

STATE OF MICHIGAN
MICHIGAN EMPLOYMENT RELATIONS COMMISSION

In the matter of:

Edwardsburg Board of Education

-and-

Edwardsburg Education Association

Case No. L73 G-513

Report of Fact Finder
and Recommendations

before

Kenneth Grinstead
Fact Finder

Michigan State University
LABOR AND INDUSTRIAL
RELATIONS LIBRARY

Appearances:

For the Edwardsburg Board of Education:

Richard Fitzgerald, Superintendent
Joseph C. Lynch, Attorney
Lowell VanZandt, School Board Member
Lyle F. Sisson, Community Education Coordinator
Gary Campbell, Business Manager

For the Edwardsburg Education Association

Channing Todd, Teacher, 5th Grade
Diana Lung, Teacher, 4th, 5th, 6th Grades
Jerry Wright, Teacher, 4th, 5th, 6th Grades
Jane Switalski, Teacher, 4th Grade
Wanda Rutten, Teacher, 2nd Grade
Janice Warrick, Teacher, Jr. High
Joel Steinhauer, Teacher, Jr. High
James Boerma, Executive Director

October 3, 1973

Edwardsburg Board of Education

I

INTRODUCTION

Fact Finder's Assignment and The Hearing

On September 10, 1973 the Fact Finder was duly appointed to conduct a fact finding hearing pursuant to Section 25 of Act 176 of the Public Acts of 1939, as amended and the Commission's Regulations, and to issue a report with recommendations with respect to the matters in disagreement. This followed a request for fact finding filed on August 28, 1973 by the Edwardsburg Education Association (hereinafter Association).

The hearing was held on September 26, 1973 in the Edwardsburg Administration Building, at 435 Section Street, Edwardsburg, Michigan. The parties were well prepared for the hearing as evidenced by numerous exhibits supported by oral presentation and every person was very cooperative.

Master Agreement

On June 6, 1973 the Association and the Edwardsburg Board of Education (hereinafter Board) entered into a collective bargaining agreement for a one-year period, July 1, 1972 to June 30, 1973.

Negotiations Prior to Fact Finding

Negotiations commenced in this dispute on March 8, 1973 and continued intermittently until July 5th when the Association agreed to take the tentative agreement to its members for a

ratification meeting. Ratification failed and the parties returned to the negotiating table on August 14th. On August 14th a state appointed mediator assisted the parties and on August 28th the Association requested fact finding.

The teachers agreed to commence work as scheduled and no interruption of services has occurred.

Profile of the Edwardsburg School District

The Edwardsburg school system is located in Cass County in the southwest part of the state near the boarder of Michigan and Indiana. The major shopping and employment centers for adults in the community are Elkhart, Indiana; South Bend, Indiana; and Niles, Michigan.

The geographic area is changing from a rural to suburban. The large number of lakes in the district has drawn many people as summer residents. Most of these summer homes are now being utilized as year round residences.

The school system has shown slow steady growth. The student enrollment during 1972-73 was 2,109 and is about 2,250 for 1973-74. There are approximately 190 employees of the school system; 102 are teachers. Four teaching positions were added for 1973-74. Administrators include four principals and one assistant principal, a community education director, a business manager and the superintendent of schools.

The school board is the largest employer in the district. The school serves as the center for many community activities. There are parents working in non-skilled jobs and there are some professionally trained and executive persons. A mobile

home industry exists in the district. There are several major corporations, such as Miles Laboratories and Bendix Corporation, located in neighboring communities, that employ Edwardsburg residents with special skills and management abilities.

The State equalized valuation of property in the Edwardsburg district for 1973-74 is about \$34,300,000 or approximately \$15,245 for each student enrolled. The Edwardsburg Board of Education levies 24.90 mills for current operation and 7.15 mills for debt retirement. The total property tax levy in the District for the Edwardsburg schools is 32.05. During 1973-74 the Board will receive about \$538 in state assistance per pupil and about \$376 per pupil from local property taxes.

Issues

As set forth in the petition and as presented during the Hearing, the issues in dispute between the parties are as follows:

1. Salaries
2. Annual salary increment subject to principal's evaluations.
3. Leave policy

Findings of facts, recommendations and reasons for recommendations are presented in this report. The parties stipulated that recommendations be limited to the period July 1, 1973 to June 30, 1974.

