

1541

1/28/76 FF 411/022

FF OSCODA SCHOOL DISTRICT BOARD
OF EDUCATION

OSCODA SCHOOL DISTRICT

BOARD OF EDUCATION

and

OSCODA EDUCATION ASSOCIATION

Shuley Schwimmer 1-28-76

Pursuant to Section 25 of the Labor Relations and Mediation Act (Mich. Stat. Ann 17.454 (27)): Mich. Comp. Laws 423.25 and Part Three of the Commissions General Rules and Regulations, A Fact Finding Hearing was held on November 19, 1975, at Oscoda Town Hall, Oscoda, Michigan, before Shirley T. Schwimmer, Fact Finder.

The issues before the Fact Finder are the following:

1. Salary increases.
2. Guaranteed relief time.
3. Class size of kindergarten and first grade.
4. "Relevant factors" to be defined for filling vacancies.
5. Sick days for purpose of caring for members of the immediate family.
6. Unlimited accumulation of business days.
7. First year teacher job protection.
8. Layoffs based upon seniority within certification K thru 12.
9. Pay scale of substitute teachers.

The Board offers no increase in the salary schedule which appears in Appendix B of the Agreement between the Oscoda School District, Board of Education and Oscoda Education Association 1974-75 (hereinafter referred to as the Contract).

The Union has submitted a salary schedule which provides for the following increases:

	<u>1974-75</u>	<u>Proposed 1975-76</u>	<u>1974-75</u>	<u>Proposed 1975-76</u>
1.	\$ 8,400.	\$ 9,000.	\$ 9,200.	\$ 9,700.
2.	8,568.	9,383.	9,384.	10,276.
3.	8,976.	9,570.	9,690.	10,482.
4.	9,384.	10,026.	10,098.	10,824.
5.	9,792.	10,482.	10,506.	11,279.
6.	10,200.	10,938.	11,016.	11,735.
7.	10,710.	11,393.	11,526.	12,305.
8.	11,220.	11,963.	12,036.	12,875.
9.	11,730.	12,533.	12,546.	13,444.
10.	12,342.	13,102.	13,056.	14,014.
11.	13,056.	13,786.	13,872.	14,584.
12.	13,974.	14,584.	14,688.	15,495.
13.	14,500.	16,197.	15,200.	16,978.

The Board claims any increase beyond its offer would throw the budget into a deficit, which is prohibited by State Law.

Although a millage increase was passed in June, 1975, the Board maintains increased costs in transportation, utilities, state unemployment insurance, contributions to state teachers retirement fund, and the cuts in state aid, preclude the Board from offering the teachers an increase greater than the increments as they appear in Appendix B of the Contract.

The Union claims the money for the increase proposed by them is available to the Board. The Union maintains the Board has underestimated its income, over estimated its expenses, and has in addition reserve funds in the School General Fund Equity.

The Union further claims the Language of Appendix B, mandates a Cost of Living increase.

Appendix B:

"Any teacher who is to receive an increase which would be less than the percentage increase of the Cost of Living, including those teachers at the top of the schedule, on each year shall be granted an additional raise to at least equal the Cost of Living percentage increase over the preceding year. The above language concerning the Cost of Living shall have no force or effect during the 1974-1975 school year."

DISCUSSION

ECONOMICS

The Union's contention that the Board should count as income 100% collections of the tax assessment cannot stand.

The School District is required by the State to submit Form DS 4511 in which the State requires the School District to list as income 100% collection of taxes. This is a legal fiction created by the State for this particular form, and has no relation to the reality of tax collection.

The Board, in estimating income from tax collections, used the same system it has used previously; 90% collections, and income from penalties and delinquent taxes. The Union's argument concerning the language of Appendix B mandating a Cost of Living is not convincing.

The paragraph states "The above language shall have no force or effect during the 1974-75 school year". There is no language in Appendix B to indicate the Cost of Living clause was to extend beyond the term of the Contract. If the Cost of Living has "no force or effect during the 1974-75 school year" then it has no effect during the extension of the Contract.

The Board claims it has no money to pay a salary increase beyond what it has offered; the Board points to increased costs

and reduction in income due to costs in State Aid. The increase in transportation and utility costs, and the need to pay for Unemployment Insurance coverage as well as pension contributions leaves no money for a salary increase according to the Board.

