

## **BACKGROUND**

Pursuant to Act 88 of 1992 and the Public Employee Relations Act, notice was received by the Pennsylvania Labor Relations Board (PLRB) from the Pennsylvania Bureau of Mediation that no collective bargaining agreement had been reached between the Brandywine Heights School District and the Brandywine Heights Education Association. By letter dated September 21, 2004, the PLRB appointed me to act as fact finder. The parties were duly notified of such appointment and we met, informally, on October 4, 2004 and October 14, 2004. A hearing was held in the administrative offices of the Brandywine Heights School District on October 18, 2004. Both parties presented evidence and argument in support of their positions; their views were clearly and cogently presented.

The School District and the Association have tentatively agreed on some items for inclusion in their new collective bargaining agreement but many issues are unresolved. Those unresolved issues include the following: salaries; early retirement incentive; severance pay; employee contributions to health insurance premiums; payment for "opting-out" of health insurance; planning time; personal leave; hourly rate; life insurance; class size; liberalized use of sick leave days; transfer rights; the contract's duration; a medical flex plan; letters of understanding; tuition reimbursement; tax sheltered accounts; starting time; childrearing leave; grievance procedure; length of school year; and number of "induction days" for new employees.

## **DISCUSSION and RECOMMENDATIONS REGARDING UNRESOLVED ISSUES**

### **Overview and Evidence.**

The Association represents a bargaining unit of almost one hundred and fifty employees, almost all of whom are teachers. The parties have, for several years, successfully negotiated collective bargaining agreements. Their most recent contract was for a term of July 1, 1997 through June 30, 2002. It was extended, by mutual agreement, to June 30, 2004.

The Brandywine Heights School District is headquartered in Tipton, Pennsylvania and covers an area located almost midway between Allentown and Reading. It is one of eighteen Berks County school districts. There is very little commercial activity in the District (nearly 85% of the property is classified as residential) and, with the completion of a new high school, the District has recently concluded a project involving major capital expenditures. The District has a reasonable fund balance.

The average, 2003-2004, Brandywine Heights bargaining unit salary was \$53,308. As compared with the other seventeen Berks County districts, the District's average was the ninth highest (average salaries ranged from a high of \$60,892 in Schuylkill Valley to a low of \$46,886 in Daniel Boone). On average, in 2003-2004, Brandywine Heights teachers had 15.8 years of experience, the fifth greatest number of years of service among Berks County districts (the average number of years of service ranged from 18 years in Tulpehocken Area to Fleetwood's low of 10 years).

In the 2004-2005 year, more than one-quarter of the Brandywine Heights bargaining unit has 25 or more years of service and more than one-half of the bargaining unit is on

the top two steps of the current salary schedule. The "career rate" (the top step of the master's column) in the District's salary schedule is considerably less than the Berks County career average.

The District's millage rate, for 2003-2004, was the highest in Berks County. An average property owner, in 2003-2004, paid \$2,278 in real estate taxes to support the School District. The District's median household income, in 1999, was \$51,360.

The School District, as do most Berks County districts, participates in a consortium which has negotiated health insurance premium rates for purposes of providing health insurance. Brandywine Heights has consistently paid one hundred per cent of the cost of the coverage. Coverage options include not only the employee but also two-person and family coverage. The monthly premium cost, in school year 2004-2005, for a single employee, is \$280.14. For two-person coverage, the monthly premium cost to the District is \$595.56, and, for family coverage, the District's monthly premium cost is \$813.03. At least eighty members of the bargaining unit have selected family coverage. Brandywine Heights employees also enjoy vision and dental insurance, provided by the District.

Many, but not all, of the districts in the Berks County health insurance consortium require employees to directly contribute to the cost of the health insurance. By the 2005 2006 school year, more than one-half of the Berks County consortium members will require such direct employee contributions. The amount of those contributions currently ranges from a low of \$5.54 a month for family coverage to a high of 27% of the cost of the monthly premium (for family coverage, the employee's monthly contribution is \$219.51).

