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STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

FACT FINDING REPORT

OAK PARK EDUCATION ASSOCIATION,
MEA/NEA,

Union,

-and-

MERC Case No: D91 L-1999

OAK PARK BOARD OF EDUCATION,

Employer.

APPEARANCES

On Behalf of the Union:

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On Behalf of the Employer:

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STATE OF MICHIGAN
DEPT. OF LABOR
DETROIT OFFICE

Oak Park Public Schools

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FACT FINDING REPORT

I. BACKGROUND

The fact finder was appointed on September 24, 1992, and a pre-hearing conference was held on Tuesday, October 6. At the pre-hearing approximately twenty issues were defined and identified, hearing dates set and general procedural matters discussed. Hearings were held on Monday, October 12, Wednesday, October 14 and Thursday, October 22, 1992. Post-hearing written recommendations and arguments were received from the parties and exchanged on October 28, 1992.

The Union was represented by Thomas P. Fette, Executive Director, MEA, who presented a number of exhibits and the Union position on each of the issues. The Employer was represented by Robert A. Boonin, Attorney, of Butzel Long, who likewise presented exhibits and the Employer's position as well as testimony of Frederick

Hailer, Jr., Plante Moran, CPAs. Mr. Hailer audited the financial condition of the School District, testified and presented documentary evidence as to its financial situation. Both advocates did an excellent job in their presentations of data, as well as presenting concise written arguments to support their positions.

The fact finder accepts all evidence proffered by either party in the interest of providing both the most open and fair hearing. Specifically, evidence was introduced with regard to budget information over the objection of the Union. While the fact finder obviously understands the objections of the Union (budgetary information can be changed at any time) as we know, the financial status of the district is a factor which must be considered. The employer's ability to pay is always an important criteria when considering economic questions.

Moreover, both parties used comparable data within the twenty-eight districts within the County. While important, comparable data is only one factor that must be considered. To argue merely that the reason for a demand is based on the fact that a neighboring contract provides it is not necessarily sufficient. Total package costs and benefits is the preferred approach coupled with the ability of the unit of government to pay the increased costs of the demands, as well as reasons for the change advanced by the Employer. Many factors must therefore be considered.

As noted, numerous exhibits were introduced into evidence and have been accepted by the fact finder and made a part of this record. That is, Association's Exhibits 1A through and including Exhibit 16 as well as Association exhibit 6C, which was received on rebuttal testimony on October 23. On the other hand, the District, through the presentation of Mr. Boonin, submitted twenty-seven exhibits and Mr.

Hailer, the District's auditor presented testimony, including a slide presentation regarding the history and the financial condition of the District. He evaluated early retirement issues, health care requests, gave testimony with regard to property tax appeals, the millage limitation and line item comparisons. That information was contained in Employer exhibits 1 through 15. Mr. Boonin presented and further explained District Exhibits 16 through 48. Therefore, all exhibits were admitted and form, in addition to the testimony and the written positions of the parties, the factual backdrop to this report.

II. THE ISSUES IN DISPUTE

1. Limit probationary access to grievance procedure:

Article 1, Recognition, 1.2(i) provides:

The provisions of Article 6.6(p) will apply to probationary employees covered by this Article.

Article 6.6(p) states:

The termination of services of a probationary teacher, or the placing of a probationary teacher on a third year probation, shall be subject to the grievance procedure. In any such matter proceeding to arbitration, the arbitrator shall be limited to the issue of whether the action by the Board was arbitrary and capricious and shall base his or her award on such determination.

Employer position: delete 1.2(i), and eliminate access to the grievance procedure of probationary members who are terminated.

Union position: status quo.

2. Narrow definition of grievance:

Article 6, Grievance Procedure, 6.2(b) states:

A grievance is a complaint by a teacher or the OPEA involving the application or interpretation of this agreement or a claim that some action taken by the Board, administration, or other supervisory personnel concerning teachers' wages or hours and other terms and conditions of employment is unreasonable.

Employer position: It seeks to narrow the definition to "an application or interpretation of the agreement".

Union position: status quo.

3. Include Board in pre-arbitration process:

Article 6. (b) and (c) provide that Central office is the last step in the grievance procedure.

Employer position: status quo.

Union position: Provide a new section to include the Board of Education as the last step prior to arbitration.

