

1057

RECEIVED

JAN -5 1977

FACT FINDING

(Pursuant to Section 25, Act 176,  
Public Acts of 1939, as amended,  
and General Rules and Regulations  
of the Michigan Employment Rela-  
tions Commission.)

In The Matter Of:

BREITUNG TOWNSHIP SCHOOLS, KINGSFORD, MICHIGAN

-and-

BREITUNG TOWNSHIP EDUCATION ASSOCIATION

REPORT OF FINDINGS,  
CONCLUSIONS, AND  
RECOMMENDATIONS.

MERC Case No. G76 J-1386

Hearing Officer:

Dr. William E. Barstow, Jr.  
Michigan Technological University  
Houghton, Michigan 49931

LABOR AND INDUSTRIAL  
RELATIONS LIBRARY  
Michigan State University

December 29, 1976

I.

PROCEEDINGS

- November 1, 1976 Fact finding hearing ordered by the Michigan Employment Relations Commission in the matter of Breitung Township Schools, Kingsford, Michigan (hereinafter referred to as "Board") and Breitung Township Education Association (hereinafter referred to as "Association"); Dr. William E. Barstow, Jr., Michigan Technological University, Houghton, Michigan appointed Hearing Officer for the matter.
- November 23, 1976 Hearing scheduled to be held on November 30, 1976, at 1:30 P.M., at Kingsford, Michigan.
- November 30, 1976 Fact finding hearing convened at 1:30 P.M. in the Auditorium of the Kingsford High School, at which were present:
- For the Board:
- John D. Payant, Attorney at Law
  - William Hansley, President, School Board
  - June D. Waisanen, Secretary, School Board
  - Glen V. Brisson, Member, School Board
- For the Association:
- Thomas J. Patterson, Executive Director, Region 17-B, Michigan Education Association
  - Denis Sloglund, President, Breitung Township Education Association
- November 30, 1976 Exhibits filed, oral presentations entered, and hearing adjourned.
- December 29, 1976 Report of findings, conclusions, and recommendations issued by Hearing Officer.

## II.

### ISSUES IN DISPUTE

The following unresolved issues are stated by the Association's original petition for fact finding:

- 1) Size of salary increase to be applied to each increment of the salary schedule, retroactive to September 1, 1976. The Association demands 6.8% and the Board offers \$300.
- 2) Assumption on a continuing basis by the Board of the added cost of new rates for medical and hospitalization insurance (Super Med II, full family), retroactive to July 1, 1976. This cost is stated by the petition at \$20,000.
- 3) Whether to amend or eliminate the language of Article V, Section F, of the Master Agreement, which presently provides that "The number of students in each kindergarten class will be determined by using the following formula: When the number of students reaches one hundred and forty eight (148), seven (7) sections will be maintained. When the number of students reaches one hundred and seventy (170), eight (8) sections will be maintained."

Subsequently, the Association amended its original petition to add the following issue:

- 4) Propriety of the Board's action in unilaterally establishing the calendar for the 1976-77 school year.

### III.

#### ENVIRONMENT OF THE HEARING

The physical environment in which this fact finding hearing was conducted was sufficiently unusual to deserve brief comment. The hearing was situated on the stage of the local high school auditorium, and the public was invited to attend by announcements in local news media. Perhaps as many as 100 persons (the audience cycled somewhat) responded.

The Hearing Officer concedes that the theory underlying Michigan fact finding procedures in public employment labor disputes involves communication of the facts of the dispute to the total community. He concedes also that such proceedings with relation to a public employer are, both by definition and by law, public proceedings. However, it is suggested that to arrange the hearing situs in such a manner as to emphasize the public viewing aspect tends inevitably to color and distort the information made available to the public, and to render the orderly assembly of information by the Hearing Officer more difficult.

Essentially, the matter that such proceedings are intended to communicate to the public is an even-handed and objective view of the factors in dispute by a neutral and expert third party. Where, as here, the emphasis is initially on presentation by each party disputant of its self-interested position, and only secondarily is on informing the Hearing Officer, the hearing merely further exacerbates the emotional wounds necessarily incident to a labor dispute.

In the view of this Hearing Officer, such a fact finding hearing should be arranged as though for a private conference of similar size at which casual observers are permitted. Provision for a certain number of interested outside observers is essential but should be secondary. The arrangements should permit comfort to the extent possible and should allow the degree of informality that the Hearing Officer chooses to maintain compatible with the factors at issue. With apologies to those who militantly seek to protect the environment, ashtrays should be available, as hearings frequently are long and tiring. In no circumstances should the general public be formally invited.

These comments are offered respectfully in the hope of possibly being helpful to the parties in event that they participate in fact finding proceedings in the future.

#### IV.

#### FINDINGS AND RECOMMENDATIONS

##### 1) 1976-77 Salary Increase

Association's Position: The Association demands a 6.8% across-the-board increase at every increment of the instructional salary schedule, for a total direct salary increase of \$105,560. The Association states categorically that "As the Association views the problem, the Teacher Salary Schedule is the primary issue keeping the parties from settlement of the contract."

