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STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

FACT FINDER'S RECOMMENDATIONS

IN THE MATTER OF

FULTON SCHOOLS

-and-

MERC Case No. L83 G6 86

FULTON EDUCATION ASSOCIATION

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VICTOR J. BAUM, Fact Finder

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Fulton Schools

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I.

INTRODUCTION:

ISSUES TO BE ADDRESSED

The following issues were presented by the parties and will be addressed by the fact finder but not necessarily in the same order:

1. Work Days and Hours--Article XI of the Collective Bargaining Agreement.
2. Working Conditions, (number of daily periods) -- Article XII of the Collective Bargaining Agreement.
3. Unpaid Leaves of Absence (return from leave) -- Article IXX of the Collective Bargaining Agreement.

4. Compensation (longevity) -- Article XXIV of the collective bargaining agreement.

5. Extra Curricular Compensation--Article XXV of the collective bargaining unit.

6. Insurance -- Article XXVI of the collective bargaining agreement.

7. Appendix B (salary schedule).

8. Proposed new article on class size.

The fact finder does not intend to consider the insurance issue, Article XXVI, for these reasons. First, the issue was submitted quite late in the collective bargaining process. Second, facts, important to a recommendation by the fact finder remain unknown or controverted at the conclusion of the fact finding hearings. The controverted evidence is such that the fact finder is unable to make findings of fact based on a preponderance of the evidence.

Therefore the issue of insurance is better left to further negotiation by the parties.

II. WORK DAYS AND HOURS -- THE FULTON EDUCATION ASSOCIATION

The Association wants a provision in the collective bargaining agreement that will establish the work-day as seven hours and thirty minutes. The Fulton Board of Education wants the collective bargaining agreement to remain without a provision which specifies the length of the work-day in hours and minutes.

The fact finder recommends that the parties agree to the contract provisions requested by the Association for the following reasons.

Specification of the work-day, in hours and minutes, is the rule, rather than the exception, in the collective bargaining agreements of comparable school districts. Indeed, working hours, specifically stated in the labor agreement, is a labor relations commonplace.

Total work-day hours have twice been changed unilaterally by the school administration during the life of the existing agreement. Work-day hours are clearly a condition of employment, subject to mandatory collective bargaining. Therefore it is not desirable that work-day hours be imposed unilaterally by management, even when acting in the best of faith.

Contractually specified hours for the work-day are less apt to be a source of discontent, dispute and grievance, than labor agreement silence.

The work-day request of the Association is in keeping with the provisions that prevail in comparable districts. Some comparable districts have a work-day specified in the contract which is less than seven hours and thirty minutes.

These reasons are not outweighed by the Board's proposition, which the fact finder accepts as true, that the school administration has not taken unfair advantage of the teachers with respect to hours of the work day.

Finally, the Association's proposed contract provision would not unduly restrict the school administration in arranging schedules and programs for students.

The possible increase in costs from adoption of the Association's proposal, is taken into account by the fact finder in his recommendations concerning teachers' salaries, longevity pay, and extra-curricular compensation.

III.

ARTICLE XIX -- UNPAID LEAVES OF ABSENCE

The Association wants a change in the collective bargaining agreement pertaining to return from unpaid leaves of absence. The collective bargaining agreement provides in relevant part:

"Upon return from leave, a teacher shall be assigned to the same position, if available, or a substantially equivalent position, if available."

The Association would delete the phrase, "if available", in each of the two uses in the quoted sentence.

The Association points out that presently a teacher can take unpaid leave only at the risk of losing his or her job.

The Board objects to the change sought by the Association. The Board states that if the teachers request is granted, the Board would be subject to increased unemployment compensation contributions, because it might become necessary to lay-off or discharge a teacher to "make room" for a teacher returning from unpaid leave.

The fact finder recommends that the "if available" condition should be stricken from the agreement, but only with respect to leaves that are due to poor health.