4. Increase payment for unused sick days:

Article 10, Retirement (Payment for unused sick days - PUD). This benefit is provided in Section 25.6(b), p. 59 of Joint Ex. 1, the collective bargaining agreement. The current benefit is as follows:

1. \$10.00 per day for the first 75 days.
2. \$15.00 per day for the next 75 days.
3. \$20.00 per day for every day over 150 days.
4. \$50.00 per day in the last year.

Employer position: status quo as to the current economic benefit, pay only if a member notifies the District of their retirement by March 31.

Union demand:

1. \$20.00 per day for first 50 days
2. \$30.00 per day for the next 50 days

3. \$40.00 per day for the next 100 days
4. \$100.00 per day for the last year's accumulation

5. **New provision - Early Retirement Incentive (ERI)**

Employer position: Status quo

Union position: Request that ERI plan be implemented. It had plan in the past, it was bargained out of the contract in 1986.

6. **Class size:**

Article 11 states:

11.1. The Board agrees to continue to maintain student-teacher ratios not exceeding 30 to 1. However, assigning of students for particular phases of instruction and continuous progress and team teaching programs may create instructional groupings exceeding thirty (30) in size in order to provide correspondingly smaller groups. The class size in Kindergarten through fifth grade shall not exceed thirty (30).

11.2. In the case of the secondary schools where scheduling problems make it necessary for certain classes to exceed thirty (30), a teacher's average class size shall not exceed thirty (30). Further, no individual class may exceed thirty-five (35).

11.3 Recognized exceptions to 11.1 and 11.2 are limited to physical education, music, and instructional media centers. Physical education classes are limited to forty (40) per class.

11.4. If at any time specified class or class grouping limits are exceeded, the parties shall meet within ten (10) school days of the date on which the limit is exceeded and shall formulate and implement a plan to relieve the situation within ten (10) school days to prevent its reoccurrence.

Employer position: Increase ratio to 31 to 1 plus an overload stipend.

Union position: Decrease student-teacher ratio to 25 to 1.

7. **(A) Reduce the 60 minute lunch period for elementary school teachers to 30 minutes; (B) Change start-quit times.**

The current collective bargaining agreement provides:

The working day for all elementary school teachers shall be seven (7) hours and fifteen (15) minutes. The normal working day for middle and high school teachers shall be six (6) hours and forty-five (45) minutes.

The seven (7) hours and fifteen (15) minutes shall include a sixty (60) minute lunch hour for all elementary school teachers. The lunch hour for middle and high school teachers shall be no less than thirty (30) minutes.

(A) High school and middle school.

- (1) High school or middle school shall begin no earlier than 7:45 a.m.
- (2) High school or middle school shall end no later than 3:45 p.m.

(B) Elementary school

- (1) Elementary school shall begin no earlier than 8:10 a.m.
- (2) Elementary school shall end no later than 3:45 p.m.

Employer position: requests status quo as to the range of starting and quitting times, and requests a reduction of 30 minutes in elementary school lunch.

Union position: to set high school hours at 7:45 a.m. to 2:30 p.m., middle school hours from 8:00 a.m. to 2:45 p.m., and elementary hours from 8:10 a.m. to 3:25 p.m. and request the status quo as to elementary lunch.

8. Secondary Preparation:

Article 12.4 provides that secondary teachers shall be scheduled for a daily planning period; shall have no more than five (5) assigned periods each school day; shall have no more than three (3) different course preparations without the consent of the teacher. If a teacher accepts four (4) or more preparations, the teacher shall not be required to accept a non-paid sponsorship.

Employer position: no changes if the Union withdraws its proposal, otherwise five preparations required.

Union position: number of preparations to remain the same, but define team teaching as a separate preparation, and provide that all team teaching is voluntary.

9. (A) Elementary Planning; (B) Roosevelt Issue

Article 12.5 guarantees elementary teachers shall have 150 minutes of planning time per week; schedule to coincide with teaching team, plan-sharing times.

Employer position: status quo

Union position: Provide that no elementary/middle school planning period (prep time) before or after student arrival and dismissal.

10. Reductions in Personnel (Layoff Notice)

14.6 provides:

The Board shall give written notice of insufficient revenue or reductions in enrollment by June 10.

Employer position: layoff notice can be given any time with thirty (30) days notice.

Union position: notice of layoff for the following year to be given by May 30.

11. Site-Based Issue:

Article 19. Advisory Committee. Current language provides a meet and confer arrangement where committees may have input into the development and implementation of the educational program. Formation of the committee is on a voluntary basis.

