

8/28/78

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IN THE MATTER OF  
FACT FINDING

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Hart Public Schools, Board  
of Education

-and-

Hart Education Association

Michigan Employment  
Relations Commission

Case No. G77 D454

S. Eugene Bychinsky  
Fact Finder

Hart Public Schools

APPEARANCES

For the Board of Education:

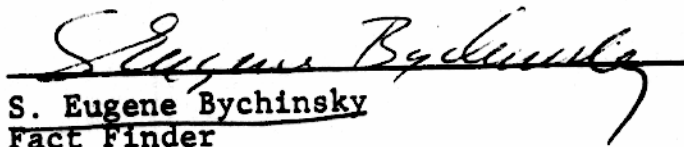
Russell Grange II, Michigan Association of  
School Boards

For the Education Association:

David L. Hartman, Michigan Education Association

Date of Hearing:  
August 14, 1978

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S. Eugene Bychinsky  
Fact Finder

Date: August 28, 1978

Following appointment of the instant Fact Finder, preliminary hearings were held on May 11, 1978, and May 29, 1978, in an effort to better understand the numerous issues that still separated the parties from an agreement. On August 14, 1978, a full Fact Finding Hearing was held at which hearing both parties had full opportunity to present to the public and the Fact Finder their position and the basis for those positions on all issues that were considered remaining as unsolved.

Following is the recommendation of the Fact Finder based on the information thusly presented, together with the recommendations, that, it is hoped, will serve as a basis for resolution of those issues and the effecting of a contract between the parties.

1. Teaching Hours

For a number of years, at least since 1970, the teachers of Hart Public Schools have been required to report for work at least 30 minutes prior to the start of the first day of class each day, and to be at their assigned duty station at least 20 minutes before the first class.

In their demands, the Association wanted the 20 minutes of duty station reduced to 10 minutes.

In the prior contract, which expired in 1977, these two provisions, and a third provision dealing with class ending requirements provides as follows:

"Article IV - Teaching Hours

A. The teacher's teaching hours in the secondary and elementary schools shall be as follows:

- (1) Teachers check in no later than one-half (1/2) hour before classes begin.
- (2) Teachers at assigned places of duty not later than twenty (20) minutes before classes begin.
- (3) Teachers shall leave school no earlier than one-half (1/2) hour after classes and without office permission, except that on Fridays or on days preceding holidays the teacher's day shall end when the buses have left the premises.

B. All teachers shall be entitled to a duty-free uninterrupted lunch period which shall be at least 25 minutes duration."

During the course of the preliminary hearings, the Board introduced a schedule of classes that sharply departed from prior years schedules in that it provided a new concept to this District, of having a one hour conference period for all teachers, at the onset of the day, followed by 5 periods of class for each teacher.

In approaching any problem relative to the scheduling of classes, considerable weight must be accorded to administrative need for a high degree of latitude and flexibility. One cannot conceive of any schedule that would be totally equitable to all teachers, as conceived by those teachers. Of primary concern here is that the duties of the teacher be understood in order that an enlightened approach can be made to determine what the Board and the teacher agree should be paid for those duties.

With respect to this narrow issue, no basis is seen for reducing the prior year's requirement that a teacher be at the assigned place of duty not later than twenty minutes before classes begin. Basically, a negotiation is an exchange of money for services. The Board wants the teachers to perform certain services under identifiable working conditions. To the extent that the duties of teaching are made more onerous to the teachers, presumably, the compensation will be affected. Maintaining of the 20 minute requirement of the past year's practice is therefore recommended.

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## 2. Teaching Conditions (Class Size)

The Association's position is set forth as follows:

- "C. No junior-senior high school teacher shall be required to teach more than one (1) subject per period. Every effort shall be made by the Board to insure that no teacher at the junior-senior high school level shall have more than three (3) academic preparations per teaching day.
- E. During the 1977-78 school year, elementary teachers shall be assigned to no more than twenty-nine (29) hours of student instruction and supervision per week. Elementary teachers shall have a daily forty-five (45) minutes duty-free period at mid-day consisting of lunch and duty-free recess for lunch and conference/preparation purposes. During the 1978-79 school year, elementary teachers shall be assigned to no more than twenty-six (26) hours of student instruction and supervision per week. Duty-free recesses of twenty (20) minutes each shall be provided during each morning and afternoon. Teachers shall use these periods for conference/preparation purposes. In addition to the above conference/preparation time, elementary teachers may use those times when their students are receiving

specialized instruction from another person for conference/preparation purposes.

F. When it is known that a teacher will be affected by a change in grade assignment in the elementary school grades or by changes in subject assignments in the secondary school grades, he will be notified and consulted by the Superintendent or personnel director by June 30th. Changes after this date shall be with the consent of the teacher. In making such changes, the desires of teachers shall be considered, but the final decision on such changes shall be made by the Board, subject to the provisions of this Agreement.

