



GEORGE ROMNEY, Governor

THOMAS ROUMELL, Director

STATE OF MICHIGAN

DEPARTMENT OF LABOR

LABOR MEDIATION BOARD

1400 CADILLAC SQUARE BUILDING, DETROIT 48226 - Phone 222-3070

9/4/67 FF

359

BOARD MEMBERS

ROBERT G. HOWLETT,
Chairman
LEO W. WALSH
PHILIP WEISS

August 23, 1967

Marion St. Hibbs, Pres.
Marshall Board of Education
100 E. Green St.
Marshall, Michigan 49668

Mr. W. Wallace Spiegel, Pres.
Marshall Teachers Association
100 E. Green St.
Marshall, Michigan 49668

Re: Marshall Board of Education
-and-
Marshall Teachers Assoc.

Gentlemen:

Michigan State University
LABOR AND INDUSTRIAL
RELATIONS LIBRARY

NOTICE OF APPOINTMENT OF FACT FINDING HEARINGS OFFICER

The Labor Mediation Board having reviewed the request for fact finding from: **the Association involved August 23, 1967,**

has concluded 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.

The Labor Mediation Board has accordingly appointed **Mr. David Knabe** as its Hearings Officer and Agent to conduct a fact finding hearing pursuant to Section 25 of Act 176 of Public Acts of 1939, as amended, and the Board's Regulations, and to issue a report with recommendations with respect to the matters in disagreement. Under the Board's Regulations regarding fact finding, the parties will have ten (10) days from date of service of the Hearings Officer's report within which written comments may be filed.

Thereafter the Labor Mediation Board will review the Hearings Officer's report, the entire record in the matter, and any written comments that may be filed, following which the Board will issue an appropriate report which will affirm, modify, or reverse the Hearings Officer's report.

The Hearings Officer's address and telephone number is:

Mr. David Knabe
17000 Martin Rd.
Ann Arbor, Mich.
Phone: EM-9-5710

He has been instructed to schedule a hearing in this matter as promptly as possible.

Very truly yours,

For the LABOR MEDIATION BOARD

cc: **Mr. David Knabe**

Philip Weiss, Board Member



1) Copy to schedule 67.8
2) 9-1-68 - 69. new schedule

Kofe

RECEIVED
JUN 2 1968
LABOR MEDIATION
DETROIT OFFICE

STATE OF MICHIGAN
LABOR MEDIATION BOARD
LABOR RELATIONS DIVISION

PETITION FOR FACT FINDING

The Marshall Teachers Association hereby requests fact finding under Section 25 of Act 176 of the Public Acts of 1939 as amended

Marshall Teachers Association
476 W. Wallace Spiegel, President
100 East Green Street
Marshall, Michigan 49068
Telephone: 781-5176

Petitioner

Marshall Board of Education
Marion D. Kibbie, President
100 East Green Street
Marshall, Michigan 49068
Telephone: 781-3927

Respondent

The Association has attempted to engage in good faith mediation regarding the issues listed below but said mediation has failed to produce reasonable solutions to those issues.

The following issues have yet to be resolved:

1. Agency shop
2. Complimentary tickets to school events
3. Association right to use school buildings and facilities
4. Class size
5. Policy regarding operation of school when buses are not running
6. Increase in allowance for graduate study
7. Mileage allowance for teachers
8. Duty-free lunch hour
9. Teaching hours
10. Two options of receiving pay
11. Insurance coverage
12. Funeral leave
13. Personal leave
14. Year's leave of absence for study
15. Deductions relative to substitute pay
16. Professional growth
17. School calendar
18. Salary schedule

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

MARSHALL TEACHERS ASSOCIATION

By W. Wallace Spiegel, President

109 West Green Street, Marshall, Michigan 49068
781-5176

State of Michigan)

County of Calhoun)

ss.

Subscribed and sworn to before me this day of August, 1967, by the above named person to me known to be the same person as described in the foregoing Petition; and made oath that he has read said Petition and that the same is true except those things which are based upon information and belief and as to those things he believes them to be true.

