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BY APPOINTMENT OF
THE
EMPLOYMENT RELATIONS COMMISSION
(FORMERLY LABOR MEDIATION BOARD)
STATE OF MICHIGAN

University
MEDIAL
DAY

In the Matter of Fact Finding Between:

CLARKSTON EDUCATION ASSOCIATION

-and-

CLARKSTON COMMUNITY SCHOOLS

REPORT

Introduction

A one year Agreement between these parties expired June 30, 1969. Negotiations for a new Agreement have resulted in impasse as to salary schedule and 7 other issues.

Based on a joint application for Fact Finding, a hearing was held at the Board of Education office on September 4, 1969. This Report discusses the various issues in dispute following the order in which they were presented at the hearing.

I. - Teaching Hours

The Association proposes the following language for Elementary hours under Article IV:

"B.3. Normal relief time shall be in two (2) fifteen (15) minute periods per day.

"B.4. Normal lunch time for teachers will be thirty (30) minutes of released time.

"B.5. Exceptions to 3 and 4 are: Teachers shall assume the responsibility on a scheduled basis as prepared by the building principal as follows:

Clarkston Community Schools

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- a. One teacher on duty each day during the noon recess. It shall be the responsibility of the teacher to handle these student problems that may occur.
 - b. In emergency situations where students must be in the building after the normal school day.
 - c. When aides are unavailable due to an emergency.
 - d. In case of inclement weather, teachers shall provide supervision.
 - e. For any of the above exceptions, the teacher involved shall be compensated at the rate of \$5.00 per occurrence."

The Board opposes the payment of \$5.00 for the occurrences listed under B.5. It notes that historically this has been a teacher responsibility on a scheduled rotating basis. Aides have normally covered recesses with one teacher on stand-by duty. The Board characterizes continuation of this past practice as part of teachers' professional responsibility to students.

Of the 28 districts in Oakland County, 14 (including 3 contiguous districts) provide a duty-free lunch period without exception. 2 districts, one of which is Pontiac, have assigned duties and 5 other districts, including adjoining Waterford, have rotating lunch period duty.

The subject matter of this issue is an identical continuation of language contained in Article IV, Sections E.5. and E.8. of the expired Agreement. The Association is now, however, proposing that a flat \$5.00 payment be made to each teacher when assignment or necessity of this type arises.

I do not find that good reason has been shown to justify such payments. Although completely duty-free lunch is a desirable goal of teachers, the Association itself contemplates that the rotational practice will continue under which each teacher will be assigned periodically to lunch period duty. It is not, therefore, the principle involved but the attempt to receive extra pay for assumption of this duty. I believe it would be undesirable to select out this particular duty and accord it extra pay. Contrary to year long or seasonal extra duty assignments, the lunch period presence, or availability of, a teacher is closely intertwined with the daily student-teacher relationship. Similarly exceptions b., c. and d. are situations in which the students would benefit from the concerned attention of their teacher. As a matter of contract administration, the language of this proposal could readily result in disputed interpretations, particularly as to what constitutes an "emergency". I believe it to be better to establish a proper base salary for teachers under which these duties become merged in their overall professional relationship with students. On this issue I recommend that the Board's position be adopted.

II. - Teaching Conditions (Class Size)

Within the pruvieu of the parties joint acknowledgment that pupil-teacher ratio is an important aspect of a quality education program, the

Association has proposed the following:

"Therefore, the following shall be the maximum class load standards:

Elementary

	Optimum	Maximum
Kindergarten, grades 1, 2 and 3	25	28 pupils
Grades 4, 5 and 6	28	30 pupils

In the event that maximum class size limits are exceeded, a joint committee composed of the teacher, administration and a representative from the Association shall meet to determine the solution to the problem: (1) a teacher aide, (2) \$1 per day per additional pupil, or (3) any other solution mutually agreed upon.

Secondary

Required or elective academic classes: 175 pupil contacts per day
Music and Physical Education: 220 pupil contacts per day
Large group instruction: "

The Board proposes the following:

"The parties agree that class size should be lowered whenever practicable and to the extent feasible (taking into account the availability of qualified staff, facilities, funds and State requirements). The following are recognized as desirable goals:

Elementary:

Kindergarten	25 pupils
Grades 1 - 6	30 pupils

Secondary:

The 30 to 1 ratio of the North Central Association shall serve as the guide in secondary schools with the exception of such classes as music, physical education and large group instruction.

Class size shall not be subject to grievance."

