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MSU

Douglas Dahn 3-18-86

## STATE OF MICHIGAN

## DEPARTMENT OF LABOR

## EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Fact Finding  
Between JACKSON COMMUNITY COLLEGE

and

THE MICHIGAN EDUCATIONAL SUPPORT  
PERSONNEL ASSOCIATION

Michigan State University  
LABOR AND INDUSTRIAL  
RELATIONS LIBRARY

MERC Fact Finding Case No: L84G-595

FACT FINDING RECOMMENDATIONINTRODUCTION

Pursuant to Section 25 of Act 176 of Public Acts of 1939 as amended, and the Commission's regulations, the Employment Relations Commission appointed this fact finder on January 8, 1986 and requested that a hearing be promptly scheduled and findings and recommendations be made thereafter. Hearing was conducted on Thursday, February 6, 1986 commencing at 10:00 a.m. with conclusion at 4:00 p.m. Thereafter, the parties were allowed until Thursday, March 6, 1986, in which to file Briefs with the understanding that the fact finder's report would be following within at least thirty (30) days. The undersigned, Douglas C. Dahn, is the fact finder herein.

APPEARANCES:

For Jackson Community College:

George J. Brannick, Attorney

Dr. Lee Howser, Vice President  
for Administration

For Michigan Educational  
Support Personnel  
Association:

Larry L. Fisher,  
Uniserve Director

BARRIER, GOULET, PETERSMARCK, TOLLESON, MEAD & PAIGE, P. C.

Jackson Community College

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### HISTORY

The parties to this dispute are the Jackson Community College, "JCC or College" hereinafter and the Michigan Education Support Personnel Association, "MESPA or Association" hereinafter.

MESPA is part of the Michigan Education Association and is affiliated with the Jackson County Education Association. Jackson Community College is the successor to the Jackson Junior College, which was part of the Jackson Public School system until being severed there from by public ballot in 1962.

The parties have been engaged in collective bargaining for over one year and during that time have met in approximately 28 negotiation sessions. This bargaining is for an initial contract involving a unit of classified and technical employees.

The services of a mediator have been utilized and while most economic and non-economic items have been agreed to, there are certain issues that remain in dispute and therefore the Association, through its Director, Larry L. Fisher, petitioned for fact finding.

The fact finding hearing consisted of a detailed presentation by both sides supported by numerous exhibits and as stated was concluded by the parties' filing of Briefs. The material has been reviewed in great detail by the fact finder and the fact finder has been impressed by the

sincerity and professional quality of the presentations, particularly the Briefs, which have assisted in clearly defining the issues and allowing this fact finder to issue his report.

NOTE ON FORMAT AND ISSUE SUMMARY

Issues presented to the fact finder are grouped below and for each issue the following format will be used.

- a. Issue identification.
- b. Discussion.
- c. Recommendation.
- d. Rationale for recommendation.

The issues for consideration are (1) Union security; (2) conclusion of grievance procedure; (3) wages; (4) longevity; (5) education allowance; and (6) wage progression system (bifurcated wage schedule).

In rendering this report, the fact finder will consider the bargaining unit's historic relationship with the employer as well as comparing that relationship with the other employee groups of the employer. The fact finder will also consider the relationship of this unit with like employee groups of other employers in the surrounding area. Finally, the fact finder will consider the public interest in deciding whether a particular benefit or provision should be included or excluded from the parties' Collective Bargaining Agreement.

(1)

(A) ISSUE - UNION SECURITY

(B) - DISCUSSION

The Association has proposed the inclusion of an agency shop provision in the Collective Bargaining Agreement and in support of that position cites its Exhibit 11 which establishes that numerous contracts covering support personnel in Jackson County have agency shop provisions. The Association also cites its Exhibit 12 which shows that a number of contracts covering educators in Jackson County also have an agency shop provision. Finally, the Union cites its Exhibit 13 which lists numerous community college agreements that contain an agency shop provision.

The college is opposed to an agency shop provision primarily for the reason that its Collective Bargaining Agreement with the faculty association has never contained such a provision. The faculty agreement, however, does not contain a voluntary dues check-off provision.

(C) RECOMMENDATION

It is recommended that an agency shop provision not be included in the parties' Collective Bargaining Agreement, but such Agreement should contain a voluntary dues check-off provision.

(D) RATIONALE FOR RECOMMENDATION

This fact finder is mindful that an agency shop provision is common in public employment Collective

Bargaining Agreements and is most common in contracts covering similar bargaining units in Jackson County. The fact finder, however, finds as most relevant the fact that after several contracts JCC has no such provision with its faculty bargaining unit.

