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June 19, 1996

Shlomo Sperka, Director
 Michigan Employment Relations Commission
 State of Michigan Plaza Building
 1200 Sixth Street, 14th Floor
 Detroit, MI 48226

Re: Pontiac Schools and United Skilled Maintenance Trades Employees
 MERC Case No. D93 F-0947

Pontiac Schools and Pontiac Paraprofessional Instruction Association
 MERC Case No. D93 F-0945 ✓

Pontiac Schools and Foreman's Association
 MERC Case No. D93 F-0946 ✓

Dear Mr. Sperka:

At the request of one of the parties, I was asked to issue a supplemental opinion in the above matter, addressing certain facts as to the comparables. This I have done and I enclose for your record the required copies of my Supplemental Report Of Findings Of Facts And Recommendations.

There will be no additional charge. I have done this primarily as a service to the parties and the Commission.

I consider my assignment completed. Thank you very much.

Very truly yours,

FF. George T. Roumell
 GEORGE T. ROUMELL, JR.

GTR.Jr/bs
 Enc.

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Pontiac School District

6/19/96

STATE OF MICHIGAN
DEPARTMENT OF LABOR
MICHIGAN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the
Fact Finding between:

PONTIAC SCHOOLS,

and

MERC No. D93 F-0947

UNITED SKILLED MAINTENANCE
TRADES EMPLOYEES,

PONTIAC PARAPROFESSIONAL
INSTRUCTION ASSOCIATION,
and

MERC No. D93 F-0945

FOREMEN'S ASSOCIATION

MERC No. D93 F-0946

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
DETROIT OFFICE

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SUPPLEMENTAL REPORT OF FINDING OF FACTS AND RECOMMENDATIONS

APPEARANCES:

FOR THE ASSOCIATIONS:

Lee Longfield, Executive Director
Sarah Walker, President, Para-
professional Instructors
Kim Pino, Uniserv Associate
Steve Jones, Foremens' Assoc.
Robert Jenks, Skilled Trades

FOR PONTIAC SCHOOLS:

Harold Curry, Attorney
Tom Anderson, Asst. Superintendent
Robert Woven, Supervisor of Operations
Tommaleta Hughes, Dir. of Personnel

On April 5, 1996, this Fact Finder issued a lengthy Fact Finding Report with recommendations numbering 48 pages, addressing a contract dispute between three bargaining units, as set forth above, and the Pontiac School District. From pages 39 through 48, the Fact Finder addressed the issues of wages and longevity for the Pontiac Paraprofessional Instructors Association.

Subsequent to the issuance of the Report, by letter dated April 16, 1996, received April 18, 1996 by the Fact Finder, Lee Longfield, the Executive Director of the Pontiac Paraprofessional Instructors Association, voiced objections to the facts set forth in the Report, writing in part:

Listed in the Report, on pages 40 and 41, are comparables prepared by the District which you reference further in the text.

The Association's recollection and record of the proceedings before you prior to the Report being issued is that there came a point in time when you declared the evidentiary hearing closed on economic issues. At a later meeting date, subsequent to the close of hearing, the District offered a memorandum dated December 18, 1995 from Thomas Anderson, Sr. and attorney Harold Curry to Dr. Sam F. Abram, Lee Longfield, and George Roumell, said memorandum purporting to be a "Minimum to Maximum Hourly Wage Comparison." You declared the document untimely and refused to receive it for the record.

The Association believed that the document had not been received into the record, therefore the Association provided no rebuttal to the document.

Members of the Association, its leaders, and its advocates recognize immediately that the District's list, among other deficiencies, does not compare "employees who provide the same or similar services" to the Pontiac Paraprofessional Instructors.

The list appears to set forth the wage rates of generic classroom aides, typically the lowest paid employee group in any K-12 school district, not the wages for paraprofessionals employed in special education center programs in districts such as Waterford, Southfield and Farmington, Pontiac's near neighbors.

As can be seen from the District's original memorandum, there are no sources cited for the data contained therein. As

the document was not offered for the record, the Association was not provided the opportunity to review the cited contracts for the accuracy and relevance of the wages reported.

To the extent that the Report and Finding of Facts relies upon the District's memorandum of December 18, 1995, the Report will not serve to resolve the economic issues in dispute, as the Association believes that the comparables provided, with the possible exception of the Intermediate School Districts included, are not for paraprofessionals in the same wage classification.

The Association recognizes that the Report is not based solely on the District document. However, if the Report is to include detailed reference to the document, the Association respectfully requests the opportunity to provide the fact-finder with a written rebuttal to the District's document so that the record is complete.

