

STATE OF MICHIGAN  
DEPARTMENT OF LABOR  
EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF FACT FINDING

between

MERRILL COMMUNITY SCHOOL DISTRICT

and

MERRILL EDUCATION ASSOCIATION

REFERENCE:

MERC Case No. L82 H-659

REPORT AND RECOMMENDATIONS  
OF THE FACT FINDER

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The Michigan Employment Relations Commission, in response to a petition for fact finding from the Merrill Community School District dated October 6, 1982, approved the petition and appointed the undersigned as its Fact Finder and Agent on December 14, 1982, to conduct a hearing pursuant to Section 25 of Act 176 of Public Acts of 1939, as amended. A prehearing conference was held by the Fact Finder with representatives for each party on January 4, 1983, in the offices of the Saginaw Education Association in Saginaw, Michigan. The Hearing was held on January 24, 1983 and January 31, 1983, at the Frankenmuth Bank and Trust in Merrill, Michigan, from 9:00 a.m. until 4:00 p.m. each day and on February 7, 1983, at the Knights of Columbus Hall in Merrill, Michigan, from 9:00 a.m. until 3:45 p.m. At the conclusion of the final day, each party was given a final opportunity to confer for resolution of any issues between the parties themselves. All issues originally submitted to the Fact Finder remained with him for his report. Each party wished to file posthearing briefs, which were to be postmarked no later than February 28, 1983, and to file reply briefs, postmarked no later than March 11, 1983. Having received both sets of those briefs, this Fact Finder informed the parties in a letter of March 17, 1983, that the record in this matter was closed as of that date and that a Report and recommendations would be issued within 30 days.

FACT FINDER AND AGENT: David T. Borland, appointed under the procedures of the Michigan Employment Relations Commission.

REPRESENTING THE PARTIES:

Board- Thomas A. Basil, Consultant  
Luce, Basil & Collins, Inc.  
300 St. Andrews Road - Suite 304B  
Saginaw, MI 48603

Association- Sheldon L. Markley,  
Executive Director  
Saginaw Education Association  
1311 Gratiot Avenue  
Saginaw, MI 48602

Michigan State University  
LABOR AND INDUSTRIAL  
RELATIONS LIBRARY

Merrill Community School District

APPEARANCES FOR THE PARTIES:

Board- Donald Aulbert, Superintendent- Merrill Community School District  
 Arthur Meyer, Financial Consultant- Saginaw Intermediate School District

Association- Virginia Michael, Custodian- Merrill Community School District  
 Rita Klemish, Teacher- Merrill Community School District  
 Douglas Schroeder, Field Representative- MESSA  
 Lynda Goward, UniServ Director- Michigan Education Association  
 John Hynes, Teacher- Merrill Community School District

## INTRODUCTION

On June 30, 1982, the existing three year Agreement between the parties expired (Jx-1). The parties exchanged proposals on May 17, 1982, and had begun the collective bargaining process to determine the provisions of the successor Agreement. Even though negotiations continued and school opened, the parties indicated that there were work stoppages on September 30, 1982, and again for three consecutive days on or about October 15, 1982. During this period also a state mediator was appointed by MERC, who held two mediation sessions with the parties on or about August 19, 1982, and on October 6, 1982, without successfully concluding a new Agreement. To avert further work stoppages and to provide another opportunity for resolution of the contractual impasse, this Fact Finder was appointed. Finally, during this same period an unfair labor practices case was filed and was pending throughout these Fact Finding proceedings.

The parties indicated to this Fact Finder that all of these events were occurring between them for the first time in their labor relations history. Judgements about those events and responsibility for them are not proper subjects for resolution here, because other mechanisms are established for such purposes. Comments about the consequences of those events as they impact the impasse evident here are proper in order to establish a base for resolution. Hence, it became evident to this Fact Finder during these proceedings through the parties that three factors were interfering with the normal employment relationship which had existed in Merrill Community Schools. The first factor is the two delayed State payments, which is an experience

being shared throughout the State of Michigan in public education. It is significant to note that these are delays, rather than specific cuts, as has been occurring in Michigan through Executive Orders from the Governor. The Board rested its case on the assumption that those funds were lost and the Association, assuming that the funds would be recovered, believed that these funds should be considered favorably in the allocation of the District's funds. These "delays" caused an uncertainty, open for these opposing interpretations, which pervaded the negotiations atmosphere and these Fact Finding proceedings, and which continues to facilitate an atmosphere of impasse. Even specific cuts in State payments, as difficult as they would have been for both parties, would have provided at least a firm base from which a negotiated contract might have been executed by the parties themselves. This uncertainty enters this Fact Finding process following these Hearings and even following the parties' briefs, because Michigan's financial status continues to change. As this Report is being completed the Legislature has just enacted a tax increase in the attempt to correct financial problems, the impact of which on school financing is unknown.