Employer position: status quo.

Union position: Seek an active role in the teaching and decision making. Change the name of the article to "Site Based/School Improvement", provide for teacher compensation, voluntary basis outside normal day.

12. (A) Extracurricular sponsorship; (B) Extracurricular Hiring:

22.3 states:

All extra-curricular sponsorships shall be reopened for a new sponsor every year, excluding inter-scholastic sports activities, secondary musicals, secondary drama, high school forensics, high school debate, high school music chorale, festivals, high school year book, and high school band director. The District may re-select the same sponsor as the previous year, if there is no new bargaining unit member applicant qualified for the position.

Employer position: Would like to end the last sentence after the word year, to allow non-bargaining unit member incumbent to retain position even if bargaining unit members wish to apply. It is the Union's position that bargaining unit members should have first preference.

Union position: status quo

22.7 provides:

Qualified teachers who apply for open extra-curricular sponsorships shall be hired. If no qualified teachers apply, then persons who are not members of the bargaining unit may be hired.

Employer position: Candidate, regardless of bargaining unit status who it considers most qualified.

Union position: status quo

13. Lunch Room Supervision; Increase Rates:

Article 22.11 provides:

Teachers who voluntarily supervise lunch in the elementary, middle and high schools shall be compensated for the following hourly rates: \$21.00.

Employer position: status quo as to amount but payment would be made only if the teachers actually perform such duty.

Union position: 1992-93 - \$25.00 per hour

14. (A) Summer School rate and (B) driver education rate:

(Articles 23.7, 23.8) Current contract: summer school and driver education teachers are paid \$16.50 per hour.

Employer position: status quo

Union position: Rate should be raised to \$25.00 per hour

15. Insurance:

Article 29: The current contract provides MESSA/PAC Plan A and Plan B with certain premium increase caps as provided by Article 29.2.

Employer position: A third party, a self-funded health plan. The cost paid by the Employer or maintain current coverage with teachers responsible for all increases over July 1, 1992 rates.

Union position: status quo

16. (A) & (B) Duration:

Article 32, Duration of Agreement. Current contract three year agreement. This agreement shall be in full force and effect as of July 1, 1989, and shall continue in effect until June 30, 1992. At that time there will be a sixty (60) day extension if there has been no agreement ratified by the OPEA and the Oak Park School District. The contract has been extended by the parties and it is continued in that status until November, 1992.

Employer position: Three year agreement, wage reopener for second and third year, delete 32.2.

Union position: Proposes a one year contract 7/1/92 to 6/30/93 and status quo with regard to obligation to meet on or before May 1 as provided in 32.2.

17. Schedule A, Salary:

Current contract provides a ten step schedule with six tracks. BA, BA + 20, MA, MA + 20, MA + 30, PhD.

Employer position: Three year contract with present grid, elect step increases of 1992-93, and no wage increase across-the-board. But, wage reopener for 1993-94 and 1994-95. Therefore, freeze at the suggested 1991-92 pay level but for the normal step increases.

Union position: One year contract with present position grid and 6% across-the-board increase.

18. Schedule B, Extracurricular Pay:

Employer position: Pay freeze at the 1991-92 levels.

Union position: 6% across-the-board increase.

19. Schedule C, Calendar:

Current provision provides for 181 student days, 185 teacher days, full week break in February (mid-winter), full student day on the first and last student days, and a full student day the day before winter break.

Employer position: current contract language but eliminate February break.

Union position: 181 student days, 185 teacher days, full week break in February, 1/2 day for students on the first and last student day and a 1/2 day for teachers on December 23, the last day before the winter break.

20. Drug Free Workplace Policy: (New Article)

No provision in the current contract but the parties have reached an agreement on or about March 25, 1991 and it has been the subject of negotiations.

Employer position: will require certain changes regarding notice requirements.

Union position: not opposed to including in the contract.

III. ECONOMIC CONSIDERATIONS

The Employer has taken a very strong position concerning its ability to pay any economic demand requested by the Union. It presented auditor, Fred Hailer, who gave lengthy testimony concerning the financial condition of the District. As of June 30, 1992, the fund balance was \$21,127.00. It is suggested that that is not significant. The fact finder cannot disagree. The auditor further testified that a rule of five to ten percent fund balance should be maintained whereas Oak Park has a zero percent

balance. Information obtained during the last day of the fact finding indicated that due to the recent loss of \$34,000 and bill backs from the County for the ISD program will result in an obligation of \$234,000. This will obviously use up the fund balance and create a negative balance.