Bonnie P. Doyle
Notary Public, Calhoun County, Michigan

My commission expires January 1, 1969

BONNIE P. DOYLE
Notary Public, Calhoun County, Michigan
My Commission Expires Jan. 1, 1969

MICHIGAN LABOR MEDIATION BOARD, ADMINISTRATOR

PRELIMINARY FACT-FINDING REPORT & RECOMMENDATIONS

* * * * *
In the Matter of the Dispute between*
Marshall School Board *
- and - *
Marshall Education Association *
* * * * *

Appearances:

Marshall School Board

T.L. Combs, Atty.
M. D. Kibbie, President
G. Brocen, Vice-President
M. M. Hall, Secretary
M. Stulberg, Treasurer
D. P. Foster, Trustee
B. A. Gray, Superintendent

Marshall Education Association

P. M. Vandervoort, Atty.
W. W. Spiegel, President
T. Patterson, M.E.A. Staff Rep.
M. A. Case, Committeewoman
B. A. Roe, Committeeman
B. Haefele, Recorder
H. Bastion, Committeeman

The hearing took place on September 4th., 1967, in conference quarters of the Labor Mediation Board located in Lansing, Michigan. Under the circumstances of the hearing and the urgency for settling the dispute, it was necessary for a finding on the facts and recommendations for settlement to be published without delay. To this end, the opinion of the fact-finder was dispensed with as a part of the initial report which, as a result, is in the nature of a preliminary statement to be ~~followed~~ followed at a latter date, within the usual time limits of thirty days, with an opinion which discusses and explains the reasons for the findings and recommendations set forth herein.

Finding as to the Fact of the Dispute

Letter
The issue between the parties concerned the implementation of the Board's offer of a Salary Schedule starting with \$5,900. made on August 25, 1967.

RECOMMENDATION FOR SETTLEMENT

Agreement should be reached on a two (2) year contract with the first year incorporating the Board's thirteen (13) step salary implementation and with the second year reflecting the Association's twelve (12) step salary proposal as made on or about Monday, August 28th., 1967.

M. David Keefe
M. David Keefe, Fact-Finder
Appointed by the Labor Mediation Board

Dated: September 4th., 1967

DOMESTIC SERVICE	
Check the class of service desired; otherwise this message will be sent as a fast telegram.	
TELEGRAM	
DAY LETTER	
NIGHT LETTER	

WESTERN UNION TELEGRAM

W. P. MARSHALL, PRESIDENT

NO. WDS.-GL. OF SVC.	PD. OR COLL.	CASH NO.	CHARGE TO THE ACCOUNT OF	TIME FILED

Send the following message, subject to the terms on back hereof, which are hereby agreed to

1157 A EDT SEP 1 67 DEA 236
SSG 132 DE KAA130 PD 5 EXTRA KALAMAZOO MICH 1 1135 A EDT
MICHIGAN LABOR MEDIATION BOARD
1400 CADILLAC SQUARE BLDG DET

URGENTLY REQUEST RECONSIDERATION OF UNILATERAL RESCHEDULING OF FACT FINDING HEARING WITHOUT CONSULTATION WITH COUNCIL FOR EMPLOYER. IMPERATIVE THAT HEARING BE HELD ON TUESDAY SEPTEMBER 5, 1967, AS ORIGINALLY SCHEDULED. VITAL COMMITMENT OF COUNCIL FOR EMPLOYER WITH RESPECT TO IMMINENT STRIKE SITUATION INVOLVING PUBLIC EMPLOYEES OF CITY OF BATTLE CREEK WILL PRECLUDE ATTENDANCE AT THE HEARING ON MONDAY SEPTEMBER 4, 1967, FURTHER, OPENING OF MARSHALL PUBLIC SCHOOLS HAS BEEN POSTPONED BEYOND SEPTEMBER FIVE BECAUSE OF TEACHERS' REFUSAL TO REPORT FOR IN-CONFERENCE DAYS WHICH MUST BE ATTENDED BEFORE SCHOOLS CAN OPEN.

