

STATE OF MICHIGAN
DEPARTMENT OF LABOR EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF FACT FINDING BETWEEN

HENRY FORD COMMUNITY COLLEGE
FEDERATION OF TEACHERS, AFT 1650

AND

DEARBORN BOARD OF EDUCATION,
HENRY FORD COMMUNITY COLLEGE
BOARD OF TRUSTEES

M.E.R.C. FACT FINDING
Case Number D83B498

~~Revised~~ Roger Winkelman
4-18-84

BACKGROUND

The Petitioner of this Fact Finding was John McDonald, President and Chief Negotiator, Henry Ford Community College Federation of Teachers, AFT 1650. As the Petitioner stated in the Petition for Fact Finding, the parties have previously engaged in mediation and the parties have not succeeded in resolving the disputed matters. Four (4) mediation meetings were held with the Mediator, Robert Whitaker.

The Fact Finder, Roger E. Winkelman, was appointed under the procedures of the Michigan Employment Commission. As a result of a compromise between the two (2) parties, an initial hearing date of February 1, 1984 was established. The Fact Finder conducted hearings in this matter at the M.E.R.C. on February 1, 1984, February 7, 1984 and February 14, 1984. The fact finding proceedings were held pursuant to Section 25 of the Labor Mediation Act, of 1939, PA 176, M.C.L.A. 423.25; M.S.A. 17.454(25).

Present at the February 1, 1984 hearing were:

1. Representing Dearborn Board of Education,
Henry Ford Community College Board of Trustees:
 - a. Richard J. Seryak, Attorney

Henry Ford Community College
Petitioner

b. Dr. Stuart Bundy, President of Henry Ford Community College

c. Jerry D. Sumrall, Director of Business Services

d. John F. Waldner, Director of Business Services, P-12

2. Henry Ford Community Federation of Teachers,

AFT 1650:

a. John McDonald, President, Henry Ford Community College Federation of Teachers, AFT 1650

b. Mark H. Cousens, Attorney

c. Les Goings

d. Paul Winslow

e. Edward Chielens

f. Lynne Hensel

Present at the February 7, 1984 hearing were:

1. Representing Dearborn Board of Education,

Henry Ford Community College, Board of Trustees:

a. Richard J. Seryak, Attorney

b. Dr. Stuart Bundy, President, Henry Ford Community College

c. Jerry D. Sumrall, Director of Business Services and Controller

d. Harold King, Assistant to President of Henry Ford Community College

2. Representing Henry Ford Community College

Federation of Teachers, AFT 1650:

a. John McDonald, President, Henry Ford Community College Federation of Teachers, AFT 1650

b. Mark Cousens, Attorney

c. Paul Winslow

d. Edward Chielens

e. Lynne Hensel

f. Sally Barnett, President, Local 681, Dearborn Federation of Teachers

Present at the February 14, 1984 hearing were:

1. Representing Dearborn Board of Education,

Henry Ford Community College, Board of Trustees:

a. Richard J. Seryak, Attorney

b. Dr. Stuart Bundy, Henry Ford Community College President

c. Jerry D. Sumrall, Director of Business Services

d. Harold King, Assistant to the President, Henry Ford Community College

2. Representing Henry Ford Community College
Federation of Teachers, AFT 1650:

- a. John McDonald, President, Henry Ford
Community College Federation of Teachers, AFT 1650
- b. Mark Cousens, Attorney
- c. Paul Winslow
- d. Lynne Hensel

Extensive testimony and evidence were presented to this Fact Finder in an attempt by each party to establish a base for evaluation of the proposals at impasse in this dispute. This Fact Finder noted the credibility of the witnesses for both sides. The principal witness for the Union was the President of the Local, John McDonald, whose knowledge and concern for his Local as well as the consequences of the Union proposals were noted.

The principal witnesses for the Board were Jerry D. Sumrall, Director of Business Services, and Dr. Stuart Bundy, President of Henry Ford Community College. Their knowledge of the complexities of the budgeting and accounting process as well as of the funding sources and requisite contingencies of each type of revenue source, were extensive and based on years of experience.

The Fact Finder was provided with a substantial number of exhibits by Dearborn Board of Education, Henry Ford Community College Board of Trustees as well as by Henry Ford Community College Federation of Teachers, AFT 1650. These provided considerable quantity, comparative and argumentative material for the Fact Finder's consideration. These included:

Joint Exhibit 1 - 1982-83 Agreement between the Board of Trustees of Henry Ford Community College and Henry Ford Community College Federation of Teachers, AFT 1650

