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STATE OF MICHIGAN  
BEFORE EMPLOYMENT RELATIONS COMMISSION

----- EF ----- LIVONIA PUBLIC SCHOOLS  
FACT FINDING PROCEEDINGS BETWEEN:  
LIVONIA PUBLIC SCHOOLS,  
and  
LIVONIA EDUCATION ASSOCIATION,  
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FINDINGS AND RECOMMENDATIONS FOR SETTLEMENT

Fact Finder: James R. McCormick

For the Association: John Rennels, Executive Director; Jim Carlson, Assistant Executive Director; Barbara Sowers, President; Kenneth B. McClain, Chief Negotiator, Mary Breen, James Pearson, and Roger Foss, Members of Negotiating Team

For the Board of Education: Keller, Thoma, Toppin & Schwarze by Fred B. Schwarze and Michael Smith, Attorneys; George G. Garver, Superintendent; William Bedell, Assistant Superintendent for Finance; Arthur C. Frock, Assistant Superintendent for Personnel; Samuel B. LaMonica, Director of Employee Relations; Lawrence J. Nichols, Director of Secondary Education

Petition Filed: September 8, 1975.

Fact Finder Appointed: September 16, 1975.

Hearings Held: October 22, 23 and 24, 1975.

Post Hearing Briefs Filed: November 21, 1975.

Joint Conference Held: November 26, 1975.

Findings and Recommendations Issued: December 23, 1975.

I. STATEMENT OF THE CASE:

This matter came on for hearing before the undersigned pursuant to a petition for Fact Finding and a determination by the Employment Relations Commission that the matters in disagreement between the parties might be more readily settled if the facts involved in the disagreement were determined and publicly known. Accordingly, the Employment Relations Commission appointed the undersigned as its hearings officer and agent to conduct a Fact Finding hearing pursuant to Section 25 of Act 176 of

the Public Acts of 1939, as amended, and pursuant to the Commission's regulations, and to issue a Report with recommendations with respect to the matters in disagreement between the parties.

Because of schedule conflicts it was not possible to conduct the hearing until late October, at which time three days were devoted to the presentation of evidence as well as oral argument. At the conclusion of the hearing a request was made for the filing of Post-Hearing briefs. Substantial Briefs on the facts and economic issues were filed with the undersigned on November 21, 1975 by both sides. Subsequent to my review of the evidence and the Briefs a conference was held with principal representatives of the parties, at their request, on November 26, 1975. The purpose of this conference was to give the parties a general outline of the proposed findings and recommendations and to thereupon give the parties the opportunity to suggest modifications as might be in the best interest of all parties concerned. Subsequent to the November 26th conference the parties were given additional time to meet in an effort to consider the implications of the proposed recommendations. Thereafter the findings and recommendations were finalized and reduced to writing as set forth hereinafter.

In 1973 the parties reached an impasse in negotiating a new Master Agreement with respect to salaries and employment conditions for teachers employed in the Livonia School District. The impasse was ultimately resolved after prolonged fact finding proceedings. The parties ultimately adopted the recommendations of the undersigned with respect to terms for a two year agreement covering the school years 1973-1974 and 1974-1975, with some modifications. In early 1975 negotiations began for a new two year agreement for the years 1975-1976 and 1976-1977. The teachers withheld services briefly at the beginning of the school year when no agreement had been reached with respect to their salaries and conditions of employment for the incipient school year. It was apparent that the parties had reached an impasse in bargaining and, with the assistance of a State labor mediator, an agreement was reached under which the teachers returned to the classrooms and the parties agreed to submit

the main issues to a Fact Finder. The parties thereupon jointly nominated the undersigned to hear and make recommendation with respect to the settlement of the pending dispute. They substantially narrowed the issues in dispute by tentatively agreeing to all terms for the ensuing 1975-1976 school year, leaving to Fact Finding the 1976-1977 salary, fringe benefit and other unresolved issues. Accordingly, the discussion and recommendations which follow are concerned exclusively with economic and non-economic working conditions for the second year of a two year contract.

Parties sometimes come to logger heads in collective bargaining because of the sheer unreasonableness of one side or the other. More often this state of affairs comes to pass not because of such wilfulness but rather because one or both of the parties are incapable of objectively considering the economic realities or even the psychological needs or political imperatives of the other side. Since the ultimate weapon of organized labor, the strike, is not a practical alternative at this time for teachers, it often happens that parties have no realistic way of assessing their relative bargaining power as it would exist if the strike were a fully-approved useable bargaining tool. The Legislature has provided the Fact Finding forum as a vehicle to permit the maximum operation of good judgment and common sense in a sphere in which such considerations may otherwise be overshadowed by the self-serving statements emanating from spokesmen of the parties.

