

STATE OF MICHIGAN
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
EMPLOYMENT RELATIONS COMMISSION

In the Matter of:

OAKLAND COMMUNITY COLLEGE,

Employer,

-and-

Fact Finding

Case No: D96 C-0328

TEAMSTERS, STATE, COUNTY, AND
MUNICIPAL WORKERS, LOCAL 214,

Union.

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FACT FINDING REPORT

I. FACT FINDING AND CONCLUSIONS

The undersigned was appointed on May 22, 1998 to hear this dispute. There were two pre-hearing conferences held, August 24 and September 2, 1998. The "Issues for Fact Finding" were submitted on August 24, 1998. There were twenty-seven issues listed, and a twenty-eighth was added October 7, 1998. (Joint Ex. 2 - the "Amended Issues for Fact Finding").

The issues to be decided are:

1. Management Rights - Article 3
2. No Lock-Out, No Strike - Article 6
3. Union Dues - Article 7
4. Subcontracting - Article 8
5. Probationary Period - Article 9
6. Reorganization - Article 16
7. Reduction in Force - Article 17
10. Long-Term Disability - Article 21, Section 6
11. Worker's Compensation - Article 21, Section 7
12. Benefits - Article 22

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16. Grievance Procedure - Article 27
17. Administrative Changes - Article 30
20. Appendix A - Classification Schedule
21. Appendix B - Wages
23. Duration
24. Education/Sabbatical Leave
25. Seniority
26. Layoff and Recall
28. Vacancies/Transfers

As noted, nine issues were resolved:

8. Other Leaves - Article 20, Section 4
9. Short Term Disability - Article 21, Section 5
13. Tuition Reimbursement Amount - Article 24
14. Promotion/Interim Appointment - Article 25
15. Adjunct Teaching - Article 26
18. Identification Badges - Article 31
19. Performance Evaluation - Article 32
22. Union Representation
27. Just Cause

There were three Joint Exhibits identified:

- J-1 Joint Petition submitted by the parties
- J-2 The Amended Issues for Fact Finding
- J-3 Proposed Master Agreement (7/1/96 - 6/30/2001)

Joint Ex. 3 contains several tentative agreements which should be incorporated into the final collective bargaining agreement.

The parties have been in negotiations since 1996 for a first time collective bargaining agreement representing management and supervisory employees. The classifications are identified as set forth in Appendix A. There are approximately seventy-two separate classifications. The bargaining unit is made up of approximately one hundred ten members.

Oakland Community College, a public employer, is the largest community college in the state of Michigan and is a multi-campus facility.

The parties filed a joint Petition for Fact Finding with the Michigan Employment Relations Commission. As noted, a number of issues have been resolved and TA'd. Several issues were resolved after fact finding was initiated.

Fact finding hearings were conducted on September 14, September 17, October 7, and October 16, 1998.

The Employer presented four witnesses, while the Union presented five, in support of their respective positions on the outstanding issues. In addition, there were the three joint exhibits, fifty-six Employer exhibits, and nine Union exhibits. Documentary and testimonial evidence was comprehensive.

After hearings were concluded post-hearing written positions were submitted to the fact finder. The parties agreed that a detailed written submission of reasons, conclusions and/or bases for the findings, conclusions and recommendations was not necessary. See Rule 423.435(c).

Essentially, the Employer has set forth its position that the bargaining unit is comprised of management employees, therefore, traditional union benefits and/or rights concepts are not appropriate, i.e., seniority, layoff, recall, bumping rights and the like. The Employer throughout the presentation stressed the need for flexibility. The Union has suggested in its position, the traditional contract security language. The parties have not been able to reach agreement on nineteen of the issues set forth in Joint Ex. 2. They are comprehensive and complicated. As noted, both parties did an excellent job through the submissions of documentary evidence as well as extensive testimony explaining college policy, internal and external comparables, and presenting extensive financial data as well.

The fact of the matter is that the objective is to achieve a labor agreement. The membership as certified by the MERC has chosen to be represented by a labor union. While the Employer's position is understandable, regarding the historical absence of layoff, it is equally true that the promises of the past are no guarantee of protection for the future. As we know, elements of trust are established over time in a labor-management setting. It is no secret that the parties have had great difficulty in their bargaining. A collective bargaining agreement must reflect the rights of the parties, as well as unit members' protection.

The writer is hopeful that this recommendation will provide the basis for and be helpful in facilitating an ongoing discussion between the parties to assist them in resolving their disputes. Undoubtedly, neither party will be pleased, or get the feeling that "they" have won. They will be winners when the agreement is inked. The writer has attempted to place a reasonable standard of review to each issue.

The following recommendations are made based on the evidence, testimony and documents, as well as the summary positions of the parties. The recommendations will be listed according to the unresolved issue number as contained in Joint Ex. 2. The resolved issues are not included.

II. RECOMMENDATIONS:

1. Management Rights - Employer's position
2. No Lock Out/No Strike - Union's position
3. Union Dues, Service Fee, or Contribution - Union proposal with modifications consistent with current law providing for provisions for religious objectors, etc.

4. Subcontracting - Employer's position
5. Probationary Period - Employer's proposal with the modification that the member or employee would have the right to revert back to a former position in case of demotion or transfer.
6. Reorganization - Employer's proposal except that Section 6 should be subject to the grievance procedure.
7. Reduction in Force - Union proposal
10. Long-Term Disability - Employer proposal
11. Worker's Compensation - Employer's proposal
12. Benefits - Employer's proposal except that premium cost sharing should be effective on or after July 1, 1999, and percentage share of increase to be negotiated between the parties.
16. Grievance Procedure - Union proposal
17. Administrative Changes - Employer proposal, but Section 2 should read: "... shall be subject to the grievance procedure".
20. Appendix A - Employer proposal
21. Appendix B - The quartile system should remain unless the parties choose to negotiate a step system. Regardless, the Union proposal of 3% across-the-board for each contract year does not appear to be unreasonable based on the salary history at the college, and the fact that it has been some time since the employees have received a pay increase. The Union has made a proposal for a four year period while the Employer has made a proposal for a five year period ending 2001. The length of the Employer's proposal makes more sense and should be addressed.

Nevertheless, the parties should keep the quartile system or change to the step system. Regardless, in the fact finder's opinion, all employees should receive 3% across-the-board raises retroactive to the beginning of the contract in those years where other employees, i.e. exempt, received retro increases. Where the same employees received a lump sum a 3% lump sum should apply.

23. Duration - The Union proposal is more in keeping with standard language but should be extended for a longer period, until 6/30/2001.

24. Education/Sabbatical Leave - Employer proposal

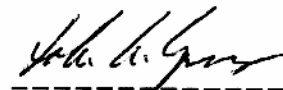
25. Seniority - Union proposal

26. Layoff and Recall - Union proposal

28. Vacancies/Transfers - Union proposal

As indicated above, hopefully, these recommendations will put the parties in a position that they must finally resolve this dispute.

Respectfully submitted,



John A. Lyons, Fact Finder

Dated: December 1, 1998