

State of Michigan Fact-Finding Report and Recommendations  
in the Contract Negotiation Impasse

Benjamin Wolkinson

between

C.O.O.R. Intermediate School District

and

C.O.O.R. Education Association

Appearances

C.O.O.R. Intermediate School District

J.H. Gretzinger, Jr., Superintendent, C.O.O.R. Intermediate  
School District

J.P. Walkley, Superintendent, Houghton Lake Community Schools

Hans E. Lantzsch, Superintendent, Gerrish Higgins School District

Dennis G. Serafini, C.P.A.

C.O.O.R. Education Association

Warren Bailey, MEA Uniserv

Background

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On September 14, 1976, the C.O.O.R. Intermediate School District Board of Education requested the Michigan Employment Relations Commission to appoint a fact-finder to consider and make recommendations on matters in dispute between the Board of Education and the C.O.O.R. Education Association.

On September 30, 1976, the Commission appointed the undersigned as fact-finder for the dispute, and a fact-finding hearing was conducted at the C.O.O.R. Administration Building in Roscommon, Michigan on November 22, 1976.

In its request for fact-finding, the Board of Education identified the following issues at impasse: (1) sick leave accumulation, (2) documentation for work performed on "snow" days, (3) salary, (4) elective surgery

benefits, (5) communicable disease coverage. During the course of the hearing, the parties were found to be at impasse over two additional issues. These were ceiling on insurance protection and the recognition clause of the contract. Each issue will be examined separately along with the fact-finder's recommendation.

### Salary

The parties are in agreement that the index in the salary schedule shall be 1.5, with 11 steps, and \$350 extra compensation for additional education. At issue is the base rate for a B.A. minimum, with the Board of Education offering \$9450 and the Association seeking \$9700.

The salary schedules of the two parties are as follows:

#### Board of Education Salary Schedule

<u>Step</u>	<u>Index</u>	<u>B.A.</u>	<u>BA+15</u>	<u>MA</u>	<u>MA+15</u>	<u>Ed.\$.</u>
0	1.00	9,450.00	9,800.00	10,150.00	10,500.00	10,850.00
1	1.05	9,922.50	10,290.00	10,657.00	11,025.00	11,392.00
2	1.10	10,395.00	10,780.00	11,165.00	11,550.00	11,935.00
3	1.15	10,867.50	11,270.00	11,672.00	12,075.00	12,477.00
4	1.20	11,340.00	11,760.00	12,180.00	12,600.00	13,020.00
5	1.25	11,812.50	12,250.00	12,687.00	13,125.00	13,562.00
6	1.30	12,285.00	12,740.00	13,195.00	13,650.00	14,105.00
7	1.35	12,757.50	13,230.00	13,702.00	14,175.00	14,647.00
8	1.40	13,230.00	13,720.00	14,210.00	14,700.00	15,190.00
9	1.45	13,702.50	14,210.00	14,717.00	15,225.00	15,732.00
10	1.50	14,175.00	14,700.00	15,225.00	15,750.00	16,275.00

#### Education Association Salary Schedule

<u>Step</u>	<u>Index</u>	<u>B.A.</u>	<u>BA+15</u>	<u>MA</u>	<u>MA+15</u>	<u>Ed.\$.</u>
0	1.00	9,700.00	10,050.00	10,400.00	10,750.00	11,100.00
1	1.05	10,185.00	10,552.00	10,920.00	11,287.00	11,655.00
2	1.10	10,670.00	11,055.00	11,440.00	11,825.00	12,210.00
3	1.15	11,155.00	11,557.00	11,960.00	12,362.00	12,765.00
4	1.20	11,640.00	12,060.00	12,480.00	12,900.00	13,320.00
5	1.25	12,125.00	12,562.00	13,000.00	13,437.00	13,875.00
6	1.30	12,610.00	13,065.00	13,520.00	13,975.00	14,430.00
7	1.35	13,095.00	13,567.00	14,040.00	14,512.00	14,985.00
8	1.40	13,580.00	14,070.00	14,560.00	15,050.00	15,540.00
9	1.45	14,065.00	14,572.00	15,080.00	15,587.00	16,095.00
10	1.50	14,550.00	15,075.00	15,600.00	16,125.00	16,650.00

The Board's offer inclusive of step increases would provide workers who were members of the bargaining unit in 1975-76 with salary increases averaging 5.33%. The association's position would give employees inclusive of step increases gains averaging 8%.