The millage rate for Oak Park is 49.6 percent of a legal maximum of 50 percent. 44.3 percent is used for operating expenses and 5.3 is dedicated to reduction. Therefore, the economic problems of the School District cannot be solved by simply raising taxes because there is practically no room to move. It is undisputed that Oak Park has the highest tax burden of the 28 school districts within the County. Moreover, state equalized valuation (SEV) experienced a reduction of .16 percent in 1991 and 1992. There were only three districts that had a reduction in their SEV. Equally interesting is the fact that the SEV was high enough and the number of students is low enough to keep the district out of formula, and therefore it does not receive state aid. It does, however, receive categorical assistance on those mandatory monies that are slated for special education and transportation.

The County has 28 school districts. The District as well as the County is in a property tax freeze by state law. The District ranks seventh in the County in monies spent per pupil for operating expenditures (\$6,043.00). It ranks eighth (\$4,306.00) per pupil in instructional costs. When the Oakland County SEV increased 50%, Oak Park's raised 12% while student enrollment declined 5%.

At the end of fiscal 1991-92, there was a shortfall of Two Million Dollars. A number of teachers were laid off and many programs were cut. A portion of this shortfall was covered by the sale of fixed assets (a building) for \$400,000. The District

owns no other assets that it can sell at this current time to cover expected shortfalls that may occur in the future. It is anticipated that insurance costs will increase by approximately 11% in 1992-93.

Mr. Hailer testified that deficit fund balances would occur in 1993-94 and 1994-95. His testimony supported a pay freeze because it is the inevitable conclusion that the District cannot, because of their lack of finances, pay an increased wage demand and simply does not have the ability to pay economic increases.

He further testified that early retirement incentive, although used in the past, has the immediate effect of requiring upfront money to support the demand. Overall a significant saving will not occur because the District does not have the money to cover the upfront costs of this benefit which would exacerbate the anticipated deficits.

He noted that state reporting document form B indicates that the District ranks sixth in the state for general fund expenditures per pupil and sixth in the state for salaries relating to instructional costs.

However, it should be noted that the Employer's position with regard to economics has changed somewhat from the hearing where the position was an across-the-board freeze at the 1991-92 pay level while permitting step increases to occur in the salary grid ranks with a wage reopener for the subsequent years . It is now the position as stated in the post hearing argument that:

The Board is willing to commit itself to increase every step of the 1992-93 salary schedule be (sic) 1.5% in each of the following two school years.

In addition, the Board is willing to pay each teacher another 1.0% above their 1992-93 base salaries, and 1.5% above their 1993-94 base salaries -- but with these additional amounts not to be rolled into the salary schedule -- if the parties *agree* by March 31, 1993 to an alternative

insurance package for the teaching staff which would save the District at least that amount in benefit costs. Through this process, the staff can be part of sharing in the gains obtained by whatever cost containment option they find acceptable. This may or may not result in lesser benefits, but if it does, it is only through the agreement of the parties that the gains obtained by such changes are worth it.

While the Employer has modified its economic position, the Union has reduced the amount but remains at its demand of 6% applied across-the-board to the salary grid, and also to those benefits set forth in Schedule B, the extra-curricular economic levels.

The term of contract is at issue and is significant in that it has been the practice of the parties, at least for the last ten to twelve years, to have three year agreements. Moreover, the offer of the employer is still zero percent, in effect a freeze, at the 1991-92 pay grid levels. There is the possibility of a one percent "bonus" in 1992-93 and an additional 1.5% "bonus" in 1993-94 not rolled into the salary schedule if the parties can agree to wrap up both the salary and insurance issues. However, the parties have sometimes more specific agendas that are often not disclosed. Obviously, both parties should consider the other party's position which have been given in the post hearing written memorandums. Quite frankly it doesn't appear that either party has modified their position to a significant extent on the issues in question. Generally, fact finders as well as arbitrators are careful to make changes to current contract provisions. Therefore, the party advocating change must provide at least some examples of difficulty with, or reasons based on experience to change the current contract language. Sometimes, the oft used labor notion applies, "If It aint broke, don't fix it."