Applicable Criteria for Fact Finding

Rule 35 of the General Rules and Regulations of the Employment Relations Commission states in clear and concise

language the reporting duties of a Fact Finder. These are:

1. After the close of the hearing, the fact finder shall prepare a fact finding report which shall contain:
 - (a) A statement of findings of fact and conclusions upon all material issues presented at the hearing.
 - (b) Recommendations with respect to the issues in dispute.
 - (c) Reasons and basis for the findings, conclusions and recommendations. However, the parties may waive the requirements of this paragraph and the fact finder may then issue a report containing only items set forth in paragraphs (a) and (b).
2. The fact finder shall file a copy of his report with the board and at the same time serve a copy on each of the parties.

To the greatest degree possible, a Fact Finder should avoid giving his personal opinion about an issue. He should formulate his conclusions and recommendations on the basis of the facts submitted and certain applicable standards. Various standard criteria have emerged which can be applied to the issues between the Association and the Board. For example, Act 312 of Michigan Public Acts of 1969 as amended (Policemen and Firemen's Compulsory Arbitration Act) sets forth excellent guidelines which the writer had adopted for fact finding. These are:

Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.

- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally;
 - (i) In public employment in comparable communities.
 - (ii) In private employment in comparable communities.
- (e) The average consumer prices for goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

The Fact Finder utilizes bargaining history on issues, when available, in formulating recommendations in the belief that he should seldom suggest recommendations that exceed the final bargaining positions of the parties on the issues. In addition, the Fact Finder has adopted a policy of making recommendations which are reasonable to the parties since acceptability should be an underlying criterion applied in making recommendations.

Lawful Authority of the Employer

Several important legal restrictions must be taken into account by a Fact Finder in determining the financial ability of a board of education to finance its program. These are:

1. The Board is prohibited by Section 6, Article 9 of the State Constitution from levying a property tax for current operations exceeding the levy authorized by voters in the district. In addition to the 9.00 mills allocated in Edwardsburg from the 15 mill limitation, the voters have approved a levy of 15.90 mills for current operation, none for buildings and sites, and 7.15 mills for debt retirement.

There is no permissible legal way for the Board to increase income from local property tax unless authorized by the voters. The Board cannot use any monies raised for debt service to support current operations.

2. The state aid allocation formula is established by law and administered by the State Department of Education. The Edwardsburg Board cannot change either the formula or the payout.
3. The Board cannot engage in deficit financing. On September 23, 1971, the Michigan Attorney General issues Opinion No. 4673 which states that a board of education is prohibited from (1) knowingly adopting a budget in which proposed expenditures exceed funds on hand and reasonably estimated revenues, including borrowed money to the extent the funds borrowed in anticipation of either property taxes or state aid revenues to be received in the fiscal year in which such borrowing occurs, and (2) operating at a deficit.

4. A board of education must comply with the general wage and salary standards including restrictions on retroactivity set forth in Federal Pay Board Guidelines and Federal Statutes. (The Fact Finder takes judicial notice of the Guidelines.) The Board is required to comply with the Guidelines as interpreted by the Internal Revenue Service.
5. State Department of Education Rules and Regulations compel local school boards, except under unusual circumstances, to hold school at least 180 days for five hours per day for a minimum of 900 clock hours of instruction each year.
6. A local board of education has authority to reduce programs and curtail services provided it complies with Item five above.

Ability to Pay

The threshold question in most fact finding hearings is the financial ability of the district and much time is usually consumed during a hearing for presentation and exploration of financial data. Some financial data related to ability and effort were presented in this hearing and after careful study it is the Fact Finder's conclusion that the Board of Education has the financial ability to meet the salary recommendations. This conclusion is based on the following:

1. During 1972-73 the Board received \$1,823,525 from the local property tax plus state aid. During 1973-74, the Board will receive approximately \$2,075,170 from the same sources,

or an increase of \$251,645 (Association Exhibit W). This is an increase of 14 percent from major revenue sources.

During 1972-73, the Board reported that it spent \$1,184,168 for instructional salaries and that this sum was 66.12 percent of its total expenditures (Association Exhibit L). If it is assumed that the Board would increase salaries for instruction by adding to its 1972-73 expenditures of \$1,184,168, 66.12 percent of its 1972-73 new money, they could allocate \$166,388 more for instructional salaries during 1973-74 without disturbing its prior year budget percentage allocations.

