

12/12/73 FF

1241

327

STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

RECEIVED
DEC 13 1973

In the Matter of

HIGHLAND PARK BOARD OF EDUCATION
Highland Park, Michigan

-and-

Case No. D73 H-2855

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
DETROIT OFFICE

HIGHLAND PARK FEDERATION OF TEACHERS
Local No. 684

Michigan State University
LABOR AND INDUSTRIAL
RELATIONS LIBRARY

Highland Park Board of Education

On October 29, 1973 the undersigned, Leon J. Herman, was appointed by the Employment Relations Commission as its hearings officer and agent to conduct a fact finding hearing relevant to the matters in dispute between the above parties, pursuant to Section 25 of Act 176 of Public Acts of 1939 as amended, and the Commission's regulations. Accordingly, and upon due notice, hearings were scheduled and held on November 28 and 29, 1973 at the Offices of the Board of Education in Highland Park, Michigan.

Miller, Canfield, Paddock & Stone, Attorneys, by James E. Tobin; Clyde Minor, Assistant Superintendent for Personnel and Thomas Lloyd, President, Highland Park Community College, represented the Board of Education.

Henry Linne, President, Michigan Federation of Teachers; Malcolm Wright, President Local No. 684; Lois Nochman, Art Donar, Robert Bryant and Jacquelyn L. Lewis, Teachers, appeared on behalf of the Federation.

Before proceeding to discussion of the issues involved herein it would appear that some historical background might be in order. Negotiations on a contract for the 1973-74 school year terminated in proposals by the Board and Federation, both of which were rejected. On September 4, the first day of school, the teachers walked out on strike. Thereafter meetings were held, as the result of which the Federation proposed an increase in salary of approximately 11.4%, which was again rejected by the Board. The counter offer by the Board was similarly rejected by the Federation. Subsequent meetings with the State mediator again proved fruitless. For several days thereafter, while the negotiating committees were meeting at the Board's offices, they were besieged by a number of parents who forced them to stay in the building until a tentative agreement was reached. A temporary injunction was then issued by the Wayne County Circuit Court directing that the teachers return to school and that the parties continue to bargain eight hours a day, seven days a week until an agreement was reached. The parties complied with the order.

At the close of a negotiating meeting on or about September 22 tentative agreement was reached between the committees. The Chairman of the Union's negotiating committee said to the Board members "You have a contract." It was the understanding of the Board that the Committee had accepted the proposed contract unanimously. Malcolm Wright, President of the Local and a member of the bargaining committee, testified that he privately advised the Union committee that he did not approve and that he would present a minority report in opposition. This was not communicated to the Board members.

The Union's Executive Committee thereafter met on the proposed contract and by majority vote approved the proposed agreement. The contract was then presented to the membership for ratification. Mr. Wright made a strong polemic against ratification. The contract was rejected by a three to one vote of the membership. Thereafter a new bargaining committee was named which obtained further concessions from the Board, although not enough to induce the committee to accept the proposed agreement. The dispute was then heard by the undersigned in a fact finding hearing.

Some comments on the manner in which the original Federation committee members conducted themselves in the course of negotiations are appropriate. It should be emphasized that a bargaining committee has no authority to bind the general membership of the Federation. It may only present the results of its negotiations, with or without comment or approval, and leave it to the members to decide whether they wish to accept them. My criticism here is directed only toward the tactics which the Federation Committee and the President of the Local employed in its relationship with the Board team.

Negotiations for a collective bargaining agreement are not the same as a confrontation of opposing armies. When a war between two countries results in a treaty of peace, the warring factions retreat to opposite sides of an agreed boundary and protect themselves from then on behind fortifications. Labor-management negotiators do not have a Sinai Desert to separate the factions. They do not employ spies, infiltrators and guerrillas. They do not seek and destroy. Their

purpose is to negotiate a contract under which they can live in close proximity, in the same buildings, under conditions of reasonable amity and cooperation. Their engagement with each other is not concluded by a contract, as is the case with a peace treaty.