THOMAS L. COMBS ATTY. FOR MARSHALL PUBLIC SCHOOLS

*Original telegram sent
to M. David Keefe
9-1-67.*

R E C E I V E D
SEP 1 - 1967

LABOR MEDIATION BOARD
DETROIT OFFICE

STATE OF MICHIGAN
LABOR MEDIATION BOARD

* * * * *

RECEIVED
SEP 11 1967
LABOR MEDIATION BOARD
LABOR RELATION DIV.

In the Matter of
MARSHALL PUBLIC SCHOOLS,
Employer

and

Case No. _____

MARSHALL EDUCATION ASSOCIATION,
Petitioner

* * * * *

EMPLOYER'S EXCEPTIONS TO PREJUDICIAL PROCEDURAL
IRREGULARITIES AND TO PRELIMINARY FACT-FINDING
REPORT AND RECOMMENDATIONS

NOW COMES the Board of Education of the MARSHALL PUBLIC
SCHOOLS by its attorneys, HUSTON AND COMBS, and respectfully
excepts as follows to the prejudicial procedural irregularities
and to the "Preliminary Fact-Finding Report and Recommendations"
in the above-entitled matter.

Prefatory Statement:

On September 4, 1967, a fact finding hearing was conducted
in the above-entitled matter before M. David Keefe, a fact-finder
appointed by the Michigan Labor Mediation Board. On September 4,
1967, shortly after the conclusion of the fact finding hearing
(thirty (30) minutes), Fact-Finder Keefe issued a brief document
consisting of one page which was entitled "Preliminary Fact-Finding
Report and Recommendation." This "Report" does not contain any
findings of fact or any reasoning in support of the conclusionary
recommendation expressed therein. Inasmuch as the Fact-Finder's
report does not contain any findings of fact or reasoning, it is
impossible to prepare detailed exceptions thereto at this time.
If the Fact-Finder subsequently complies with the Rules and Regu-
lations of the Michigan Labor Mediation Board, it undoubtedly will
become necessary to file additional exceptions after the Fact-
Finder has performed his obligation of making findings of fact and
setting forth his reasoning in support of his recommendation.

Prejudicial Procedural Irregularities:

The fact finding proceeding which was instituted by the Teachers' Union in the above-entitled matter has been marred by several prejudicial procedural irregularities. First, the Petition for Fact-Finding filed by the Teachers' Union does not comply with the requirements of R 423.202 of the Michigan Labor Mediation Board's Rules and Regulations. Second, the fact finding hearing was not held on the date on which it was originally scheduled because before that date the Board of Education and the Teachers' Union reached tentative agreement on the terms of a contract. However, when the Teachers' Union withdrew the agreement, the Fact-Finder rescheduled the hearing for Tuesday, September 5, 1967. Then, on September 1, 1967, by telegram, the Fact-Finder on his own motion rescheduled the hearing for Monday, September 4, 1967 without consulting counsel for the Board of Education whose vital commitments with respect to an imminent strike situation involving public employees of the City of Battle Creek precluded him from meeting with the Board of Education before the fact finding hearing. As a result, this unilateral rescheduling prejudicially hampered the Board of Education's preparation for the fact finding hearing and resulted in a denial of due process. Third, no court reporter was present at the hearing and no record of the proceeding was made. Consequently, the members of the Michigan Labor Mediation Board, none of whom attended the hearing, will be unable to perform their statutory obligation of reviewing the Fact-Finder's report because, without a transcript of the hearing, they will have no means of ascertaining whether the Fact-Finder's findings of fact are supported by the testimony and other evidence presented at the hearing. The final prejudicial procedural irregularity not even to mention the conflict between an unfair labor practice hearing to be conducted by the same administrative agency regarding some, if not the same, issues

concerns the Fact-Finder's issuance of his "Preliminary Fact-Finding Report." The Rules and Regulations of the Michigan Labor Mediation Board do not authorize such "Preliminary" reports. The Michigan Labor Mediation Board's Rules and Regulations require that a Fact-Finder's report must contain "findings of fact and the reasons or basis therefor." The purpose of this requirement is to discourage fact finders from "shooting from the hip" and substituting their instantaneous visceral reactions for well-reasoned decisions reached after deliberation and careful analysis of the evidence submitted by the parties. The "Preliminary Fact-Finding Report" which was issued by the Fact-Finder shortly after the close of the hearing in the above-entitled matter does not contain any findings of fact or reasoning.