The undersigned is in a particularly good position to evaluate the bargaining positions of the Association and the Board of Education in Livonia because of exposure to labor relations disputes in Livonia on a number of prior occasions. Having been nominated by the parties themselves, which nomination was merely ratified by the appointment as Fact Finder by the Employment Relations Commission, I may assume I have the confidence of the parties and that these recommendations will be seriously considered as the basis for contract settlement regardless of whether they coincide with the highest hopes of the partisans on either side.

## II. THE ISSUES REMAINING IN DISPUTE:

As noted above, the parties have reached a tentative agreement on all issues for the current 1975-1976 school year. This was accomplished by an agreement to maintain a status quo on most issues for this year and put off to the next school year the resolution of a number of particularly sticky problems. In a telegram to the Michigan Employment Relations Commission the parties submitted the following issues to Fact Finding:

- " (1) Whether the second year salary should be based on a capped or uncapped cost of living formula. The LEA is proposing no cap; The Board is proposing a 5% cap.
- (2) Whether the class size article (Article VII) as it relates to class sizes, librarians, and curriculum representatives should be changed. The LEA is proposing present language. The Board is proposing changes.
- (3) Whether the language in Article XI, Section A, involving the selection of an insurance carrier should be changed. The LEA is proposing that, "medical coverage 100-0/0 present coverage or parallel coverage provided any change in carrier is subject to arbitration prior to implementing the change." The BOARD is seeking the right to change carrier.
- (4) Whether the hourly rate in appendix B, page 75, should be changed. The LEA is proposing no change; the BOARD is proposing a change.
- (5) Whether sabbatical leaves should become permissive. The LEA is proposing present language; the BOARD is proposing a change.
- (6) Whether the extra amount paid to vocationally certified teacher (page 56) should be continued. The LEA is proposing to continue the Grandfather arrangement; the BOARD proposes a red line arrangement instead of grandfather.
- (7) Whether the leave provisions of Article XII, Section B, paragraph 1, 2, 3, and Section C, paragraph 1, should become permissive. The LEA is proposing present language; the BOARD is proposing a change.
- (8) Whether the layoff provisions of Article XVIII should be amended to base layoff solely on certification and seniority. The LEA is proposing a change in present language; the BOARD is proposing to retain present language."

## III. FINDINGS AND RECOMMENDATIONS:

### ISSUE(1): 1976-1977 teachers salaries

The Association contends that it accepted a modest increase in salary for the current 1975-1976 school year and that a substantial increase is necessitated for next year in order to preserve Livonia's relative position among various school districts. The Association tends to compare the school district primarily with all other districts

in Wayne County. The Board of Education prefers to make comparisons with a handful of surrounding school districts located in the northwestern corner of Wayne County and neighboring Oakland County, this cluster of districts being a relatively affluent suburban area. The Board also makes many comparisons with other districts of roughly the same student population, state-wide. This includes a number of medium sized cities geographically removed from the Detroit metropolitan area. All three of these methods of comparison have merit and, conversely, all three are vulnerable to criticism. Having considered the multitude of charts supplied by both the Association and the Board of Education comparing Livonia, past and present, with a host of other school systems in Michigan, the undersigned has come to the conclusion that the Board's salary offer for next year is not unreasonably low, under all the circumstances. By and large it would nearly maintain Livonia's traditional ranking among comparable school districts. In addition, it has to be acknowledged that the so-called "Bursley" formula for dispensing state school aid to the school districts has resulted in an intentional redistribution of wealth among school districts. It is nearly inevitable that the relative advantages previously enjoyed by the affluent school districts will be eroded as low tax-base districts reap the benefits of a school aid formula calculated to improve their lot. Assuming a State aid pie of a given size it follows that a formula designed to give a greater percentage of the pie to traditionally poor school districts is going to have the opposite effect upon traditionally wealthy school districts. Livonia is one of the latter.

The undersigned Fact Finder finds merit in the contention of the Board of Education that any substantial pay increase for the next school year must be tied to flexibility in the class size clause of the contract. In the event that there is a real fiscal pinch next year the present rigid class size maximums would leave the Board of Education with no solution whatsoever except to close the schools early. In private industry an employer unable to maintain the existing scope of its operations while paying employees their contractual salaries and fringe benefits has the option of cutting back on production or even going out

of business. Needless to say, the school district does not have these choices. The basic educational program must be maintained regardless of the inadequacy of the available revenues. Enlargement of class sizes is apparently acknowledged to be an undesirable option in this school system, but the possibility must be available in the event all other solutions to a fiscal crisis should prove inadequate. The present mandatory class size language has its merits and the Board's proposal could be productive of litigation and provides little protection for the class size maximums which have been achieved in the past.

The Board proposes that Article VII, Section A paragraph 4 should be modified by adding language to the effect that the class size maximums are to be maintained wherever feasible under the circumstances (availability of facilities and financial resources of the district) or as otherwise agreed between the Association and the Board.