Statistical studies offered by the Association depict a continually eroding real income position for teachers during the past four years. The Association points out that during the immediately preceeding four year period "the Teacher's B.A. Base increase represented a 16.10% four year increase. Their total four year increase at the M.A. Maximum was 20.70%. During that same four year period, the Cost of Living increased by 32.28%." Accordingly, instructional salaries "have fallen 3.47% behind the Cost of Living increase each year.

The Association attacks the Board's proposed 1976-77 budget in some detail. Among other things, it points out that the budget fails to reflect decreases in enrollment (70) and teacher count (4.6) from the preceeding year. In commenting on the projected 28.54% increase in plant maintenance cost, Association suggests that "The Board is expecting the teachers to pay for the maintenance of the plant when the citizens have turned down a recent election for major school plant renovation."

The Association compares the B.A. Base and M.A. Maximum of the local teacher salary schedule with schedules established for fifteen schools in communities with similar State Equalized Valuations, and emphasizes that the Breitung Township Schools schedule consistently has been at the low end of the competitive range, and that Association's demand still would not bring the local schedule to the midpoint of the competitive range.

The Association also examines instructional salaries as a percentage of total operating expense, and finds that there has been a gradual decrease from 63.97% in 1971-72 to 60.94% in 1975-76. The Association states that "The budget and its expenditures are based on the values of the Board as to what areas will receive certain percentages of the total budget. As of this date, the . . . Board of Education has obviously given a low priority to the budget line items for . . . teachers salaries.

Lastly, the Association examines the proposed budget for funds from which salary and fringe increases may be paid, and asserts that a total of \$544,458 is available, derived from sources such as the general fund equity at start of the 1976-77 school year, increases in state aid and local tax revenues, and savings from reduced instructional staff.

Board's Position: The Board offers a flat rate across-the-board increase of \$300 at each salary schedule increment. This amounts to approximately 3.3% at B.A. Base and 1.9% at M.A. Maximum. The Board contends that this is substantially all that is available for salary improvement, and asserts that the proposed budget, which reflects this necessity, is honest and straightforward and is the only budget that the Board has had under consideration.

The Board points out that the 1975-76 general fund equity was greatly reduced by the excess of expenditures over revenues during that school year of \$102,560 (caused in large part by an approximate \$63,000 withdrawal of state aid), leaving a cash balance to start the 1976-77 school year of only \$96,194. This sum, plus estimated 1976-77 revenues from all sources, equals total monies available for the year in the amount of \$2,803,436. Estimated expenditures for 1976-77, excluding any salary adjustments, are \$2,670,886 leaving a difference of only \$132,550 from which to meet the salary and fringe demands of the Association, as well as paying salary increases for helpers and aides (\$11,080), maintenance personnel (\$10,780), and added personnel insurance costs (\$8,809). Summarizing, this leaves a fund of \$15,043 with which to both meet any contingencies and provide increases for administrative personnel.

The Board states that only modest success historically has greeted attempts to increase the local property tax millage until this year, when 2.5 new mills were approved. Renewals generally have been approved, and the new 2.5 mills raised total millage to approximately 27 which compares well with other school districts in this geographic region. However, there seems little possibility of further new money from local sources at this time. Further, there is no assurance that state aid will be continued at the level now projected.

The Board emphasizes that the overall salary picture for its teachers actually is better than it appears at first glance. This is because teachers move toward maximum more rapidly in the Breitung Township salary schedule than in most other school districts since the local schedule is an eight year structure as opposed to the ten or eleven year structure more common in other schools. Overall, Breitung Township teacher actual salaries compare favorably with salaries of teachers in other regional schools and other Upper Peninsula Class B schools.

Finally, the Board points out that the same inflationary factors that have caused the abrupt Cost of Living increases for teachers have caused even more extensive increases in the cost of the maintenance and fuel and power items that face the Breitung Township Schools today.

Findings and Recommendations: The Hearing Officer finds the position of the Association to be deserving of great sympathy. There is no question but that the instructional staff has experienced an erosion in real income of approximately 3.5% per year for the past four years. These

teachers now are offered increases ranging from 1.9% to 3.3% at a time when the Cost of Living index is increasing at an annual rate in excess of 5.5%. Teachers in public schools throughout the state and country have struggled vigorously since World War II to achieve salary levels comparable with other occupational categories requiring like qualification, and it is undoubtedly a frustrating experience to slip back. There is little question but that the Association's 6.8% demand would be reasonable in many circumstances.

However, funds must exist for such an increase before it can be granted, no matter how deserving the recipients may be. The Hearing Officer has examined carefully the Board's budget projections, together with the critique of those projections by the Association, and just cannot find available funds with which to meet the Association's demand. The Association's contention that over half a million dollars is available to meet its demand obviously is specious, conditioned as it is by the assumption that teachers need not share new monies with other escalating cost areas. The Board is prohibited by law from deficit financing, and would be derelict in its duty to disregard physical plant maintenance (almost the only discretionary line item in the budget) to grant a larger salary increase to the instructional staff.