G. All student fees in the junior-senior high school grades will be collected by someone other than the classroom teacher."

The Board's proposal, as set forth in the Association presentation at the Fact Finding Hearing is as follows:

Teaching Loads and Assignments:

- "A. Duties associated with the teaching profession and falling within the school day may be assigned by the Board.
- B. Rural teachers will check in by 7:30 a.m. and may leave at 3:00 p.m. City teachers - 8:00 a.m. -- 3:25 p.m. An exception to the above is noted in Article IV, sub-paragraph 3.
- C. Generally students will arrive one (1) hour later than teachers. This will provide a one (1) hour preparation period for all teachers. The preparation period will be a duty period in which teachers will prepare lessons, correct students' papers and be available for student, parent, or administrative conference.
- D. If scheduling makes it necessary to offer a few early classes during the preparation period, those teachers so affected will be given a substitute one (1) hour preparation period during the school day. Those teachers would need to arrive 10 minutes early and could leave 10 minutes early.
- E. Teachers will be required to be at their assigned places of duty twenty (20) minutes before classes begin. Students will not be permitted in the classrooms before that time.

- F. Senior high school teachers will teach five (5) classes of sixty (60) minutes each. In addition, five (5) minutes will be allowed between classes for students to change classes. The duty free lunch period will be thirty-five (35) minutes in duration. An attempt will be made to keep the number of academic preparations on the secondary level to a minimum.
- G. The same working conditions apply to Junior High teachers as apply to Senior High teachers, except that the length of each class may be shortened to accomodate six (6) teaching periods per day. The six (6) teaching periods would constitute a normal teaching day.
- H. Elementary teachers will have four (4) fifteen (15) minute duty free morning recesses each week. Each teacher will help supervise one (1) morning recess per week. Afternoon recess periods, if needed by grades kindergarten through six, will be under the supervision of the teachers, possibly assisted by aides. The duty free lunch period will be thirty (30) minutes duration.
- I. Rural students will be dismissed at 2:30 p.m., city at 2:55 p.m.
- J. When it is known that a teacher will be affected by a change in grade assignment in the elementary school grades or by changes in subject assignments in the secondary school grades, he or she will be notified and consulted by the Superintendent or personnel director by August 1. Teachers affected by changes in assignment occurring after this date will be consulted immediately. Desires of teachers shall be considered, but determined by Board controlling."

It is particularly noted that the Association's position has not changed from May 11, 1978, to the time of the hearing. The Board's position has changed considerably.

While the Association characterizes the Board's proposal as one throwing the entire issue into dispute, it may also be termed a concerted effort to find a solution to a

problem that is at issue, and a solution that, at least insofar as the Board and Administration is concerned, represents an honest effort to resolve a dispute, not to create a dispute.

As mentioned earlier herein, the Administration must have some considerable leeway in such matters. To the extent that this leeway produces burdensome teaching conditions, than the teachers may well justify differing compensation for those more onerous conditions. But such is not evident in the Board's proposal. Inevitably, the Board's position will meet with both concerns, and with exception. Taking issue by issue, the Fact Finder cannot see where there is a substantial departure from prior years practices as to justify a recommendation that would forestall the Administration from taking the position it has offered.

Consequently, the position of the Board is recommended as to teaching leads and assignments and as to teaching conditions.

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3. Agency Shop

Following the submission of some preliminary recommendations made by this Fact Finder at an earlier date, the parties agreed to modification of the agency shop provision that eliminated all but one issue. That sole remaining issue relates to the following proposals with respect to indemnification.

The Association's position on Section D:

"The Association shall indemnify and save the Board harmless against any and all claims, demands, suits, or other forms of liability that may arise out of compliance with this Article provided that such liability is not the result of the Board's failure to comply with the procedural aspects of the Tenure Act, this Agreement, or state and federal law."

The Board's position on Section D is:

"The Association agrees to indemnify and save the Board, and including each individual school board member, harmless against any and all claims, demands, costs, including unemployment compensation, suits, or other forms of liability including back pay and all court or administrative agency costs that may arise out of or by reason of action by the Board for the purpose of complying with this Article."

With respect to the inclusion of "and including each individual school board member, ---"

The Fact Finder supports the position of the Board. The practice of bringing suit against a Board and its individual members places a burden on the individual that could well deter a prospective Board member from serving on a Board, and yet arising under this clause. It is noted that the Association language of "---or other forms of liability," could well include unemployment compensation, and Administrative costs arising out of the application of the Agency Shop clause, as determined by the court handling any particular claim.

It is for the above reason that the Board's proposal is recommended.

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#### 4. Building Key Language.

This issue, following preliminary Fact Finding has changed from building key issue to a question of whether each teacher will be provided with a desk and chair, and whether the language should be included under teaching conditions, or as a separate Article. Our basic difficulty is grasping the significance of placing the provision of a desk and chair under one heading, (Teaching Conditions) or as a separate Article! However, as the provision of a room and building key, as well as other necessities such as maps, globes, etc., etc., appeared under "Teaching Conditions" of the prior contract it is recommended that desks and chairs be listed under "Teaching Conditions."