The District's health insurance premium costs are 19% greater in 2004-2005 than they were in 2003-2004. The District's 2003-2004 health insurance premium costs were 18% greater than they were in 2002-2003. Both parties agree that, unless there are changes to the coverage provided, the District, in 2005-2006, will face health insurance premiums which will be at least 18% greater than the 2004-2005 costs.

The cost-of-living has increased, in the last year, by at least 2.7% (U.S. City average). The increase in the Philadelphia! Atlantic City/Wilmington corridor has been 4.4% while the increase in the Northeast Urban area has been 3.4%. The Social Security Administration recently announced that the 2005 Social Security cost-of-living adjustment will be 2.7%.<sup>1</sup> Salary increases for Berks County school districts which have contract settlements average 3.5% in 2004-2005, 3.9% in 2005-2006, and 3.7% in 2006-2007.

The Association's proposals for the unresolved issues are these: **salary** increases of 4.99% in each year of the contract; **direct employee contribution to the cost of health insurance premiums** of \$10/month (single), \$15/month (two-person), and \$25/month (family) in the first year of the contract with those amounts increasing to \$12, \$20, and \$30 in year two, increasing to \$15, \$25, and \$35 in year three, and increasing to \$18, \$28, and \$40 in year four; an **early retirement incentive** of \$18,000 and an increase in the **severance pay** plan to \$200 (from the current \$115) for each year of service for those with more than ten years of service (and who provide notice by March 1), and an increase to \$150 (from the current \$65) for each year of service for those with ten years of service (and who provide notice subsequent to March 1), as well as an increase in the maximum amount of the respective severance payments from \$3,500 to \$8,000 and from \$1,700 to

<sup>1</sup> Michael Schroeder, *Social Security Benefits to Rise 2.7%*, WALL ST. J., Oct. 20, 2004, at p. A2.

\$6,000; a payment for those who **opt-out of health insurance coverage** of 45% of the District's cost of the premium or 45% of the difference in cost between the declined more expensive coverage and the less expensive coverage selected; a proposal for language involving **planning time** which would guarantee all bargaining unit members 80 minutes, per day, of preparation time with at least 40 minutes of the time being consecutive; an increase in the number of **personal leave** days from one to two for employees with fewer than 10 years of service and an increase from two days to three for employees with 10 or more years of service; an increase in the **hourly rate** of \$1.50 an hour, in each year of the contract; for teachers involved with homebound instruction, summer school, and adult education; an increase in the amount of **life insurance** coverage from \$30,000 to \$75,000; a limit on **class size** which would restrict classes to a maximum of 18 students in grades K-4, 20 students in grades 5-8, and 22 students in grades 9-12; liberalized use of sick leave days for purposes of **family illness and emergencies**; the inclusion of language regarding **transfers** and the filling of vacancies; a proposal that the contract be for a five-year **term**; a proposal for a **medical flex plan** which would permit employees to be reimbursed for as much of \$500, per year, for unreimbursed medical expenses; and a proposal that existing letters of understanding be incorporated into the next contract

The School District's proposals regarding the unresolved issues are these: **salary** increases of 2.5% in each year of the contract; **employee contributions to health insurance** in the amount of 8% of the amount of the monthly premium in the contract's first year and, in any subsequent year, should the District's premium cost increase by more than 8%, the employee contribution would increase by 8% but in no event may the employee contribution exceed 24% of the cost of the premium; an **early retirement**