- Board Exhibit 1 - 1984-84 Budget Summary
- Board Exhibit 2 - Adopted Budget 1983-84
- Board Exhibit 3 - Ten (10) Year History of Revenue Expenditures and Year-end Balances
- Board Exhibit 4 - Ten (10) Year Summary Report
- Board Exhibit 5 - History of Salary Increases at Dearborn Federation of Teachers Local 681 and Local 1650
- Board Exhibit 6 - History of SEV, Millage Rates and Revenues Generated
- Board Exhibit 7 - History of State Aid
- Board Exhibit 8 - 1983-84 Projected Credit Hours and Tuition Revenue
- Board Exhibit 9 - 1982-83 Summary of Actual Teacher Average Earnings.
- Board Exhibit 10 - Union Economic Demands Dated April 15, 1983
- Board Exhibit 11 - Henry Ford Community College Remaining Economic Demands Dated August 4, 1983
- Board Exhibit 12 - Remaining Union Demands Summary Dated September 22, 1983
- Board Exhibit 13 - Economic and Non-economic Proposals Dated May 6, 1983
- Board Exhibit 14 - Summary of Enrollment Statistics 1972-73 through 1983-84
- Board Exhibit 15 - Fringe Benefit Comparisons with Other Community Colleges
- Board Exhibit 16 - Community College Salaries, Minimum and Maximum
- Board Exhibit 17 - SEV Comparisons Among Community Colleges per FYES
- VERI Board Exhibit 18 - Letter of Understanding re:
- Board Exhibit 19 - VERI 1982-83
- Board Exhibit 20 - Demand for Arbitration
- Board Exhibit 21 - Arbitration Awarded AAA Case
- Board Exhibit 22 - Letter from Joseph Schore
- Board Exhibit 23 - Fair Employment Practices Sum-

mary of Latest Developments

Board Exhibit 24 - Michigan Community Colleges' Tuition 1983-84

Board Exhibit 25 - Tuition Increases at Henry Ford Community College

Board Exhibit 26 - Special School Election April 21, 1983 Official Returns

Board Exhibit 27 - Official Returns Special Election June 13, 1983

Board Exhibit 28 - Proposed Opinion and Judgment by Michigan Tax Tribunal Hearing Officer

Board Exhibit 29 - Memo from Dr. McLennan to Board of Education re: Ford Tax Revenue Appeal

Board Exhibit 30 - Letter to Staff Members from Dr. McLennan re: Ford Tax Revenue Appeal

Board Exhibit 31 - Memo to Board of Education from Dr. McLennan re: Ford Tax Tribunal Appeal

Board Exhibit 32 - Summary of Wayne County's School Districts' Fund Equity

Board Exhibit 33 - University of Michigan 1983-84 Salary Data

Board Exhibit 34 - General Fund Equity State-wide Averages 1980-81

Board Exhibit 35 - General Fund Equity State-wide Averages 1981-82

Board Exhibit 36 - Analysis of Public School Revenue and Expenditures 1981-82

Board Exhibit 37 - History of P-12 Layoffs

Board Exhibit 38 - Civilian Labor Force and Wage Salary Employment Estimates

Board Exhibit 39 - CPI for 1982-83 Urban Wage Earners and Clerical Wage Earners Revised

Board Exhibit 40 - Annual Cost of Early Urban Families Intermediate Budget

Board Exhibit 41 - Annual Cost of the Urban Families Higher Budget

Board Exhibit 42 - Council on Wage and Price Stability Medical Care Components of the CIP

Board Exhibit 43 - Certified Combined Financial

Statement

Board Exhibit 44 - Michigan Community Colleges
Activities Classification Structure, FY 1981-82

Board Exhibit 45 - Letter from Citizens Committee
to Dr. McLennan re: Capital Improvements

Board Exhibit 46 - History of District Fund Equity

Board Exhibit 47 - 1983-84 Tuition and Service Fee
Revenue Summary

Board Exhibit 48 - Adopted 1983-84 and Revisions

Board Exhibit 49 - Gross Earnings 1983

Union Exhibit 1 - Remaining Union Demands and
Summary

Union Exhibit 2 - Remaining Economic Demands

Union Exhibit 3 - Comparative Data

Union Exhibit 4 - Comparative Data with Other
Community Colleges

Union Exhibit 5 - Analysis of Contact Hours Summary

Union Exhibit 6 - 1975 Report of the Northcentral
Association of Colleges and Schools