I consider it highly unethical for the President of the Local to inform his committee that he intended to oppose the adoption of the proposed agreement, without at the same time notifying the Board negotiators of his intention. If he told the committee chairman of his intention, then she also was gravely at fault in giving the Board members the impression that the committee had unanimously approved the contract. The Board members knew that the contract had to run the gamut of membership approval, but they were entitled to believe, when they left the conference room, that at least they and the committee had reached a meeting of minds. I consider the conduct of the Federation officials to have been less than commendable. Artifice and cozenage are not the pathways to labor peace. I strongly recommend that they be abjured in the future.

The parties have submitted a list of issues upon which recommendations are requested. The first is the salary demand. The Union asks a BA schedule of \$9,300 to \$15,850, an MA schedule of \$10,300 to \$18,250, an MA+30 schedule of \$10,800 to \$18,750, and a doctor's schedule of \$11,300 to \$19,250, spread over eleven steps. A copy of the demand in detail is attached hereto as Exhibit 1.

The Union points out that it accepted a nominal increase of \$150.00 in the prior school year because of the Board's deficit financial condition. In this current year the Board has achieved

a surplus which should be applied to a higher salary schedule. Further improvements should be made in the middle range of salaries, where there has been a substantial lag. It complains that in comparison to salaries in other school districts in Wayne County it stands 13th in the BA beginning scale and 11th in the BA maximum; 23rd in the MA beginning and 11th in the MA maximum. In the Tri-County area of Wayne-Oakland-Macomb it stands 17th in BA beginning, 18th in BA maximum, 30th in MA beginning and 13 in MA maximum. It is \$35.00 above the average of Wayne County for BA beginning salaries and \$249 above for BA maximum. It is \$28 below the average at MA beginning salaries and \$48 above average at MA maximum salaries. As compared to the highest salaries it ranges from \$300 to \$1350 below.

In the Tri-County area salaries for beginning BA range from \$8,791 to \$9,965. The Federation asks for a starting salary of \$9,300.

The Tri-County BA maximum ranges from \$14,900 to \$15,550. The Federation asks a maximum of \$15,850.

An MA's salary in the Tri-County range is \$9,700 to \$11,150. The Federation asks a starting salary of \$10,300.

The maximum is from \$17,400 to \$18,100. The Federation asks \$18,250.

The Board's last offer consists of a BA range of \$9,000 to \$16,000, MA from \$9,800 to \$18,150, MA+30 from \$10,200 to \$18,500 and PhD from \$10,600 to \$19,150. Included in the higher range of salaries is a \$50 supplement which is designed to cover increases in the cost of living. A breakdown of the Board's offer is attached hereto as Exhibit 2.

The offer of the Board proposes a salary increase overall of 7.69%. This includes increments amounting to 2.29% plus a \$50.00 cost of living allowance which is added to the senior ranks.

The Association request comes to 8.2% exclusive of any increments which, it is agreed, equal 2.29%. The Federation has waived a cost of living allowance on a one year package.

Even without considering increments I believe that in these times an increase of 8.2% in salaries (10.49% if increments are included) is far to high an increase and one which I believe would be rejected were it presented to the Cost of Living Council for approval. I believe the Board's offer is reasonably in line with the Cost of Living Council Guidelines and that it makes a fair offer to the teachers, particularly in the higher ranks where the bulk of the teachers are concentrated. It compares favorably with the averages throughout the Tri-County area. All in all, I believe that the offer is fair and I recommend that it should be accepted.

It is agreed by both parties that the term of the contract shall be one year from the opening of the school in 1973-74 and that any salaries agreed upon would be retroactive to that date.

The Federation has asked an increase of 8.2% for payment of auxiliary services. The Board has offered 5.0% as extra pay for extra duty.

I believe the 5.0% is reasonably satisfactory and should be acceptable. I recommend a 5.0% increase in payment for auxiliary services.