Related to this first factor, and particularly significant to the Merrill Community Schools, was the lack of mutual trust that has developed in relation to the Board's financial situation. While the State delays caused uncertainty, the under-estimation of the fund balance for 1981-2 that became known during these negotiations, drove a wedge into this newly uncertain fiscal relationship. That wedge apparently made exchanges of differing alternatives most difficult because it divided mutual interests into hard bargaining positions. While administrative and support employees in the District have accepted wage freezes, it was done before the District's exact financial position for the 1981-2 was known. To hold teachers to the same position, even with the additional knowledge of the exact July 1, 1982 fund equity, as inherent in the Board's positions, would only add to the pressures which created this impasse initially. To hold this Fact Finder to that position, lest he create labor relations problems among the various employee groups by recommending anything but a freeze in

these economic conditions, is asking him to ignore the very information which he believes originally allowed this impasse to accelerate. Any labor relations problems created by the underestimation of the fund equity were initiated before the current impasse with teachers and would have been created in the District whenever the next collective bargaining contract was due to expire.

Although the underestimation occurred, there is no finding here of any intentional attempt to disrupt the employment relationship any more than the intentional effect of the failure of two recent millage elections. The two defeats represent the third factor that contributed to this impasse environment. In visiting some of the school facilities and having an opportunity to meet some of the teachers and administrators of the District, it is clear to this Fact Finder that Merrill's citizens have supported their fine schools in the past. Given the current economic situation, it is not altogether surprising that recent millage requests have failed at the polls and probably for a variety of reasons not totally known to this Fact Finder. The loss of funds, designated as necessary and essential by the School Board elected by Merrill's citizens, added an element to the conditions for impasse. As with any impasse situation several factors and several groups' interests conflict. In order to resolve the current dispute, as well as to forestall future impasse, it will require sacrifices from all involved in the Schools following this Fact Finding process to work together cooperatively.

The parties have indicated that the eight issues discussed below are the sole remaining areas of dispute, which prevent a new Agreement from becoming a reality. Each party has presented a strong and sincere case for their respective provisions, which the Fact Finder has considered extensively. This Report will compare the facts, figures, evidence, and testimony to clarify the reasons for his recommendations contained herein and the parties also will recalculate and compare these figures and recommendations as they attempt to come to resolution of their specific differences here. It is this Fact Finder's opinion, however, that while the factors leading to

the incorrect fund equity estimation for 1981-2 cannot be blamed on any controllable events, unless the parties address the trust factor created by that situation and perform with each other in ways in the future to build trust levels again, that their mutual interest of providing sound educational experiences to the students of the Merrill Community Schools may be forsaken for the superior rights they each believe they possess in a financial world that is so uncertain currently. It is in the hope of mutual interest, rather than statistical victory of hard bargaining positions, that this Report has been fashioned and is offered to the parties.

### WAGES

#### Positions of the Parties-

The parties have proposed differing wage levels for the successor Agreement. Each party presented differing bases for support of its proposal from total cost of the proposal, differences in costs, and projected costs using CPI values. A summary has been constructed below to compare the approximate levels using a similar base for that comparison.

	<u>Association</u>	<u>Board</u>
82-83	increment plus 2% for those not receiving increment (\$31,000 cost)	freeze - no increment  (no cost)
	difference in positions = \$31,000	
83-84	increment plus COLA of 5% min. - 8% max. (\$102,000 - 132,000 additional)	increment plus 3%  (\$50,000 additional)
	difference in positions = \$52,000 - 82,000	
84-85	increment plus COLA of 6% min. - 10% max. (\$129,000 - 210,000 additional)	wage reopener  (negotiated additional costs)

The Association argued that the Merrill teachers, in comparison to other school districts with settled contracts in the Saginaw and Gratiot County area, had been approximately at the midway point in beginning salary rankings and in the lowest quarter in maximum salaries for 1981-2. Using either the Board's proposal or the

