the District (classes and qualifications to be identified by the District no later than the close-of-business on March 15, 2018) volunteer to teach such a six-class day, the District shall not involuntarily furlough any high school teacher during the 2018-2019 school year. The then current high school teachers will have until the close-of-business on April 1, 2018 to evidence to the District Administration their intent to volunteer in writing.

c. Effective for the 2019-2020 school year, and each school year thereafter, the Administration will seek volunteers from the classroom teaching staff who would be qualified to teach certain courses/programs as determined by the District for a sixth period per day. Up to eighteen (18) of the then current high school classroom teachers may be assigned to teach six instructional periods per day if eighteen (18) volunteers that the District deems qualified to teach the courses/programs for a sixth period are not achieved. Classes and qualifications for said sixth periods shall be identified by the District no later than March 1 of the school year immediately preceding each subject school year. Then current high school teachers will have until close-of-business on April 1 of each school year to evidence to the District Administration their intent to volunteer in writing for the next school year. (In the event said eighteen (18) teachers with the required qualifications to teach the classes identified by the District volunteer to teach such a six-class day by the April 1, 2019 notice deadline, the District shall not involuntarily furlough any high school teacher until June 29 of the 2019-2020 school year.)

d. In the event fewer than the above-identified school-year minimums of Qualified Teachers volunteer to teach six daily class periods, the District shall have the right to compel a number of teachers that, in combination with volunteers, amount to 12 qualified teachers for school year 2018-2019 and 18 qualified teachers for school year 2019-2020 and each school year thereafter to teach six class periods per day. In the event the Administration is permitted under the terms of this Article to compel teachers as described above, the District shall compel the least senior qualified teacher(s) in their current department to teach the sixth period per day.

e. Notwithstanding the foregoing, further, classroom teachers at the High School who may not be the least senior Bargaining Unit Member may be compelled to teach the six periods, after the least, or less, senior Bargaining Unit Member has done it for two years.

f. Employees in lieu of duty may teach a sixth class.

9. Article 27.5 Work / Week Work Day – Middle School Team Structure

Add a new Article 27.5 to provide:

The standard middle school day shall be structured under the middle school team concept. Effective July 1, 2019, the standard middle school day for seventh and eighth grade core subject area classroom teachers assigned to a team shall be based upon a team structure that shall consist of: (1) six instructional periods per day; or (2) five instructional periods per day and a duty period per day; and (3) an individual preparation period per day as scheduled by the Administration (258 minutes of preparation time during a six day cycle); and (4) not less than four one period team preparation periods in a six day cycle. All non-core subject area classroom teachers will be assigned to teach six instructional periods per day.

Notwithstanding the foregoing, a team will consist of no less than four core subject area (English/ELA, Math, Science, and Social Studies) classroom teachers whenever possible. Classroom teachers not assigned to a team (including, but not limited to; special education teachers, related arts teachers, reading teachers, physical education teachers, music teachers, tech ed teachers, art teachers, etc.) are not entitled to the additional team preparation time.

Duties will be rotated in an equitable manner. The standard middle school day shall provide for regular collaboration time in the form of team preparation time for the seventh and eighth grade middle school core subject team classroom teachers in the amount of 172 minutes per six-day cycle.

10. Article 28 Work Year – Number of School Days

Article 28.1 shall be modified to provide:

The employee work year for 2017-2018 shall consist of one hundred eighty-seven (187) workdays (178 student days, five (5) teacher in-service days, three (3) "flex" in-service (MIAC) days, and a professional service commitment of one (1) day (six (6) hours) for open house, parent conferencing, and/or special assignments designated by the Administration.) It is understood that the annual salaries of all Bargaining Unit Employees shall be prorated from what is set forth in the 2017-2018 salary schedule to an annual salary reflecting a 187 versus 190 day work year.

The employee work year for 2018-2019 and each school year thereafter shall consist of one hundred ninety (190) workdays (181 student days, five (5) teacher in-service days, three (3) "flex" in-service (MIAC) days, and a professional service commitment of one (1) day (six (6) hours) for open house, parent conferencing, and/or special assignments designated by the Administration.

11. Article 28.3e Work Year – Start of the Teacher Work Year

Article 28.3e shall be modified to provide:

Effective for the 2018-2019 school year, the student school year shall begin on the date the North Montco Tech Career Center begins its student school year, and **the Bargaining Unit teacher school year shall begin** two work days (Monday through Friday) prior thereto with the understanding that Friday before Labor Day is not considered a work day for such purposes.

However, new teachers and teachers new to the District may be scheduled to work up to two working days prior to the start of the teacher work year as scheduled above. This time spent in induction meetings will be in exchange for up to three (3) days flex time as indicated above and will be for purposes of the Induction Program.

