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FACT FINDING RECOMMENDED SETTLEMENT

STATE OF MICHIGAN  
BUREAU OF INDUSTRIAL RELATIONS  
DETROIT OFFICE

In the matter of the fact finding between:

CHEBOYGAN AREA PUBLIC SCHOOLS

and

MICHIGAN EDUCATION ASSOCIATION

Case No. G86 B-143

FACT FINDER - KEITH GROTY

Appearances

Employer

Martha Marcero, Attorney  
James Laidler, Superintendent  
William Schewe, Deputy Superintendent

Association

M. Kay Habitz, Uniserv Director  
Don Hinman, Uniserv Director  
John Meeder, MEA Staff

Hearings Held:

Date Pre-Hearing/April 14, 1987  
Hearings/July 14 & 15, 1987

Place: Pre-Hearing/East Lansing, Michigan  
Hearings/Cheboygan, Michigan

LABOR AND INDUSTRIAL  
RELATIONS COLLECTION  
Michigan State University

*Cheboygan Area Public Schools*

## FINDINGS AND RECOMMENDATIONS

### Filling of Vacancies

The parties are in dispute as to the role of seniority and qualifications in the filling of vacant positions. The Association wishes to place more emphasis upon seniority; the Board wishes to place emphasis on qualifications as determined by the superintendent.

Recommendation: It is recommended that the parties first adopt the following classes of employees until such time as job descriptions, which more clearly specify duties and responsibilities, and minimum qualifications for the position, are finished: secretary, aides, paraprofessional-food, paraprofessional-medical, paraprofessional-merchandising, and paraprofessional-mechanical. Further, a person who is most qualified among the applicants for a position be selected using job related qualifications. Where qualifications are substantially equal, seniority will be used to award the position. More senior applicants who are not selected shall be given reasons, in writing, concerning the greater qualifications of the selected individual. Reasons deemed arbitrary and capricious may be advanced through the grievance procedure. Reference to the EEOC Guidelines, as proposed by the Union, need not be included in the agreement.

The Union proposes that senior employees be given a trial period. This would not be necessary if the most qualified person is selected. Each person selected, however, should have the right, at their choice, to return to their original position if, after a short period in the new position, they believe the change was unsuited for them and the position from which they transferred is still vacant. If the position from which

they transferred is no longer vacant, the individual may choose to go on a voluntary layoff.

#### Rate of Pay for Assignment to Temporary Duties

The parties are in dispute as to what rate of pay individuals should receive, if any, for assignment of temporary duties outside their class and the threshold for determining when this rate of pay would begin.

#### Recommendation

A person should commence to receive the higher rate of pay if they perform the duties of a higher class for more than ten working days annually. There should be no drop in rate if they are performing work at a lower classification unless transfer to that lower classification is permanent. This transfer to a lower classification could be voluntary or, if involuntary, is subject to a showing of cause.

#### Seniority

The parties are in disagreement as to which type of seniority should be used for members of the bargaining unit. The Association proposed that bargaining unit seniority should be that time spent in positions within the bargaining unit, while the Board proposed that bargaining unit seniority be the same as an individual's time within the district. In addition, the Association believes there should be seniority within classification.

#### Recommendation

There should be two types of seniority: Total seniority, which is equal to all of the time the individual has spent in the district, including the time in the bargaining unit and class seniority, which is equal to each day that an individual has worked within the class. Each

day shall count as one work day regardless of the percentage of time worked. It is the fact finders understanding that the parties have an agreement on which of the classification descriptions are to be developed by the Administration no later than one year following the effective date of the contract. Until such time as those descriptions are developed, class seniority should be by the temporary classes as set forth in this finding above.

#### Layoff and Recall

The parties are in disagreement over the procedure to be used in determining who would be laid off in the event of a reduction in force and the method by which there would be recall should opportunities arise for return to work. There is, also, no agreement as to the amount of time an individual would receive as notice prior to any layoff.

#### Recommendation

The parties should agree that layoffs will be by seniority within classification so that the longest seniority persons are retained. In order to meet the specific needs of the employer, seniority may be bypassed to retain skills not possessed by higher seniority persons. In any case, persons who are probationers would be the first to be released by classification.

As to recall of those on layoff, it would be in reverse of the layoff procedure with longer seniority persons being recalled first.

#### Notice

Persons to be laid off or recalled should have at least two weeks notice before the effective date of the layoff or the expiration of their recall rights.

### UNION SECURITY

The Union wishes to include within the contract language known as "maintenance of standards" so that all conditions of employment existing at the time of this initial contract, whether covered by the terms and conditions of this contract, would remain in effect for the term of the contract. The Board proposes that the language contained within the contract be the governing standards and that any preexisting benefits or conditions not covered by the contract should not become a "right" under the contract.

In addition, the Association proposes an agency shop agreement with a provision that the Board would terminate those persons who failed to pay the dues of the Association or a service fee for the work of representation.