Let us look at these various costs. In 1974-1975 the Board started to contribute 5% of payroll to the State Pension Fund for teachers. In order to facilitate these payments, the B.A. and M.A. salary schedules were adjusted. The number of increments were stretched from 12 to 13 steps. The minimum and maximum B.A. and M.A. salaries were maintained, but the eleven increments, between minimum and maximum, were decreased in dollar amount under the 1974-1975 schedule. Most teachers were taking a salary cut in 1974-75 for the same level when compared to the 1973-1974 schedule. Teachers, for the year 1975-1976, who are being paid according to Appendix B of the 1974-1975 Contract in steps 2 thru 12, are earning less than they would have under the 1973-1974 Contract.

Unemployment compensation coverage may be paid for by the Board by either the premium or reimbursing method.

The Board chose the premium method. It pays 2.7% on the first \$4200. of annual salary.

If the Board were to change to the reimbursement method, it would have to pay back to the unemployment fund, the charges against it's account 30 days after the next fiscal year begins.

The Board's choice of the premium method of payment is a cost which cannot be changed at this time, even if the Board desired to make such a change.

The Board has approved a budget for 1975-76 in which the Board has projected increased transportation and plant operation costs.

	<u>Estimate</u> <u>1974-75</u>	<u>Actual</u> <u>1974-75</u>	<u>Estimate</u> <u>1975-76</u>
Gas, Oil, Grease	\$59,000.	\$44,088.	\$ 69,000.
Tires, Tubes, Batteries	<u>3,000.</u> \$62,000.	<u>3,020.</u> \$47,118.	<u>8,000.</u> \$ 77,000.
Heating	\$51,430.	\$55,498.	\$ 64,000.
Water & Sewerage	3,000.	utilities	40,000.
Electricity	69,000.		90,000.
Telephone Telegraph	<u>13,574.</u> \$86,322.	<u>14,000.</u> \$97,131.	<u>14,000.</u> \$114,000.

The Board has projected increases of: 38% for gas, oil, grease, tires, tubes and batteries; 13% for heating; 32% for utilities.

The Board has projected these large increases, but has not produced sufficient evidence to substantiate these increases in costs.

The Board has the responsibility and the obligation of approving a balanced operational budget for the school year. The budget should be based on realistic estimates of both income and expenses.

The Board has met its' obligation as to estimates of income, but has not been realistic in its estimate of expenditures.

Should the budget have a surplus at the end of the school year the General Equity Fund account of the school will be increased as it was in 1974-75 and 1972-73. Should there be a deficit the General Equity Fund account of the school which was \$476 on June 30, 1975, will be reduced by the amount of the deficit. The General Equity Fund provides a cushion if there is a deficit.

It is not equitable for teachers to be expected to bear the full burden of; cuts in state aid, or for increased costs. Teachers are also consumers, and as such are required to pay increased costs if utility and transportation costs rise.

The Board has stated it has no money for a raise, but the facts do not sustain the Board's position.

The issue then becomes; how much of an increase are the teachers entitled to, within the ability of the Board to pay?

The Union has presented a chart of the salary increases it is seeking.

	<u>Present B.A.</u> <u>1974-75</u>	<u>Proposed B.A.</u> <u>1975-1976</u>	<u>Present M.A.</u> <u>1974-75</u>	<u>Proposed M.A.</u> <u>1975-76</u>
1.	\$ 8,400.	\$ 9,000.	\$ 9,200.	\$ 9,700.
2.	8,568.	9,383.	9,384.	10,276.
3.	8,976.	9,570.	9,690.	10,482.
4.	9,384.	10,026.	10,098.	10,824.
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9.	11,730.	12,533.	12,546.	13,444.
10.	12,342.	13,102.	13,056.	14,014.
11.	13,056.	13,786.	13,872.	14,584.
12.	13,976.	14,584.	14,688.	15,495.
13.	14,500.	16,197.	15,200.	16,978.

The Union is seeking an increase of the minimum B.A., from \$8,400. to \$9,000. a 7.14% increase. An increase in the maximum M.A. from \$15,200. to \$16,978. a 10% increase. An increase in the ratio of B.A. minimum to M.A. maximum from 1.80 to 1.88.