The Board testified that it has employed four additional staff for the current year. If it is estimated that the cost of the four additional staff members is \$40,000, the Board could still increase instructional salaries by \$126,387. This last sum would constitute an increase of 10.67 percent.

By scrutinizing all financial data presented, the Fact Finder calculated that the Association's last salary proposal would increase instructional salary costs to the Board by approximately \$118,000 (Association Exhibit M shows last EEA salary proposal cost for 1973-74 to be \$1,114,317 compared to \$996,672 spent during 1972-73, a difference of \$117,645.)

2. We have previously noted that four additional teachers were employed during 1973-74. Only one of the teachers was hired to meet additional enrollments. It must be assumed that when the Board decided to add four teachers for 1973-74, it knew that total expenditures for all teachers' salaries would be increased accordingly. It seems fair to the Fact Finder

that if the Board hires additional staff, it should expect to allocate a slightly larger percentage of its budget to total teacher salaries. The decision to increase staff should not be at the expense of the teachers but should be an additional cost to the Board.

It is therefore the conclusion of the Fact Finder that the salary demands of the teachers can be accommodated within the new budget without disturbing past budgeting allocations.

3. Audits and budgets for the past three years were not introduced in evidence but were provided to the Fact Finder for a determination as to whether these items should be introduced. The Association did not request copies of these items. While these financial reports do not reveal that the Board has a robust general fund equity, they do show that it is financially healthy and that salary recommendations included in this report can be easily accommodated by the Board. Much of data in past audits and budgets were provided to the Association in Board Exhibit 9.

During the hearing, the Board testified that it was not making a "poverty plea" nor attempting to base its position on ability to pay.

Cost of Living

Increases in cost of living during the past several months have been unusually high and of great concern. The July, 1973 Consumers Price Index stood at 132.7 (1967 = 100) an increase of 5.7 percent from July 1, 1972. The impact of the increase in the cost of living on the purchasing power of the consumers'

dollars is well understood. A new salary schedule ought to reflect the need to retain as much as possible the purchasing power of the teacher's earned dollars. Obviously, the Board of Education cannot magically create dollars to accomplish this purpose. Limitations are placed upon the Board in allocating its resources. Within these limitations, the Board ought to make every effort to provide a salary schedule which preserves the purchasing power of their teachers' incomes. However, when the cost of living accelerates rapidly it is difficult for governmental units with rather inflexible revenue sources to absorb all the cost of living demands and some sharing of the burden of rapid inflation must be absorbed by the teachers. Consequently the salary recommendations in this report would not require the Board to provide incremental increases plus 5.7 percent.

II

Findings of Facts, Recommendations and Reasons On The Issues

Issue - Salary

1. Present Position

The 1972-73 salary schedule for Edwardsburg is shown below:

<u>Step</u>	<u>BA Degree</u>	<u>MA Degree</u>
0	\$ 7,800	\$ 8,100
1	8,100	8,500
2	8,500	8,800
3	8,800	9,200
4	9,100	9,500
5	9,400	9,800
6	9,700	10,200
7	10,000	10,500
8	10,350	10,800
9	10,650	11,100
10	10,950	11,500
11	11,250	11,800
12	11,600	12,200

2. Association's Position on Salary

The Association's proposed salary schedule for 1973-74 is shown below:

<u>Step</u>	<u>BA Degree</u>	<u>MA Degree</u>
0	\$ 8,190	\$ 8,505
1	8,505	8,925
2	8,925	9,240
3	9,240	9,660
4	9,550	9,975
5	9,870	10,290
6	10,185	10,710
7	10,500	11,025
8	10,868	11,340
9	11,183	11,655
10	11,498	12,075
11	11,813	12,390
12	12,180	12,812

The total cost of the Association's salary proposal for 102.5 teaching positions would cost \$1,097,018. The Fact Finder has computed the amount these teachers would receive during 1973-74 if the 1972-73 schedule remained in effect and incremental increases only were allowed. This sum would be \$1,044,800. Therefore, to implement the teacher's proposal would cost \$52,218 or approximately five percent more than the 1972-73 schedule.