Pursuant to this letter, the Association presented rebuttal to the District's comparables. In the rebuttal statement, dated April 22, 1996, received April 24, 1996, Ms. Longfield presented a rebuttal document which presumably was sent to the Advocate for the School District, along with certain exhibits. The thrust of the Association's objections were set forth at pages 1 and 2 of Ms. Longfield's arguments, which read:

A. The bargaining units set forth are not like units of employees performing the same or similar services.

The Pontiac Paraprofessional Instructors Association is comprised solely of paraprofessionals required by State statute to work with populations of Severely Mentally Impaired (SMI) [R 340.1738], Trainable Mentally Impaired (TMI) [R 340.1739] and Severely Multiply Impaired (SXI) [340.1748] students (Exhibit 1).

These students present an extraordinary set of demands to meet their educational requirements, together with needs for routine personal hygiene care, toileting, feeding, medical support services such as catheterization and tracheotomy suctioning, medications, assistance in and out of wheelchairs, physical therapy, and physical management to prevent injury to self and others. The paraprofessionals required by law to be assigned to assist the classroom teacher with these students are a highly trained, highly skilled unit of employees with a greater level of responsibility for the health and safety of students in their charge than any other unit of assistants or aides of any description.

Educational services for such students are traditionally housed in Intermediate School District facilities.

However, in Oakland County, the education of this unique student population is not housed at the Intermediate School District. The County has been divided into quadrants (Exhibit 2). Within each quadrant, the relevant student population is transported from the home school district to a constituent district which acts as the "Center." (Exhibit 3)

In Oakland County the school districts of Bloomfield Hills, Farmington, Hazel Park, Oak Park, Pontiac and Waterford operate center programs for SMI and SXI students (Exhibit 4, pg. 59). Eight districts operate center programs for the Trainable Mentally Impaired. Those districts are Farmington, Hazel Park, Lamphere, Pontiac, Royal Oak, Troy, Walled Lake and Waterford (Exhibit 4, pg. 85).

In the Northeast quadrant, the School District of the City of Pontiac serves as the Special Education Center for Oxford, Lake Orion, Rochester, and Avondale School Districts (Exhibit 3).

From this single fact it must be concluded that the bargaining units referenced in Oxford, Rochester and Avondale are not employees performing similar work. Their SMI, SXI, and TMI student populations are transported to Pontiac. Lake Orion school district does not employ a unit of

assistants or paraprofessionals.

Similarly, there is no Special Education Center Program at Oakland Intermediate, so any bargaining unit referenced in the District's proposed comparables is also not performing like work.

The Association asserts that the most relevant comparables in this wage dispute would properly be the bargaining units in Oakland County school districts providing paraprofessional services to SMI, SXI, and TMI students.

In addition, Ms. Longfield suggested in captions to arguments in her statement:

B. An alternate set of comparables might be all paraprofessionals employed in Intermediate School Districts serving SMI, SXI, and TMI student populations.

C. If the bargaining units listed in the District's proposed comparables are comprised of "para-professionals," or "assistants," or "aides," it is unlikely that they are performing like work.

She subsequently proffered the following conclusion:

Based on the foregoing, the Association asserts that the bargaining units proposed by the Pontiac School District as comparables in this dispute are inappropriate as presented. The Association cannot and does not dispute the accuracy of the fact-finder's observations drawn from the proposed comparables. We do, however, include with this rebuttal Exhibit 8, which we believe includes more of the relevant comparable bargaining unit data. From this Exhibit can be seen a pattern of higher wages paid to paraprofessionals assigned to SMI, SXI, and TMI classrooms, whether housed in ISD or local school district facilities.

The referenced Exhibit 8 provides the following comparables:

EXHIBIT 8

Minimum and Maximum Hourly Rate of Pay Special Education Center Program Paraprofessionals

<u>District</u>	<u>1994-95 Minimum</u>	<u>1994-95 Maximum</u>
1. Bloomfield Hills ¹²	12.98	14.76
2. Farmington	10.15	14.33
3. Genesee ISD ³	11.96	15.68
4. Hazel Park	n/a	n/a
5. Lamphere	n/a	n/a
6. Lapeer ISD ⁴	14.76	14.76
7. Oak Park	n/a	n/a
8. Pontiac	9.33	12.74
9. Royal Oak	9.17	11.59
10. Troy	n/a	n/a
11. Walled Lake	n/a	n/a
12. Waterford ⁶	11.80	13.37
13. West Bloomfield	8.15	11.21

¹1995-96 wage rates

²6.5 hours/day for 180 work days to yield hourly rate of pay

³1995-96 wage rates. See Exhibit 6.

⁴Single step salary schedule. See Exhibit 5

⁶1995-96 wage rates

Ms. Longfield makes a point. There is no question that when comparables are used, they should be appropriate comparables with similar types of work. It will be noted that the comparables offered by the District, it was suggested by this Fact Finder at page 42, "These parties, through bargaining, have concluded that the Paraprofessionals at Pontiac should be among the highest paid in the area." Based upon the comparables now offered by the Association, this statement is incorrect in the sense that Pontiac Paraprofessional Instruction Association members, with populations of Severely Mentally Impaired (SMI), Trainable Mentally Impaired (TMI) and Severely Multiply Impaired (SMI). This seemingly is not the case in all of the districts that the Pontiac School District presented to the Fact Finder.