**incentive**, in the second year of the contract, of \$10,000 for bargaining unit members who have between 25 and 34 years of service and who provide notice to the District of their intent to retire between January 1, 2006 and April 15, 2006; no change to the **severance** benefits provisions except that a bargaining unit member may designate a beneficiary to receive the severance benefits if the employee dies after she has announced her retirement but before the actual retirement date; payment to those who **opt-out** of health insurance at the rate of 30% of the cost of the premium; an increase in the amount of **life insurance** from \$30,000 to \$40,000; no reference in the contract to **planning time**, a **medical flex account**, **class size**, or **transfers**; no change to the current contract language with regard to the use of **sick leave**, the number of **personal days**, or the **hourly rate**; the inclusion of **letters of understanding** so long as they are still relevant; a **contract term** of four years; the inclusion of language which would permit the District to change the health insurance carrier so long as it could obtain **similar coverage** to that currently offered; **an increase in the length of the school year**, in the 2006 2007 contract year, from 187 days to 188, with the District to determine the usage of the 8 days in excess of the state-mandated 180 student days and the **mandatory attendance**, **with no offsetting compensatory time**, of new teachers at 2 days of induction; a change to the **grievance procedure** so that the District's failure to respond in a timely manner will not result in a outcome favorable to the grievant; a clarification regarding **step movement** for certain individuals on particular leaves of absence; a proposal to give discretion to the District to limit the number of **tax-sheltered accounts**; and a proposal authorizing the District to, unilaterally, determine **starting and dismissal times**.

## **Analysis**

The list of unresolved issues is exceedingly long. Almost all items on the Association's list will result in increased costs for the District. The District is willing to assume some of the increased costs, with regard to some proposals, but not as much as the Association would like (the dispute over the amount of life insurance is a good example). At least one of the items on the District's list, an increase in the length of the school year, typically would be obtainable only if the District was prepared to offer a larger-than-expected salary increase.

Rather than discussing every unresolved issue in detail, I believe it better to focus on those issues which seem of primary import to these parties. In my estimation, those issues are salaries and the amount of the employee contribution to the cost of health insurance.

As noted earlier, the cost-of-living has increased, in the last year, anywhere from 2.7% to 4.4%. The Association argued that its proposal for salary increases of 4.99% in each year of the contract is, for several reasons, justified. It asserted that increases of that size are necessary for employees to keep pace with the increase in the cost of living, to compensate employees at the top of the salary schedule who are compensated less well than their Berks County counterparts, and to offset the fact that employees will, for the first time, be directly contributing to the cost of their health insurance. The Association believes that the salary increases it seeks are well within the District's ability to pay. It asserted that the early retirement incentive which it proposed would serve to encourage the retirement of highly paid, long-term employees who would then be replaced by less expensive employees with fewer years of service.

The District argued that its proposed salary increases of 2.5% in each year of the contract are also well-justified. It pointed out that Brandywine Heights employees, for many years, and in contrast to many Berks County districts, have enjoyed health insurance benefits without any direct cost to employees. It also emphasized that the cost of health insurance premiums has risen at a considerably greater rate than the rate of inflation, and that the District's millage rate is the highest in Berks County. The District's tax burden is borne almost exclusively by residential property owners, not commercial establishments which are able, typically, to pass the cost of higher property taxes along to consumers, an alternative residential property owners do not enjoy.

I believe that employees should be compensated in a manner which enables them to keep pace with the increase in the cost of living. To make sure employees do keep pace, if they are also, for the first time, required to contribute to the cost of health insurance, salary increases must be somewhat in excess of a simple cost-of-living increase.

The record before me supports a conclusion that the District has the financial wherewithal to increase bargaining unit salaries by something more than 2.5% in each year of the contract and thus make sure most bargaining unit members do not lose ground. The record does not support the Association's assertion that the District can afford generous (i.e., 4.99% annually) salary increases plus relatively modest contributions (i.e., \$10/\$15/\$25 a month), on the part of employees, to the cost of health insurance.

Association members enjoy health insurance coverage that, for an employee with family coverage, costs the District, in 2004-2005, \$1,557.96 a year more than such coverage cost the District in 2003-2004. Using the 2003-2004, average, Brandywine

Heights salary of \$53,308, that additional \$1,557.96 a year is reasonably seen as a compensation increase, by itself and without any reference to any salary increase, for the average Brandywine Heights teacher, of almost 3%.

The Association's proposal that generous salary increases be funded by the attrition which should result from a significant early retirement incentive poses significant risks for the District. If few, or no, employees "take the bait" and opt to retire early, there will be serious financial difficulties for the District. More importantly, the Association's view is premised on a perspective (that attritional savings belong to bargaining unit members) which is flawed. Schools districts have no obligation to expend such funds on faculty salaries.