3. Board's Position on Salary

The Board's proposed salary schedule for 1973-74 is shown below:

<u>Step</u>	<u>BA Degree</u>	<u>MA Degree</u>
0	\$ 8,000	\$ 8,300
1	8,300	8,700
2	8,700	9,100
3	9,000	9,400
4	9,400	9,900
5	9,800	10,200
6	10,100	10,600
7	10,400	10,900
8	10,750	11,200
9	11,050	11,500
10	11,350	11,900
11	11,650	12,200
12	12,000	12,600

The total cost of the Board's salary proposal for 102.5 teaching positions would cost \$1,079,700 or \$34,900 more than the same teachers would receive if the 1972-73 schedule remained in effect and incremental increases only were given. The increase (\$34,900) would be about 3.34 percent more than the 1972-73 schedule.

4. Fact Finder's Recommendation on Salary

The Fact Finder has reviewed with great care the salary

data shown in Tables II and III. For several reasons it is difficult to apply a formula to comparable school district salary data which by its application a precise salary schedule can be derived. The communities are never exactly comparable; the fringe benefits packages provided in each district vary and can influence salaries; the negotiations process itself contributes to distortions in schedules; and, the number of teachers at the different incremental steps will influence the schedule, particularly the Bachelor's and Masters degree maximums. Consequently salary recommendations must be based to some extent upon the Fact Finder's judgement. He is required to consider the increase in the cost of living, which we have previously stated to be 5.7 percent. In addition, he is required to weigh the impact of his recommendation on the districts ability to pay. Finally, the recommendation ought to be reasonable enough to gain the acceptance of the parties.

The Fact Finder adopts as his recommendation for the 1973-74 salary schedule the last proposed salary schedule of the Association which has been set forth previously.

5. Reasons For Salary Recommendations

Utilizing data presented during the hearing the Fact Finder was able to compare the salaries paid Edwardsburg teachers and several neighboring school districts. The Association presented several exhibits which compared financial data for Edwardsburg with school districts throughout the state but all in the school population range of 2,000 - 2,499 (Association Exhibits F, H, I, J, and K). It is the judgement of the Fact

Finder that utilization of this kind of data has very limited use. The districts are widely scattered throughout the state, the financial resources of the districts vary greatly and pay schedules in some are influenced by surrounding rural districts while others are influenced by their location in or near urbanized areas.

The Board presented data for eleven districts (Board Ex. 5) which are located in Berrien, Cass and St. Joseph counties and are similar in number of students enrolled, SEV/PP and operating millages. The Fact Finder was able to utilize data from these districts in making recommendations. These districts are shown in Table I below.

TABLE I
Financial Data For Eleven
Southwest Michigan Comparable Schools

<u>District</u>	<u>Districts SEV/PP</u>	<u>Rank</u>	<u>Operating Millage</u>	<u>Rank</u>
Buchanan	\$20,552	(2)	25.026	(5)
Cassopolis	17,858	(4)	24.000	(6)
Watervliet	14,758	(6)	25.675	(3)
Brandywine	11,495	(10)	25.676	(1)
Edwardsburg	13,827	(8)	24.670	(4)
Marcellus	12,355	(9)	24.000	(7)
River Valley	20,121	(3)	20.476	(10)
Constantine	14,250	(7)	21.620	(8)
White Pigeon	22,416	(1)	19.120	(11)
Galien	10,646	(11)	25.676	(2)
Berrien Springs	17,669	(5)	21.476	(9)

Data in Table I shows that Edwardsburg ranks 8th among the eleven districts in SEV/PP (wealth) and 4th in operating millage (effort). It is clear that the taxpayers in the Edwardsburg school district are exerting a reasonable effort as reflected in the operating millage.

The Board provided salary data for the eleven comparable districts for 1972-73 and 1973-74. While some of the districts have not completed negotiations, the data available for 1973-74 is useful.

The Association did provide salary data for 1972-73 and 1973-74 for 12 neighboring school districts (Association Exhibits S and T) which partially duplicated the data presented by the Board. The Fact Finder extracted data from salary data exhibits provided by both parties and prepared Tables II and III and used this data for arriving at his salary recommendations.

The Fact Finder estimates that his recommended salary schedule will maintain Edwardsburg's teachers salaries at about the same relative position during 1973-74 as during 1972-73. For example, during 1972-73 their BA minimum was \$7,800 and ranked 8th among the 18 districts shown in Table II. While some districts shown in Table II have not settled, it can be estimated that the BA minimum recommended (\$8,190) will be in the same place. Similar relationships will be retained for the BA maximum, MA minimum and MA maximum.