Union Exhibit 7 - Costing as to Issue I

Union Exhibit 8 - Tuition Costs

Union Exhibit 9 - UAW Employment Development and
Training Program Summary

Union Exhibit 10 - Voluntary Early Retirement
Costing Summary

Union Exhibit 11 - Costing re: Proposals of Blue
Cross Riders

Union Exhibit 12 - Costing Summer Session Con-
cession

Union Exhibit 13 - Costing 1983 Summer Session and
1/700th Rate

Union Exhibit 14 - Costing for Extra Compensation
Questions

Union Exhibit 15 - Comparative Data - Tri-County
Educators

Union Exhibit 16 - 1982-83 MA Maximum Salary,
Ranked Revised

- Union Exhibit 17 - History of Bargaining
- Union Exhibit 18 - Costing 1983-84
- Union Exhibit 19 - Union Demands Costing 1983-84
- Union Exhibit 20 - District Financial Summary
1978-79 and 1979-80
- Union Exhibit 21 - 1980-81 Projected Financial
Summary
- Union Exhibit 22 - 1981-82 Projected Financial
Summary
- Union Exhibit 23 - Dearborn Public Schools P-12
1982-83 Budget
- Union Exhibit 24 - Budget Projection and Audit
Summary dated February 4, 1984
- Union Exhibit 25 - Alphabetical Henry Ford
Community College Salary Accounting
- Union Exhibit 26 - Agreement Between the Dearborn
of Education and the Dearborn Federation of Teachers Local
681 AFT
- Union Exhibit 27 - Board Position Full-time
Contractual Salary 1983-84
- Union Exhibit 28 - 1983-84 Salary Summary Board
Position vs Union Position
- Union Exhibit 29 - 1984-85 Union Demand Costing
- Union Exhibit 30 - Letter from Mr. Richard Seryak
to the Honorable Shlomo Sperka at M.E.R.C.
- Union Exhibit 31 - Comparative Data - Wayne County
- July 1, 1982

Many objections as to the admissability of the evidence were made during the fact finding. It is the Fact Finder's opinion that these objections shall be overruled. Under the Act, Fact Finding is, in essence, a "further extension of the collective bargaining and mediation process." (Hyman Parker, MICHIGAN PUBLIC EMPLOYMENT RELATIONS ACT AND PROCEDURE, School of Labor and Industrial Relations, Michigan State University, the Employment Relation Studies Series, No. 1, 1982 revised 5th Edition) The purpose of this procedure

is to establish facts and must be guided by the rules of evidence. However, strict observance of the legal rules of evidence is not necessary. Any evidence and information or testimony is acceptable which is pertinent to the issue, which aids a fact finder to understand and decide the dispute. As stated in the brief for the Henry Ford Community College Federation of Teachers, "if a Fact Finder refuses to consider important evidence on some technical basis, the process will be badly affected" (Page 2 of Petitioner's Brief). Thus, during the fact finding hearings, the Fact Finder afforded wide latitude in presenting documentary and testimonial evidence. It is necessary at this point to state that the weight of a particular piece of evidence or testimony is within the purview of the Fact Finder.

It should be noted that both parties were allowed to submit post-hearing briefs. However, the Fact Finder takes note of receiving a letter from the Employer on March 30, 1984. As noted in the letter, the universal practice concerning these briefs is to serve copies of any filings on the representative of the opposing party. (See Elkouri and Elkouri, HOW ARBITRATION WORKS, 3rd Edition, 1973, p. 233) However, there were no provisions made for reply briefs. As a result, I am disregarding the Employer's March 30, 1984 letter challenging the Petitioner's post-hearing brief.

ISSUE I

Union's demand requiring additions to the teaching staff, whenever the class is taught during the day by part-time teachers within a Department/Division is equal to or in excess of two (2) full-time positions for three (3) consecu-

tive semesters, the administration shall honor the request of the Department/Divison for additional full-time teachers up to a number that would reduce the amount of day part-time teaching within the Department/Division to less than equal to two (2) full-time positions.

At the commencement of the fact finding, there was confusion in the mind of the Employer as to the maximum total number of teachers that in one (1) year could be hired under this proposal. As it was stated by Mr. McDonald, President of Local 1650, no more than four (4) teachers could be hired at the College under this provision in one (1) year.

To support their argument, the Union introduced evidence on the disproportionate growth in the number of part-timers and the number of contact hours taught by them at the College (Union Exhibit 3). The Union relies heavily upon the most recent accreditation report on the College of 1975 (Union Exhibit 6), which states that the part-time/full-time ratio of faculty (more than 2-1) is extremely high for effective instruction. In Union Exhibit 5, the Union aptly demonstrates that the percentage of student contact hours taught by full-time teachers had dropped and that in a seven (7) year span, Local 1650 handles only a little more than one-half (1/2) of the teaching at the College.

Henry Ford Community College argued that the number of part-time teachers at the College has fallen the last two (2) years. The Employer pointed out to the Fact Finder that in comparing Henry Ford Community College with other community colleges with similar attributes, only Macomb County Community College and Oakland County Community College have greater number of full-time teachers. However, it must be

remembered that they also have substantially larger F.Y.E.S. enrollments as well as a higher tax base (Employer Exhibit 15).

RECOMMENDATION

It is the recommendation of the Fact Finder that the Union's demand requiring additions to the teaching staff under certain circumstances not be included in a new agreement. There has been no evidence that any other community college has negotiated this type of contractual requirement. The Fact Finder would be more receptive to this proposal if there had been an erosion in the bargaining unit in terms of total number of teachers. Evidence was introduced that there have been no layoffs of full-time faculty in the last ten (10) years at the College.

