

STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION

Fact Finding

A.F.S.C.M.E.	AFL-CIO	*
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LOCAL #201	COUNCIL #11	*
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	and	*
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MONTAGUE	AREA	*
		*
PUBLIC	SCHOOLS	*
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November 4, 1977

Nicholas A. George  
Fact Finder  
1565 Davis Street  
Muskegon, Michigan 49441

*Montague Area Public Schools*

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HISTORY OF FACT FINDING

The undersigned, Nicholas A. George, was appointed Fact Finding Hearings Officer, by letter of the Director of the Michigan Employment Relations Commission dated October 3, 1977, on motion of the Commission. Because the Union members had authorized their leaders to call a strike, and such a strike was imminent, time was of the essence. Therefore, immediate telephone contact was made with the Parties prior to the receipt of the above mentioned letter, and with the joint agreement of the Parties, a hearing was held in the City of Montague on October 4, 1977. The hearing ran the full day.

Although the Parties were given little -- or no -- time to prepare for the hearing, the Parties were properly represented and had prepared creditable exhibits. The School Board was represented by its Business Manager, Thomas Hanson, Richard Wragg, Superintendent of Schools, and Marsha Orr and C. George Johnson, Esq., Labor Relations Consultants of and for the Michigan Association of School Boards. The Union, Montague Area Public School Employees Chapter of Local #201, Council #11, AFSCME, AFL-CIO, was represented by its Bargaining Committee: Marilyn Miller, Chairperson, and Carol Lohman, Chapter Secretary, and Robert Chittenden and Gary Patterson, both Staff Representatives from the Michigan Council of the Union.

At the outset, I met separately with each of the Parties -- first, with the Union and then the Employer. Although there were a number of non-economic and economic issues in dispute at the start of the hearing, there was considerable movement by both Parties during the day, and by the close of the hearing, the number of issues had been materially reduced. At the close of the hearing, the Parties agreed to submit briefs to reach me by October 28. The Board's Brief reached me on that date. The Union had sought and received an extension until November 1. However, nothing had been received from them by 10:00 A.M., Wednesday, November 2.

There is now but one non-economic issue left unresolved -- the termination date of the new Agreement. The Board is asking that the new Agreement run from September 16, 1977 until June 30, 1979; the Union wants to retain the present expiration date -- September 15 (1979).

There are five economic issues:

1. Cap on Employer's cost of Hospitalization Insurance
2. Wage rates (including Employer's 5% mandatory contribution to employees' retirement plan)
3. Inequity adjustments
4. Additional holidays
5. Board's ability to pay

We will first take up the termination date of the new Agreement as proposed by the Employer.

#### EXPIRATION DATE

The Union contends that the Employer is attempting to weaken the Union's bargaining position by having the Agreement expire shortly after the start of the summer vacation period -- on June 30.

The Employer responds that the Union is seeking to retain its "clout" -- the threat to close down the schools by a strike. On p. 2 of its Brief, the Board of Education states, "Albeit, this Union's strike would close the schools: no lunches could be provided, no transportation offered, no cleaning rendered. But strikes are illegal in the public sector. The legislature recognizes the potentially harmful affects a strike against the public schools can have upon its children. What power then does the Union lose by contract expiration in June -- only the clout of concerted and illegal action against the Board."

Quoting further from the Employer's Brief (p. 1), "The Board desires to minimize the potential for disruption of the educational program in the Montague Area Public Schools. As the Parties agree, negotia-

tions are required to begin sixty (60) days prior to contract termination. A June contractual expiration date would require the parties to begin negotiations by the last of April. This would allow the parties ample time to explore disputed issues, perhaps reach an agreement prior to contract expiration, and hopefully before the beginning of school in September. On-going labor strife clouds the atmosphere of an environment where positive attitudes and good interpersonal relations are critical ingredients for learning."