### Recommendation

It is not recommended that a "maintenance of standards" clause be attached to this agreement since the parties have had ample time and opportunity to include within their bargain those preexisting conditions and benefits which should be covered as a contractual right.

It is recommended that an agency shop agreement be entered into with a provision that persons covered by the bargaining unit who do not contribute their fair share for the benefits received from representation be terminated by the Employer. It is recommended that the provision be either the payment of dues or an amount equivalent as a service fee.

### SUBCONTRACTING

The Association proposes the inclusion of a subcontracting clause which would prevent the Board from transferring work out of the unit,

increasing the work in a given position, displacing a member of the bargaining unit with work done by supervision or non-unit personnel and, in general, preserving to bargaining unit employees all work of the type done by their unit within the district.

#### Recommendation

The fact finder is not persuaded by the evidence presented that there is a practice of subcontracting or the use of volunteers to displace regular employees which needs to be prohibited by no subcontracting language. The record established raise no foundation in support of the inclusion of this type of language within the labor agreement. Therefore, it is recommended that the proposals on no subcontracting be dropped.

#### SCHEDULES

This matter was settled during the hearing with an agreement between the parties and no recommendation will be made by the fact finder.

#### REST PERIODS

The Association proposes that the contract include provision for rest periods during each working day.

#### Recommendation

A provision should be included in the agreement providing each member of the bargaining unit entitlement to a 15 minute rest period in each four hour work period.

#### LEAVES

##### Personal Business Days

The parties agree that personal leaves should be deducted from the sick leave accumulation. There is disagreement, however, as to how many

days per year an individual may deduct from their sick leave for personal business leave. The Association wants all members of the unit to have a right to three personal business days while the Board proposes that persons working 12 months have three and all others would have two personal business days annually.

#### Recommendation

The agreement between the parties should contain language permitting two personal business days annually to be used from the sick leave accumulation. Persons who are presently in the unit and who are receiving three personal leaves should be permitted to continue as long as they are in their present position, but this right would terminate should they change position or when the position is filled by another person in the future.

#### SICK LEAVE

The Association proposed that all individuals be allowed to accumulate 200 days of sick leave if they work 12 months and 180 days of sick leave if they are on the academic year. The Board proposes 180 and 120 days respectively. This situation is complicated by the fact that some individuals who would fall under the Board's proposed 120 days limit have been allowed previously to accumulate 180 days.

#### Recommendation

The issues is how many days one should be able to accumulate from their unused annual allotment regardless of how many days they receive annually. There seems to be no compelling reason to differentiate between the number one can accumulate even though some persons accumulate them more rapidly because they work a longer year. Therefore, it is

recommended that the former practice of allowing 180 days of sick leave to accumulate should be incorporated within the agreement.

#### Snow Days

The Association proposes that persons receive annually credit for up to two days paid leave when the district may be close for snow days and the individual is not required to report for work. The Board's past practice is not consistent since some persons were paid and some not, even though they were asked not to report.

#### Recommendation

The agreement should contain two days annually when the district could declare a snow day and the individuals would be instructed not to report but would not lose compensation. The Board should still be free to require members of the unit to report on snow days unless prevented by the conditions outside of their control. When the Board judges that an individual was not precluded from reporting when instructed to report and, thereby, deducts compensation, the matter would be subject to the grievance procedure if alleged that the Board acted arbitrarily and capriciously.

#### Holidays

The Association proposes that the contract contain language providing for seven paid holidays plus Good Friday, if Good Friday is not contained within the vacation week. The district proposes that the contract contain no language concerning holidays, and that part timers should receive no holiday pay even if granted to other bargaining unit employees.



### Recommendation

The list of holidays as proposes by the Association: Christmas, two days; New Year's, two days; Easter, one day plus Good Friday if not within the vacation week; Fourth of July, one day; and Thanksgiving, one day; should be included within the collective bargaining agreement. For persons who are salaried employees these holidays should not be considered additional compensation since the time is already paid for within the annual salary. For persons who are hourly paid employees, whether full time or part time, they would receive their same hourly pay for the day as if working on that day. Persons who work part time and who would not have been scheduled on one of these days would not be paid since it would normally have been their day off.

### Vacations

The parties agree that a provision for vacation should be included within the agreement so that full time, full year employees are eligible for vacation allowances. The parties agree that persons in their first and second year would receive one week of vacation allowance and persons who have completed three through seven years would be entitled to two weeks annual vacation allowance. The Board proposes that persons over seven years would receive three weeks. The Association proposes that persons through year ten receive three weeks and those over year ten would have a fourth week of vacation.

### Recommendation

Testimony received indicates that no one within the district receives four weeks of vacation allowance. The fact finder is not persuaded that this bargaining agreement should provide four weeks of vacation

to any members of this bargaining unit. Therefore, it is recommended that persons with over seven years receive three weeks of vacation allowance annually.

#### OVERTIME

The Association proposes that persons in the unit receive time and one half for hours worked beyond eight in one day or 40 in a week, and double time for work on Sundays and holidays. The Board points out that no work is done on holidays and that the only Sunday work occurs at graduation. There is no disagreement that compensatory time in lieu of pay may be taken upon mutual agreement between the employer and the bargaining unit member.