Association's proposal for 1982-3, the Association argued would place Merrill in the lowest quarter at all salary levels and in all instances the Association's proposal for additional funds for an incremental increase would not place Merrill at a higher specific ranking than would the Board's proposal. Also, in these same 17 comparable districts the one-year increase in salary from 1981-2 to 1982-3 ranged from 0% - 10%; however, even in the districts with a freeze, increments were given or raises were deferred for one year. Finally, the Board's position represents an unwillingness, rather than an inability to keep Merrill teachers' salaries in a "strong position in Saginaw County." The Association argued in support that the past trends used in the Board's projections are based on speculation, rather than fact, and it has treated the delayed State funds as actual reductions. All of these positions represent, therefore, an unwillingness to give teachers a priority in the funding decisions of the District, when the teachers would be willing to accept incremental increases for 1982-3 if supported by significant increases in the following two years.

The Board's position was based on the fact that it was currently not in as sound a position as it would like or as is recommended, because of the fiscal uncertainty within Michigan. All other District employees have accepted a wage freeze and a raise for teachers now would not only cause labor relations problems, but also put pressure on the Board to grant wage increases to them. The Board also argued that since Michigan was not forthcoming with its funds, it could not budget for them and that two recent elections had failed to provide the needed millage levels to support the teachers' demands. The Board, therefore, must have a freeze in the current wages (1982-3), a small increase for 1983-4, and a wage reopener for 1984-5, when Michigan's financial status may be more stable.

#### Opinion and Recommendation-

The differing exhibits, testimony, and projections presented by each party have made the deliberations of this Fact Finder difficult, particularly in these fluid economic conditions as described above. Although the Board

successfully attacked a specific error in two of the Association's comparative rankings' exhibits, it did not overcome the basic Association position that its proposal for 1982-3 placed it at a lower general level than that at which it had been ranked previously and that its ranking under either party's proposal would not be advanced. Also, this Fact Finder must conclude that the State's action to defer, rather than to cut, funds is a significant difference, which must be integrated into the basis for his recommendations here.

In addition, the Association successfully raised questions in this Fact Finder's mind about the reliability of the Board's forecasts for the succeeding three years. Beyond the level of the 1981-2 fund equity, which could be attributed to a number of nonculpable reasons, was the testimony of the Board's witnesses that the extent of the fund balance was unknown. While the exact level may have been unknown, there was too much competence from these witnesses for this Fact Finder to believe that the administration had no general picture of its balance at the time these negotiations were at critical stages. Further, to continue to use the same basis for budget projections (1982-5) as had led to the underestimation of 1981-2 at least in part, attacks the credibility for the Board's projection exhibits. Specific testimony by the Board's witnesses indicated that the expenses had been projected at the same or higher levels and that revenue projections were conservative. The conservative projections are probably a wise strategy currently, but to project no change in revenue from any sources, when they all had patterns of increases, was made even more incredible by such specifics as a continuing student average loss of 50 per year, when 1981-2 had seen only 17 students actually lost, and also, utility bills, as unstable as they may become, that were not at previous levels let alone the 25 percent projected for each year (Ax-3). Finally, a salary freeze proposal which would allow teachers new to the District with comparable education and experience levels to earn more than teachers continuing in Merrill, lacks face validity.

All of the foregoing is to bring into focus this Fact Finder's opinion that the Association's position on wages should be given more weight than the Board's position; however, this Fact Finder must now enter into the world of deferred State payments, which is similar to shadow boxing in a paper bag. For example, the Fact Finder rejected an alternative based on a contingency contract dependent on what the State might do about deferred payments. Such an alternative would continue the current uncertainty and also create an avenue to place the State's financial burdens directly at the doorstep of Merrill's Board and employees for subsidization. Also, it seemed reasonable to assume that the parties, either individually or mutually, had rejected such an alternative. Having considered this new world of deferred payments and alternatives long and carefully, this Fact Finder's respect for each of these parties has been raised considerably, given their long struggle in this shadowless and win-dowless world.

It is recommended that the Association's wage proposal for the entire 1982-3 school year be accepted: All teachers on the salary schedule receive the increment and those "at the top" who are not eligible for the increment receive a two (2) percent raise.

It is recommended, further, in view of current trends with the CPI that both the Association and Board proposals for 1983-4 be modified and accepted: All eligible teachers receive the increment and that all teachers receive an increase, based on the CPI-W (1967) with a floor of four (4) percent and a ceiling of six (6) percent.