The Association is seeking a second year salary raise reflecting the actual cost of living with no limit for "CAP" applied. The Board is fearful of the possible consequences of such an open-ended provision since there is no way to know with any degree of certainty what the cost of living increase will be during the ensuing year. Board countered with an agreement to have the second year salary increase reflect the cost of living but with a maximum of 5% of salary. The Association membership has shown no inclination to agree to the contract containing such a limitation. The Fact Finder must take into consideration not only the school district's ability to pay the demands and the relative position of Livonia among comparable school districts, but also must take into consideration the need to piece together a package which is calculated to gain acceptance on both sides. Without some cuts in personnel next school year it would appear the Board may be hard pressed to fund even a 5% salary increase for 1976-1977. It is anticipated that there will be a deficit in the current school year and the State appears to be withdrawing from earlier funding levels on state aid. The Board's 5% offer nearly results in Livonia maintaining its historical position relative to comparable districts, but some erosion in the position of the District vis-a-vis other districts would have occurred.

The undersigned Fact Finder has given consideration to presenting the parties with alternative solutions to the salary-class size dispute. However, upon further reflection it is my feeling that presenting the Board and the Association with two possible routes for solution to the contract dispute would be productive of dissention within the ranks of the Association as it would appear to pit teachers against one another in competition for benefits. The class size clause and the salary article are necessarily interrelated in this contract since the present rigid class size maximums and student-teacher ratios could cause an insoluble problem if next year revenues are insufficient to pay the salaries of the necessary teachers. The teachers are, across the board, against giving the Board flexibility in the class size area, but it must be the price of a substantial pay increase for 1976-1977. The Board cannot be expected to play Russian Roulette with the district's program. Considering all of the available options and the apparent positions of the parties I am strongly recommending as follows: That the cost of living approach be abandoned for the second year of this contract and that a 6% increase be granted on the salary schedule. Such an economic settlement ought to be sufficient incentive to the teachers to warrant their acceptance of the class size flexibility language as the Board has proposed it. This may result in larger classes and probably will but something has to give. Reasonable minds cannot continue to insist upon a class size clause, as now exists, which puts the School District in a straight jacket in the event of a financial crisis.

ISSUE (2): Class Size Clause

The recommendations with respect to class size clause are set forth above under Issue (1).

ISSUE (3) Insurance Carrier:

The contract should provide for continuation of present coverage. However, the Board should be allowed to change to Blue Cross Blue Shield if, following a hearing, an arbitrator selected by the parties concludes that the proposed new plan provides coverage of substantially equal value to the employees at an annual cost to the District at least \$75,000 less than MESSA.

ISSUE (4) : Hourly Rate

This clause should not be changed from the old contract language. A reduction in the hourly rate, as proposed by the Board, would be too demoralizing. The negative impact on certain teachers would not justify the very limited savings the Board could realize.

ISSUE (5): Sabbatical Leaves

The Association has agreed to reduce Sabbatical leaves from 6 to 4 per year. However it wishes them to remain mandatory whereas the Board wishes them to become within the Board's discretion. This clause allows partial pay for teachers on sabbatical leave. Four teachers on sabbatical leave in a given year involves a cost factor equivalent to the salary of two teachers. Sabbatical leave is a significant morale factor in a professional employee group. I believe the Association's agreement to reduce the number from 6 to 4 per year is a sufficient compromise and that the Board should abandon its effort to convert this fringe benefit into a discretionary clause existing at the Board's option.

ISSUE (6): Vocationally Certified Teachers

I recommend adoption of the Board's "red line" proposal instead of the grandfathering provision as now exists. Although grandfathering is a hallowed practice in many places there is no real logic in retaining two systems of pay rates for the rest of the working lives of the present employees. Red lining as proposed by the Board, is a much more reasonable approach to phasing out the old and gradually restoring equality of treatment to all like employees.

ISSUE (7): Leaves without Pay

These should remain mandatory. The cost factor, relied on by the Board as its justification for making these optional, is too speculative. This clause is also a strong morale factor in a professional employee group. Teachers, as a profession, have less freedom of movement than other professionals who are frequently self-employed or at least do not work for large institutions. The Leave without pay clause is one of those small morale items which should not be abandoned without recognition of the loss of morale.



ISSUE (8): Layoffs

The present basic language should be retained. The Association proposal to base layoff solely on certification plus seniority is probably less meritorious than the present clause which strikes some balance between the interest of the employees and those of the student public. I do recommend that the parties provide for some basis for protecting long service employees against layoff, at least where such persons have had previous experience at another level and could be profitably employed at that level. In all other respects the existing layoff clause should not be changed, at least as part of the settlement of this contract.

It is the recommendation of the Fact Finder that the parties meet, preferably with the participation of a State Labor Mediator, review the above findings and recommendations, and attempt to reach agreement thereon.

  
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JAMES R. MCCORMICK, Fact Finder