The teachers will receive an increase of about five percent which is only .70 percent below that required to meet the increase in the cost of living. Incremental increases are not included as part of the five percent increase.

Should the question be raised, this Fact Finder has adopted the position that growth in salary by "moving up" on the salary schedule (increment or step) because of tenure in the district should not be considered as an "increase."

TABLE II

Salary Rankings of Eighteen
Neighboring, Comparable School Districts
Minimum and Maximum
For Bachelor's Degree Schedule, 1972-73 and 1973-74

<u>District</u>	<u>1972-73</u>		<u>1973-74</u>	
	<u>BA Min</u>	<u>BA Max</u>	<u>BA Min</u>	<u>BA Max</u>
Buchanan	\$8,050	\$12,075	Not Settled	
Cassopolis	7,600	11,300	\$8,220	\$11,920
Watervliet	8,000	12,125	8,000	13,100
Brandywine	7,750	11,160	8,000	11,700
EDWARDSBURG	7,800	11,600	Not Settled	
Marcellus	7,552	10,804	8,284	11,704
River Valley	8,000	12,225	Not Settled	
Constantine	7,718	10,523	Not Settled	
White Pigeon	7,750	8,987	8,200	11,013
Galien	7,913	10,525	8,000	10,950
Berrien Springs	7,900	11,850	8,200	12,300
Colon	7,600	8,975	8,000	9,725
Three Rivers	7,800	10,920	8,150	11,003
Dowagiac	7,900	11,692	Not Settled	
Sturgis	8,100	10,935	8,512	11,491
Burr Oak	7,340	9,500	8,000	9,250
Mendon	7,566	10,214	8,125	10,969
Centerville	7,700	9,548	8,050	9,982
Edwardsburg Association Proposal			8,190	12,180
Edwardsburg Board Proposal			8,000	12,000

TABLE III

Salary Rankings of Eighteen
Neighboring Comparable School Districts
Minimum and Maximum
For Masters Degree Schedule, 1972-73 and 1973-74

<u>District</u>	<u>1972-73</u>		<u>1973-74</u>	
	<u>MA Min</u>	<u>MA Max</u>	<u>MA Min</u>	<u>MA Max</u>
Buchanan	\$8,550	\$13,252	Not Settled	
Cassopolis	7,950	12,150	\$8,320	\$12,520
Watervliet	8,625	13,125	8,625	14,150
Brandywine	8,250	12,210	8,400	13,000
EDWARDSBURG	8,100	12,200	Not Settled	
Marcellus	8,349	12,353	8,733	12,957
River Valley	8,560	13,400	Not Settled	
Constantine	8,232	11,592	Not Settled	
White Pigeon	8,150	11,958	8,600	
Galien	8,230	10,841	8,250	11,300
Berrien Springs	8,350	12,859	8,650	13,321
Colon	8,200	11,225	8,600	11,900
Three Rivers	8,400	12,924	8,750	13,477
Dowagiac	8,500	12,920	Not Settled	
Sturgis	8,910	13,365	9,363	14,045
Burr Oak	7,820	9,980	8,500	10,750
Mendon	8,020	11,576	8,613	12,431
Centerville	8,085	11,781	8,452	12,316
Edwardsburg Association Proposal			8,505	12,812
Edwardsburg Board Proposal			8,300	12,600

A teacher is already entitled to an increment simply on the basis of longevity and would receive it even if no changes were made in the salary schedule. The cost to the Board for incremental increases is a cost resulting from retention of a more experienced and qualified teaching staff for which it should pay more money. Salary schedules of the type used in Edwardsburg were established many years ago and one of the reasons for their adoption was the built-in scheme to reward teachers for professional growth resulting from experience.

Issue - Annual Salary Increment Subject to Principal's Evaluation

The Board maintains that the employer has the responsibility of accounting for expenditures of funds of the school district in the most beneficial way. It questions the concept that all teachers improve each year, from their first year to their twelfth year of employment. It is the Board's position that some teachers grow and improve each year and that perhaps some do not. It argues that historically teachers' salaries have increased at a substantial rate, that it has been necessary to obtain voter approval for additional operating funds and that taxpayers demand accountability for their money.