The Association contends that its schedule is reasonable in view of salary increases afforded hourly employees ranging from 11.66 to 12.7%, cost of living, and the school board's administrative capacity to afford the increases.

The School Board's position is that its offer is competitive with school teacher salaries in adjacent communities. It notes that comparability is the critical element in determining the appropriateness of a wage offer, because C.O.O.R. was established to provide effective special education services to surrounding school districts which previously had satisfied the special education needs of their students. If the services provided by C.O.O.R. become too costly, there is the risk that the adjacent school districts will terminate their contracts with C.O.O.R. to provide and deliver special education programs and supportive services.

#### Discussion and Recommendation

Both parties have attempted to use comparative wage data to support their demands. C.O.O.R. wages have been compared with the wages of school teachers in Gerrish-Higgins, Mio Ausable, Crawford Ausable, Fairview, Houghton Lake, and West Branch City Area schools. Negotiations are still pending in the first two adjacent school districts enumerated, and comparisons between them and C.O.O.R. are fraught with unreliability because of the unknown outcome of the negotiations. When we compare the Board and Association proposals on wages with salaries currently in effect for the 1976-1977 fiscal year at Crawford Ausable, Fairview, Houghton Lake Community Schools and West

Branch City Area Schools, no decisive pattern is found. The Board's proposal would allow for generally higher salaries than present at Houghton Lake, for all levels but the last steps (7-10) of the BA schedule and superior benefits than afforded teachers at all levels of the B.A. schedule at Fairview. However, West Long Branch salaries for nearly all steps in each level, and Crawford Ausable salaries at all steps of the B.A. schedule and at higher steps of the M.A. schedule are superior to those offered by the Board.

Because of the inconclusive nature of the comparative wage data, the parties' wage proposals must be judged in light of other factors. Between June 1975 and June 1976, the period corresponding generally to the duration of the last contract, the cost of living as measured by the BLS consumer price index rose by 5.9%. The Board proposal would afford teachers on the average increases of only 5.3%. Some teachers at the higher steps would receive increases of less than 5%. The fact-finder feels that wages should keep pace with the cost of living which erodes one's purchasing power and standard of living. For this reason, he feels that the Board proposal is insufficient. Moreover, there is little justification for denying the more experienced teachers increases which will allow them to maintain their real income. Consequently, the fact-finder recommends that the bachelor's degree base be increased by \$200, which amount will guarantee all teachers salary gains at least as high as the cost of living increases over the last fiscal year. This proposal would afford teachers at the B.A. level increases ranging from 5.8 to 7.2%, with the average increases for all teachers in the control group being approximately 6.4%. It would also have the effect of making C.O.O.R. wages at the various steps of the B.A. and M.A. schedule more competitive with wages at Houghton Lake, Crawford Ausable and at West Long Branch.

The fact-finder's proposed salary schedule appears on the next page.

In making this recommendation, the fact-finder has noted the Association's contention that hourly employees may have recently received larger percentage increases. Yet a comparison between percentage increases received by teachers and hourly employees is a poor basis for wage evaluations. A simple examination of percentages fails to consider the much lower annual income of the twelve month hourly employees, who on the average earn \$3.14 per hour and approximately \$6500 a year. Their larger percentage increases does not demonstrate School Board favoritism, but rather Board acknowledgement of the need to raise their income so they may enjoy a moderate standard of living.

#### Sick Leave Accumulation

Under the last contract, teachers at the beginning of each school year were credited with 10 days of sick leave, with each teacher being able to accumulate from year to year their unused portion up to a maximum of 45 days. Teachers who exhausted their personal accumulated sick leave could draw on the Common Sick Leave Bank of 240 days which was contributed by the Board and administered by the Association.

The association's demand is that the amount of sick leave that a teacher can accumulate be increased from 45 to 120 days. The Board's position is that sick leave accumulation be increased to 55 days.