Article XIX, narrowly restricts unpaid leaves. Unpaid leave is available only for poor health; certain kinds of advanced study; study to meet eligibility requirements for a certificate other than the certificate held by the teacher; study, research or special teaching assignments if they involve a probable advantage to the Board and leaves for service in the Peace Corps.

The fact finder's recommendation grants the Association's request only insofar as sick leave is concerned. Taking into account the Board's fiscal problems, the fact finder draws the line at voluntary unpaid leaves. Persons ordinarily do not choose to be ill; they do however, choose to enter into study or research, and they do choose to join the Peace Corps.

Under the present agreement, the teacher with a health problem is put to a Hobson's choice. If the teacher seeks medical care of the kind that precludes working, he or she may be without a job after health is restored. On the other hand, if the teacher remains on the job and does not receive needed medical treatment, further deterioration of health may occur. Under the present contract an unpaid leave for health comes with a risk of job-loss. This could discourage needed treatment.

It should be noted that the contract has safeguards against abuse. Application for leave for poor health, "must be accompanied by a written statement from a doctor setting forth his opinion as to whether the condition of the teacher is such that the teacher is unable to carry out the teacher's regular duties for the Board". Further, the Board may require examination by another physician at the Board's expense. "Article XIX - leaves" are for a year, only and can be extended only at the Board's discretion.

If the Board should be required to increase its contribution to the unemployment fund because of lay-offs to make room for teachers returning from unpaid sick leave, the total economic impact would not be great.

Finally, the position recommended by the fact finder is well within the norms of comparable school districts.

IV.

CLASS SIZE

Presently, the collective bargaining agreement has no provision concerning class size. The Association proposes a 26 student limit in K-3rd grade and combination rooms and a 30 student limit in other grades.

The School Board opposes inclusion in the collective bargaining agreement of a provision concerning class size.

The Board describes the Association's class-size proposal as one of the "most expensive demands presented by the Association". The Board argues that present class sizes do not overburden teachers and that test results do not indicate that existing class sizes impair the quality of education given to Fulton students.

The fact finder prefers the Association's position for the reasons that follow. Most of the present class sizes comply with the Association proposal. However, five of the twenty-four sixth and seventh grade classes at Fulton do not. Also, there are some high school classes that do not meet the standard proposed by the Association.

Even though Fulton's teacher/student ratio is good for particular grades, Fulton has the highest teacher/pupil ratio of all schools in the Gratiot-Isabella Intermediate School District. Overall, the Fulton ratio is among the highest of comparable school districts.

Despite the Board's argument concerning student test scores, the fact-finder is not convinced that there is no relationships between class size and the quality of education.

Finally, the Board's concern about cost seems to be greater than warranted. The economic impact of the Association's proposal is mitigated by existing wide-spread conformance to the Association's proposal and by the likely decline in future student population that is indicated by the evidence.

V.

APPENDIX B - SALARY SCHEDULE

This issue has the most direct impact on School Board finances. The Association's proposal for the three years from 1983 through 1986 is as follows:

1983 - 1984 Increments and a 3% increase on the
schedule, retroactive to first day of
contract year.

1984 - 1985 Increments and a 5% increase on the
 schedule.

1985-1986 Increments and an increase on the
 schedule of 6-8% based on the CPI - All
 Cities Average. If CPI is over 9%, an
 additional .25 of each percent above 9.

The Board's position is:

1984 A "total freeze"; no Increment.

1984-1985 3%-5% COLA.

1985-1986 3%-5% COLA.

The Association interprets the Board's "total freeze" proposal for 1983-1984 to mean that all bargaining unit members would be paid at their 1982-1983 level, with no advancement for a year of service on the salary schedule (increment or step); no advancement to the longevity step and no movement to BA+, NA, or MA+ rails for added hours or degree. This interpretation was made in the Association's brief. The Board, in its reply brief, did not object to the Association's interpretation. Therefore, the fact finder will accept as correct, the Association's interpretation of the Board's offer.