Additionally, this fact finder finds it's significant that the college does offer a voluntary payroll dues deduction provision and it would appear that such procedure, which exists in the faculty unit, no evidence offered to the contrary, has worked satisfactory to the parties.

It is therefore the conclusion of this fact finder that the internal history of the parties forces the recommendation that this unit follow the way of its sister unit and proceed without an agency shop provision but with a voluntary dues check-off provision.

(2)

(A) - ISSUE - CONCLUSION OF GRIEVANCE PROCEDURE

(B) - DISCUSSION

The Union has proposed that the grievance procedure conclude in final and binding arbitration and sets forth in support of its position, Union Exhibit 6, which shows that a number of its contracts in Jackson County include final and binding arbitration. The Union also presents Union Exhibit 7 which shows that many of the Collective Bargaining Agreements in Jackson County involving educators also contain a binding arbitration clause. Finally, this Association sets forth

Union Exhibit 8 listing numerous community colleges throughout the state which have binding arbitration in their Collective Bargaining Agreements.

The Association also established on the record that the College's Faculty Association Agreement has, since its second Collective Bargaining Agreement, contained a binding arbitration provision.

The college opposes binding arbitration for a number of reasons, one of which concerns the fact that its experience with arbitration as it relates to its faculty group has been unsatisfactory. The college maintains that one decision in particular has made it most difficult for the Board of Trustees to provide the public with quality education. Additionally, the college argues that there is no showing that the parties are unable to resolve their own disputes.

#### (C) RECOMMENDATION

It is recommended that the parties' Collective Bargaining Agreement include a final and binding arbitration provision, identical, except as otherwise specified in 2(D), to that proposed by the Association in its Brief.

#### (D) RATIONALE FOR RECOMMENDATION

The fact finder has considered in detail the argument set forth by counsel for the college but has concluded for a number of reasons that the parties should include in their Collective Bargaining Agreement a provision providing for final and binding arbitration.

The primary consideration causing the fact finder's recommendation on this issue relates to the parties' internal history which establishes that the college for a number of years has had such a provision with the faculty unit. That history also shows that said provision has resulted in a number of arbitration decisions and the college admits that only one of those decisions was unsatisfactory.

In this fact finder's opinion, final and binding arbitration will provide the parties with a method of dispute resolution which is the least expensive, the quickest, and which will provide the highest level of labor relations expertise.

In recommending final and binding arbitration, the arbitrator has not only considered the parties' internal history and the external comparables offered, the fact finder is also mindful that the college serves the public. It is the fact finder's opinion that the public is better served if labor disputes involving an interpretation of the Collective Bargaining Agreement utilized that method of dispute resolution which is efficient, cheap, and provides the highest level of labor relations expertise.

If the parties' Collective Bargaining Agreement does not end in binding arbitration, but leaves a likely alternative of circuit court litigation, then, in this fact finder's view, the public will face a more expensive method of resolving the dispute, a more time consuming method of

resolving the dispute, and possibly a method which provides less labor relations expertise.

The fact finder, therefore, recommends that the parties' grievance procedure end in final and binding arbitration as proposed by the Association, but would specify that a provision be added that such is final and binding, not only upon the parties, but the Grievant as well.

(3)

(A) ISSUE - WAGES

(B) DISCUSSION

The Association proposes a 5% across-the-board wage increase to be effective July 1, 1985 through June 30, 1986, and in the second year proposes an increase of 4.5%. In support of their position, they set forth in Union Exhibit 20 a history of percentage increases involving support personnel in Jackson County and in Exhibit 21 a history of percentage increases involving educators in Jackson County. Finally, in Exhibit 22, a listing of wage increases for support personnel in community colleges in the years 1984-1985, 1985-1986 and 1986-1987 is presented.

The college previously presented a wage proposal of 4% in the first year of the Collective Bargaining Agreement, July 1985-1986, and a 5% increase for the second year of the Collective Bargaining Agreement, 1986-1987. The college in its Brief now requests that the parties be returned to the bargaining table with respect to wages and benefits.



The parties appear in agreement that for the most part, historically all employees of the college have received the same across-the-board wage increase, whether it be faculty, technical personnel, or the administrative staff.

The record does, however, establish that in the recently concluded agreement between the college and the faculty, the faculty received in year one of the agreement a 3% increase for the first thirteen pay periods and an additional 2% increase for the last thirteen pay periods of the year. Subsequently, the agreement provides for a 5% increase across-the-board in the second year of the agreement.