As the Employer said, a strike by this Union against the schools would be illegal, and I must not be a party to any consideration or discussion concerning the Union's advantage for one date over another. Furthermore, I do not believe that the solution to an illegal action is to be found in reducing the damage caused by such action, if this is what the Board is seeking to do. If the action is illegal the Board has remedy and should seek such remedy.

I do not see this as a major consideration for either Party, and in order to get on with more important matters, I urge the School Board to agree to the Union's proposed expiration date. This will dispose of one obstacle.

#### CAP ON COST OF HOSPITALIZATION INSURANCE

The Board -- at the Fact Finding hearing -- agreed to assume the potential additional premium cost of the Hospitalization Insurance Plan to a maximum of a 6% increase in premium costs for each of the two years of the Agreement. It would pay the full cost of this insurance up

to \$85.46 per employee per month in 1977-78 and up to \$90.66 in 1978-79. The Board points out that health care costs have risen astronomically and bear little or no resemblance to what they were when the programs were installed. The Board currently pays almost a thousand dollars (\$967) per year per employee to provide this coverage, and fears that few people accept any responsibility for cost containment "as long as the Board shoulders the entire burden of cost. When the costs appear more closely to the individual who benefits, however,....we can expect a more balanced perception of how much protection is enough and a greater appreciation for the costs involved." In other words, the Employer believes that its employees do not realize the weight of the burden imposed on the Employer to meet the cost of fringe benefits; the employees accept the benefits with no appreciation of the costs, or the burden upon the taxpayers.

On p. 4 of its Brief, the Board says that if in the first year of the Contract, the premium cost is increased by as much as 6% (to \$85.46), the Board will pay all of it; if it is increased by 12% (to \$90.29), the Board would pay up to \$85.46, and the employee would pay the balance of \$4.83, and this seems correct. But then it says, "If costs increased another 12% in the second year of the contract, the cost to employees would increase only by an additional 88¢ a month." I cannot agree with this. If costs increased 12% within the first year, the cost would then be \$90.29, an increase of \$9.67; the Employer would pay \$4.84 of this, and the employee would pay \$4.83. So far, we are in agreement. During the second year of the contract the Employer would be responsible for up to \$90.66, so that if the premium remained at \$90.29, the Employer would pay 100%. If the premium should increase another 6% to \$95.71, the

Board's share would be \$90.66 and the employee would pay \$5.05. If the premium should increase another 6% (a total of 12% for the second year), it would then amount to \$101.12. The Board would pick up \$90.66 (its maximum liability) leaving \$10.46 as the employee's share. However, the cost must increase a total of 24% before the employee is required to pay \$10.46. By that time, the Employer's contribution would have increased to \$90.66, almost nine times the amount to be paid by the employee.

I find the Board's proposal fair and urge the Union to accept the "cap".

#### WAGE RATES

The Parties have already agreed to an inequity adjustment for the custodians, another adjustment for the nurse, a crew leader differential for a custodian when he is acting as a group leader, and two additional holidays. Apparently, the Parties have agreed that these items will be a part of the "settlement package". The Board's most recent monetary offer, made in the late afternoon of October 4, 1977, is dated and headed "The Board Accepts". It includes, inter alia:

1. Holiday Pay for part-time persons as proposed at \$1,400 cost to the Board.
2. Health Insurance: The Board will pay the following maximum health insurance premiums in the designated years:

1977-78 - - - - -	\$85.46
1978-79 - - - - -	90.66

(Any difference in premium costs will be deducted from the employee's pay. This represents a potential 6% increase in insurance costs in each year.)

3. Custodial differential @ 15¢ per hour  
(total cost \$2184)
4. Nurse differential @ 10¢ an hour  
(from Federal Funds)
5. Group leader differential @ 15¢ an hour  
for times when one bargaining unit member  
is designated as group leader.
6. Contractual agreement: September 16, 1977 --  
June 30, 1979.
7. 15¢ across the board to all bargaining  
unit members in the 1977-78 contract  
year.
8. 25¢ across the board in the 1978-79 con-  
tract year;

At this point, the Union was still objecting to the 6% annual "cap" on the Hospitalization Insurance and was asking for a 35¢ per hour increase for the first year of the Agreement and an additional 35¢ for the second year. The Union was still holding to its demand that the expiration date of the new Agreement be September 15, 1979 rather than June 30, 1979 as proposed by the Board.