Negotiations for economic changes require necessary quid pro quos or modifications as well as concessions in some instances. The Employer seeks no concessions in this case. For instance, here the Employer seeks to freeze the wage level for the first year. Although the fact finder recognizes that there are significant financial problems within the District to support a hold the line position on wage increases for the first year, it appears that there is no real quid pro quo for that position. A one year collective bargaining agreement attempts to defer the decision until a better fix is made on the actual revenue expenditure situation. A short term contract, although throwing the parties back into early negotiations would force a careful review of economics and possibly a review of health care costs and options available for a self funded plan which as the Employer has suggested, may generate revenue that could support reasonable increases in the future. Obviously, future happenings, the actual economic condition, although it has been painted cloudy by the auditor, can change from time to time and a short term contract would give both parties an opportunity to review the economics of that moment in a more current fashion.

Obviously, either party can agree, regardless of the recommendations made in this report, as they are not binding, to positions that would assist their members, and/or clients in the future.

The District apprised the fact finder that there are other negotiations that are ongoing, to wit, with three other bargaining units. It suggested that any increase recommended would be impacted upon those negotiations. The fact finder is obviously well aware of that kind of a circumstance, and would suggest that the opposite is also true.

IV. RECOMMENDATIONS

Introduction:

As I have indicated, and with the optimistic view that one does not know for sure that the economic outlook will be as bleak as painted for 1993, and because the Employer has suggested a wage freeze, the fact finder is going to recommend a one year contract term. The reason this is noted early on is because of the impact that that decision has on other demands/issues that could potentially be implemented in subsequent contract years. Moreover, inasmuch as the recommended order is dated November, 1992, the remaining term of this contract is not so great as to permanently affect either party.

Issue 1: The Employer wishes to modify Article 1, Section 1.2(i) and Section 6.6(b) to prohibit probationary employees access to the grievance procedure. There has been no history of arbitration concerning probationary employees, and there has been no example of abuse. It is the recommendation that the status quo be maintained.

RECOMMENDATION: Status quo.

Issue 2: It is the position of the Board that the definition of grievant be restricted and modified as it appears in Section 6.2(b) of the current agreement. The Board requests that it be related only to the "application or interpretation of the agreement". Again, there has been no example of abuse, nor has there been experience that would indicate that this demand, although non-economic is necessary at this time.

RECOMMENDATION: Status quo.

Issue 3: The Union wishes to add an additional step to the grievance procedure to include the Board of Education as the last step prior to arbitration. As in the two earlier Employer requests, no examples of misuse, or specific support have been offered, nor do the majority of the comparables favor this change.

RECOMMENDATION: Status quo.

Issue 4: Retirement - Pay for Unused Sick Days (Section 25.6(B) - Article 10). Both parties have suggested changes. The Union suggesting an increase in the dollar amount. This severance benefit may appeal to some in light of the economic conditions of the district it would require additional monies not available.

RECOMMENDATION: Status quo.

Issue 5: Early Retirement Incentive (ERI): New provision. The Union proposes an early retirement incentive program that would provide a \$40,000 annuity plan for up to forty members of the Association who retire by June 30, 1993. This obviously would alleviate some of the top heavy salaries that exist within the District if used. However, it was clear from the testimony of the auditor that the upfront costs of implementing such a plan are prohibitive and quite simply the District does not have the financial resources to come up with the necessary downstroke to fund such a plan. According to the auditor, a saving may occur over time but the initial outlay would adversely affect the economic condition of the Employer.

RECOMMENDATION: ERI as proposed not be adopted during this one year collective bargaining agreement. Status quo.

Issue 6: Class Size, Article 11. The Union urges a decrease in class size, while the Board suggests an increase of one at the elementary level and a maximum of 35 at the secondary level. It suggests compensation at the rate of \$150 per semester per student over the maximum. It has attached a Proposal A which suggests language for Article 11. The Board argues that it needs the flexibility and that class size is a serious economic issue. A review of the parties' exhibits suggests that the actual average class sizes are within the range of those in comparable communities.

The Association does make a strong case for reduced class size but lower class sizes would require the possible hiring of additional teachers which would increase the Board's economic problems.

RECOMMENDATION: Status quo.

Issue 7: A - Starting and ending times. The Association urges that the starting and ending time provided by Section 12 should be modified to reflect the current work day of teachers. Elementary time schedules relate to that which preexisted the closing of a number of schools, and are related to a previous 60 minute lunch period that is no longer offered. The contract should be brought into consistency with the actual practice.

RECOMMENDATION: The Union position be adopted.