The expired Agreement set forth the following desirable goals under Article VI:

"Elementary:

Kindergarten	25 pupils
Grade 1 - 6	30 pupils

Secondary:

Required or elective academic classes - 180 pupil contacts per day
Music, physical education, - 240 pupil contacts per day
large group instruction

The Association reports that elementary enrollment as of September 3, 1969 is 139 students greater than that projected by the Board as recently as June, 1969 (but without allowance for students transferring out of the district).

In a survey of class size provisions in Oakland County the following facts are shown:

- 9 districts (including contiguous Lake Orion and Oxford) provide for consultation with the association when class size exceeds a certain number.
- Hazel Park provides a pay differential to teachers with oversize classes.
- 5 districts (including Pontiac) provide teacher aides in event of oversize classes.
- Clarenceville refers class size problems directly to the grievance procedure.
- Troy provides that oversize classes be alleviated by bussing, additional staff or clerical help, in that order of preference.
- Article VI, Section 2 of the Berkley Agreement reads:

"Should any elementary class exceed a maximum of thirty-two (32) pupils, the teacher involved shall be assisted by a teacher aide on a half time basis."

The 1968-69 enrollment in Clarkston elementary schools showed an overall pupil-teacher ratio of 27.3, exclusive of permanent substitutes, music teachers, speech teachers, school social workers or diagnostician. The high average at Andersonville School was 30.9 and the low at Sashabaw School was 25.3. Average kindergarten size at Andersonville, Bailey Lake, Pine Knob and Sashabaw Schools was 25.3, 29.5, 27.0 and 32.5, respectively; all in excess of the goal set forth in Article VI of last year's Agreement.

The Association reports that the Board has offered to engage in meetings of the type proposed if the pupil-teacher ratio for a building exceeds 32. The Board contends that fixed ratio would be extremely difficult to administer and the district has no control over fluctuation in student enrollment.

It seems that only a minority of Oakland County districts have established concrete alternatives to oversize class problems. The establishment of "desirable goals" or "optimum" class size is an expression of what is preferred not what is required. The essence of a collective bargaining agreement is certainty as to provisions and their meaning. To the extent that contract language is in terms of goals it is not readily susceptible of application. It is analagous to provisions in statutes, rules or procedures termed "directory" which has been defined as being " . . . a mere direction or instruction of no obligatory force, and involving no invalidating consequence for its disregard, as opposed to an imperative or mandatory provisions, which must be followed" (Black's Law Dictionary, Fourth Edition, pg. 547). Furthermore I do not find that the pupil-teacher ratio in this district is such as to cause alarm, at least for the coming school year. On this issue I recommend that the Board's position be adopted, including the stipulation that matters of class size be excluded from the grievance procedure (as was the case under the expired Agreement).

III. - Teaching Conditions (Building Aides)

Article VI G. of the expired Agreement reads:

"Aides will be provided in the elementary schools. The aides will be directly responsible and accountable to the building principals and shall receive all assignments from the building principals."

The Association proposes the following language for 1969-70:

"B. Building Aides:

1. The duties and assignments of building aides provided by the Board shall include, but not be limited to, the following:
 - a. The collection of milk and lunch money
 - b. The supervision of children during recess
2. The aides shall be directly responsible and accountable to the building principal.
3. The schedule and assignments of building aides shall be determined by the building principal."

The Association's purpose in this proposal is to clarify and define the impact of building aides on teachers.

The Board contends that collection of milk and lunch money must be done in class after the school day begins and the teacher is in the best position to do this. Further it is claimed that it would unduly distract students were another adult to regularly interrupt classroom activities for this purpose.

Reflecting on my discussion under Section I. of this Report, I again feel that the teacher's role is best expressed by continuing the practice of milk and lunch money collection. As to the proposal for supervision of children during recess it was not marked as a "conflict" area between the parties, although I understand the Board has not agreed to it. I would be inclined to agree that this duty of building aides might be specified; however it seems to be contemplated by past practice and the evolving provisions of Article IV B.5. With the limited information available as to the role of building aides I hesitate to single out one specific duty and establish it as a mandatory definition. To do so would implicitly excuse teachers from that same duty and I am not sure the bargaining history between these parties is sufficiently settled, nor is the framework of their collective bargaining agreements sufficiently structured to support such subtle delinquencies. On this issue I reluctantly recommend that the Board's position be adopted.

IV. - Personal Business

Absence from work was treated in Articles IX and X of the expired Agreement. Article X B., entitled "Personal Business" provided that paid leave (or sick leave) would be allowed a teacher when there was a death in his family.