I believe that no wage settlement is possible until the Parties agree on the proper evaluation of the last sentence of Article 25 -- Retirement -- of the recently expired Agreement. The sentence, on p. 11 of the expired Contract reads, "Effective July 1, 1977 the Employer shall assume the cost of non-contributory retirement toward the Michigan Public School Employees Retirement Fund."



## THE "FUND" OR "PLAN"

The Michigan Public School Employees Retirement System began in 1915 as a plan for teachers only, and was later expanded to include all teaching and non-teaching school employees. Membership in the System is mandatory. Act 244, Public Acts 1974, made the System a non-contributory plan, mandatory as of July 1, 1977. Prior to that date, the members of this bargaining unit were contributing 5% of their earnings through payroll deduction. As required by Act 244, on July 1, 1977, the Board discontinued the 5% deduction and began paying the same 5% directly to the Fund. This meant that the School Board's payroll costs had increased by 5% and the employees had 5% more in their pay checks.

And, this is the nub of the dispute or misunderstanding: Did the employees thereby receive a 5% wage increase on July 1, 1977? The Board says, "They certainly did. All they need do is look at their take home pay." "They did not," replies the Union, "the old Plan whereby the Board deducted 5% was in fact a mandatory payroll savings plan. Our people had a perpetual right to that money and they could get it all back if they decided to quit, as many did. Under the new plan the contributions of the Employer vest in the employee only if he has a total of ten years of service. Otherwise, they are lost to the employee if he terminates his employment." But neither Party has discussed the improved benefits of the plan which are being paid for by this arrangement. The contributions are fully vested to the employee who has a total of ten years of service.

Even the most biased among us will agree that the following happened on July 1, 1977:

- (1) By law, the Board already had been ordered to cease deducting the 5% retirement contribution formerly deducted from the employee's gross earnings and to do so by July 1, 1977. It did this on July 1, 1977.
- (2) By law, the Board began paying the 5% contribution on behalf of the employees out of its own funds starting July 1, 1977.
- (3) The amount formerly deducted was now being paid to the employees and the employees took home an additional 5% -- in cash -- money they could spend as they saw fit, starting July 1, 1977.
- (4) The Board's expenses were increased by the amount necessary to pay the contribution (5%) formerly deducted from the employee's pay check, starting July 1, 1977.

Items 3 and 4 go together like bread and butter.

No matter how one may rationalize this, the result is clear -- the employee took home an additional 5%, and the Board paid out that much more. I do not believe it is important to determine how or why the provision was written into the prior Agreement (Article 25). It makes no difference because the Parties had no choice in this matter, and the change-over would have occurred automatically on July 1, 1977 whether they had negotiated the language or not because the law provides for it. If there was any negotiation on this, it was redundant and it is irrelevant.

However, I do believe we should inquire into how this matter has been handled by other school districts. Before we get to that however, we should consider what the Board had to say on this subject in its Brief. On p. 8 of its Brief, the Board makes reference to an article by Representative Dan Angel, the prime sponsor of the Michigan Public Schools

Employees' Retirement Law, published in the Michigan School Board Journal, issue of April 1974, in which Mr. Angel, wrote:

"Finally, the replacement intent of this bill should be understood. In order for the State of Michigan to grant these major pension improvements, it is incumbent on both school boards and public school employees to make sure that this system conversion will replace, not supplement, salary increases during the year of the conversion. (Emphasis added.) Any attempt to "pocket" the pension improvements and collateral increases in take home pay before bargaining for still more would be counter productive."

The Brief (ibidem) further states:

"In case this paragraph isn't clear, let me restate my intention. I intended that if employees are offered a 7% raise, 5% of that raise is paid for by the employer picking up the retirement contribution and 2% of the raise would show up on the salary schedule."