The Board supports its position with essentially three arguments. First, the Board argues that every employee of the Board, who was not in the same bargaining unit as the teachers for the year 1983-1984, had his or her wages frozen. Most or all of the non-teacher employee were union members, represented by MESPA. Apparently, MESPA negotiated and recommended the wage freeze to its members. The Board argues that fundamental fairness requires that the teachers be treated no differently than the school district's bus drivers, secretaries, bookkeepers, cafeteria workers and custodians.

The Board's second argument is that the school district is hard-pressed financially and that from a long term planning standpoint its resources should be used to restore reduced and eliminated programs and should be used to put the District on a "pay as you go" basis.

The Board's third argument is that under the Board's proposal concerning teacher salary, Fulton teachers would compare favorably with the teachers of comparable districts for the period 1982-1986.

The Association rejects the Board's arguments as being unsound logically and unsupported by the evidence. The Association contends that the District has the ability to pay the Association's proposed salary increase without creating a deficit in the school fund.

The fact finder recommends the Board's proposal for reasons that will be developed. First, in arriving at the recommendation of the School District respecting teachers' salaries, the fact finder takes into account the earlier recommendations which would increase the cost of school operations.

The school district is heavily rural in character. A large proportion of the school district's revenue is derived from the property tax. Over the last several years, Michigan has been severely stricken by a recession. The state's economic plight has resulted in delays and shortfalls in state aid to school districts.

While the state's industrial areas appear well along in making a comeback, the agricultural parts of the state have not made like progress. The evidence at the hearings indicates that several business establishments in the district that were dependant on sales to farmers, have become insolvent. Current events remind us that machinery and land belonging to

farmers and their suppliers are being seized and sold at foreclosure sales. Farmers' bankruptcies are by no means a rarity. Farmers and those dependent upon them economically are suffering in a way unprecedented since the great depression of the 1930's.

Approximately 80% of Fulton School's funds come from property taxes. Attempts to increase the property taxes in millage elections for operating revenues have not been successful. This does not come as a surprise to any one familiar with the recent plight of farmers and persons doing business in rural areas.

Beginning in 1981 the School District suffered severe cash flow problems. In 1981, 1982 and 1983, the School district was forced to borrow over one million dollars for operating needs; the District incurred interest charges of approximately \$56,900.00. The money paid out in interest was not, of course, available for any other school need or purpose.

The School Board has decided to pursue a plan which would obviate the need for borrowing. It has also made a commitment to restore programs that were eliminated. These would seem to be reasonable goals.

The Association points to a surplus in the School District's funds. But of this surplus, or fund equity as it is sometimes called, substantial amounts have been earmarked for capital expenditures, including the acquisition of school buses and their maintenance, as well as repairs and maintenance of other capital assets. The earmarking appears to be reasonable.

Also included in the fund surplus is money owed to the School District that may not be paid promptly, if paid at all.

Further, to meet its fiscal crisis when state aid was short and late, the School District drastically cut programs that had long been in place. The Board reduced the home economics program; eliminated the art program; eliminated band programs; reduced counseling services at the Middle School; eliminated the position of a principal and the position of building and grounds director; closed the Perrington Elementary School; eliminated the transition room between kindergarten and first grade; eliminated athletics below junior varsity level; put off the purchase of new buses; reduced the remedial reading staff from 2 1/2 to 1 1/2 teachers; eliminated the certified librarian in the Middle School; closed the Maple Rapids School; reduced the home economics program; and dropped Middle School shop classes. The Board's efforts stand in sharp contrast to the Association's rejection of a salary freeze -- about which more will be said.

Moreover, restoration of the reduced or eliminated programs has not been completed and this has not gone unnoticed by the accrediting agency. The Board has taken the position that a priority must be given to completion of the restoration. The Board, also as matter of policy, has placed strong emphasis on avoiding loans. The Board points to unanimous expert opinion that student population will fall, and with it, state aid. The Board believes that adoption of the Association's salary proposal would jeopardize reasonably prompt completion of the restoration process and would place in doubt the Board's plan to "pay as you go."