The parties are now negotiating the consolidation of language dealing with absence from work under a single Article IX to be entitled "Paid Leaves".

Proposed language of Article IX C. (Death) is essentially the same as that characterized "Personal Business" last year. In addition Article IX H. sets forth a basis for paid absence from work, not to exceed 2 days per year, because of "Legal or Moral Obligation". Prior approval of the building principal and concurrence of the Superintendent's office is necessary and the subject is excluded from the grievance procedure.

The language in dispute is the Association's further proposal which reads:

"I. Personal Business

Two (2) days shall be granted to each teacher year year (non-accumulative) for the conduct of personal business to be used at the discretion of the teacher. The teacher shall notify the Office of the Superintendent of his intention to use such a day before 7:15 a.m. of the day taken."

Of the 28 districts in Oakland County, adjoining Brandon and Waterford allow 2 days personal business at the teacher's discretion; 10 districts, including adjoining Huron Valley, allow an average of 2.1 personal business days without requiring a reason and 3 districts, including Pontiac, allow an average of 2.3 personal business days but require a reason.

The Board opposes this proposal on grounds it is not in the best interests of students. The Board feels inferior teaching would result through greater use of substitutes and acquiescence could not be justified to the public. The Board objects to a further "expense item" at this point and believes that the proposed "Legal and Moral Obligation" language will be adequate.

In the course of a school year I can readily imagine a rare instance in which a teacher would desire to miss work for purely personal reasons. In general I believe that personal business privilege is sound and that restrictions and approvals concerning its use are unduly stringent if not degrading. Thus I am satisfied with the theory of the Association's proposal. From the standpoint of my experience, however, the "Legal and Moral Obligation" provision is one that carries the seeds of discord. It contains the undesirable feature of requiring approval for what the teacher senses to be a true obligation. A dispute could readily arise over whether an obligation is either "legal" or "moral" and the matter may not be grieved. With this provision shaping up I cannot endorse the full scope of the Association's proposal. On this issue I recommend that the Association's proposal under IX I. be granted to the extent of one (1) day of personal business each year; OR, in the alternative, two (2) days if Article IX H. is withdrawn.

V. - School Calendar

The parties have each developed a proposed school calendar. There are variations as to in-service scheduling, but the main point of contention is whether Easter recess shall fall before or after that holiday. The Association's Exhibit 13 on county-wide in-service policies is inconclusive and I agree generally with the Board's position that schools not be closed for

parent-teacher conferences.

Because of the occurrence of Good Friday on March 27, 1970 the Association's proposal of Easter vacation from March 26 to April 6 would result in 186 duty days and 181 attendance days. The Board would schedule Easter vacation from March 20 to March 30 resulting in 187 duty days and 182 attendance days.

Of the 28 districts in Oakland County, 8 districts, including Huron Valley, Lake Orion, Pontiac and Waterford, will have only 180 attendance days for the coming year. Another 10 districts, including contiguous Holly, will have 181 attendance days. 17 districts, including all those just specifically named, are scheduling Easter vacation the week following the holiday. For the 1968-69 school year Clarkston followed this pattern with an Easter vacation period from April 3 to April 14.

Based on the predominance of area practice I believe it better to continue having Easter vacation after the holiday. It would seem this is what the community might also expect since the Board's proposal would fall uncommonly early in the spring. The fact that this results in a 181 attendance day schedule is in keeping with patterns in the county. On this issue I recommend that the Association's proposal be adopted.

VI. - Professional Compensation

In the proposed preliminary language on this subject the Association makes the following proposals:

"XV D. A teacher's daily rate shall be computed by dividing 192 into his contractual salary.

"XV F. Upon leaving the system the teacher shall receive a month's B.A. Base Pay for each year in the district to be limited to no more than twelve (12) months."

The Board proposes that daily rate be determined with 195 as the divisor and it is opposed to granting severance pay.

The expired Agreement provided for determining daily rate by dividing 195 into contractual salary but had no provision on severance pay.

The 192 figure advanced by the Association is based on their proposed 186 duty day school year plus 6 holidays. The derivation of a daily rate is for conditional use should extra pay entitlement or docking of salary arise. The Association concedes that it is largely academic but "important when it happens". Arithmetically the Association's proposal would result in a higher daily rate amount than the Board's.