Issue 7: B - Elementary Lunch period. Section 12.1 provides that elementary teachers have a 60 minute daily duty-free lunch period. Elementary school teachers have a 60 minute lunch period, whereas other teachers in the school district have 30 minutes. This time is sometimes used to contact parents and for prep work. A review of the schools in the County indicates that six provide for 60 minutes, one 55, one 50, six 40, four 35 and nine 30 minutes. The County comparables in all the districts support the Employer's request that elementary teacher lunch periods be reduced to 30 minutes. The Union is concerned because of the compression of possible prep time. It suggests that elementary planning preparation under Issue 9 be resolved also. The reduction in lunch period would make the elementary school teachers' benefit consistent with other teachers.

RECOMMENDATION: The lunch period be reduced to 30 minutes.

Issue 8: Secondary preparation. The current contract provides that secondary teachers are assigned no more than five periods and have no more than three different preparations per day. The Association position is that the contract should be continued but that team teaching should be considered a separate preparation and be voluntary. The Employer argues that this issue is an attempt to restrict the Board's ability to schedule programs and activities during the work day. It suggests that teachers could have up to five different preparations per day. The Employer argues it is a matter of economics and these restrictions limit its right to set and schedule programs, etc. However, no examples of abuse were offered during the fact finding to prove that a change is necessary.

Based on the relative positions of the parties and the examples given, it is the recommendation that the current language not be changed.

RECOMMENDATION: Status quo.

Issue 9 A: Elementary Planning. Section 12.5. As noted, the current language could be read to allow teacher planning during the student day. The parties have presented "conflicting concerns".

RECOMMENDATION: Status quo

Issue 9 B: Roosevelt School teacher day. Section 12.5. Apparently there was a practice where middle school teachers have 255 minutes of student contact time per day, and a planning period during that same day. It is the Association's position to maintain the practice, whereas the Board at the beginning of the school year increased student contact time to 280 minutes per day with the planning period after the student day. The Employer has stated the following: "In light of the conflicting concerns relating to these issues, the Board is willing to abandon its effort to gain more flexibility if the Union abandons its effort to further restrict the Board's ability to manage its program. Therefore, no change should be made to the contract with regard to these issues. Elementary prep time, secondary preps in the Roosevelt schedule issue should not be altered in these negotiations, and they should be considered resolved."

RECOMMENDATION: Status quo.

Issue 10: Layoff - Reductions in Personnel, Section 14.6. In the twenty-eight comparable districts in Oakland County, eighteen allow layoff of teachers other than at the end of the year. The current contract provision provides that layoff notices be given by June 10 for the upcoming year. There are school districts, including Oak Park which require layoff only at the end of the year. It seems to the fact finder that some relief would be in order because of the need to schedule for the upcoming period but the Board asks for notification at any time with 30 days notice. In the opinion of the fact finder that is not reasonable under these facts. A more reasonable position would be notice of layoff during the semesters for the upcoming periods but should be worked out together.

RECOMMENDATION: Status quo.

Issue 11: The Union suggests that Article 19 provide for a site based advisory committee which involves teachers in the recommendation and development and implementation of educational programs. The Union suggests language be revamped, and renamed to Site Base School Improvement and has suggested language which apparently is recommended by the National School Board Association. There are no specific examples of reasons why this language should be adopted since there are committees, according to Employer Ex. 22 that review various curriculum. In the District's opinion the contract meets the requirements of MCLA 380.1277, school improvement plan implementation, assistance in planning and the like. It is the Board's position that it is complying with the law and there is no need to modify the current language which provides for an advisory committee.

RECOMMENDATION: Status quo.

Issue 12: A and B. Extracurricular Sponsorship/Hiring, Section 22.3/22.7.

There are non-unit employees who are currently coaching within the school system. The parties obviously addressed this language when they drafted the provisions " . . . The District may re-select the same sponsor as the previous year, if there is no new bargaining unit member applicant qualified for the position." Also, 22.7 requires that qualified teachers who apply shall be hired. If there are no qualified teachers, those who are not bargaining unit members may be hired. The Board seeks changes in this language extensively to protect non-unit members who are currently coaching. There is no specific complaint, however, the demand appears to be anticipatory. It urges that extracurricular programs take time to build and the like which, of course, is true. There was no thought to "red circle" the current employees. No specific examples of problems have been submitted, the fact finder is constrained to leave the language as it is. The Union has countered that union members should always be first considered. Again, these positions are at odds.