#### DURATION OF THE AGREEMENT

##### Positions of the Parties-

The Board has proposed a two year Agreement, but would consider a three year Agreement with a wage reopener for 1984-5. The Association rejected the wage reopener as too restrictive of bargaining flexibility and proposed a specific three year Agreement.



### Opinion and Recommendation-

Having just been engaged in "shadow boxing in a paper bag," and recognizing the current negotiating record between these parties, this Fact Finder was torn by the articulate arguments by each party. It seems clear that flexibility in positions between these parties must be maintained to create an environment in which future impasse can be avoided. The best way to increase this flexibility, while at the same time recognizing the State's fluid financial position, is to give more weight to the Board's proposal than to the Association's proposal. While this means that the parties will be back at the bargaining table in one more year, they should be able to base negotiations on more stable knowledge of Michigan's financial situation and to maintain maximum flexibility on issues to adjust for all factors which evolve.

It is recommended that the parties enter into an Agreement which is effective from July 1, 1982 and expires on June 30, 1984.

It is recommended, further, that negotiations absolutely begin no later than April 16, 1984 on a successor Agreement (similar to Article XV(B) of the expired Agreement).

### FRINGE BENEFITS

#### Positions of the Parties-

The Association has proposed to improve the fringe benefit package primarily by using MESSA PAK #4. That proposal would add vision coverage and improve dental coverage, as well as to increase life insurance level and would add an AD&D rider and waiver of premium. The current cost for premiums to the Board for its proposal were calculated to be \$225.13/month/teacher and \$92.53/month/teacher for those teachers not selecting health coverage. While rates change each July 1st, costs for the current year are reduced greatly since fringe benefits are not retro-active. The Association argued that advantages of the PAK program are that package rates can be utilized and additional savings are made through reduced program administration costs. Finally, the increased costs to the Board for the remainder of

1982-3 now would only be 1.3 percent and at the current annual rate increase of only 8 percent.

The Board argued that it has been offering a very respectable insurance program for teachers and has proposed to continue that program, which for 1982-3 has had greatly increased costs totally. The PAK #4 program proposed by the Association represents an immediate increase of 23 percent over current costs for Plan A and 30 percent more for choosing option Plan B. The Board argued that these increases are unreasonable because only two districts in the geographic region have purchased any portion of MESSA PAK programs and not even one district has elected PAK #4. While a vision program has been adopted by only one-half of the districts, none have any program approaching the Association proposal level. Finally, while the Association indicated that there would be increased savings in a PAK program, an insurance program offered by the Association's own company, the Board believes that no such evidence exists and certainly was not presented during these proceedings.

#### Opinion and Recommendation-

The arguments, testimony, and computations presented by the parties make this area of negotiations a complex challenge for all involved. In reviewing these elements within the context of financial realities facing these parties in school financing and greatly increasing insurance costs, as well as in comparison to neighboring school districts, several conclusions were made by this Fact Finder in fashioning his recommendation for fringe benefits.

The conclusions about these factors were: (1) the parties agreed that no MESSA PAK #4 program in is existence in this geographic area, nor is any PAK #3 or #2 program in existence in total; (2) the fact that the MESSA PAK programs are an activity of this Association's parent organization is of little relevance here, since the current Super Med 2, Dental Program, and LTD Plan I Plus program in Merrill are also MESSA programs (Ax-5); (3) the total dental care program currently in existence is in a comparable position with neighboring districts (Ax-10 & Bx-8); (4) the current

life insurance level and absence of AD&D is not "very respectable," nor comparable with neighboring districts (Ax-7 & Bx-8); (5) in the districts which offered AD&D (11 of the 12 in Saginaw County, excluding Merrill) double indemnity was provided in five district contracts and not provided in six contracts (Bx-8); and (6) the existence of vision care in one-half of the proposed comparables in Saginaw and Gratiot Counties and in comparison with total fringe benefits, there is not compelling evidence to suggest initiation of this new insurance program at Board expense.

It is recommended that for the remainder of the life of the proposed Agreement that the current fringe benefit program and options be continued with the Board providing for any increased premiums, but also including the premium costs for an increased coverage in the life insurance program at the level of \$20,000 coverage plus AD&D with double indemnity.