The recommendations which follow are meant to maintain for Association members a reasonable standard of living, comparable to that offered by most Berks County school districts, while appreciating the considerable financial burden already being borne by the District's primarily residential taxpayers. I suspect neither party will, at first blush, be overjoyed by my recommendations. After they have some time to reflect, they should realize they can live with them.

### **Recommendations.**

**1. Term of Agreement.** The term of the agreement shall be July 1, 2004 through June 30, 2008. All provisions of the agreement shall be retroactive to July 1, 2004.

**2. Salaries.** For 2004-2005, the amount expended by the School District for bargaining unit salaries shall increase by four percent (4%) over the amount expended in 2003-2004 (\$7,922,518), i.e., the total amount available for 2004-2005 bargaining unit salaries is \$8,239,418.72. The 2004-2005 amount shall, in 2005-2006, be increased by

4%, and, in 2006-2007, the 2005-2006 amount shall be increased by 4%. The 2007-2008 amount shall be 4% more than the 2006-2007 amount. In each year, salaries shall be distributed as indicated on attached Exhibit A (salary schedules).

**3. Employee Contribution to Health Insurance.** In the 2004-2005 school year, employees choosing single coverage shall contribute \$14 a month, employees choosing two-person coverage shall contribute \$29 a month, and employees choosing family coverage shall contribute \$40 a month. In 2005-2006, the contribution amounts shall be \$19 (single), \$39 (two-person), and \$55 (family), in 2006-2007, the contribution amounts shall be \$24 (single), \$44 (two-person), and \$60 (family), and in 2007-2008, the contribution amounts shall be \$29 (single), \$49 (two-person) and \$65 (family).

**4. "Opt-Out" Payments.** In each year of the contract, bargaining unit members who, for a particular year, either decline the health insurance coverage they enjoyed in the previous contract year, select a less expensive type of coverage, or decline coverage entirely shall be paid the following amount, prorated over the employee's annual pay periods: forty percent (40%) of the annual cost to the District of the coverage declined or forty percent (40%) of the difference in the cost between the previous coverage and the selected coverage.

**5. Planning Time.** The parties shall incorporate the following language in their collective bargaining agreement: "Every Friday, elementary teachers shall have, as time used exclusively for preparation, the time between 8 a.m. and 8:30 a.m."

**6. Life Insurance.** The District shall provide to employees a term life insurance policy with a face value of \$45,000.

**7. Severance Pay.** The amount of severance pay for bargaining unit members with 10 or more years of service who provide notice, by March 1, of their intent to retire shall be \$140 for each year of service, up to a maximum of \$6,000 and the amount of severance pay for bargaining unit members with 10 or more years of service who provide notice subsequent to March 1 shall be \$80 for each year of service, up to a maximum of \$2,500. Employees providing notice of an intention to retire may designate a beneficiary to receive the severance pay should the employee die before his/her specified retirement date.

**8. Early Retirement Incentive.** Bargaining unit members with between 25 and 34 years of service who give notice, between January 1, 2006 and April 15, 2006, of an intention to retire no later than 11:59 p.m., June 30, 2006, shall be entitled to an early retirement incentive of \$15,000, payable in a lump sum on June 30, 2006.

**9. Tax-Sheltered Accounts.** The School District shall not be required to offer any more than thirteen providers of tax-sheltered accounts.

**10. Income Tax Liability.** The District shall deal with employee contributions to the cost of health insurance in a manner which is consistent with 26 U.S. Code Section 125.

**11. All Other Matters.** Any-provision of the parties' previous agreement (July 1, 1997 to June 30, 2004), not specifically effected by the recommendations above, is recommended for inclusion. Any other matters not previously agreed upon or specifically addressed herein are recommended for withdrawal. Any agreements mutually made prior to the commencement of the fact finding that are not specifically addressed in this report are recommended for inclusion.