The Federation asks that vocal music teachers, who are presently unpaid for the work they do in concerts and similar extra curricular activity, should be compensated upon the same basis as are instrumental instructors. The Board has agreed to the proposal, except that the amount payable in elementary and middle schools shall be limited to \$230.00 and that the responsibilities of vocal music instructors shall be laid out by specification. The Federation has agreed to this proposal.

The Board presently provides \$5,000.00 in life insurance to the members of the Federation. It is asked to increase the coverage to \$10,000.00. The Board has proposed an increase to \$7,500.00.

In these inflationary days \$10,000.00 is a small enough figure for a family which has lost its bread winner. I recommend that the Board increase life insurance coverage for Federation members to \$10,000.00.

The Board presently pays for Blue Cross/Blue Shield coverage for its instructors. The Federation asks that the coverage be carried through maternity leave. The Board objects on the ground that it already allows from 20 to 100 days sick leave, which is not cumulative from year to year. Thus, each teacher has at least 20 days of sick leave that she can apply to maternity leave.

I believe the Board's position is well taken, especially in view of the high cost of Blue Cross/Blue Shield coverage today, and recommend that no change be made in the maternity leave arrangement.

Although the teachers are supposed to have a duty free lunch period of 30 minutes it appears to have been the practice in some

schools that the principal reduces this time by as much as 10 minutes. The Federation asks that no less than 30 minutes be allowed for a duty free lunch. The Board has agreed that a half hour lunch period is reasonable. I recommend that provision be made for a full one-half hour lunch period for all Federation members and that no principal be authorized to reduce that time without Federation consent.

The Federation asks that art teachers be limited to 25 separate class sections. This appears to be the general rule in the district, but in some instances the art instructors are required to take on more than 25 sections. The Board objects to any change on the ground that art teachers, like other teachers, have always been assigned seven periods in a day. They do not believe that the art teachers are overburdened by taking on an occasional extra section.

I agree with the Board that the art teachers should not be restricted to 25 separate class sections, as long as they are required to work only seven assigned periods. I recommend that no change be made in this program.

The 1972-73 contract provides that the Board "will make every effort" to maintain a ratio of 45 instructors to 1,000 pupils. The Federation asks that the phrase "will make every effort" be amended to read "will maintain" a ratio of 45 to 1,000. It is conceded that there has been no problem with this ratio to date, but the Federation fears that at some time in the future the ratio may change to its disadvantage.

The Board has given no indication that it intends to increase the ratio beyond that which it has agreed to make every effort to continue, nor has there been any case in which such a change in ratio has

been made or threatened. Under the circumstances it seems hardly necessary, in a one year contract, to seek additional protection against something which has not been threatened. I recommend that the wording of the ratio clause be retained as is.

It appears to have been a practice among some principals to call an excessive number of after hour teacher meetings for which there is no extra compensation. Some of these have, in actuality, been inservice meetings, for which the teachers should be compensated. The Federation asks that teacher meetings be limited to a maximum of one hour per month and that any teacher held over for more than one hour per month for teacher meetings be paid for the additional time. The Board has offered to limit teacher meetings to two hours per month at maximum. I believe the Board offer is reasonable and I recommend that it be accepted.

As part of its proposed package settlement the Board offered to recognize teachers' seniority in case of reduction in force or other circumstances. A proposed draft of a section to that effect has been written and approved by both parties. I therefore recommend that it be accepted.

The Federation asks that probationary teachers be given access to the grievance procedure and that no probationary teacher be disciplined or terminated except for just cause and with the right to a hearing on the matter. The Board has rejected the proposal, except to the extent that it will furnish a probationary teacher who is discharged or whose contract is not renewed with a statement of the reasons therefor.