The Union reliance on the 1975 accreditation report seems to be weakened by the fact that (1) this is a report from 1975 and (2) probably more importantly, that the College received the accreditation with the highest accreditation period which a team may recommend. Lastly, the Union did not present evidence of any adverse impact on the educational process at Henry Ford Community College as a result of the employment of part-time faculty.

The Fact Finder is not deciding whether the Union's proposal constitutes a mandatory or permissive subject of bargaining. However, the Fact Finder does accept and recommends the Board's position on this proposal to establish a study committee on this issue.

ISSUE II

Union's demand establishing a Thirty Thousand

(\$30,000.00) Dollar tuition fund for advance study and retraining.

The Union argues that, unlike P-12 teachers, teachers at the college level must pursue graduate coursework to upgrade within their discipline and to qualify for a position in another Department/Division. Article IV.A.1 of Joint Exhibit 1 of the 1982-1983 contract indicates that "preferred minimal educational requirements for full-time teaching shall be a Masters Degree in the subject matter, or its equivalent, directly related to the teaching job being filled." Community college undergraduate credit is not acceptable for purposes of upgrading or retraining under the collective bargaining agreement. As illustrated in Union Exhibit 8, only two (2%) percent of Local 1650 membership could even pursue a leisurely program of one (1) 3-credit-hours course per semester under the Board's proposed tuition fund of one (1%) percent of the contractual payroll.

The Board's position on this issue is the establishment of a tuition fund of Seven Thousand (\$7,000.00) Dollars. The Employer argued that the faculty and their families already have tuition-free access to the college course offerings and facilities, and the Union's proposal represents an additional fringe benefit above and beyond the existing benefits.

RECOMMENDATION

It is the recommendation of the Fact Finder that the Union's proposal concerning the establishment of a Thirty Thousand (\$30,000.00) tuition fund be accepted. The Fact Finder placed emphasis on evidence that the community college undergraduate credit is not acceptable for purposes of up-

grading or retraining under the collective bargaining agreement. Also, the Board's position was not that this fund should be established at all, but that it be limited to Seven Thousand (\$7,000.00) Dollars. There was no evidence introduced as to how the Seven Thousand (\$7,000.00) Dollars figure was established. In addition, the Fact Finder felt persuaded by the fact that under the Board's proposal, a very small percentage of Local 1650 membership would be able to pursue a course of study only at a very slow rate.

ISSUE III

Union demand for a contractual Voluntary Early Retirement Incentive (VERI) provision.

The Union presented a proposal which they denoted provided an economic incentive for senior teachers at a maximum salary to retire prior to the mandatory retirement age of seventy (70) and thus generating savings to the Board. Evidence was established that on two (2) prior occasions the Board provided "one-time" VERI opportunities to College teachers (Employer Exhibits 18 and 19). The Union argued that these VERI programs provided greater monetary benefits than those proposed in the Union's proposal.

The Union believes that its argument is strengthened by the fact that Dr. Stuart Bundy, President of Henry Ford Community College, has testified that these "one-time" VERI plans entailed no cost to the Board and thus were "cost effective." In addition, the Union introduced a worse case scenario in Union Exhibit 10, which they argued, illustrates the savings afforded the Board under this proposal.

The Employer has introduced evidence of E.E.O.C.

documents (Employer Exhibit 22) which it asserts indicates that early retirement incentive programs are now being scrutinized by the agency for the purpose of ascertaining the legality under the Age Discrimination Employment Act (ADEA). The Employer acknowledges that it is unaware of any court decisions, Commission opinions or rulings which would clearly establish that the Union's proposal is illegal. However, the Employer implies the fact that E.E.O.C. is considering the issues should give pause before implementing such a plan.

The Employer denotes that specifically in "Field Notes on Interpretation And Enforcement of ADEA as applied to Employee Benefit Plan," an early retirement incentive plan should be considered a potential violation of the ADEA, when such a plan (a) is not part of a bona fide pension or retirement plan; and (b) when the plan has the effect of penalizing the employees who continue to work beyond the age at which the greatest incentive is provided (Employer Exhibit 23). As an example of the type of incentive plan which could be a violation of the ADEA, the E.E.O.C. has opined that, in order for a retirement incentive to be an integral part of the employee benefit plan within the meaning of the ADEA, age must be an actuarially significant factor. (Employer Exhibit 23, p. 877) The Employer placed great emphasis on the fact that the Union's proposal had not been reviewed by an actuary nor premised on any actuarial calculations, as per the testimony of Union Local President, John McDonald.

RECOMMENDATION

It is the recommendation of the Fact Finder that the VERI proposal be studied further by the establishment of a Study Committee. The Fact Finder has placed a great deal

of emphasis on the fact there seems to be, at the least, a strong question as to the legality of this proposal, especially with the emphasis by the E.E.O.C. that age must be an actuarially significant factor.