RECOMMENDATION: Article 22, Sections 3 and 7 remain status quo.

Issue 13: This issue relates to Article 22.11 - lunch hour supervision payments.

Teachers who voluntarily supervise lunch in the elementary, middle and high school, are compensated at the rate of \$21.00 per hour. The Association asks for an increase if Schedule A is also increased. It has no objection to the Employer request that compensation be paid only if the teacher actually performs the duty.

RECOMMENDATION: If Schedule A is increased, then this benefit should increase, with the proviso that teachers will be compensated for this time if actually performing such duty.

Issue 14: A and B. Summer School Rates and Driver Education Rates.

Currently the contract provides that teachers who perform these duties receive \$16.50 per hour. The Association asks for an increase and recommends this rate be increased by the same percentage as Schedule A. The Board requests the status quo.

RECOMMENDATION: That if Schedule A is increased then the same increase apply to these rates.

Issue 15: Insurance, Article 29. As noted earlier in the general comments, the Employer has made an offer that links bonuses (amounts not rolled into the salary) to an alternate self-funded insurance package. The Employer also wishes to form a committee to attempt to explore the gains or benefits of a self-funded program. The evidence has established that there will be increases to the cost of current insurance coverage.

The Employer asks that a committee be formed to study self-funded savings which could possibly be used to pay wage increases. The fact finder believes that this approach could possibly assist in light of the economic situation that the Employer finds itself.

RECOMMENDATION: The parties form a committee to study self-funded insurance benefits. The current contract provision will continue in effect until such time as the parties modify the provision.

Issue 16: Notice of negotiation opening and duration.

RECOMMENDATION: After considering the arguments of both parties and the fact of earlier statements and findings made by the fact finder it is my recommendation that this paragraph remain as written regarding its notification, but that the one year contract period be adopted by the parties for the reasons earlier stated.

Issue 17: Salary (Schedule A). The current contract provides a ten step salary grid with six tracks. That provision should remain the same. The Association is requesting a one year contract with each step increased by 6%. For the reasons stated earlier, the fact finder has recommended a one year contract. The evidence appears sufficient to support the Employer's claim that it does not have the financial resources to pay a wage or salary increase. Also, recent information indicates because of the ISD bill back the Board will be in a deficit fund balance even greater than anticipated.

RECOMMENDATION: That the 1991-92 salary provisions as set forth in Schedule A continue and no percentage increase be made to the 1992-93 rates.

Issue 18: Extracurricular (Schedule B). In light of the finding above, no increase can be made to these rates.

RECOMMENDATION: That status quo be maintained with regard to these benefits.

Issue 19: Calendar (Schedule C). Both parties suggest a modification of this provision. The Union suggests changes that would include a one-half day for students on the first and last student day, and a one-half day for teachers and students, December 23, the last day before the winter break. The current contract provides a full student day on the first and last student day, and a full student day the day before the winter break. The Union urges that the first and last student days be half, and because the first day has come and gone, that a half day should be at the end of the third marking period. The Board did seek to modify the mid-winter break in February that exists under the current contract. It has offered a modification that the calendar should follow the structure that has been in the past, including the mid-winter break. Also, it suggests that the last day of school be a half student day, but still a full day for the teacher. Moreover, the half day December 23 appears to be a compromise, one of which could possibly form the basis for settlement.

RECOMMENDATION: That status quo exist including the mid-winter break, except that the last day of school may be a half day for students, and the half day on December 23 be applied to both teachers and students.

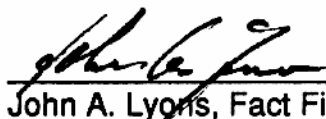
20. Drug free work place policy.

RECOMMENDATION: That the Board proposal on drug free work place be adopted.

CONCLUSION

As earlier stated the fact finder believes the party advocating a change in practice or current language should provide specific compelling reasons to modify the agreement. These negotiations present most difficult issues for both parties because of the financial condition of the Employer. The evidence did not establish that administration, rather than instruction, received an inordinate amount of operating funds. The Employer cannot expect the Union to accept a long term agreement without an economic quid pro quo. There is "some light" at the end of the tunnel, however, based on the modified Employer position. Hopefully the parties can use this report to assist them in settling their differences.

Respectfully submitted,



John A. Lyons, Fact Finder

Dated: November 3, 1992