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STATE OF MICHIGAN
LABOR MEDIATION BOARD

In Re:

Owendale-Gagetown
Board of Education

LABOR AND
RELATIONS DIVISION

-AND-

Owendale-Gagetown
Education Association

THE FACT FINDING OPINIONS AND RECOMMENDATIONS

The undersigned, C. Keith Groty, was appointed Fact Finding Hearings Officer by the Employment Relations Commission of the State of Michigan on September 5, 1969, under authority of Section 25 of Act 176 of Michigan Public Acts of 1939, as amended, to issue a report and recommendation to the above listed parties with respect to matters in disagreement between them on terms of a new employment agreement for teachers in the Owendale-Gagetown Public School.

A Fact Finding Hearing was held with the parties on September 15, 1969. Appearing for the Owendale-Gagetown Board of Education were:

- Allen C. Fennell, Superintendent of Schools
- Ronald Good, Board of Education Trustee
- Fred W. Cooley, Board of Education Secretary
- Thomas W. Laurie, Board of Education Treasurer
- Richard Ziehm, Board of Education Trustee
- Leo Sewrynek, Board of Education Trustee
- Omar Hefner, Board of Education Trustee
- Eldon Bietzel, Board of Education President

Appearing for the Owendale-Gagetown Education Association:

- Miland Miller, Negotiating Committee
- Manuel Thies, President Owendale-Gagetown Education Association
- Vernon Henrichs, Michigan Education Association Consultant
- Wilma Finkeiner, Negotiating Committee
- Harvey Billy, Negotiating Committee

Owendale-Gagetown Board of Education

At the hearing on the dispute, the parties stated that there were four issues involved in their dispute. The fourth of these issues became evident at the time of hearing and was not contained in the original petition. The following report summarizes the basic position of the parties on each of the issues, a brief discussion of what appeared to be the salient considerations in resolving them, and the fact finder's recommendation for their resolution. These recommendations are made with the full knowledge that the total package is more than the Board of Education has offered and less than the Association would like to achieve. Nevertheless it represents what appears to be a fair settlement. The parties are urged, therefore, to give these recommendations their most serious and urgent consideration for settlement of their new employment agreement.

OUTSIDE EXPERIENCE CREDIT

Although a fact finding hearing appears to be a most untimely point for the Board to enter a topic for negotiations, in view of the ground rules the parties had developed that all issues be presented at the initial stages of bargaining, it was the opinion of the fact finder, after discussing this new issue of outside experience credit with the parties, that recommendation from him would be most helpful in settling this issue. Particularity since at that moment it was being viewed in a most emotional manner and not on its merits.

The Association failed to indicate that the increasing of the outside credit allowance would be an unwise decision for the district to engage in and argued only on its untimely entrance into the discussion. Further, since it appears that the offering of greater experience credit will increase the quality of the staff members recruited, the benefits would be mutual to both parties. The Board would receive a quality teacher and the Association an additional unit member of high quality. It is my feeling, therefore, that it is necessary that some move be made in increasing the amount of allowance and money that a person would receive.

RECOMMENDATION

It is proposed, therefore, that the contract should include a clause which would allow for full credit for the first year outside experience which a person brings to the district, and that they should receive for this full years credit a position one step advanced on the salary schedule. Further, in accord with former practices, individuals should then receive up to \$400 additional, \$100 for each year of additional experience outside the district totaling no more than four years.

INSURANCE

Since the Board indicates no objection to the inclusion of an insurance clause in the master agreement, it would appear to the fact finder that such a clause should be incorporated and that the carriers should be those as presently mutually agreed between the

parties. The distance between the parties, however, stems from that amount which should be paid on a monthly basis. Presently the Board has offered \$10 a month per individual subscriber, and the Association is demanding \$14 a month. My recommendation takes into consideration the total financial package which shall be recommended later in this report.

RECOMMENDATION

It is recommended that the Board's offer be increased by \$2 per month for a total of \$12 per month per individual on a 12 month basis. This amount compares with the coverage offered in other districts in the area.