#### Recommendation

The matter of overtime for work beyond 40 hours in a week and the taking of compensatory time by mutual agreement are covered under law. It is recommended that the agreement follow the conditions of law and not provide for overtime compensation greater than that contained within the law.

#### INSURANCE

##### Health Insurance

The Association proposes that all bargaining unit members who work 35 or more hours per week receive fully paid full family Blue Cross/Blue Shield MVF II, or ULTRA MED SET 500. Those members working less than 35 hours per week should received a prorated amount. Members of the unit now receiving more than these provisions would be "grandfathered" into their higher benefit provision.

The Board agrees to the provisions for bargaining unit members working 35 or more hours per week, but only for year around (12 month) employees. All regular employees working at least 180 days, but less than year around, would receive only a single subscriber fully paid program. For employees in either the year around or less than year around categories who work less than 35 hours a week, but more than 20, the Board proposes to pay for 50 percent of the benefit.

#### Recommendation

It is recommended that the parties not distinguish between year around and 180 day employees. Regardless of the length of year, all regular employees working 35 hours or more per week should receive a fully paid, full family health insurance program. Persons working less than 35 hours per week, but more than 20, should receive a contribution equal to half the full family rate toward their benefits.

#### Dental Insurance

The Association proposes that all persons, regardless of the length of the work year but who are employed 35 or more hours per week, receive fully paid full family dental insurance equal to the current Canadian Dental Plan. The Board believes the plan should be limited only to those who are employed 35 hours a week or more the year around.

#### Recommendation

All those employees who work 35 hours or more per week for at least 180 days per year should receive the full family fully paid dental plan equal to the current Canadian Dental Plan.

### Vision

The positions of the parties on vision insurance are exactly the same as for dental insurance. The Board would limit it to year around employees; where the Union would cover all employees who work 35 hours or more per week.

### Recommendation

It is recommended that the vision insurance program be applied to the same persons as the dental. Persons who work 35 hours or more per week, and at least 180 days per year, would receive the fully paid full family vision program equal to the current Set V Provision Plan Sets.

### Life Insurance

The position of the parties on life insurance is the same as for dental and vision. The Board would restrict the benefit to year around regular employees working 35 hours or more per week, while the Association would provide it to all who work at least 35 hours a week or more regardless of the length of their year.

### Recommendation

It is recommended that life insurance be granted in the same method as dental and vision insurance. Persons who work 35 hours or more per week and at least 180 days per year should receive fully paid life insurance equal to the current \$20,000 American Life Insurance.

### Wages

The Association has proposed an eight percent (8%) increase to all employees of the bargaining unit. In addition, the Association proposed a \$300 longevity bonus for ten years of service plus an additional \$300 for each additional five years thereafter. In addition, the Association also proposes salary schedules for the 1986-87 and 1987-88 school years.

The Board proposes a four percent (4%) increase to all employees and longevity bonuses of \$200 after ten years and \$200 for each additional five years of employment. In addition, the Board proposes that there be a three year agreement covering the years 1986-87, 1987-88 and 1988-89. The Board offers a salary schedule of up to five years of experience as opposed to the Association's proposal of pay scheduling topping out at three years. (Note: The longevity proposal for both parties covers only secretarial personnel.)

The parties offered numerous exhibits to show the financial condition of the district and the comparison of wages with other districts. As is common in these matters, the parties have no agreement as to the actual comparables that should be made, whether adjustments of disparity should be corrected immediately or over some agreed upon period of time, and what the appropriate number of steps should be in the salary program. While all these are important questions, they can not be addressed in this round of negotiations.

#### Recommendation

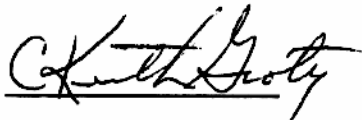
It is of particular importance that the parties arrive at this initial agreement to build stability into their relationship. While a wage increase carries particular importance to the members of the bargaining unit, it is to be kept in the context of a total agreement which will be modified over time through a subsequent negotiations. Therefore, the fact finder is more concerned with creating a equitable increase recommendation than he is the creation of a schedule.

In light of the economic conditions of the district, the relative positions of other units and the general economic environment in which

the employees in the unit find themselves, the fact finder recommends that the parties make a three year agreement with a six percent (6%) across the board increase for the 1986-87 school year, a five percent (5%) increase across the board for the 1987-88 school year, and a reopener on wages only for the 1988-89 school year. During the term of the contractual agreement the parties will have time to finalize the job descriptions and formulate wage structures which could be the subject of negotiations in the third year of their agreement.

As to the matter of longevity, it is the recommendation that the parties split the difference between them and agree to a payment of \$250 per year for persons with ten years of service and an additional \$250 for each five year period thereafter.

The fact finder wishes to thank the parties for their cooperation and thorough preparation.



C. Keith Groty

October 13, 1987