The Board's position is that the union's request is unnecessary and excessive. Current records as of June 1976 indicate that the range of sick day balance varies from a low of one half day to a high of 24. Thus it is unlikely that employees will be accumulating sick day leaves in the amount sought by the Association. Furthermore, the Board maintains that

Fact-Finders Proposed Salary Schedule

<u>Step</u>	<u>Index</u>	<u>B.A.</u>	<u>B.A.+15</u>	<u>MA</u>	<u>MA+15</u>	<u>Ed.S.</u>
0	1.00	9,550.00	9,900.00	10,250.00	10,600.00	10,950.00
1	1.05	10,027.50	10,395.00	10,762.50	11,130.00	11,497.50
2	1.10	10,505.00	10,890.00	11,275.00	11,660.00	12,045.00
3	1.15	10,982.50	11,385.00	11,787.50	12,190.00	12,592.50
4	1.20	11,460.00	11,880.00	12,300.00	12,720.00	13,140.00
5	1.25	11,937.50	12,375.00	12,812.50	13,250.00	13,687.50
6	1.30	12,415.00	12,870.00	13,325.00	13,780.00	14,235.00
7	1.35	12,842.50	13,365.00	13,837.50	14,310.00	14,782.50
8	1.40	13,370.00	13,860.00	14,350.00	14,840.00	15,330.00
9	1.45	13,847.50	14,355.00	14,862.50	15,370.00	15,877.50
10	1.50	14,325.00	14,850.00	15,375.00	15,900.00	16,425.00

sick day benefits are sufficiently covered by existing sick day accumulation rights, availability of the common sick leave bank, and the income protection fringe benefits (MESSA Income Protection) commencing with the 181st day of an employee's disability.

The Association feels the demand is justified in view of contracts negotiated in adjacent school districts such as Houghton Lake and Gerrish-Higgins affording teachers the right to accumulate 120 and 130 sick days respectively. Additionally, the union seeks the right to accumulate additional days as a basis for adding on to retirement benefits. Under a proposed statute, teachers could convert 120 days of accumulated sick leave for longevity purposes in calculating their retirement income. Securing of this benefit would in the Association's view promote employee attendance and deter abuse of sick leave allowance as workers would have the incentive to accumulate sick leave for longevity purposes.

#### Discussion and Recommendations

The Association's request for additional sick day accumulation is in its view justified because it extends to C.O.O.R. teachers the same benefits afforded employees at Gerrish Higgins and Houghton Lake. The argument is not persuasive, when we examine the full benefit plans of each school system. While Gerrish Higgins and Houghton Lake do provide sick day accumulation of up to 130 days, neither has a sick day bank which would allow a teacher in case of serious illness to draw up to 240 days. Furthermore, while teachers at C.O.O.R. have L.T.D. insurance, Gerrish Higgins teachers do not. In practice, C.O.O.R. teachers are afforded as extensive if not superior sick day leave benefits as teachers in adjacent school districts.

Problems with a sick day bank could arise if there were in a short

period of time a significant number of seriously ill teachers who applied for sick bank days, thereby causing a depletion in the bank's reserve. Then, the personal accumulation of sick days would be necessary to protect the employee. Significantly there has been no showing that the sick bank reserves have ever been deficient or that any teacher has been disadvantaged by the limitation of personal sick days to 45. The Board's offer to grant each teacher the right to accumulate 10 more days, up to a maximum of 55 days, provides additional protection to each employee and further reduces any likelihood of erosion in the common sick bank fund.

The Association seeks 75 additional days of accumulated leave, because a proposed statute would allow teachers to collect accumulated sick leave for longevity purposes when determining their retirement income. No such bill has yet been passed, and any proposed changes in the current mix of sick leave and income protection benefits available to C.O.O.R. teachers can best be evaluated after the bill's enactment when its details and implications are fully known.

Considering that the economic welfare of C.O.O.R. teachers is extensively protected in the event of illness by present programs involving sick day accumulation, common sick leave bank availability, and MESA income protection plans, the fact-finder finds that the Board's proposal to increase sick day accumulation by 10 days is reasonable and recommends its adoption.

#### Documentation for snow days worked

Under the previous contract, teachers had to document the professional work performed at home on days of inclement weather when school was cancelled. The Association would remove the obligation that teachers document their activity, while the Board insists on its maintenance. The issue



basically applies to school days cancelled because of snow.