However, the Fact Finder appreciates the Union's view that the VERI opportunity should be handled in such a fashion that teachers have an opportunity to plan ahead and not have to decide such an important question within a short period of time. The Fact Finder appreciates that the Union has demonstrated very forcefully that their proposal would be "cost effective." However, considering the uncertainty of the legality of this proposal coupled with the fact that no other comparable institution has such a proposal incorporated into their labor agreement, the Fact Finder is reluctant to recommend incorporation of this proposal into the labor agreement. The cost effective nature of VERI proposals should be reason enough for the Employer to be willing to study this question.

ISSUE IV

Union's demand calling for "reinstating" the "1/600th" rate used to determine compensation for a Summer Session.

Union introduced evidence that the "1/600th" rate had been the Summer Session rate up until the negotiation of the 1982-1983 contract. The Union, in the 1982-83 contract, made the concession to the Board of reducing the rate to "1/700th." The Union argued that it made the concession only because of the 1982-83 reductions in State Aid Revenue to the College. The Union argued that its Summer Session economic

concession in the rate had the effect in reducing dramatically in some cases and virtually offsetting the majority of cases the 1982-83 3.1% adjustment in contractual salary.

The Union stressed the fact that it was the only bargaining unit within the Dearborn School District to make an economic concession "in exchange for" a contractual salary adjustment. The Union also desired to remind the Fact Finder that State Aid has since increased and the Governor has recommended a ten (10%) percent increase in State Aid Revenue for community colleges.

The Board opposes this increase for reason that the extra contractual rate is already disproportionately high in contrast to other community colleges. Moreover, the Federation voluntarily agreed to reduce the formula from 1/600th of the ten-month contractual salary to 1/700th in negotiations culminating in the 1982-83 contract. In exchange for this concession, Local 1650 members received a three and one-half (3.5%) percent improvement in salary and benefits.

RECOMMENDATION

It is the recommendation of the Fact Finder that the Summer Session Rate be reinstituted to the 1/600th rate. The Fact Finder was persuaded that, in the 1982 contract, Local 1650 was the only bargaining unit within the Dearborn School District to make any kind of concession, and only because of the reductions in State Aid Revenue to the College.

ISSUE V

Union's demand for addition of three (3) riders SAT, RPS and VPS to Article XIX.E.1, the Blue Cross/Blue

Shield (BC/BS) hospital-surgical-medical group insurance policy. The Union issued evidence that the College administration had already been afforded the SAT Rider in its BC/BS coverage. The Union introduced in Union Exhibit 11 the costing of their proposal.

The Employer offered testimony ostensibly through Employer Exhibit 15 that the Union's benefits are already the highest of any comparable institution and for reasons of cost and the Union's failure to demonstrate any hardship or need relative to the existing Hospitalization insurance coverage.

RECOMMENDATION

It is the recommendation of the Fact Finder that the SAT rider alone be added to the BC/BS insurance policy in the labor agreement. The Union has not demonstrated any hardship or need relative to the existing hospitalization coverage. However, the Fact Finder placed emphasis on the fact that the college administration has already been afforded the SAT Rider in its BC/BS coverage.

ISSUE VI

Union's demand to restore "extra-compensation" base payment, a 4.2% increase in compensation, for special "extra-compensation" assignments. The Union introduced evidence that a second economic concession in the 1982-83 contract was the freeze placed upon the compensation afforded "extra-compensation" assignments. Prior to the 1982-83 contract concession, the compensation for such assignments were determined by applying specified percentages to One Hundred (100%) percent of the average contractual salary at the College. In 1982-83 the Union agreed to the concession of having the per-

centages applied to Ninety-five and 8/10 (95.8%) percent of the average salary.

The Employer has resisted this proposal on the basis of cost.

RECOMMENDATION

It is the recommendation of the Fact Finder that the rate be restored to One Hundred (100%) percent of the average salary at the College. The Employer has stated in the Employer's Pre-Hearing Presentation and Specifications of Issues in Dispute that this would only affect a handful of the bargaining unit members and the impact would therefore be slight.

ISSUE VII

Union's demand for a two-year contract. The Union has made a strong appeal for the Fact Finder to recommend a two-year contract because of the great difficulty in the negotiation process between the two (2) parties, with the additional circumstance that it is now April. The Union introduced evidence that the Board's attorney believed the Petition for fact finding fairly represented the issues in dispute and thus included the two-year contract proposal (Union Exhibit 30).

The Employer stressed the fact that in the Union's initial bargaining proposal, the Union had only proposed a one-year salary schedule (Employer Exhibit 10). While the Board does acknowledge the Union's freedom to modify its proposals, the Employer submits that the Union itself envisioned a one-year agreement during the first four (4) months as per its testimony in the hearing.

The Board introduced testimony that all of the other contracts affecting the Dearborn School District employees have a one-year term, including the P-12 teachers' agreement.

The Employer lastly argued that the economic future of the Dearborn School District is uncertain and it is premature for the Employer to consider what salary increase should be negotiated for the 1984-85 agreement. The Employer stressed that the financial uncertainty governing the District has been dramatically reinforced by the Ford Motor Tax Appeal.