SALARY MAXIMUMS

The basic controversy between the parties with regards to the salary schedule is not the base salaries in the Bachelor Degree and Master Degree categories but what should be the maximum salaries in those categories. The parties agree on a base salary for the Bachelors Degree of \$6,900 and for the Masters Degree \$7,300. They also agree that there will be Bachelor plus 15 hours and Masters plus 15 hours categories. Further, that all categories, Bachelors, Bachelors plus 15 hours, Masters, and Masters plus 15 hours will reach the top of the schedule in ten steps.

As of the last position of the parties, the Association is proposing that \$275 per increment be added to the Bachelors minimum so that a maximum of \$9,650 is obtained. On the Masters Degree scale they are proposing a \$350 increment be applied to each step so that the minimum of \$7,300 will be \$10,550 at the maximum. The Board has offered that the Bachelors Degree should include an increment of \$225 beginning at a minimum of \$6,900 to reach a maximum of \$9,150. On the Masters Degree scale they also proposed an increment step of \$225 so that the Masters minimum of \$7,300 would reach a maximum of \$9,550. Since the parties agreed upon the number of steps, the number of categories, and the minimum in the Bachelors and Masters categories, recommendations will only be made for the maximum Bachelors and the maximum Masters schedule and the increment figures used to reach those maximums.

The Board raised objections to the Association Exhibits 5, 6, and 7 on the grounds that these past Annual Fiscal Reports were not relevant to the present circumstances of the district. The Association based their entry of the Exhibits 5, 6, and 7, the Annual Fiscal Reports of 1966-67, 67-68, and 68-69 respectively, on the contention that these reports would (1) show a history pattern, and (2) point up discrepancies that would lead the Fact Finder to a closer evaluation of other financial evidence. Further, the Board objected, on the Association's Exhibit 8, to the reference the Association made to a transfer of moneys from the operating budget to the debt retirement budget, a move which the Board of Education explained was necessary and approved both by legal counsel and auditor. Also, the Board objected to Association

Exhibit 8 when the Association made reference to a deficit retirement amount found in the Annual Fiscal Report of 1968-69. These objections were raised again when the Association presented Exhibits 12 and 13, as these referred again to the transfer of moneys referred to previously.

It would be difficult to determine the financial status of the district should such reports be ruled as completely irrelevant. Therefore, it is necessary that the reference to the Annual Fiscal Reports be made in determining the salary recommendations presently under dispute. It is, however, not the concern of this Fact Finder that the Board acted properly or improperly in accordance with state law in the transfer of moneys from one fund to another. The Board indicates such transfers had the consideration and approval of their auditing firm legal counsel.

In reaching the decision as to the recommended position of maximum salaries on both the Bachelors and Masters Degree schedules, it should be pointed out that the Association's Exhibit 10 does not compare the Owendale-Gagetown School District with those districts in its immediate geographic area, but rather on a state wide area with districts of similar enrollment. The most appropriate reference point for teachers salaries in the Owendale-Gagetown School District would seem to be those which are located in its immediate geographic area and from which it has not varied too far according to past indication. It is for this same reason when determining the insurance issue previously referred to, that the Owendale-Gagetown School District should provide coverage similar to that offered by its neighboring districts. The Owendale-Gagetown District competes with basically those districts in its immediate geographic area for recruitment of teachers and, therefore, must remain competitive with them.

It would appear that the number of pupils will be higher than the 630 which the Board used in calculating anticipated State aid, since as of September 10 there were already 642 pupils in attendance. Also, after reviewing the Annual Fiscal Report of 1968-69, it would appear that some projected budget categories in the 1969-70 has been increased disproportionately. Further, since the retirement of the operating debt is not a recurring claim upon revenues of the district, it would appear that funds are also available from this source.

The Board and Association should compare the recommendations of this report with the maximum of the districts in their area. As indicated to the parties at the time of the hearing, this Fact Finder has done such a comparison and finds such evidence the basis for this report.

RECOMMENDATIONS

In light of the foregoing discussion and the references contained in that discussion the following recommendation is made as to the maximum salaries in the Bachelors and Masters Degree categories and the increment steps necessary to reach those levels from the agreed upon base salary.