I am not in agreement with the Federation's position. I believe that an employer has the right to study the capacities of a probationary instructor and determine whether or not he suits the requirements of the system. Once the teacher has passed the probationary period he is, of course, protected by tenure. Until that time I do not believe that the Board's right to make an arbitrary decision as to termination or nonrenewal should be restricted. I therefore recommend that the Federation's proposal be rejected, except that the probationary teacher be given a statement of reasons for discharge or nonrenewal.

The 1972-73 contract contained a provision to the effect that, should any section of the agreement be declared illegal, then the remainder of the contract shall be continued in full force and effect. The Federation asks for a "law saving clause" which will direct that the Board, in such case, negotiate with the Federation for a substitute clause in replacement. The Board objects to the proposal on the ground that it has no way of knowing who is to decide the legality of the substitute clause. In addition, it wants the contract settled for the entire term without the necessity of further piecemeal negotiations.

The contract, were it to be signed tomorrow, would have barely a half year to go before its termination. It hardly seems necessary to burden the parties with a renewal of negotiations for such a short period of time. I recommend that the illegality clause remain unchanged.

The one remaining issue raised by the Federation, concerning the school calendar, has been settled at 185 teacher days and 182 teaching days.

The Board has also made a number of proposals to amend the agreement, four of which have been agreed upon. They constitute a change in date for the issuance of summer school contracts to June 1, provision for secretarial assistance in each college department, posting of extra contractual assignments in the community college and composition classes for the English teachers in the college. Proposals of a flat rate for full time contractual teachers substituting for other teachers in the college and for a ratio of laboratory contact hours in the college have been withdrawn.

The Board has discontinued the operation of summer school in the past year or two because of the high cost involved. Apparently the major cost is in salaries to summer school teachers. The Board proposed that the teachers accept a flat rate summer school payment of \$7.00 per hour for bachelors and \$8.00 per hour for masters. The acceptance of the work and of the rate, it is proposed, would be voluntarily on the part of the teacher. The Federation has rejected the proposal.

I see no need for recommendation on this subject. If the teachers do not want to accept the lower rate the Board may just as well continue to eliminate summer school classes. Should some such plan be found mutually acceptable in the future the classes could then be reinstated.

The Board feels that it is paying an extremely high cost in payment to teachers who are assaulted in the course of their work. It asks that a formula be proposed to reduce this cost, equivalent to the sick leave period, with workmen's compensation substituting for the payments thereafter. It feels that there is no basis for distinction between a work connected injury resulting from assault and any other accident which a teacher may suffer.

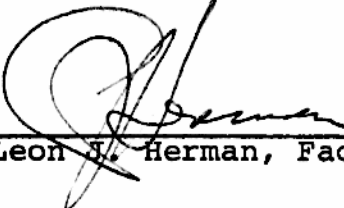
The Federation argues that an assault is not a mere accident. Assaults, it appears, are not infrequent in this district. The Federation feels that continuation of the present provision would induce the Board to provide greater protection in the schools.

My sympathies in this matter are with the teachers. They assume the ordinary risks associated with their work, whether in class instruction or in laboratory and mechanical courses. They should not be expected to run the risk of injury by assault as well. If the Board cannot provide adequate protection, then at least the teachers should be assured of an income in case of disablement due to violence in the schools. I recommend that the Board's proposal be rejected.

The Board asks that a flat rate for community college instructor not on regular contract be instituted and the extra contractual rate be frozen. As to part time teachers not in the bargaining unit the Federation takes no position. As to full time teachers under contract it feels, and I believe justly, that their rate of pay should continue without reduction. I recommend that the proposal be rejected.

The remaining issue on the Board's list of proposals, with reference to the extent of insurance coverage during leaves of absence, has been heretofore covered.

I urge the parties to meet in good faith, discuss the foregoing recommendations and attempt to conclude a contract based upon a formula, within or without the ambience of these recommendations, with which they can live for the balance of the school year. I also wish to thank the members of both teams for their courtesy and cooperation in the course of the fact finding hearing.



Leon J. Herman, Fact Finder

Southfield, Michigan
December 12, 1973