Notwithstanding the foregoing, the first student day of the school year shall not begin more than 10 work-days (a work day for purposes of this clause being defined as a day the central administration office is open) prior to Labor Day.

Easter Monday

The Panel declines to recommend the language proposed by the Association.

12. Article 37 Preparation Time

Modify the Article to provide that:

1. All teachers shall have a minimum of five (5) preparation periods in a normal week. Such preparation time shall be free of all other activities or assignments.
2. Preparation periods shall occur during the "student day" and are exclusive of a thirty (30) minute duty-free lunch.
3. Prep time shall be delineated by school/grade level as follows:

   High School:

   July 1, 2017 – June 30, 2020 and each contract year thereafter: 276 minutes per 6 day cycle.

Arcola:

July 1, 2017 – June 30, 2019: 258 minutes per 6 day cycle for individual prep and 258 minutes per 6 day cycle for team prep.

July 1, 2019 – June 30, 2020 and each contract year thereafter: 258 minutes per 6 day cycle for individual prep and 172 minutes per 6 day cycle for team prep.

Skyview Upper Elementary:

July 1, 2017 – June 30, 2018: 5th and 6th grade – 270 minutes per 6 day cycle – individual prep and
5th grade – Two additional 30 minute prep per 6 day cycle
6th grade - Three additional 40 minute prep per 6 day cycle

July 1, 2018 – June 30, 2020 and each contract year thereafter: 5th and 6th grade – 270 minutes per 6 day cycle – individual prep and three additional 40 minute prep per 6 day cycle.

Other Elementary Buildings:

July 1, 2017 – June 30, 2020 and each contract year thereafter:
Kindergarten – 150 minutes per week (five days) per class

July 1, 2017 – June 30, 2020 and each contract year thereafter: 1st – 4th grade – 250 minutes per week (five days)

4. Instructional preparation time is considered by the parties to be important to the educational process; therefore, although there are legitimate reasons for the interruption of such time, it is the parties' intention to keep such interruptions to a minimum.

It is understood that by modifying the preparation time language of the Agreement to conform with the above, the Association does not waive any past practice other than the duration of preparation times indicated herein.

13. Article 43 - Compensation for Extra class coverage

The Panel declines to recommend the language proposed by the Association.

14. Employee Reimbursement of Healthcare During Course of the Work Stoppage

The Panel declines to recommend the language proposed by the District.

15. New Article – Co-Teaching

Current "Article 50 Duration of Agreement" is to be renumbered as Article 51 and a new "Article 50 Co-Teaching" shall be added to the Agreement providing:

1. The District shall initially seek volunteers to engage in co-teaching but will reserve the right to designate co-teachers if volunteers are unavailable.

2. Training shall be provided for co-teachers.

Other Matters

A. Besides matters already subject to agreement by the parties during bargaining or the subject of this Decision/Recommendation, all other language of the Bargaining Agreement shall remain as is.

B. In the event any proposal made by a party during negotiations was withdrawn by the proposing party, the effort to negotiate such proposal shall not constitute an impasse in bargaining on the subject or a break in past practice.

C. Upon the issuance of this Decision/Recommendation **the hearing in this matter is declared closed**.

D. Parties have ten (10) days from the date of the issuance of this Decision/Recommendation to inform one another if they accept or reject the Decision/Recommendation. **Confidentiality** of the Decision/Recommendation should be maintained during the ten-day consideration period or until this Decision and Recommendation is ratified or rejected by the Association or accepted or rejected by the Board, whichever comes first.

NOTICE

In the Matter of
Non-Binding, Final Best Offer Arbitration,
Pursuant to PA. Stat. Ann. Title 24,
Section 11-1125-A of the Public
School Code as Modified by the Parties

The determination as represented by this Decision/Recommendation shall be final and binding upon the District, employees and the Association and constitutes a mandate to the District to take whatever action necessary to carry out the determination, provided that within ten (10) days of the receipt of the determination the Association or the District does not consider and reject the determination at a properly convened special or regular meeting. This determination includes, but is not limited to, a determination that requires a legislative enactment by the District prior to or as a condition of implementation, including, without limitation, the levy and imposition of taxes.