Fact-Finder's Recommendation:

The only issue before the Fact-Finder was whether during the current school year (1967-68) the teachers of the MARSHALL PUBLIC SCHOOLS should be paid in accordance with the salary schedule proposed by the Board of Education or in accordance with that demanded by the Teachers' Union. Neither the Board of Education nor the Union requested or suggested that the Fact-Finder should make any recommendations with respect to the salary schedule for the 1968-69 school year. Nevertheless, the Fact-Finder not only recommended that the salary schedule proposed by the Board of Education should determine the wages of the teachers during the current school year but also gratuitously speculated in the form of a recommendation that the salary schedule prepared in haste at a midnight bargaining session by the Teachers' Union and allegedly a "bargain" for the Board because of some errors made in its figures should govern the wages of the teachers during the next school year of 1968-69.

While the Teachers' Union has publicly announced its acceptance of the Fact-Finder's report in its entirety, the Board, while

respecting this position, does not believe such flippant approaches to establishing teachers' salaries should be condoned and or recommended by the Fact-Finder based on the mere assertion that it would be a "bargain" because of mistakes admittedly made by the teachers in computation which would result in some areas, primarily those with master's degrees and over five years of service being severely penalized along with the beginning teachers. Turning to the primary and only issue properly before the Fact-Finder, the Board of Education submits that the testimony and other evidence presented at the fact finding hearing conclusively establishes that the salary schedule proposed by the Board of Education for the current school year should determine the wages of the teachers during the current school year. Accordingly, the Board of Education concurs in and does not take exception to the Fact-Finder's recommendation to this effect.

However, the Board of Education strenuously excepts to the recommendation which the Fact-Finder conjectured with respect to a salary schedule for the 1968-69 school year. This recommendation clearly exceeded the Fact-Finder's authority for several reasons. First, the Board of Education is precluded by statute from committing the MARSHALL PUBLIC SCHOOL DISTRICT in advance to the expenditure of funds for wages in a subsequent fiscal year. Michigan Statutes Annotated, Section 15.3615. Second, even if the Board possessed the authority to so commit the school district in advance, which it does not, it would be impossible to determine whether its revenue during a subsequent fiscal year would be sufficient to enable the payment of wages in accordance with a salary schedule adopted in a previous fiscal year. Finally, in recognition of these statutory and fiscal limitations, neither the Board of Education nor the Teachers' Union submitted to the Fact-Finder any issue concerning the wages which should prevail during the next school year (1968-69). Accordingly, there can be no doubt

that the Fact-Finder exceeded his authority in making recommendations as to a salary schedule for the 1968-69 school year.

WHEREFORE, the Board of Education respectfully requests that the Michigan Labor Mediation Board:

1. Vacate and hold for naught the Fact-Finder's "Preliminary Fact-Finding Report and Recommendations" on the ground of prejudicial procedural irregularities;

2. OR, in the alternative, adopt his recommendation with respect to the salary schedule for the current school year and reject his speculative, conjectural and ultra vires recommendation with respect to the salary schedule for the 1968-69 school year.

The Board of Education reserves the right to file additional exceptions and/or comments upon the subsequent issuance of any report by the Fact-Finder in the above-entitled case.

DATE: September 6, 1967.

Respectfully submitted,

HUSTON AND COMBS

By: 

Thomas L. Combs

Attorneys for Employer

BUSINESS ADDRESS:

201 Park Building

132 West South Street

Kalamazoo, Michigan 49006

Telephone: 381-4170