In an Exhibit submitted by the Board, I find that Fremont, Hesperia, Hart, Grant and White Cloud -- all in this area -- took into consideration the 5% retirement contribution in their wage settlements. In Hesperia there was no wage increase. Fremont and Grant agreed to a 5% wage increase, while Whitehall, for some reason, granted a 10% wage increase on top of the 5% contribution. Neither Party offered any evidence or testimony to explain this. According to the Board, the Montague School District increased wages by 35¢ (11.2%) in 1975 and 25¢ (plus 5¢ additional for the custodians) or 6.9% in 1976. If the cost of retirement plan had been included in that settlement the total for two years would have been 23.1%. It is therefore, obvious to me that the 5% was not included.

I am convinced that the Union's posture at this time is not taking into consideration the 5% retirement contribution which the Board assumed on July 1, 1977, and I am further convinced that the Union is in

error in taking this position. I cannot believe that the 5% was a part of the 1976 settlement and that the Union was willing to defer receiving the 5% until two and a half months prior to the expiration of the Agreement. Further, I find it unlikely that the Board would have granted an 18.1% general wage increase for the two years of the Agreement, and then topped it off with another 5% as the Union contends. And, as I said above, there was no reason to negotiate on something that had been mandated by law and would have come to pass, irrespective of the actions of the Parties.

As matters now stand, the Parties are agreed on all but one issue -- wage increases for 1977 and 1978. I believe that a 6% cost of living increase for 1977 is in order; since I have already found that the employees have previously received 5% of this, they are due a 1% cost of living increase. In addition, I would recommend a 2% productivity increase for a total of 3%, or 12¢. Likewise, I urge the Board and the Union to agree to a 6% cost of living increase plus a 2% productivity increase for a total of 8% or 33¢ for the year 1978-79.

This would mean a total wage increase of 16%, or 45¢, over two years, and is 5¢ per hour more than the Board's last proposal. While this is 5¢ more than the Board said was available, the burden would be reduced somewhat because the first year's cost would be reduced from the Board's proposed 15¢ to 12¢.

The principle of a productivity increase is not novel; it has been a practice in industry for many years. As a matter of fact it came into being with the General Motors contract at the same time as the cost

of living formula. If the Parties will agree to this principle of a cost of living adjustment plus a productivity increase, and really put it into practice, both Parties may find it rewarding. The employees' purchasing power is maintained through the cost of living adjustment and the Employer pays more as the employees produce more. This is not inflationary and if this theory proves out, it may very well be that the Employer would see fit to continue this practice and, perhaps, to make it even more rewarding. I believe in paying for results.

I would also recommend that the Board voluntarily grant the School Building Secretaries a 20% inequity adjustment effective September 16, 1977; the present \$3.80 maximum is out of line when compared with rates the Board is now paying steno-clerks, bookkeepers, bus drivers and custodians. It is also out of line when compared with the rates being paid for the same job by other school districts. In this classification, Montague ranks tenth in a group of 12 area school systems. The Union is well aware of this discrepancy and its Council Representatives had urged the bargaining committee to seek an adjustment. But there are two school building secretaries on the bargaining committee and they are reluctant to ask for anything for themselves, if such a request would mean less for their fellow-workers in other classifications. While this attitude on their part is commendable, I do not believe the "shoemaker's kids should go barefooted." The adjustment I propose is in order, and should be in addition to my other recommendations.

The 16% wage increase for two years mentioned above does not include the cost of the fringe benefit improvements, i.e., insurance, holiday pay, and inequity adjustments. The Board estimates this additional cost at \$11,460, or 21¢ per hour per employee.

If we were to add up the package, we find 21¢ per hour for fringes plus 12¢ in wages, plus 20¢ pension contribution (5% of \$4 based on present weighted average hourly earnings) equals 53¢ for the first year of the Agreement and 33¢ in additional wages for the second year, or a grand total of 86¢ over the life of the Agreement.