#### LTD AND SICK BANK

##### Positions of the Parties-

With regard to this specific issue within the fringe benefit package, the LTD waiting period and effect on premiums, as well as its effect on covered days using individual sick leave and sick leave bank, was examined. The Board proposed to change existing contractual language to increase the LTD waiting period from 60 calendar days to 90 calendar days with a subsequent reduction in premiums of approximately 33 percent. The Board argued that each teacher may accumulate up to 60 work days, which is the equivalent of 90 calendar days, and those who do not have 60 work days accumulated, may draw currently from 30-50 days per year from the sick bank depending on whether or not they are tenured. Finally, the Board also proposed that the sick leave bank be reduced to 15 days per year for non-tenured teachers and reduced to 25 days per year for tenured teachers, which would affect very few individuals and still provide about one month's coverage period from the sick bank alone.

The Association's position has been that the extended waiting period would be acceptable if the sick bank allocation remained unchanged, which becomes more critical due to the longer waiting period for LTD benefits to begin. Further, the Association argued that the Board had agreed already in the predecessor Agreement to Cost-of-Living coverage in the LTD plan; therefore, the Association's proposal for MESSA LTD Plan II would meet the Board's objective compared to the current MESSA LTD Plan I Plus (Ax-5).

Opinion and Recommendation-

The issue regarding COLA for LTD coverage was discovered tangentially as these proceedings and briefs were processed. The expired Agreement did provide for COLA, effective with the 1980-81 school year (Jx-1). Association Exhibit #5 and testimony of the MESSA Representative during these Hearings indicated no COLA coverage in the current LTD program. The Association argued this discrepancy in its brief and the Board did not address the discrepancy or the issue itself. The history and actions of the parties about the causes of this discrepancy is not properly a matter for this Fact Finder because (1) the causes were not presented at these proceedings; (2) it should be resolved more properly either by the parties themselves or through their contractual grievance and arbitration procedures; and (3) this Fact Finder has no arbitral authority in determining the causes, existence, or responsibility for any inappropriate action.

This Fact Finder, however, can read the expired Agreement, which the parties presented as Joint Exhibit #1, and find that the intent of the parties has been to include COLA coverage since the 1980-81 year. Without arguments presented here to the contrary, that coverage will be assumed in the recommendation below for the successor Agreement on the LTD issue.

Both parties are in agreement that the 90 calendar day waiting period would reduce costs by 33 percent. Examination by this Fact Finder of Saginaw County contracts (Bx-9) found a range of waiting days from 30-180, which provided little

valid comparable data. Without specific argument from the Board as to the reason for its proposed decrease in sick bank allocation or evidence indicating the effect upon bargaining unit members, its position cannot be supported here. The Association's proposal that MESSA LTD Plan II be recommended also cannot be supported here. Even though it appears to contain all of the elements of the current LTD Plan I Plus, but also included COLA and the increase from a 60 to a 90 calendar day modified fill, other carriers may offer similar plans that could be examined by the parties.

It is recommended that the Board provide to the teachers an LTD plan that provides all coverages contained in the predecessor Agreement, including COLA coverage, but which increases the waiting period to 90 calendar days.

#### INSTRUCTIONAL PERIODS

##### Positions of the Parties-

The Association proposed that the number of instructional periods be reduced from six per day to five periods per day of 55 minutes each, which would create no additional costs to the District. The Board's response during negotiations was that since it was unable to allow wage increases and that class sizes might increase in the near future, the District would agree to the instructional period reduction from six per day to five periods of 58 minutes each on an experimental basis for the life of the Agreement. The Board estimated that this would reduce total teacher contact with students from 168 to 140 students per day and reduce the curricular offerings to students by one-sixth.

##### Opinion and Recommendation-

The parties were in essential agreement on this issue with the conditions by the Board that no increase in wages occur and that there may be increases in class size. Given the recommendations by this Fact Finder on those two issues, the concessions necessary by each of the parties would allow for this reduction in the number of instructional periods to be accepted. During the predecessor Agreement the total number of instructional minutes per day for the three

year period varied for reasons unknown to this Fact Finder from 270 to 300 with 283 minutes in the third year (Jx-1). The Board's proposal of 290 minutes is closer to the average of the most recent experiences of these parties than was the Association's proposal of 275 minutes.