The Board adheres to its proposal based on action of the School Board, taken June 24, 1969, and recorded as follows:

"SCHOOL CALENDAR

It was moved by Fernando Sanchez, supported by Richard Funk, to set the school term minimum requirements as follows: 39 weeks of

"not less than 182 attendance days, commencing on the second day of September 1969. Motion carried."

39 weeks of school term at 5 days per week results in the 195 day figure proposed by the Board on this point.

While I have due respect for the constituted authority of the Clarkston School Board, we are dealing here with collective bargaining relating to general terms and conditions of employment under the Public Employment Relations Act. As such there must be negotiation and this is the process now underway. The 192 figure bears a more realistic relationship to its purpose of establishing, in advance, a daily rate salary figure in the event it need be applied. It is 192 days which actually constitutes a teacher's work year and not the less relevant figure of 195.

As to severance pay this proposal was not supported by any persuasive justification and I am in no position to endorse it. On these preliminary issues of Professional Compensation I recommend that the Association's proposal be adopted as to "daily rate" calculation but that severance pay not be granted.

The Board has proposed a salary schedule for the new school year of a \$7,250 BA minimum base. Other significant figures of the Board's proposal are a BA maximum of \$11,300, a MA minimum of \$7,845, a MA maximum of \$12,210, an Ed.S(Educational Specialist) minimum of \$8,160 and an Ed.S maximum of \$12,695. The Association seeks BA, MA and Ed.S minimums of \$7,400, \$8,140 and \$8,880, respectively and maximums of \$12,053, \$13,259 and \$14,465, respectively. It also proposes to add BA/15 and MA/15 salary tracks, costing approximately \$20,000 and longevity steps at the 15th, 20th and 25th years, costing approximately \$28,000.

The Board's proposal would result in the following percentage increases over 1968-69 on the basic schedule:

BA min.	-	6.9%
BA max.	-	6.3%
MA min.	-	6.5%
MA max.	-	5.1%
Ed.S min.	-	5.1%
Ed.S max.	-	4.4%

The Association's proposal would result in the following counterpart percentage increases:

BA min.	-	9.1%
BA max.	-	13.5%
MA min.	-	9.7%
MA max.	-	14.1%
Ed.S. min.	-	14.4%
Ed.S. max.	-	19.0%

The Association has advanced information as to area settlements, new revenue from state and local sources, history of teacher salary ratio to current operating expenditures, data on extra pay assignments(athletic and non-athletic) and projected income and expenditures for 1969-70.

The Board has advanced information as to its accounting practices, new expenditure areas, history of instructional share of budget, trend in the district's cash balance and projected income and expenditures.

The Association costs its salary proposal at \$2,500,830 and that of the Board at \$2,311,281. On an earlier Board estimate of Current Operating Expenditures (C.O.E.) for 1969-70 of \$3,947,455 these teacher salary costs would be 63.3% and 58.7%, respectively. In the past 4 years this figure has ranged from 61.7% to 63.4%. Under the Board's "tuition method" of accounting, instruction costs have risen to 76.55% in 1969 and are anticipated as 77.2% for 1970.

Assuming the number of pupils as 6,300, the Association estimates new 1969-70 revenue from local and state sources of \$387,670. Calculating from 1968-69 salary costs of \$2,129,544 and general fund equity of \$478,047, the Association concludes there should be a year-end general fund equity for other areas of \$696,261 under the Board's proposal and \$494,431 under its own. Another demonstration of financial ability is made by showing that anticipated revenue increase would allow absorption of the Association's salary proposal with \$84,136 left for other budgeted areas without impairing the last general fund equity.

The Board's latest budget, furnished August 18, 1969, anticipates 1969-70 income of \$4,087,944 and expenditures of \$4,238,455. The state aid (special education) estimate is \$71,000, although this revenue item, as audited for 1968-69, was \$105,260. It appears that this latter figure is actually made up of non-recurring payments for equipment, receipt of 1967-68 subsidy and an accounting entry for the 1968-69 subsidy (amounting to \$61,910) as an asset item since not yet actually received. This deferred subsidy payment is consistent with the district's official State Aid Financial Status Report.

Various categories of expenditure increase are related to opening of a new junior high school. This includes salaries of administrators and operation of plant. Other anticipated cost increases are in the areas of secretarial salaries, library aides, vocational education and driver education. Reduced income is anticipated under federal aid and vocation education income.

The amount of delinquent taxes has risen to \$113,000 and is expected to increase further because of greater S.E.V. The district's cash balance as of June 30, 1969 was \$283,708, down from \$316,164 in 1968 and \$569,080 in 1967.