Area schools for 1975-76 are paying the following teachers salaries:

	<u>BA Min</u>	<u>BA Max</u>	<u>steps</u>	<u>MA Min</u>	<u>MA Max</u>	<u>steps</u>
Arenac Eastern	\$ 9,050	\$14,150	11	\$ 9,550	\$14,750	11
Bangor Township	9,500	14,368	9	10,587	18,209	12
Essexville Hampton	9,489	16,120	11	10,382	17,586	11
Hal	8,740	13,852	11	9,504	14,653	11
Pinconning	8,915	15,600	11	9,600	16,500	11
Standish Sterling	9,150	14,400	10	9,650	15,750	10
Tawas	8,700	14,500	9	9,300	15,500	9
Whitmore Prescott	8,936	14,456	10	9,555	15,568	10
Oscoda	8,400	14,500	13	9,200	15,520	13

The above schools are subject to the same cuts in state aid, and, similar increased costs. All these schools pay more for the minimum B.A. than Oscoda. Oscoda is in the middle in pay for B.A. maximum. The other schools reach B.A. maximum in 9 or 11 steps. Oscoda requires 13 steps to reach B.A. maximum.

All these schools pay more for the minimum M.A. than does Oscoda. Oscoda is third from the bottom in pay for M.A. maximum. The two schools that pay less reach M.A. maximum in 11 steps, Oscoda requires 13 steps to reach M.A. maximum.

Recommendation:

An increase which would be within the Board's ability to pay and would be equitable would be a 7% increase. A 7% raise in the B.A. minimum to \$8,988. and the same 7% increase in the M.A. maximum to \$16,264., would preserve the same 1.8 ratio of B.A. minimum to M.A. maximum. The ratio among the 13 steps within the B.A. and M.A. schedule would remain the same.

A similar 7% increase would be applied to the Extra Duty Schedule of Appendix B-1.

RELIEF AND PREPARATION TIME

ARTICLE V D

"Normally elementary teachers would be provided two, 15 minute relief periods each day. In addition, elementary teachers may use for preparation all time during which their classes are receiving instruction from various teaching specialists."

Union Proposal:

A guarantee of two, 15 minute, relief periods per day. In addition the Union wants preparation time guaranteed when teaching specialists are not available.

Any modification or change in the language of Article V D as put forward by the Union would require the hiring of extra staff. The evidence submitted does not support the cost of hiring additional staff to provide guaranteed relief and preparation time.

Recommendation:

No change in Article V D

CLASS SIZE

ARTICLE VIII

"(1) Kindergarten 30 pupils

(2) Elementary school grades 30 pupils."

Union Proposal

The class of kindergarten and first grade be reduced to 25 pupils.

In general in education it is believed that the lower the ratio of children to teacher, the better the education. Fewer pupils mean the teacher can devote more time to each child.

In this instance there has been no showing that the lowering of class size from 30 pupils to 25 pupils would be of such benefit as to outweigh the additional costs involved.

Recommendation:

No change in Article VIII

PERSONAL BUSINESS

ARTICLE XII

"Teachers will be entitle to the following temporary leave of absence with pay each school year.

1. Two (2) days leave of absence, to be deductible from sick leave, to transact personal business when the teacher is unable to transact such business except on a work day...

Parties mutually agree that these days are not to be used as vacation days."

Union Proposal:

Unlimited accumulation of unused personal leave days. Under the Contract language above, any unused personal leave days are to be added to the teachers accumulation of sick days.

The teachers want to accumulate their unused personal leave days from year to year, so they do not have to dig into their sick leave for personal business.

Teachers who are fortunate in not having to use their personal business days in any given year should not be penalized if, in the future they should need more than two personal leave days.

Permitting accumulation of personal leave days, encourages teachers to use these days for personal business that can only be taken care of during school days.

Recommendation:

Teachers be permitted to accumulate personal leave days.

VACANCIES

ARTICLE IX D

"In filling a vacancy within the bargaining unit, the Board agrees to give due weight to the professional background and attainments of all applicants, the length of time each has been in the school system, and other relevant factors. The decision of the Board as to the filling of such vacancies, shall, however, be final."

Union Proposal:

Relevant factors should be specifically defined. The Union contends the present language permits the Board to fill a vacancy without regard to seniority and certification.

There is nothing to show the Board has used irrelevant factors in filling vacancies. There is not sufficient evidence for me to make a recommendation as to definition of "Relevant Factors." I believe the problem might be solved if there were examples of "Relevant Factors."

Recommendation:

Examples of Relevant Factors be added to Article IX D.

SICK LEAVE

ARTICLE X C

"Sick leave may be used for absences for the following reasons:

1. ...when a member of a teacher's immediate family is afflicted and requires care and attendance by the teacher, until such time as should be required to provide other care for the sick or injured person, not to exceed two (2) days per teacher per year."