The latest United States Labor Department report indicates that current wage settlements are running behind those of a year ago. Wage increases in major labor contracts are averaging an annual increase of 5.3% over the life of the agreement. That would total 10.6% for a two-year contract.

I am persuaded that my recommendation is a most generous one. No matter how one may care to look at it the cost of fringe benefits is a real cost to the Board and the taxpayers. The only thing the Board has to offer its customers is education -- and they offer it gratis. They cannot increase their selling prices as other employers can and do. Furthermore, we see evidence of taxpayer resistance and even rebellion all around us. The Board is being tugged at on three sides: the taxpayers, who do not want additional taxes, the employees, who want "more" and the parents who demand the very best for their children, including auxilliary programs. On top of all this, declining enrollment has decreased available funds.

The Union's statement that its present demands are for \$23,500 less than the Board's estimated cost of \$46,000 for the Union's original proposal is both specious and meretricious. Just think how much more attractive its present demands would seem if it had originally asked for twice as much! The fact is that when the Employer offers something it is actually "giving", but when the Union modifies its position it is "giving up" something it never had.

I cannot be motivated by any consideration other than these two: (1) what is fair to the employees, and (2) what can the Board afford to give, recognizing that unlike our Federal Government it cannot operate on a deficit budget.

#### THE BOARD'S ABILITY TO PAY

On p. 10 of its Brief, the Board of Education states that its present educational program is but "a skeleton of what it would like to provide to the youth in its schools." The Board rejects the idea that it should lay off personnel in order to provide more for the remaining employees. Declining enrollment and a resultant loss of \$48,000 in annual revenue has left the school system with a deficit budget; this is contrary to law and, somehow, must be corrected. The Board says it is trying to maintain a fair wage and fringe package for its employees, and at the same time to "maximize the educational potential of its youth."

The Superintendent's reluctance to lay off any employees in order to provide additional payroll funds is understandable. He is committed to a program of quality education, and this means the total concept -- including a clean school house. So, if the employees expect wage increases over and above those arising out of cost of living adjustments, they must increase their productivity. If the employees endorse this approach, the Superintendent and his management staff have the responsibility for providing the leadership and the direction. The only road to increased real wages -- without inflation -- is improved productivity.

#### SUMMARY OF FINDINGS

After reviewing all of the facts available to me in this matter, giving due consideration to the Exhibits and Briefs and evaluating the relative positions of the Parties, I find that:

1. The expiration date of the new Agreement should be September 15, 1979.
2. All wage adjustments, including the first general increase of 12¢ per hour, should be effective September 16, 1977.
3. The Board should grant the two additional paid holidays and include all employees covered in Section (6) of Article 37.
4. The Union should agree to the Board's proposed cap on the insurance as set forth on p. 2 of its Brief.
5. The inequity adjustments should include 15¢ per hour for custodians upgrade, 10¢ per hour for nurses upgrade, 15¢ per hour for custodians when acting as crew leaders, and 20¢ per hour for school building secretaries.



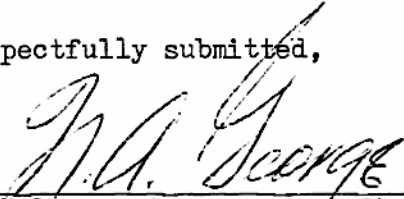
I hope I have been of service to the Parties. I am persuaded that all of them are sincere and are advocating what each of them considers fair and equitable. It is, perhaps, inevitable that one or the other of the Parties will disagree with me on some of my recommendations, but that can't be helped.

Douglas W. Hillman, Fact Finder in the case of Muskegon Teachers' Education Association and Muskegon Board of Education, January 10, 1972, stated:

"The Parties should recognize, and so should the public, that when the course of fact finding is undertaken, it becomes the responsibility of both the Board and the (teachers) to carefully re-assess their previous positions in light of the report and not to make the fact finding process an exercise in futility by ignoring the report even if the recommendations may not be to their liking."

After all, fact finders are expendable.

Respectfully submitted,

  
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Nicholas A. George, Fact Finder

November 4, 1977