With the exception of certain intermediate school districts set forth in the District's comparables, but not Oakland, the only comparable that the Association suggests is relevant is Waterford, which has a program for Severely Mentally Impaired and Severely Multiply Impaired, as well as Trainable Mentally Impaired. It is noted that the 1995-96 wage rate at the maximum in Waterford is \$13.37, as compared to Pontiac's \$12.74, prior to Pontiac receiving a 2% increase and modifications in longevity, if the Report is accepted by the parties.

There is also the recognition, if Livingston Intermediate School District does have a similar program as does Pontiac, these paraprofessionals receive a maximum of \$12.67. What these comparables indicate is that, contrary to the Fact Finder's observations, Pontiac seems to pay its paraprofessionals at the lower end of the wage scale.

If on April 5, 1996 the Fact Finder had recognized this point, this would not have changed his recommendations as to the paraprofessionals. At page 43, this Fact Finder wrote:

...The bargaining history criteria, when used in connection with comparables, would suggest that there must have been factors in Pontiac, considered by both parties at the bargaining table, to put Pontiac at the 15% highest range with the comparable proffered by the District. It may also be that Pontiac had factors that may exist in a district like Roseville that caused this evolving wage pattern. The second point is that the comparables, along with the bargaining history within the District, do not support the Association's demands at the bargaining table.

The point is that bargaining history in this particular situation is an important criteria. In so writing, this Fact Finder suggested that the Paraprofessionals were "being paid in the top 15%." This was incorrect. But it would not have made a difference in the Report and Recommendations because the various criteria, and the application of same, varies from situation to situation. Though the comparables may suggest that more wages should be forthcoming, the bargaining history, recognizing the financial condition of the District, had resulted over the years in a wage pattern that might have been below the average, but still was consistent with, for instance, districts such as Waterford, which is an area of economic growth as compared to Pontiac. Furthermore, there were bargaining patterns within the District, including the teachers and secretaries, that could not be ignored by the Fact Finder.

The Pontiac School District has a difficult financial situation. This explains the bargaining pattern over the years with the Paraprofessionals that puts them in their

relevant comparable position. There is a bargaining history currently with other bargaining units that have settled that represents that the increases for the years involved, consistent with the Pontiac School District's fiscal integrity, support only a modest wage increase.

Even with the comparables as now presented, the Fact Finder would have reached the same Report, with the same Recommendations, because he attempted to craft a recommendation as to the Paraprofessionals, consistent with all the facts. With the additional facts as to the comparables, the Fact Finder would have made the same conclusions because of the bargaining patterns and the need for fiscal integrity. The crafting of the Recommendations were attempts, particularly as to longevity, to invoke the art of the possible criteria.

It is always difficult for employees of an employer who has financial constraints to recognize same. Reference to the Intermediate School Districts is interesting, but their patterns of financial support are different than a school district such as Pontiac. Reference to districts such as Bloomfield Hills and Farmington Hills, are to districts which are known to have substantial financial abilities. The same could be said for the Lapeer Intermediate School District, a County that is perhaps the fastest growing county in the state.

Though the Advocate for the Association has made potent arguments, certain facts just cannot be overlooked. As this Fact Finder noted at page 47-48, "Again the Fact Finder...points out that the Report is a jigsaw puzzle. Each part must fit in with the other parts. It cannot be taken in bits and pieces. Otherwise, the totality of the picture

will not be recognized. In the view of the Fact Finder, this is the way to settle this dispute."

And this is the point. The Fact Finder spent an extraordinary amount of time with the parties, attempting to arrive at a Report and Recommendations that might resolve the dispute. The parties also, as this Fact Finder has suggested, have had the service of a very outstanding mediator. Considering all the elements, and the "jigsaw puzzle" analogy, even though recognizing that the District for a number of reasons is among the lower paid as to Paraprofessionals, the Report and Recommendations of the Fact Finder would be the same for the reasons outlined above. In fact, if other bargaining units within the District began comparing themselves with the more wealthy districts, similar arguments can be made as made now. But such arguments would only be selecting one piece of the puzzle. And it is all the pieces that must be fit together.

It is for all these reasons that, despite the able presentation of the Association's Advocate, the Fact Finder will stand by the recommendations that he made on April 5, 1996.

SUPPLEMENTAL RECOMMENDATIONS

The Recommendations made on April 5, 1996 are hereby affirmed.


GEORGE T. ROUMELL, JR.
Fact Finder

June 19, 1996