The Board defends its current provision on the basis that teachers should be paid for work performed, and not paid when they don't work. Additionally, the Board's demand of documentation are minimal. In the past, no teacher who made an effort at documentation was denied pay on "snow days." Additionally, C.O.O.R. has hourly employees who do not get paid if they fail to show up for work because of inclement weather. Thus the current provision only extends to teachers at home because of inclement weather the same obligation to perform work as is imposed on all other employees if pay is to be received.

The Association argues that the requirement of documentation is unjustified. It is not required in adjacent school districts and amounts to imposing unnecessary busy work on teachers who make the reports and upon administrators who file them. The requirement is also viewed as damaging to morale because it implies administration distrust of school teacher's professionalism.

#### Discussion and Recommendations

The issue of snow day documentation has operated as a source of spirited discussion between the Association and the Board. The Board argues that teachers be accountable while the Association contends that the requirement of documentation constitutes an unnecessary imposition on professionals dedicated and committed to their work.

The fact-finder appreciates the position of both parties. No doubt has been raised concerning the professionalism and dedication of C.O.O.R. teachers. Nothing was presented in the record which indicated that teachers failed to perform their professional duties when off because of inclement

weather. At the same time, the fact-finder must acknowledge the position of the Superintendent who has given voice to community pressures that teachers be accountable for paid snow days.

Under the old contract, teachers at home on snow days had to document their work. It is significant that this provision has been administered with apparent facility and reasonableness. The requirement of documentation has been satisfied by a short note of a few sentences indicating the teacher's activity on the snow day. This requirement has not stimulated grievances nor served as a basis for the denial of pay for any teacher. In view of this record and the Superintendent's strong concern that local community pressure for accountability be satisfied, the fact-finder recommends that the provision be maintained.

#### Illness and Disability - Elective Surgery

Under the original contract, teachers could use their personal leave and sick bank days to recover from illness and disability. While the contract was not explicit on the right of teachers to use sick leave for purposes of elective surgery, it was assumed by both parties they could. During the course of negotiations, the Association suggested modifying the agreement to disallow use of the sick bank for teachers seeking leave for purposes of elective surgery. The Association's position was that the use of the common sick leave bank should be restricted to cases where teachers were forced because of illness and disability to remain out of work. The Board's position is that teachers should not be able to use any sick leave, whether their personal leave or common sick bank leave for "elective" surgery, and that teachers seeking elective surgery should do so on their own

time. Thus if the surgery is elective, such as a hair transplant or plastic surgery to improve one's appearance, the teacher should have such surgery performed during the summer, when the school system would not face the problem of seeking and paying for substitute teachers. The Association feels that the Board's position would unduly restrict teacher's right to sick leave. Furthermore, other contracts do not contain provisions excluding elective surgery from sick leave coverage.

#### Discussion and Recommendations

Both parties are willing to amend the contract to prevent use of common sick bank days for purposes of elective surgery. The fact-finder recommends that caution be exercised in implementing this change. Drawing the line between "elective" and "required" surgery is not easy, as doctors themselves may disagree on the need for surgery. In fact-finding, the parties have used as examples of elective surgery, hair transplants and plastic surgery to improve one's appearance. If elective surgery is to be defined in this narrow manner, the fact-finder feels the modification is warranted. Cosmetic surgery may more appropriately be delayed until the summer months and should not be used to deplete the common sick leave bank which is needed by teachers who are seriously ill.

Under the old contract, the Association administered the common sick leave bank. The fact-finder recommends that the Association assume the responsibility of determining whether a particular request to draw sick bank days shall be denied because it is for surgery of generally a cosmetic nature.

The Board has requested that personal sick leave days shall not be used for purposes of elective surgery. The fact-finder feels this proposal

should be withdrawn. The Associations position already represents a significant deviation in leave allowances, and a body of experience on it in terms of teacher reactions and problems created should be gathered and evaluated before further modifications are made.

#### Illness and Disability - Communicable Disease Coverage

Under the old contract, teachers absent from work because of mumps, scarlet fever, measles, or chicken pox were not charged with loss of personal sick leave nor suffered any loss of income and compensation. The Board seeks to modify this provision in order to limit Board obligation to those communicable diseases for which it is responsible. The effect of the Board's position would be that a teacher who contracted mumps, scarlet fever and the like would have to use their sick leave, unless it could be demonstrated that such sickness was contracted by the teacher as a result of their school work. The Board contends that teachers who contract communicable diseases through their own negligence or through no fault of the Board should not receive blanket protection, and ought to be required to use their own personal leave in such cases. The Union seeks continuation of the current provision arguing that the Board's proposal would be both impractical and impossible to administer. Thus doctors and employees would frequently be unable to determine the source of a teacher's illness and the degree of Board responsibility.