RECOMMENDATION

It is the recommendation of the Fact Finder that a two-year agreement be reached with a wage re-opener on the second year. Given all of the variables including (a) the nature and duration of dispute; and (b) the date at which the parties find themselves, a two-year contract is most reasonable. In light of the financial uncertainty facing the Dearborn School District, a salary re-opener is also recommended for the second year.

The Employer states in the Employer's Post-hearing Brief on Page 30 that, at hearing, the Employer requested that if the Fact Finder is going to give consideration to a contract term of more than one (1) year in duration, then the entire dispute should be remanded to the parties. The Fact Finder has reviewed the tapes of the hearings and does not recollect this request by the Employer. In addition, the Fact Finder believes that to remand this dispute at this time would only delay the process.

ISSUE VIII

Union's demand for salary increase of Five (5%) percent plus increments.

A. Union's Argument. The Union introduced Exhibit 16 illustrating historically Henry Ford Community College teachers at Master's Maximum Salary (Seventy-five (75%) percent of HFCC teachers are at maximum salary) were among the top ten (10) Master's Maximum Salaries of educators in the tri-county area. Union Exhibit 15 illustrates that now the Master's Maximum Salary at HFCC has fallen in comparison to twentieth (20th) place. The Union argued that a Five (5%) percent salary adjustment plus increments in 1983 would return the Henry Ford Community College Master's Maximum to a standing within the top ten (10).

The Union introduced evidence comparing the rise of the Consumer Price Index (CPI) since 1978-79 to the Local 1650 salary settlement (Union Exhibit 17). The Union argued that during that period from 1978-1979 to 1982-1983, the Detroit CPI-U (September-August) rose a total of Fifty-six and 6/10 (56.6%) percent while Henry Ford Community College salaries were adjusted to a total of Forty and 55/100 (40.55%) percent.

B. Board's Argument of Ability to Pay. The Employer introduced evidence that Henry Ford Community College was a Department/Division of the school district of the City of Dearborn. For the last four (4) years, expenditures at the College have exceeded revenues (Employer Exhibit 3). There are three (3) sources of revenue available for Henry Ford Community College: (a) State Aid; (b) tuition and registration fees and (c) local property taxes.

The College budget constitutes roughly one-third (1/3) of the District's total budget. The District has levied all millage which has been allocated by the County and voted by the local electorate. The evidence establishes that the enrollment for the current Spring Term is lower than what administration expected, and tuition will therefore be less than the amount originally budgeted.

The record is that as a percentage of the total budget revenues, the amount of State Aid to the College has declined as a percentage, however, in absolute dollars it has increased. As per Employer Exhibit 17, Henry Ford Community College ranks twenty-sixth (26th) in the ratio of state equalized valuation to fiscally equated year students. In terms of S.E.V., the College ranks tenth (10th) among the community colleges in the State. The Employer argues that the record is that Henry Ford Community College has a local property tax base which is substantially lower than the tax base available to Wayne, Oakland and Macomb County Community Colleges and which is even lower than the S.E.V. of Washtenaw, Schoolcraft and Lansing Community Colleges.

Henry Ford Community College ranks seventh (7th) among community colleges statewide as relative to tuition increases (Employer Exhibit 24). The College has increased its tuition rates each year for the past eight (8) school years. The Employer stressed that eighty (80%) percent of the College's enrollment consists of students who are not residents of the Deaerborn School District.

1. Recent Millage History. The millage renewal election on April 21, 1983, was defeated as well as the millage proposition for capital improvements (Employer Exhi-

bit 26). In another election on June 13, 1983, the needed millage renewal passed by a margin of Three Hundred Nine (309) votes out of Twenty-three Thousand Five Hundred and Fifty-four (23,554) votes cast and the proposed millage for the capital improvements was again defeated (Employer Exhibit 27). The millage renewal which was approved was for Sixteen and 78/100 (16.78) mills which was Four and 13/100 (4.13) mills less than the millage authorized in 1982-83. As evidence has shown, for 1983-84 school year, the Board has levied on the tax rolls all the voted and allocated millage.

2. District Declining Fund Equity. As per Employer Exhibit 46, the fund equity for the entire system was Two and 5/10 (2.5%) percent of the total expenditure budget or One Million Nine Hundred Eighty-three Thousand Two Hundred Eighty-two (\$1,983,282) Dollars as compared to Six Million (\$6,000,000) Dollars in 1980-81 or Eight and 7/10 (8.7%) percent of the total expenditure budget. The certified audit statement in Employer Exhibit 43, p. 3, for the year ending June 30, 1983, reflects that expenditures of the District exceed revenues by Two Million One Hundred Seventy-one Thousand Nine Hundred Fifty-two (\$2,171,952) Dollars. The Employer noted according to Employer Exhibits 35 and 36 that in the 1981-82 fiscal year general fund equity statewide average was Six and 81/100 (6.81%) percent for all districts and Eight and 69/100 (8.69%) percent for all districts excluding Detroit. The Employer stressed that a healthy fund equity enables a District to operate on a physically sound basis despite state aid cuts, declining enrollment, unanticipated repairs and inflation (Employer Exhibit 34).