Union Proposal:

No limit placed on number of sick days for the purpose of caring for immediate family.

The Union further contends: "the mental anguish suffered by a teacher forced to be in the classroom while a family member lies ill is not conducive to good teaching. The Board's right to have the teacher make the decision of loss in compensation on being with a loved one constitutes a too high degree of managements."

Every person who is employed has obligations to their families and obligations to their jobs and sometimes the obligations are conflicting, and we have to make choices.

In a family where a teacher is the only member capable or available to care for a family member who is ill, or gravely ill, the teacher still has an obligation to the students he/she is teaching to do the best he/she can even if they have problems at home.

Unlimited use of sick leave to care for ill family members is a distortion of the purpose of sick leave.

Recommendation:

No change in Article X C.

LAYOFF AND RECALL

ARTICLE XIX

"Teachers will be grouped into the following groupings for the purpose of layoff:

1. K - 3
2. 4 - 6
3. 7 - 8
4. 9 - 12"

Within each of the above mentioned groups the lowest seniority teacher in the district shall be eliminated from that group, provided the remaining teachers are certified to teach whatever program is established by the Board of Education to be necessary to the district.

Seniority shall be determined with these groups by the teacher's initial hiring date of continuous employment in the Oscoda Area Schools. Teachers shall be rehired in the inverse order of layoff.

Union Proposal:

Changes in Article XIX to be:

A. In the event of a need to lay off, the Board will not lay off teachers with valid contracts during the school year. Reductions will be effectuated at the start of the following new school year and the order of such reduction will be as follows:

1. First year probationary teachers shall be laid off first by using the following order:
 - a. certification
 - b. seniority
2. Second year probationary teachers shall be laid off in accordance with A 1 above.
3. Third year probationary teachers shall be laid off in accordance with A 1 above.
4. Tenure teachers shall be laid off only after all probationary teachers have been laid off. Tenured teachers shall be laid off by using the criteria below in the following order:
 - a. certification
 - b. seniority

B. If for any reason the Board anticipates a reduction of staff for the following school year it shall, prior to taking formal action, consult with the O.E.A. to receive recommendations regarding priorities and procedures to be followed.

C. In the event it becomes necessary to reduce the number of teachers in a given subject area, field, or program, or eliminate or consolidate position(s) the Board shall determine the order of layoff provided, however, such action shall not be contrary

to Section A. The Board shall endeavor to give sixty (60) calendar days' notice of layoff previous to the ending of the school year to the individual involved, and in any event, forty-five (45) calendar days notice shall be given in all cases.

D. Changes in a teacher's certification while on layoff shall not affect the teacher's status during the layoff period. Since layoffs are not to be effectuated until the fall, all teachers subject to layoff for the following school year shall not lose their fringe benefits or salary over the summer months afforded them under this Agreement and individual or supplemental employment contracts.

E. Any teacher on layoff shall be recalled in inverse order of layoff provided he/she is certified and qualified for the vacancy. No new teachers shall be employed by the Board while there are teachers of the district who are laid off unless there are no laid off teachers with proper certification and qualifications to fill any vacancy which may arise.

F. The Board shall give written notice of recall from layoff by sending a registered or certified letter to said teacher, at his/her last known address. It shall be the responsibility of each teacher to notify the Board of any change in address. The teacher's address as it appears on the Board's records shall be conclusive when used in connection with layoffs, recall, or other notice to the teacher. If a teacher fails to report to work within ten (10) calendar days from date of receiving of the recall, unless an extension is granted in writing by the Board, said teacher shall be considered as voluntary quit and thereby terminate his/her individual employment contract and any other employment relationship with the Board.

Definition - Seniority

Seniority is defined as length of service within the district as of the teacher's date of signed contract. In the circumstances

of more than one individual beginning employment on the same date, all individuals so affected will participate in a drawing to determine position on the seniority list. The Association and teacher(s) so affected will be notified in writing of the date, place and time of the drawing. The drawing shall be conducted openly and at a time and place which will reasonably allow affected teachers and Association representatives to be in attendance.

Article XIX - Rationale

A teacher with a valid teaching certificate should be allowed to teach within the limits of said certificate. Under our current contract a teacher is obligated to remain within a narrow classroom teaching group and cannot move vertically when the layoff procedure is effectuated. It is possible for a highly qualified teacher to be laid off within his/her particular grouping when other teaching positions might exist for him/her within other groupings.

The Association feels that its proposed language gives the teacher more latitude to teach within his/her certified field and will not lock a person into small groups.