#### Discussion and Recommendations

The fact-finder concurs in the Association's view that an effort to determine the source of a teacher's illness and the degree of Board responsibility is impractical and futile. One only has to note the immense

problems doctors are currently facing in determining the relationship between muscle paralysis and swine flu injections to understand the difficulties involved in isolating the source of a disease. Furthermore, there has been no showing that the disputed provision has generated any personnel or fiscal problems. Finally, the illnesses given special contractual consideration are basically childhood diseases, and a teacher who works in a school system does bear some extra risk for which special compensation is warranted. For these reasons, the fact-finder recommends retention of the provision.

#### Insurance Protection - Ceiling on Fringe Benefits

The Board's position is that any increase in insurance costs that may occur after July 1, 1976 because of increased premiums required by the insurance carriers shall be assumed by the teacher or alternatively, the teacher may elect to reduce his coverage, and apply the cost saving to the cost increase. The Association's position is that cost increases shall be the responsibility of the Board.

#### Discussion and Recommendation

Over the years, the Board has assumed the full costs of providing teachers with a wide variety of insurance protection: health, dental, life, LTD. The past contract was from July 1, 1975 to June 30, 1976. On July 1, 1976 new insurance rates went into effect, and the Board in conformity with its contractual commitments assumed them. An issue is the assumption of liability for any new rates that may be implemented during the life of the contract and/or after the expiration of a new contract in July 1977 and execution of another agreement.

The fact-finder appreciates the concern of the parties about these

costs, because the uncertainty surrounding both their implementation and scope make planning and budgeting extremely difficult. Additionally, the fact-finder notes that by agreeing to assume the July 1, 1976 rate increases, the Board's insurance costs for fiscal 1976-1977 will rise by 35%. Because of the already high level of fringe costs assumed by the Board and the fiscal difficulties it would face in assuming all additional increases that may be implemented, the fact-finder recommends that both parties share equally in any increases in insurance premiums above the July 1, 1976 level that may arise during the period the contract is in effect.

#### Recognition

In the last contract, the Board recognized the Association as the exclusive bargaining representative for "all certified teachers and professional staff members, but excluding superintendents, administrative, and all other employees." The Board is seeking to modify the recognition clause by specifying the kinds of teachers and professionals who would be included in the bargaining unit in terms of the particular groups they taught or serviced. The Board's nomenclature for inclusion of employees in the bargaining unit is according to the Board better than the old language as it is consistent with Act 379 which mandates state aid for special education services. The union seeks retention of the old clause.

#### Discussion and Recommendation

During the hearing, the fact-finder sought to determine whether the current recognition clause generated difficulties concerning the inclusion or exclusion of workers from the bargaining unit. The record indicates that the provision has been implemented effectively with questions concerning an individual's membership in the bargaining being settled smoothly. For example, both parties have agreed that the three vocational counselors

who work under a separate structure and who deal with non-school adults are not part of the unit. Similarly there was agreement to exclude from the unit psychologists and social workers who while working at C.O.O.R. schools were still under the administrative and fiscal control of the Department of Mental Health. The Board sees virtue in specificity. Yet its proposed recognition clause would not have the ostensibly desired effect of drawing precise boundaries to the unit. Its list of representative teachers and counselors is only inclusive, and not exclusive of other professional people who may be incorporated in the bargaining unit. Moreover, a definition of the scope of the bargaining unit in terms of detailed and specific job classifications lacks flexibility and can create serious disputes potentially leading to arbitration and/or MERC intervention should the employer modify an individual's job title while maintaining his job duties.

In view of the above considerations, the fact-finder recommends retention of the existing recognition clause.

#### Summary

The fact-finder has made his recommendations upon a careful review of the exhibits and testimony. They are in his opinion fair and equitable. He urges the parties to use the recommendations as a basis for agreement so that a contract can be expeditiously consummated.

Benjamin W. Wolkinson

Benjamin W. Wolkinson  
Fact-Finder

Dated - January 4, 1977