#### (C) RECOMMENDATION

It is recommended that the parties' Collective Bargaining Agreement contain a wage adjustment identical to that provided the faculty, specifically, a 3% increase for the first thirteen pay periods and an additional 2% increase for the last thirteen pay periods of the year followed by a 5% increase across-the-board in the second year of the agreement.

#### (D) RATIONALE FOR RECOMMENDATION

The parties have agreed that the ability to pay is not a major consideration for the fact finder. The parties' internal history concerning the issue of wages establishes that for a number of years all employee groups have received identical wage increases. Therefore, the fact finder can see no reason, at this time to deviate from that practice. Based

on the foregoing, the fact finder recommends that the parties' agreement contain a wage provision for the two years identical to that provided the faculty association.

(4)

(A) - ISSUE - LONGEVITY

(B) - DISCUSSION

The Association proposes a new longevity benefit calling for 1% wage add-on for fifteen to twenty years and a 2% wage add-on for twenty or more years of service.

The college opposes the benefit because it maintains that the stepped salary schedule provides enough incentive to retain employees.

(C) - RECOMMENDATION

It is recommended that the parties' Collective Bargaining Agreement contain a longevity provision as proposed by the Association.

(D) - RATIONALE FOR RECOMMENDATION

Union Exhibit 29 establishes that only seventeen of the bargaining unit's one hundred twenty employees will be initially entitled to receive the longevity benefit. Thus, it can be seen that the cost impact to the college will not be significant.

Additionally, in the fact finder's opinion, a longevity benefit is a sound method of rewarding longer service employees and more importantly, will aid in retaining such employees. Thus, the college will not face the constant

expense and inefficiency of training new employees. Finally, the comparables offered by the Association indicate that longevity is a fairly common benefit to be provided employees in this kind of bargaining unit.

(5)

(A) ISSUE - EDUCATION ALLOWANCE

(B) DISCUSSION

The Association proposes a 1% add-on for bargaining unit members holding Associates' Degree but less than a B.A./B.S. and a 2% add-on for the earning of a B.A./B.S. or above.

The college opposes such benefit because it cannot justify additional wages for educational accomplishment which is non-job related.

(C) - RECOMMENDATION

It is recommended that the parties' Collective Bargaining Agreement not include an education allowance as proposed by the Association.

(D) - RATIONALE FOR RECOMMENDATION

The fact finder recognizes that the college presently provides such a benefit to its faculty unit, and often such a comparable would be determinative, however, in this case, the fact finder believes there are distinguishing circumstances. Primarily, the fact finder accepts the college's contention that for the jobs of this bargaining unit, additional education will not aid the employee in better performing his or her particular job duties.

Additionally, the record reflects that there is no charge to employees taking JCC courses. Thus, the college recognizes that added education is important for the individual and does encourage such but understandably does not wish to overburden its limited budget.

Based on the foregoing, the fact finder recommends that the parties' agreement not contain an educational allowance benefit as proposed by the Association.

(6)

(A) - ISSUE - WAGE PROGRESSION SYSTEM-(BIFURCATED WAGE

SCHEDULE

(B) - DISCUSSION

The College initially proposed a new bifurcated wage system which would reduce the number of steps in the current wage progression system. The College's Brief does not speak to that issue but recommends that the parties be returned to the bargaining table as a means of resolving said issue.

The Union opposes the college's bifurcated proposal for a number of reasons, primarily because such would actually pay employees less at each step.

(C) RECOMMENDATION

The fact finder recommends that a bifurcated wage schedule with reduced steps be implemented. However, the fact finder further recommends that the exact details of the schedule be worked out by the parties and therefore recommends that the parties return to the bargaining table

with the intent of negotiating some type of bifurcated wage schedule reducing the number of steps in the pay plan.

(D) RATIONALE FOR RECOMMENDATION

It is the fact finder's opinion that the current wage progression schedule is both cumbersome and unrealistic. Cumbersome because there are too many steps and unrealistic because the time-frame in which an employee can obtain maximum job proficiency is substantially less than the time-frame required to obtain the maximum job rate under the current wage progression system.

Given the above, however, the fact finder believes it would be presumptuous to specify the schedule to be adopted. It is therefore recommended that the parties return to the bargaining table for the purpose of negotiating a new wage progression system reducing the number of steps and adopting in some form a bifurcated wage schedule.

This concludes the fact finder's findings and recommendations and it is hoped they are helpful to the parties in resolving their dispute.

BARBIER, PETERSMARCK, TOLLESON,  
MEAD & PAIGE, P.C.

BY: 

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DATED: March 18, 1986