The Board attempted to negotiate an accountability model into the 1973-74 master agreement and the final position was included in the contract draft prepared for the Association's ratification meeting. It is included in its entirety below:

Section 3: Year for year credit to the scheduled maximum shall be given for satisfactory contracted full time teaching experience in the Edwardsburg Schools
Further, in order to qualify for the increment a teacher

must show evidence of professional growth. Each teacher shall have a conference with his principal to discuss the acceptability of the teacher's service by April 1st on earned increment and discuss evaluation further.

To show such evidence a teacher shall submit a written report to the Review Board on Professional Growth before May 1 each year. In order to qualify, the teacher may choose one of the following ways:

1. Be a member of P.S.C.
2. Be a member of a P.S.C. Study Group.
3. Be a member of the Review Board of Professional Growth.
4. Be an officer, building representative, region delegate, MEA delegate, NEA delegate, or member of P.N. Committee for the E.E.A. (20% of teaching staff eligib -).
5. By attending a conference and/or workshop in his teaching field or a related area.
6. By attending graduate school (toward certification and/or in teaching field).
7. By publishing an article or book in teaching field or general education.
8. P.T.O. Executive board member.
9. Other items as approved by the Review Board.

Each teacher shall report in writing to the Review Board on Professional Growth before May 1 of each year on what activity he has done to qualify for Professional Growth. The Review Board shall report its decision in writing to the teacher and the Administration by June 1 of that year. All decisions by the Review Board shall be by majority vote.

The Professional Growth Review Board shall be composed of two (2) principals appointed by the Superintendent and two (2) E.E.A. members appointed by the E.E.A. Executive Board. The Superintendent and E.E.A. President shall appoint the fifth member. These appointments are to be made by October 1 of each year.

The Association rejected the Board's accountability proposal for several reasons. It argued that teachers' salary increases would be dependent upon principals' evaluations and that personal rather than professional reasons might be used to withhold the salary increase. Second, the Association asserted that the language was vague, left open too many interpretive questions, and not understood by the teachers.

Third, it was concerned about the inadequacy of the grievance procedure to provide for appeal.

The Association admits that "a few" of the teachers are not providing satisfactory service and should be held accountable.

Fact Finders Recommendation and Reasons

The Fact Finder agrees that the Board's proposal on accountability lack the language necessary to implement it on a fair and impartial basis. Of particular concern is the failure of the proposal to apply to all teachers. Of the 102.5 teaching staff positions in Edwardsburg district, 31 are filled by teachers at the BA and MA maximum. The Board's proposal is not applicable to these teachers since they have achieved the top of the progression scale. Any accountability model should apply to every teacher since it can be reasonably assumed that some seniored teacher might be inadequate and/or incompetent.

Second, it is the Fact Finder's opinion that withholding a salary increment to a tenure teacher, while giving it to all, or nearly all, of the others in the progression ladder, constitutes a "demotion" and thus is subject to the provisions of the Michigan Teachers Tenure Act (Michigan General School Laws § 38.71 et. seq.). If an increment has been denied a teacher, he would probably be entitled to a hearing before the Board of Education as well as appeal from an adverse Board decision to the Tenure Commission. The utilization of a grievance procedure with binding arbitration as the final step would not solve this problem since a teacher could still rely upon the Tenure Act if not successful in arbitration (§ 38.172).

The concept of requiring teachers to furnish evidence of professional growth to a responsible committee seems to the Fact Finder to be a logical first step toward requiring teachers to be more accountable. Therefore, his recommendation as stated below embodies this concept.

All teachers employed by the Edwardsburg school district are expected to continue professional growth and development.

To accomplish this goal, each teacher shall report in writing to the Review Board on Professional Growth before May 1st each year on what activity he has completed, or will complete before September 1st, to qualify for professional growth.

To show such evidence a teacher shall submit a written report to the Review Board on Professional Growth before May 1 each year. In order to qualify, the teacher may choose one of the following ways:

1. Be a member of P.S.C.
2. Be a member of a P.S.C. Study Group
3. Be a member of the Review Board of Professional Growth.
4. Be an officer, building representative, region delegate, MEA delegate, NEA delegate, or member of P.N. Committee for the E.E.A. (20% of teaching staff eligible).
5. By attending a conference and/or workshop in his teaching field or by a related area.
6. By attending graduate school (toward certification and/or in teaching field).
7. By publishing an article or book in teaching field or general education.
8. P.T.O. Executive board member.
9. Other items as approved by the Review Board.