3. Ford Motor Company Tax Assessment Appeal.

A critical portion of the Employer's case was introduced relative to Claris Kaye Cwirko's Proposed Opinion and Judgment, Employer Exhibit 28, recommending that the tax assessment on Ford Motor Company's River Rouge Complex for the 1981-82 tax years be set aside. The hearing officer also directed that the Dearborn City Assessor correct the tax rolls to reflect a lower assessed value on the River Rouge Complex. Ford Motor Company has protested in addition to the River Rouge Complex the assessed evaluations of other Ford parcels located in the City of Dearborn.

The potential tax refund which Ford Motor Company will be entitled for these parcels amounts to Ten Million Three Hundred Forty Thousand Nine Hundred Sixty-three (\$10,340,963) Dollars (Employer Exhibits 29, 30 and 31). As per testimony of Dr. Stuart Bundy, the President of Henry Ford Community College, potential exposure as a result of the Ford Motor Tax Appeal is Twenty Million (\$20,000,000) Dollars to Twenty-five Million (\$25,000,000) Dollars when lower assessed evaluations of all Ford property, tax refunds, and interest on the proposed judgment, are all taken into account. As per stipulation, this case is being vigorously appealed.

4. School District's Capital Needs. As per Employer Exhibit 45, a Citizen's Committee charged to study capital improvement needs for the Dearborn School District recommended capital improvements over the next five (5) years totalling Eight Million Three Hundred Thirty Thousand Five Hundred Ninety-eight (\$8,330,598) Dollars. As noted by the Committee in their report, this recommendation for substantial funds, which may require a millage election to provide a

large portion of the funds, could be very difficult considering the millage voter mood of today in the District.

5. Comparability With Other Bargaining Units.

The Employer wished to stress the facts that all the other bargaining units in the school system have reached contract settlement on the basis of the 1982-83 salary schedules with no wage increase. The Employer pointed out as per Employer Exhibit 5, that the past practice has been for parity in the total increased cost of the two (2) packages for Local 681 which represents the K-12 instructors and Local 1650. The Employer also noted Local 1650 has superior fringe benefits than Local 681. Lastly, the Employer noted that as per Employer Exhibit 49, that in the area of gross income, Local 1650 is vastly ahead of their counterparts in Local 681.

6. Other Comparisons. University of Michigan-Dearborn which is located next to Henry Ford Community College, provides educational course offerings leading to a four-year degree and maintains entrance requirements unlike Henry Ford Community College. Notwithstanding the fact the University of Michigan-Dearborn is part of the State's university system, the average current salary for a full-time professor is Thirty-three Thousand Six Hundred Eighty-eight (\$33,688) Dollars.

In addition, no other community college in the State, as per Employer Exhibit 15, has quite the array of fringe benefits enjoyed by Henry Ford Community College faculty. Moreover, in terms of Master's Maximum Salaries steps, only Oakland County Community College surpassed Henry Ford Community College for the current year.

C. Union's Position regarding Board's Ability to Pay. As per the testimony of Mr. Sumrall, the Union noted that the Board sets the amount of millage to the College at its discretion, provided it does not exceed the total district authorized millage as approved by the electorate and permitted under the Headlee amendment. Mr. Sumrall testified for the last four (4) years the College reflected a deficit in its initial budget and this came as "no surprise" to the College. The Union argued that Henry Ford Community College budget has been a "self-made deficit." In the past it was pointed out to the Fact Finder that the Board chose not to levy all of the mills it had been authorized to levy.

With respect to the 1983-84 fiscal year, the Union noted that as per Employer Exhibit 2, the adopted budget contains a line Item 2102 for Full-time teaching, a sum of Seven Million Two Hundred Fifty-six Thousand Nine Hundred (\$7,256,900) Dollars. As the Union Exhibit 22 illustrates, the board's salary position of zero (0%) percent plus increments would total Seven Million Eighty Thousand Two Hundred Sixteen (\$7,080,216) Dollars. In Union Exhibits 27 and 28 it is illustrated that the "excess allocation" or differences in Line 2102 alone would permit a Two and 54/100 (2/54%) percent adjustment in salary beyond increments. In examining the revised budget, Mr. Sumrall has focused exclusively on Line Item 2102 which the Union has shown as containing approximately one-half (1/2) of the revenue needed to fund the Union's 1983-84 salary demand.

The Union argues a review of the budget history using Union Exhibits 20, 21, 22 and 23 demonstrates a pattern of underestimating revenues for the College.