A final comment concerning the reduction of curricular offerings to students seems warranted. In the give-and-take of labor negotiations in school districts, one often becomes concerned about a lessening in the rich mixture of a varied curricular offering to students, especially when balancing that against the interests of school boards and employees. The recommendation on this issue represents one consequence directly affecting the students of Merrill among the many consequences to be shared by all involved and concerned about Merrill's schools.

It is recommended that the number of instructional periods at the secondary level be established at five (5) periods per day for 58 minutes each for the 1983-4 school year.

#### CLASS SIZE

##### Positions of the Parties-

The Association has proposed class size limits in an attempt to define the language of "sound educational levels," which existed in the expired Agreement. The Association based its position on the current pattern in Merrill of staff reductions and increasing class sizes, as well as the pattern in several area districts of specifying class limits and the belief that test scores will drop if class sizes continue to increase. The Association proposed, further, that a two year phasing process move to a 25 student limit at the elementary level and a 30 student level be considered maximum at the secondary level with exemptions for specialized and activity classes and that overloads be restricted by a specific dollar per student over the limit amount being paid to the teachers affected.

The Board responded that current language should remain and that the proposed artificial class limits be rejected. The Board based its position on the factors

that no area school district had language that resembled the Association's proposal, an additional six elementary teachers and five secondary teachers would have to be hired in the two year period at an additional cost in excess of \$250,000, and finally, that the relationship of class size to quality education is not evident nor enhanced by paying teachers on a student overload basis.

Opinion and Recommendation-

The exhibits and arguments presented on this issue have raised, again, the issue of trust between these parties. With proposed budgets from the Board indicating less teachers over the next three years and total student loss, which had been at an average of 47, but which only reached 17 during this past year, teacher suspicion about the pressures for increasing class size is warranted. With Association evidence that class sizes vary and no clear or consistent pattern of increases (Ax-29 through Ax-33) or improved quality of instruction established, Board suspicion about increased costs, either through additional teachers or extra compensation to current teachers, is warranted. This Fact Finder's suspicions also were raised, for example, (1) when one physical education class is allowed to rise to more than 50 for both girls and boys in one class and combining in that same class two separate courses with inadequate supervision and (2) when teachers' concern for quality education in large classes is traded for a specified rate per student to the teacher, allowing the "overload" condition to continue.

Regardless of all of these suspicions, however, resolution of this issue rests with the evidence presented. Contrary to the Board's specific interpretation, it is clear that several area school districts have resolved this concern with specific class size limits or ranges, including a per student payment to teachers for overloads. Contrary to the Association's position, the current class sizes reveal varying conclusions about the proposed limits. If limits are set in the Merrill Schools, rather than hiring additional teachers at the costs the Board estimated, the administration may decide that it is more economical to pay overload rates to current teachers.

This would not attack the problem of quality reduction posed by the Association. Given the size of the Merrill District, it is clear that particularly at the elementary and middle school levels, class sizes are determined by the number and ages of students living in the District, rather than by any scheduling pattern. This factor is less true at the high school level with multiple sections of some courses and students crossing grade lines in some courses to enroll in subjects of interest. The decrease in instructional periods recommended hereinabove, if accepted, also would make class size limits at the secondary level more difficult to control.

There was not sufficient evidence presented to suggest to this Fact Finder that specific class size limits would resolve the problems anticipated by the Association. The uncertainty surrounding the financial and enrollment situation here would make it unwise to adopt the system of limits proposed by the Association. The future negotiations on this issue, however, will be affected by the manner in which the administration demonstrates its sensitivity to the teachers' concerns by reducing class sizes whenever possible and in the alternative providing viable classroom assistance to teachers that would free them for maximum teacher/student contact during classroom hours.

It is recommended that language in the expired Agreement regarding class size be maintained in the successor Agreement.

#### TEACHER EVALUATION

##### Positions of the Parties-

The Board argued that under current language an administrator is limited to a 15 day period to observe a teacher's classroom behavior and to provide a written evaluation. If more than one observation is required for the final evaluation, this limit is too restrictive for an effective evaluation to occur. The Board proposed, therefore, that the word "final" be substituted for "initial" in the current language concerning the composite evaluation and observation.



The Association responded that the proposed change would provide no limit as to when the written evaluation would be completed. The current procedure is proven and workable and the Board has presented no evidence or argument during these Hearings for the requested change.