Accordingly, the Hearing Officer must recommend that the contract for the 1976-77 school year be concluded on the basis of the Board's offer of a \$300 across-the-board increase at each increment of the salary schedule, retroactive to September 1, 1976.

## 2) Medical and Hospitalization Insurance Premium Increase

Association's Position: Little discussion and no data (other than a statement that the cost of the premium increase is in the amount of \$20,000 retroactive to July 1, 1976) concerning this issue is offered by the Association. The Association indicates that the insurance presently is being maintained by Breitung Township Schools, but that the Board may intend to terminate the arrangement. The Association urges that assumption of hospitalization and medical insurance is a fringe that is almost totally uniform in public school employment contracts throughout the state at this time.

Board's Position: The Board offers no discussion or documentation at hearing concerning this issue.

Findings and Recommendations: In view of the apparent absence of opposition to Association's position on this issue, together with the fact that full assumption of medical and hospitalization insurance premiums is, as the Association contends, a customary fringe throughout the state, the Hearing Officer must conclude that the Board should continue to assume the cost of this year's premium increase for the established Super Med II Full Family coverage, totalling approximately \$20,000 for the year and retroactive to July 1, 1976, and so recommends.

3) Article V, Section F, of the Master Agreement

Association's Position: The Association considers the provisions of Article V, Section F, of the Master Agreement to be explicit and necessary, and rejects the Board's demand that the language be amended or eliminated. The controverted language of the Section is as follows:

"The number of students in each kindergarten class will be determined by using the following formula: When the number of students reaches one hundred and forty eight (148), seven (7) sections will be maintained. When the number of students reaches one hundred and seventy (170), eight (8) sections will be maintained."

The Association points out that the Board has not objected to this language in the past, and questions the need for change at this time.

Board's Position: The Board wishes either to eliminate the Section from the Master Agreement entirely, or to amend the language by establishing a definite date for the count of students so that it will not be necessary to hire or terminate teachers and rearrange kindergarten classes in the middle of a school year.

The kindergarten count at the present time is 168, and this number could change at any time with the entry of a new family or two into the community. The Board foresees the possible problem of repeated class disruptions if the count should fluctuate frequently in relation to the 170 breakpoint. The Board urges that the problem could cost about \$8,200 for a half-time teacher at a time when no return of additional state aid would be forthcoming and when no budget allocation exists to equate with the additional cost.

Findings and Recommendations: The Hearing Officer cannot but observe that arbitrary and inflexible regulations of this sort tend in practice to be self-defeating by creating more problems than they resolve. But teacher/student ratio is a basic component of teacher working conditions and therefore certainly is a proper subject for collective bargaining and inclusion in the Master Agreement. However, avoiding the problem which the Board foresees is an equally valid objective, and also can be accomplished readily without danger of defeating the objective of the provision as it now reads.

Accordingly, the Hearing Officer recommends that language similar to the following sentence be added to Section F: "Adjustments in accordance with this provision shall be made annually at or prior to the time of and on the basis of the student count required pursuant to the state financial aid formula."



4) Establishment of the Academic Calendar

Association's Position: The Association indicates that at one point during these negotiations a tentative agreement had been reached by the parties concerning the 1976-77 academic calendar. After the package that included this agreement was rejected by vote of the Association's membership, the Board unilaterally announced the present calendar without further bargaining or the Association's ratification. Inter alia, the Association has negotiated for a pre-Labor Day starting date, and the matter of calendar specifics should not be considered closed.

Board's Position: The Board contends that a coordinated county-wide calendar is essential to efficient public school administration, and that this cannot be achieved if each school district negotiates its calendar separately with its teachers.

Findings and Recommendations: The essential elements of the public school calendar (181 student days and 183 teacher days) are prescribed by Michigan statute. Observance of traditional legal holidays is at very least controlled by community custom. Since other elements of the calendar would not necessarily fall within the scope of "wages, hours, and working conditions," there are substantial grounds for doubt as to whether the academic calendar is a mandatory subject for collective bargaining.

However, the Hearing Officer must conclude that the question of the 1976-77 academic calendar now is moot. For all practical purposes, the calendar is now established, whether properly or otherwise. There is no conceivable way to re-allocate time retroactively, and the 1976-77 school year already is almost half completed.

In the nature of things, establishment of the school academic calendar cannot be delayed beyond a certain point, and any failure of agreement beyond that point necessarily would compel unilateral action by the Board of Education. Apart from this, however, the Hearing Officer finds the Board's assertion of the need for a coordinated county-wide calendar to be extremely persuasive. Accordingly, it is recommended that this issue be set aside without further consideration by the parties.

Respectfully submitted,



William E. Barstow, Jr.

Hearing Officer