The following schedule shows Clarkston in regard to salary ranking with the 28 districts of the county:

	<u>BA min.</u>	<u>BA max.</u>	<u>MA min.</u>	<u>MA max.</u>
1965-66	24.5	20	26	21
1966-67	17.5	22	18	22
1967-68	24.5	22	25.5	18.5
1968-69	22	20	11	21

The cash position of this district remains good and back tax collections offset delinquencies. The teachers' salary ratio should remain essentially

the same as should general salary ranking in the county. Opening of a new school building has caused unusual outlay, but close management of costs can temper this.

On the basis of all available facts I propose the following salary schedule highlights. The percentage increase over 1968-69 base salary figures is shown in parentheses. The unrounded salary amounts to which the parties are accustomed, and the 1/2 year variations, make it inappropriate to set forth an entire schedule. I do not adopt the Association's proposal for 2 new salary tracks because of inadequate justification. Since there are only 2 holders of Ed.S degrees in the district I leave establishment of that salary track to the parties with the recommendation that it be about a 9% increase. Longevity pay is customary and desirable and I recommend it at a 3% increment for each 5 years beyond the top step. Based on what was last known of settlements, this schedule would tend to continue the relative county-wide salary standing of Clarkston teachers. The recommended schedule is:

BA min.	-	<u>\$7,375</u> (8.6%)
BA max.	-	<u>\$11,625</u> (9.6%)
MA min.	-	<u>\$8,075</u> (8.8%)
MA max.	-	<u>\$12,625</u> (8.6%)

As to extra schedule pay the Association proposed coaching increases of 30%(football and basketball), 55%(baseball, track and wrestling), 75%(cross country, skiing, golf and middle school athletics) and 100%(tennis). The Board's salary proposal includes reducing some coaching remuneration, offering minimal increases in others and in no case proposing more than an 8% increase.

I recommend that for athletics extra pay there be an 8.6% increase with the Board reserving the authority to alter at least 1 program in both high school and middle school for boys and 1 program at either level for girls.

As to non-athletic extra pay I find a more extensive and detailed listing than has existed in the past. Until more experience is gained with the expanded extra pay schedule I believe that increases for this year only need offset Consumer Price Index rise. Here I recommend a 5% increase, or the Board's offer, whichever is higher.

VII. - Curriculum Committee

The expired Agreement contained Article XIX on Curriculum Coordinating Committee, the language of which the Board proposes to continue although perhaps renaming the committee as "study" or "guidance".

The Association proposes more specific language including a provision that the committee meet "regularly once each month".

As with Section II. of this Report, the establishment of this committee is somewhat removed from what is ordinarily found in a collective bargaining agreement. I believe more experience should be gained informally with a

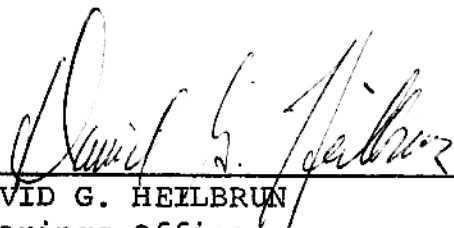
curriculum committee of this type. I am inclined to favor the Association's general purpose here but recommend only that its proposal be adopted in principle; that required meetings be at least bi-monthly only and that the subject matter be excluded from the grievance procedure.

VIII. - Professional Grievance

The Association proposes that an arbitration clause be added to the grievance procedure and that the American Arbitration Association be the administering agency. The Board earlier offered restricted arbitration language but now has withdrawn this pending outcome of other issues.

17 Oakland County districts, including Lake Orion, Pontiac and Waterford, have arbitration as the terminal step in the grievance procedure this year. An arbitration provision similar to that proposed by the Association was in effect in the South Lyon contract during 1968-69..

In general binding arbitration has been found a satisfactory means of amicably resolving contract disputes. In view of its predominant use in the county I generally recommend its adoption. The Association's proposed language is typical and I believe it should be the general framework for an arbitration clause. However the Board seeks the privilege of having its own investigating committee and I believe that should be accommodated. I recommend that the Board's language of its June 18th Second Counterproposal be used and that additional time be accorded at this step of the grievance procedure to allow effective functioning of such committee. Further the Board should be permitted to add restrictive or explanatory language clearly defining the limits of arbitral authority.



DAVID G. HEILBRUN
Hearings Officer

Dated at Southfield, Michigan

this 16th day of September, 1969.