The teachers have offered evidence tending to show that adoption of their salary proposal would not jeopardize the Board's goals. But the evidence is not conclusive and the School District is dubious about the Association's fiscal analysis. The fact finder cannot say that the Board's stance of cautious frugality is unrealistic or unreasonable.

Further, the fact finder is persuaded that there is inequity in placing a freeze on non-teacher employees of the Board, but exempting the teachers. The Board's position that the teachers should bear a fair share of the burden of the recession is not unreasonable.

One should not overlook the proposition that if the Board is successful in avoiding interest charges, the money saved could be used to improve the teacher/student ratio -- one of the Association's goals -- or any other purpose.

Finally, the evidence suggests, albeit not conclusively, that adoption of the Board's proposal will not result in teachers' salaries that depart greatly from mean or average salaries in comparable school districts for the period 1983 through 1986.

VI.

WORKING CONDITIONS; WORK WEEK

The Association has proposed a change in Article XII - Working Conditions. The change requested, relates to the number of teaching periods for secondary teachers. This subject is addressed by paragraph 12.1 of the collective bargaining agreement. Respecting secondary teachers, the collective bargaining agreement provides for thirty teaching and five preparation periods per week -- a total of thirty-five periods.

The Association would change the Agreement so that there would be twenty-five teaching periods and five preparation periods per week -- a total of thirty periods. The Association points out that four out of five comparable school districts have fewer periods per week than Fulton.

On the other hand, the School Board points out that if the teachers' work week is reduced from 35 to 30 hours a week, and the students' "learning time" is maintained, the Board will have to hire more teachers at a heavy cost to the school district.

For the reasons stated regarding teachers' salaries, the fact finder recommends that there be no change in the work-week provision of the collective bargaining agreement.

VII.

ARTICLE XXIV - LONGEVITY COMPENSATION

The Association proposes an increase in longevity compensation. The collective bargaining agreement now provides for longevity pay after 15 years of service. The Board's proposal would provide for an additional step after 20 years and after 24 years of service. The steps would be equal to a step on the salary schedule, indexed to the salary schedule rather than the flat \$400.00 now provided in the contract.

The Board opposes the proposal on economic grounds.

For reasons, expressed in connection with teachers salaries, the fact finder recommends the Board's position.

VIII.

ARTICLE XXV - EXTRA-CURRICULAR COMPENSATION

The Association proposes that the amounts paid for persons in extra-curricular positions, such as summer agriculture and driver education, be increased by the same percentage each year as the regular base salary is increased. The Board opposes the proposal.

The fact finder recommends the Board's position for two reasons. First, the fact finder is moved by the same considerations that have been expressed in connection with teachers' salaries.

Second, during the hearings, although not necessarily on the record, the matter of extra-curricular compensation was, by the parties' own agreement, returned to the parties for further collective bargaining.

IX.

MISCELLANEOUS ISSUES ON WHICH EVIDENCE WAS NOT PRESENTED

At the time hearings started, the parties were apart, inter alia, on the following issues:

Board rights, Article VII;
Agency shop, Article VIII;
Evaluation, Article IX;
Qualifications and Assignments, Article XIV;
Student Discipline and Employee
Protection, Article XVI;
Sabbatical, Article XX;
Negotiations Procedures (eight changes);
Article XXVII.

However, neither party submitted enough evidence on these issues to permit the fact finder to make recommendations. For this reason, the fact finder recommends that the present contract language be continued.

Finally, the parties agreed on a three year term, eliminating another issue.

The fact finder commends the representatives of each party for thorough and skillful presentations.

Respectfully submitted
to the parties and the public



VICTOR J. BAUM

Dated: August 21, 1984