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#### 5. Sick Leave

It is noted that the Association modified its proposed language in this extensive Article. However, those modifications contain new provisions that cannot be supported. While this Fact Finder can generally support the Association position, exception must be taken to the following:

##### Association Proposal F.

The word "disability" is too broad. To leave the granting of leave of absence for as long as a teacher wants it based on "disability" is not good Administrative procedure. One can imagine many disabilities - such as financial, or family related, etc., etc., that could hamstring the Administration for as long as that particular teacher lived. Further, the general practice is to observe an illness (substantiated by appropriate medical advise) to a one year period, and renewal at the Board's discretion for a second year.

With respect to Association demand I-3:

The phrase

"A leave of absence with pay shall be granted for time necessary for appearances in any court appearance connected with the teacher's employment or in the school system if the teacher is required by law to attend."

Incidents can be envisioned wherein the Board should not be required to pay for such times. For example - a garnishment challenge may well require the teacher's presence, but should not be with pay.

It is recommended that the word shall should be changed to may.

Considering next Paragraph K., the last sentence of the Association's proposal - reading

"The regular salary increment occurring during such period, maximum of one (1) year, shall be allowed.

One can understand the Board's denying an increment for Association service which does not necessarily enhance the teaching skills of a teacher and the Board's position is supported.

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#### 6. Duration.

At the time of the Fact Finding Hearing (August 14, 1978) the teachers and the Board have

1. negotiated well over one year;
2. have lived without a contract for a full school year;
3. are approaching a second year without a contract.

Under these circumstances, it is not reasonable to limit a contract to the prior year and the upcoming school year. Somehow, the parties must get back to the basics of their responsibility and have a bit of a breather from negotiations. Accordingly, it is strongly recommended that a three year contract be entered into. It is therefore further recommended that those provisions that are to be retroactive are:

1. Basic Pay Schedules
2. Extra duty pay schedule, but
3. Insurance and fringe benefits that have application to the future only (i.e. life insurance) to be effective 1978-79 school year

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#### 8. Extra Duty

The only issues that were presented as remaining in this area is the Drivers Education rate of pay, and the Association demand for duties in excess of normal loads to be computed at 1/5 of the regular per diem rate. In 1975 the hourly rate was 6.25 per hour. It is now proposed by the Association that Drivers Education teachers receive the following schedule:

1977-78	\$3.50
1978-79	4.00

The Board's proposal is

1977-78	3.00
1978-79	3.25
1979-80	3.50

It is recommended that Drivers Education be reimbursed as follows:

1977-78	3.25
1978-79	3.75
1979-80	4.25

With respect to assignments in excess of regular loads, the fact remains that a teacher has duties beyond the five (5) hour level suggested by the Association. Hence, any pro-rata should recognize a teacher's total assignment.

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#### 9. Basic Salary Schedule

The parties are in agreement on the basic salary schedule for the 1977-78 school year. Longevity payments remain to be resolved. As for the succeeding year, recommendations cannot be made in any precise manner. Basically the parties are very close to agreement and cost of living increases are of prime concern to the Fact Finder.

For the 1978-79 school year the parties are in agreement as to Base for B.A. at \$10,900 with 11 steps and an index of 1.56; B.A. + 20 with a base of \$11,200 and an index of 1.57; M.A. Base of \$11,500 and an index of 1.58. There is disagreement as to only the index for M.A. + 15 (1.58 offered by the Board and 1.59 demanded by the Association) and the index for 2nd M.A. (1.58 offered by the Board and 1.60 demanded by the Association.) The dollar affect of this difference is \$118 at M.A. + 15 maximum and \$242 at 2 M.A. maximum.

Rather than accepting the Association's changes in index, it is recommended that a longevity schedule be

adopted along the following line for 1978-79:

After 15 years	2%
After 20 years	4%

For 1979-80 the Association, up to the time of the hearing, had not made a proposal for this third year of the contract. The complete proposal would be as follows:

Based on a June 1978 to June 1979 COLA (cost) equivalent to the former COLA (all city average) the B.A. base (of 1978-79) would be adjusted not less than 5% or more than 7%, with the same progression except that both the B.A. and B.A. + 20 index will be 1.57 and the M.A. indices will be 1.59.

The longevity pay is recommended to be the same as in the 1978-79 recommendations.

With respect to the school calendar, while differences are noted between what the Administration wants and what the Association wants, it is impossible to assess the value of that difference. Once again, in the interest of giving the benefit of doubt to the Administration who must consider over-all community needs as well as the wishes of the teachers, it must be recognized that this District is in an agriculture belt and that early school closing has more meaning to the community than in other areas.

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10. It is the recommendation that the Long Term Disability Insurance program be instituted by the Board, based on a 90 day activity, with the Board paying the cost thereof.