BA Min \$6,900 Increment \$235 Max \$9,250

MA Min \$7,300 Increment \$250 Max \$9,800

AGENCY SHOP

At dispute is whether or not an agency shop clause should be included in the master agreement. Under such a clause each member of the bargaining unit would have to be a member of the Association and its affiliates, the Michigan Education Association and the National Education Association or, as an alternative, pay an amount equal to the dues of these Associations but without the requirement of membership in the Association.

The Association's rational is that since the Association is required by law to represent all the teachers in the Owendale- Gage-town system, each person in the unit should be paid to support that representation. At the present time the Association indicates that all but two of the returning teachers are members of their Association. They have not made any determination at this time as to how many of the new teachers would join their Association.

The Association cites in its Exhibit 1 that such an agency shop has been held as legal and proper by the Honorable Thomas J. Foley, Judge of the Third Judicial Circuit County of Wayne in Michigan. The Association also points out in its Exhibit 2 that in the case of the Saginaw Board of Education vs Robert Viera and Kathern Hargreaves that the Tenure Commission of the Department of Education State of Michigan failed to overturn dismissals for failure to abide by an agency shop provision.

Since the question of legality of an agency shop clause has been answered, at least at the Wayne County Circuit Court level by Judge Foley, and since the propriety of dismissal for violations of the agency shop clause has been upheld by the Commission and since the Employment Relations Commission (LMB) has ruled it a bargainable item in the Oakland County Sheriffs case, it would appear that the question of inclusion in the present contract of such a clause becomes one of its propriety in respect to the total contractual agreement and relationship between the teachers, their representative, and the Board.

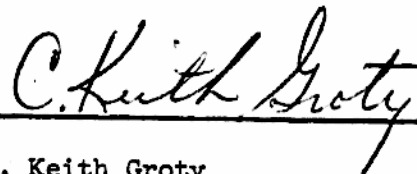
The Board in discussing and presenting their position in this matter simply indicated that since no other district in their area presently contains such a clause, they did not feel that they should be required to agree to its inclusion in their contractually relationship with the Association. Although it may seem to the Board as an unprofessional behavior of the Association to require persons to pay or obtain membership in their organization as a condition of employment, such practice is not uncommon in the private sector. It is becoming much wider spread in its acceptability in the contracts in the State of Michigan between school districts and their teachers and for many years has been a requirement of other professional organizations without apparent detriment to their professional status.

RECOMMENDATION

In consideration of the foregoing it is recommended that the parties include an agency shop clause which would contain the following provisions (1) that all teachers who are a part of the bargaining unit be requested to sign authorization for the deduction of a sum equivalent to the dues payable to the local, state, and national educational associations. (2) That such sums be deducted from the pay of all teachers who execute such authorizations and be paid to the Owendale-Gagetown Education Association in a manner agreed upon between the parties. That such amount should then be distributed in accordance with the rules and by-laws of the Owendale-Gagetown Association and their affiliate associations. (3) That all future employees of the Board who are hired to positions within the bargaining unit shall become members of the Association and its affiliates or as an alternative shall authorize the deduction in equal dollar amounts as would be paid by a member to the Association. (4) That such clause should include a provision whereby any present teacher who does not authorize such deduction or who does not pay such sum shall not be discharged from the employment of the school district. (5) That if the school district in complying with the provisions of the agency shop agreement has brought against it any claim or liability, the Association shall save harmless and indemnify the Board and School District, and that the Association will assume the full responsibility for refunding the sums so paid to it should the agency shop be declared illegal by a court of appropriate jurisdiction.

CONCLUSION

The School Board's representatives and representatives of the Owendale-Gagetown Education Association have devoted many hours to the development of a new agreement. It would appear that both parties have negotiated in good faith and resolved many issues. The recommendations contained in this report are believed to be reasonable and a fair basis for settlement of the issues remaining in the dispute. It is urged by this fact finder that both parties give them their utmost consideration so that further dispute is avoided and that the settlement can be reached quickly and the district proceed with the education of children which is the basic concern of both parties.



C. Keith Groty

DATE September 30, 1969