Respectfully submitted this 21ST Day of February 2018

Robert Creveling
Association Arbitrator

Steven Ludwig, Esquire
School District Arbitrator

Timothy J Brown, Esquire
Neutral Arbitrator

2017-18 SALARY SCHEDULE

STEP	B	B+15	M/ME	M+15	ME+21	M+30	ME+42
1							
2	$46,042	$46,633	$51,073	$51,871	$51,871	$52,930	$52,930
3	$46,358	$46,949	$51,390	$52,187	$52,187	$53,246	$53,246
4	$46,674	$47,266	$51,706	$52,503	$52,503	$53,562	$53,562
5	$47,476	$48,765	$52,750	$53,965	$53,965	$55,206	$55,206
6	$48,248	$49,559	$53,605	$54,835	$54,835	$56,088	$56,088
7	$49,787	$50,903	$56,067	$57,134	$57,134	$58,364	$58,364
8	$52,203	$52,938	$58,606	$59,985	$59,985	$61,258	$61,258
9	$54,322	$55,049	$61,193	$62,613	$62,613	$63,932	$63,932
10	$56,469	$57,448	$64,815	$65,865	$65,865	$67,407	$67,407
11	$58,953	$59,719	$68,258	$69,537	$69,537	$73,857	$73,857
12	$61,434	$62,202	$72,919	$76,367	$76,367	$79,899	$79,899
13	$63,916	$65,214	$77,123	$79,956	$79,956	$85,689	$85,689
14	$71,034	$72,768	$83,428	$86,786	$86,786	$92,519	$92,519
15	$78,462	$80,243	$92,662	$95,198	$95,198	$99,999	$99,999
16	$79,463	$81,244	$93,663	$96,199	$96,199	$101,000	$101,000

* DOCTORATE ATTAINMENT - $2,000 ADDED TO LAST COLUMN

2018-19 SALARY SCHEDULE

STEP	B	B+15	M/ME	M+15	ME+21	M+30	ME+42
1							
2	$47,413	$48,046	$52,772	$53,631	$53,631	$54,824	$54,824
3	$48,600	$49,276	$54,286	$55,208	$55,208	$56,534	$56,534
4	$49,787	$50,505	$55,801	$56,784	$56,784	$58,244	$58,244
5	$50,974	$51,735	$57,315	$58,361	$58,361	$59,955	$59,955
6	$52,161	$52,965	$58,830	$59,937	$59,937	$61,665	$61,665
7	$53,348	$54,194	$60,344	$61,514	$61,514	$63,375	$63,375
8	$54,535	$55,424	$61,859	$63,091	$63,091	$65,085	$65,085
9	$55,722	$56,653	$63,373	$64,667	$64,667	$66,795	$66,795
10	$56,909	$57,883	$64,888	$66,244	$66,244	$68,506	$68,506
11	$58,096	$59,112	$66,402	$67,820	$67,820	$70,216	$70,216
12	$61,434	$62,202	$72,919	$76,367	$76,367	$79,899	$79,899
13	$63,916	$65,214	$77,123	$79,956	$79,956	$85,689	$85,689
14	$71,034	$72,768	$83,428	$86,786	$86,786	$92,519	$92,519
15	$78,462	$80,243	$92,662	$95,198	$95,198	$99,999	$99,999
16	$80,713	$82,494	$94,913	$97,449	$97,449	$102,250	$102,250

* DOCTORATE ATTAINMENT - $2,000 ADDED TO LAST COLUMN

2019-20 SALARY SCHEDULE

STEP	B	B+15	M/ME	M+15	ME+21	M+30	ME+42
1							
2	$47,413	$48,046	$52,772	$53,631	$53,631	$54,824	$54,824
3	$48,600	$49,276	$54,286	$55,208	$55,208	$56,534	$56,534
4	$49,787	$50,505	$55,801	$56,784	$56,784	$58,244	$58,244
5	$50,974	$51,735	$57,315	$58,361	$58,361	$59,955	$59,955
6	$52,161	$52,965	$58,830	$59,937	$59,937	$61,665	$61,665
7	$53,348	$54,194	$60,344	$61,514	$61,514	$63,375	$63,375
8	$54,535	$55,424	$61,859	$63,091	$63,091	$65,085	$65,085
9	$55,722	$56,653	$63,373	$64,667	$64,667	$66,795	$66,795
10	$56,909	$57,883	$64,888	$66,244	$66,244	$68,506	$68,506
11	$58,096	$59,112	$66,402	$67,820	$67,820	$70,216	$70,216
12	$61,434	$62,202	$72,919	$76,367	$76,367	$79,899	$79,899
13	$63,916	$65,214	$77,123	$79,956	$79,956	$85,689	$85,689
14	$71,034	$72,768	$83,428	$86,786	$86,786	$92,519	$92,519
15	$78,462	$80,243	$92,662	$95,198	$95,198	$99,999	$99,999
16	$82,213	$83,994	$96,413	$98,949	$98,949	$103,750	$103,750

* DOCTORATE ATTAINMENT - $2,000 ADDED TO LAST COLUMN