The Professional Growth Review Board shall be composed of two (2) principals appointed by the Superintendent and two (2) E.E.A. members appointed by the E.E.A. Executive Board. The Superintendent and E.E.A. President shall appoint the fifth member. These appointments are to be made by October 1 of each year.

No sanctions should be employed at this time to enforce the recommendation. During the 1973-74 school year a joint committee of Association and Board representatives should be

appointed to study the concept of accountability and recommend the criteria, procedures and sanctions to be employed for enforcement. It is recommended that the Board of Education adopt, and distribute to its teachers, its goals and objectives so that criteria for effective teaching relates directly to the Board's expectations.

It is further recommended that the Association proposal on evaluations (Article II, Section 12) be adopted. It is stated below:

The building principal will prepare an annual written evaluation of each teacher based on formal visitations and conferences with the teacher throughout the year. Teachers shall be required to read such evaluations and discuss the same with their principals and indicate in writing on the evaluation that they have read it. In the event that the teacher feels his evaluation was incomplete or unjust, he may put his objections in writing and have them attached to the evaluation report to be placed in his personnel file. A copy of the final evaluation shall be given to each teacher.

Issue - Leave Policy

The essentials of the dispute on this issue can be stated simply. When a teacher goes on leave the Association wishes to have the Board guarantee by contract that he/she can return to the same position he/she vacated before going on leave. The Board proposed the following language:

Reemployment during the year shall be at the discretion of the Board and reemployment for the beginning of a new school year shall be in accordance with the then prevailing tenure provisions.

Recommendations and Reasons

A teacher who receives a leave of absence does not sever the employer-employee relationship and ought to be entitled to

a position for which he/she is qualified if one is available. Tenure teachers do have some protection since a school district may not retain a non-tenured teacher, in preference to a tenured teacher returning from a leave of absence, in a position which the latter is qualified to fill (Opinion of the Michigan Attorney General, No. 3609 dated February 7, 1962).

Most leaves of absence are for one semester or one school year. When a leave is granted, the teacher and the Board both know, or ought to know, the length of the leave and a replacement can be employed to fill the vacancy for that period of time with the understanding that the replacement's employment will terminate when the teacher on leave returns to work. The teacher contract law and the Michigan teachers tenure act place no restrictions on the application of such a policy. It should be an easily administered policy in Edwardsburg since very few teachers among a teaching staff of 100 will request a leave in any one year.

On the other hand, it is not a simple task in a small district with an inherent inflexibility to transfer teachers to assure a teacher on leave that he/she can return to the same position vacated.

It is recommended that language be written which assures a teacher who applies for, and is granted, a leave of absence that he/she will be placed in a teaching position which he/she is qualified to fill when returning from the leave. The Board should be required to give the returning teacher a job but not the very same exact position.

III

CONCLUSION

The recommendations included in this report will not be entirely satisfactory to either party in this dispute. A settlement based on fact finding is almost always permitted on the expectation that both parties will reluctantly accept the recommendations. The Fact Finder believes his recommendations are very close to the final position the parties would have reached through collective negotiations.

If the parties are unable to reach an agreement within a reasonable time after receiving this report, the Fact Finder recommends that a State appointed mediator be requested for assistance.

Finally, the Fact Finder wishes to express his appreciation to the representatives of both parties, particularly Mr. Fitzgerald and Mr. Boerma for their courteous, cooperative, and professional assistance.

Fact Finder Retains Temporary Jurisdiction

The Fact Finder retains jurisdiction in this matter for five (5) days after making this report to the Board and the Association. He is hereby requiring the respective parties to advise him by telephone within the five-day period if in their opinion the report contains any important clerical or mathematical errors. If an error is reported, the Fact

Finder may, if he considers it necessary, withdraw the report to make the corrections. If neither party reports an error to the Fact Finder during the five day period, he will consider the report to be factually accurate, his jurisdiction will be relinquished, and a copy sent to the Commission.

Kenneth Grinstead
Kenneth Grinstead
Fact Finder
Edwardsburg Matter

Oct 3, 1973
Date