Sufficient evidence was not presented at the hearing for me to make recommendations for such broad changes in the Contract.

Recommendation:

No changes in Article XIX

TEACHER EVALUATION

ARTICLE XV

A. Probationary teacher evaluations will be made a minimum of twice during the school year before March 1st. The second evaluation will state that he or she would/would not be recommended to the Superintendent for re-employment at this time for the next school year.

If the second evaluation states that a teacher will not be recommended at this time, the teacher will be evaluated a third time prior to the date established by the Michigan Tenure Law for

notification of re-employment to teachers. The additional evaluation will allocate a probationary teacher the opportunity to improve his/her teaching methods in order to be acceptable and satisfactory to the district.

C. Each observation shall be made in person for a minimum of thirty (30) consecutive minutes. All monitoring or observation of the performance of a teacher shall be conducted openly and with full knowledge of the teacher.

D. A copy of the written evaluation shall be submitted to the teacher at the time of such personal interview or within ten (10) days thereafter; one to be signed and returned to the administration, the other to be retained by the teacher. In the event that the teacher feels his evaluation was incomplete or unjust, he may put his objections in writing and have them attached to the evaluation report to be placed in his personnel file. All evaluations shall be based upon acceptable standardized criteria for evaluating professional growth.

E. A copy of the evaluation shall be furnished to the teacher. If the report contains any information not previously made known to and discussed with the probationary teacher, the teacher shall have an opportunity to submit additional information to the Superintendent.

F. In the event a first year probationary teacher is to be released, he shall be notified by April 1. The teacher has two (2) weeks in which to request a hearing with the Board of Education. This hearing shall be private or public at the discretion of the teacher, and the teacher shall be entitled to representation by the Association. The teacher shall have the right to refute any claims or evidence presented. Within two (2) weeks the teacher shall be notified of the official action of the Board. The decision of the Board shall be final and not subject to the grievance procedure.

G. In the event a teacher is not continued in employment after

the first year of probation, the teacher shall be advised of the reasons thereof in writing with a copy to the Association and provided for a hearing when requested. The teacher shall have the right to process a grievance through the procedure as provided in this agreement.

H. Each teacher shall have the right upon written request to the Superintendent to review the contents of his own personnel file in the Central Office. A representative of the Association may, at the teacher's request, accompany the teacher in this review. Each teacher's personnel file shall contain the following minimum items of information:

- Annual TB report and required medical information

- All teacher evaluation reports

- Copies of annual contracts

- Teacher certificate

- Letters of commendation

- A transcript of academic record

- Tenure recommendation

- Record of voluntary extra curricular activities

A copy of any of the above items shall be provided the teacher concerned upon written request and at the teacher's expense.

Union Proposal:

Probationary teachers should have the same protection under the Contract as tenured teachers. No probationary teacher should be fired without just cause. "The term "teacher" when used hereinafter in this Agreement, shall refer to all employees represented by the Association in the bargaining unit...."

Probationary teachers, because they are probationary and not tenured teachers should not be entitled to the same protection as tenured teachers.

Probation for a teacher is not the same as a probationary period in industry. In industry a probationary period is a short time, certainly not a sufficient time to evaluate a teacher's ability to teach.

However, because a teacher is on probation, the teacher should not be left without any protection against unfair and arbitration action by the Board. Although there is no indication that this Board has abused the probation teaching period, there have been instances where other school systems have done so.

A teacher not recommended for tenure is entitled to due process, and due process implies that there are standards against which due process can be measured.

Recommendation:

The parties develop criteria for the probationary period that provides the probationary teacher with protection while permitting the Board to exercise its duty of retaining qualified teachers.

SPECIAL AND STUDENT TEACHING ASSIGNMENTS

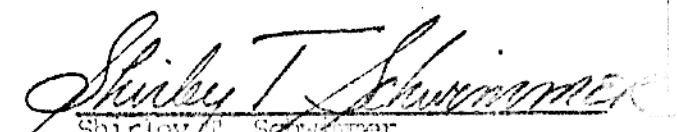
ARTICLE XXIV

B. The Board agrees at all times to maintain an adequate list of substitute teachers, who will be paid at the rate of \$25.00 per day.

Union Proposal:

Substitute teachers should be paid on a pay scale prorated on that of a first year teacher after substitute has performed in the same class on teaching discipline for ten (10) consecutive days.

This issue is being resolved by the legislature.


Shirley T. Schwimmer
Fact Finder