Opinion and Recommendation-

The Association's position that the system for teacher evaluation is proven and workable cannot be extended in light of the Board's proposal to mean that the Board is satisfied or that the system cannot be improved. The Board presented arguments in its brief only and indicated that a 30 day period was a more reasonable period to accomplish the composite observation portion of the evaluation process; however, the language change it proposed provides no such limitation of any length.

Teacher evaluation is a crucial process with benefits for both parties and especially for students, if it is truly to be a corrective, rather than a punitive, process when problems arise. Such a process, if it is to meet the interests of all concerned, must be timely, as inherent in the Association's position, but it must be valid and comprehensive, as the Board's position implies. Given the reduction in instructional periods recommended hereinabove, the scheduling of multiple observations becomes even more difficult than currently. That factor, in addition to the Board's original concerns underlying its proposal, provide the basis for a recommended change in language. The Board's proposal without a time limit, however, cannot be the base for that change.

It is recommended that the following language on teacher evaluation be substituted for Article XIII D(3) in the expired Agreement and to be effective for the 1983-4 school year.

3. The evaluation shall be in writing, with a copy given to the teacher within fifteen (15) school days of that evaluation. If evaluation is made through a composite of observations, rather than a single observation, these additional observations and a copy of the written evaluation to the teacher both must be completed within thirty (30) school days of the initial observation.

## SCHOOL CALENDAR

Positions of the Parties-

The parties have agreed that although the calendar was a subject of negotiations throughout the process, the only remaining dispute was when the four days lost to the work stoppages should be rescheduled. The Board proposed that the days be scheduled during the Spring Vacation and the Association preferred adding them to the end of the school year.

Opinion and Recommendation-

Since the parties have agreed to the numbers of teacher work days and of student session days and since this Report is being completed at the Spring Vacation time for the District, the lost four days will have to be rescheduled at the end of the school year. Since the teachers will be scheduled for the entire number of days in the school year, they should receive their full salaries for 1982-3,

Except for the specific relevant dates adjusted for the 1983-4 school year, it is recommended that no changes in the language or practices contained in the expired Agreement (Article IV and Appendix) regarding the school calendar, be made during the life of this Agreement. Lost days for the 1982-3 school year are to be rescheduled at the end of that year.

## CONCLUDING STATEMENT

In formulating the recommendations hereinabove, this Fact Finder considered all evidence, testimony, and arguments, even if it was not all mentioned in this Report. The recommendations taken in total are believed by the Fact Finder to be a valid basis for resolving this contractual dispute. The dispute and the parties themselves have progressed through several formal and time consuming

impasse resolution processes and because this diverts attention from the major purpose of the school system, it seems clear that the time for a settlement has arrived.

To avert impasse in future contracts, and to begin to repair the current employment relationship, the parties are encouraged to develop mutual contractual provisions where possible on areas of common concern. The use of the joint professional study committees contained the Article XVII of the expired Agreement, especially remembering the objective contained in Section A(4) ("to provide communication . . . to gain insights and promote understanding") will enhance the repair mutually without usurping negotiation prerogatives for either party. Beginning the negotiations process early, as recommended above, will also assist in lessening the opportunity for future impasse.

The Fact Finder presents this Report and Recommendations in the fervent hope of a speedy resolution to the immediate dispute and with the desire to assist the parties in building the trust levels upon which the future employment relationship and the best educational experiences for Merrill's youth become the mutual interests of the teachers, the administrators, the Board members, and the citizens of Merrill.

I, DAVID T. BORLAND, having been appointed by the Michigan Employment Relations Commission as its Fact Finder and Agent pursuant to Section 25 of Act 176 of Public Acts of 1939, as amended, having sworn to my impartiality, and having weighed and considered all of the testimony, evidence, and argument presented, and in view of the preceding opinion and discussion, have recommended to the Merrill Community School District and to the Merrill Education Association provisions concerning wages, duration of Agreement, fringe benefits, long term disability and sick bank, instructional periods, class size, teacher evaluation, and school calendar, as contained hereinabove.

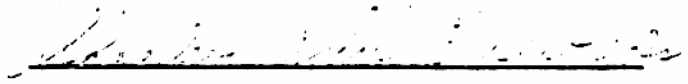


David T. Borland  
April 8, 1983

STATE OF MICHIGAN

COUNTY OF INGHAM

On this 8th day of April, 1983, before me personally came and appeared DAVID T. BORLAND to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.



SARLEY ANN NEWBOS  
Notary Public, Michigan  
My Comm. Expires 12/31/85