1. Ford Motor Tax Appeal. The Union pointed out that no decision of the Tax Tribunal has been rendered on this matter, only a Proposed Hearing and Judgment has been rendered. The Union felt it was very significant that the Board had done nothing in its 1983-84 budget to prepare to address the liability. The Board also has a number of possible strategies to deal with this problem including a proposal to publicize the devastating effect of the sizable liability upon the quality of education in Dearborn and to generate public opinion to pressure Ford into forgiving the liability.

The Union respectfully pointed to the Fact Finder that a millage election would probably be held in Spring, 1985 so that, if necessary, the District can meet millage in 1985 to cover any potential liability. Union Exhibit 31 illustrates that Dearborn is in the position of paying the lowest taxes in Wayne County. The Union also noted from Dr. Bundy's testimony, that the City of Dearborn has recently granted its employees a four (4%) percent wage increase in 1983-84, even in light of the Proposed Opinion and Judgment (Board Exhibit 28).

2. Fund Equity. The Union noted that because all the other units have settled, these units would place no demands on the projected fund balance. The Union pointed out to the Fact Finder that the two (2) districts with smaller fund equities than Dearborn have settled contracts with wage increases for 1983-84 (Union Exhibit 25).

3. State Aid Revenue. The Union pointed out and the Fact Finder has taken judicial notice that the Governor, James J. Blanchard, is recommending a ten (10%) percent increase in state aid revenue to the College in 1984-85. The

Union argued that in the past negotiations between the two (2) parties have relied on the Governor's recommendation in state aid while negotiating their labor agreements.

4. Capital Improvements. The Union has argued that such needs are met out of the capital improvement millage and not out of operating millage or out of the fund equity. The Union also wishes to stress that in Board Exhibit 31, the Committee recommends the sale of four (4) school properties. The Board as per testimony has since approved the sale and earmarked the proceeds for capital improvement projects.

RECOMMENDATION

It is the recommendation of the Fact Finder that the Board's position for a contract providing for a wage freeze with increments be accepted by the parties.

As per the Petitioner's Post-Hearing Brief, in Elkouri and Elkouri, "HOW ARBITRATION WORKS," the BNA (3rd Edition) at page 774, the authors state that "Employers who have pleaded an inability to pay have been held to have a burden of producing sufficient evidence to support the plea. The alleged inability must be more than "speculative" and failure to produce sufficient evidence will result in rejection of the plea."

The Employer has shown that a Proposed Opinion and Judgment was entered on October 26, 1983 recommending that the tax assessments of the Ford Motor Company River Rouge Complex for the 1981-82 tax years be set aside (Employer Exhibit 28). While it is true that no decision of the Tax Tribunal has been rendered, we have a formal Proposed Opinion and Judgment in effect, and this is not an aspect that the

Fact Finder can ignore.

While it is true that the Fact Finder has taken judicial notice of the Governor's recommendation of ten (10%) percent increase in state aid across the board, the Fact Finder has also taken judicial notice that the Governor's Commission on the Future of Higher Education, chaired by James Robinson, has recently recommended to drop uniform state funding. In addition, the Fact Finder must take judicial notice of the fact that the so-called "Voters Choice Amendment," which is presently in the state of a petition drive, if passed in November, would roll-back taxes to 1981 levels, and that would cut higher education funding.

Recent millage history of the district does warrant the belief by the Fact Finder that voters are not likely to vote in favor of a more substantial millage. The Fact Finder was particularly impressed that the margin of victory in the June millage renewal was so small.

Lastly, the Employer argued very forcefully that all the other bargaining units in the school district have reached contract settlements on the basis of the 1982-83 salary schedules with no wage increase. The Fact Finder has given some weight to the fact that Local 1650 and Local 681 have a past practice of parity in the total increase of the two (2) labor packages. In addition, the Fact Finder took notice that Local 1650 employees are already among the highest paid employees of the District.

The Fact Finder has a problem with the Union's argument encompassing only one (1) line of the revised budget. The budgetary process is such that a proposed or a revised budget must be dealt as a whole instrument. While it is

true that the administration has an unbroken record of underestimating District revenues, the Fact Finder would be more concerned if the administration had overestimated the revenues habitually and thus placed itself in a poor managerial position.

Against the backdrop of all these factual problems, the Fact Finder believes prudence dictates a wage freeze with increments. The Fact Finder will not decide the issue of whether to include language in the contract to eliminate dual premium payment for family coverage where both husband and wife are employees of the District. No evidence was introduced on this issue during the hearings.

CONCLUDING REMARKS

The Fact Finder expresses appreciation for the care taken by both parties and planning with the great body of detailed information which thus enabled the Fact Finder to do this task with equal care and attention. I am sure these recommendations will not meet with the full acceptance by the parties; however, I do hope that the parties will be provided with a basis for settlement. I remain available to the parties for clarification on my recommendations and assistance in reaching a settlement.

Respectfully Submitted,


ROGER E. WINKELMAN

Dated: April 18, 1984