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Fact Finding & Recommendations
Concerning Bargaining Unit for
Which Union Certified

IN THE MATTER OF A DISPUTE BETWEEN

REPUBLIC-MICHIGAMME SCHOOLS

AND

AFSCME, COUNCIL 55

James T. Jeanne

FACT FINDER'S REPORT AND RECOMMENDATIONS

The undersigned was appointed Fact Finder in the above dispute by Robert G. Howlett, Chairman, Employment Relations Commission, State of Michigan. Notice of such appointment was served in writing upon the parties and the undersigned by letter dated February 21, 1972. Pursuant thereto, hearing was held in the Board Room of the District on Tuesday, March 7, 1972. The District was represented by counsel and the Union by Mr. Roger Siegal, Staff Representative.

Findings of Fact

The Union became certified as bargaining representative by reason of election in mid-1971 for a unit consisting of "all full-time and part-time employees employed as custodians, food service employees and bus drivers" for the Republic-Michigamme Schools. (Thereafter, on December 12, 1971, the Union was also recognized as bargaining agent for all office personnel.)

Negotiations for a first agreement began in early summer, 1971, and continued without successful final conclusion of an

Republic - Michigamme

agreement up to and including this fact finding proceeding.

In its petition for fact finding, the Union listed the following as being the items remaining in dispute:

- "(1) Union Security - Requirements of joining the Union.
- (2) Arbitration as final step of the grievance procedure.
- (3) Total economic package - wages and benefits.
- (4) Term of the contract."

These issues will be taken up not necessarily in the order above presented.

Wages

The following is a list by name, classification, and rate of employees currently in the bargaining unit:

Cooks

Crothers, K.	Custodian-Cook	2.05 per hour
Krummi, V.	Cook	1.88 per hour
Luoto, M.	Cook	1.85 per hour
Martti, L.	Cook	1.85 per hour
Sullivan, F.	Cook	1.70 per hour
Vierela, S.	Head Cook	2.92 per hour

Custodian-Bus Drivers

Jackola, A.	Head Bus Driver (also Mechanic)	3.92 per hour
Laabs, C.	Head Custodian (also in charge of Bldg. and Grounds)	4.96 per hour
Laurila, C.	Custodian and Bus Driver	3.34 per hour
Mattilla, A.	Custodian and Bus Driver	2.35 per hour
Mustamaa, L.	Custodian, Bus Driver, and Ground Supervisor	3.34 per hour
Perry, F.	Custodian and Bus Driver	3.21 per hour
Mattson, R.	Custodian and Bus Driver	3.34 per hour
Mykkanen, B.	Part-time Bus Driver	3.34 per hour
Rankinen, M.	Part-time Bus Driver	3.34 per hour
Heinonen, D.	Part-time Bus Driver	3.34 per hour

Clerical

Halonon, D.	Bookkeeper	3.00 per hour
Forsberg, N.	Supt's. Secretary-Steno	2.40 per hour
Mattson, D.	Principal's Secretary	2.30 per hour

At the outset, Board's counsel conceded that there was a disparity in rates of pay in the district among employees doing equal work. He stated that the Board had authorized redress of such differences. For example, it is agreed that A. Mattilla and F. Perry are doing equal work at unequal pay. For them, Board counsel stated that they will be issued retroactive pay checks to July 1, 1971 for the difference between the rates they have been receiving and \$3.34 per hour for all hours worked. The Union agreed this should be done.

Board counsel also stated that while he did not at the time of hearing have Board authorization, he intended to recommend to the Board that the four cooks (Krummi, Luoto, Martti, and Sullivan) all be increased to \$2.00 per hour. He wanted to check on retroactivity. The Union indicated such increases would create no problem on the basis that they were not final and negotiated. The Fact Finder recommends that such increases be put into effect immediately without prejudice to the question of adequacy of the \$2.00 per hour rate. Moreover, the Fact Finder can see no reason why such \$2.00 rate for these employees should not be made retroactive to July 1, 1971, the same as in the case of Perry and Mattilla. He so recommends, again without prejudice to a determination as to the adequacy of the \$2.00 rate for cooks.

There has never been a custodian rate as such. Employees have performed the combination Custodian-Bus Driver functions except for one employee, Crothers, who is classified Custodian-Cook and paid at a rate of \$2.05 per hour.

It is also noted that the Head Bus Driver also doubles as mechanic and for these combined duties receives \$3.92 per hour or 58¢ per hour more than the Custodian and Bus Driver combined classification. The Union produced only two rate comparisons in the Head Bus Driver classification: Portage Township, \$3.45; and Wakefield, \$3.35.

The School District asked and was granted the opportunity to present comparisons of its own after the hearing. It was understood that the Union would have an opportunity to respond. The Fact Finder notes that all wage comparisons ultimately submitted by the District were for the 1969-70 year and are hence not of current value for purposes of this report.

The Union asks that in addition to redressing the disparity in rates between employees performing the same work, as above reported, all employees in the bargaining unit receive a flat increase of 15¢ per hour or 5.5%, whichever is greater, retroactive to July 1, 1972. It does not ask that there be a change in the combined job classification structure which has prevailed apparently for some years past.

Recommendations on Wages

The Fact Finder is happy to see that the District recognizes that there has been no justification for unequal pay for equal work and offered unilaterally to change that without the necessity for a recommendation by the Fact Finder. It did this by immediately raising all employees in the Cook classification (excluding Custodian-Cook and Head Cook) to \$2.00 per hour; and by increasing all those in the Custodian-Bus Driver combined classification to

the prevailing \$3.34 per hour rate. According to the Superintendent, the above rate changes were made on 3/8/72.

There remains the matter of retroactivity. It appears to the Fact Finder that if the Board had approved retroactivity to those Custodian-Bus Drivers not receiving the level rate of \$3.34 per hour, there can be no perceptible reason for not doing the same for Cooks who had been receiving random rates under \$2.00 per hour and all of whom were raised to the \$2.00 per hour level. Retroactivity in both cases should be to July 1, 1971. The Fact Finder so recommends subject to applicable Federal law.

In addition, the Union requests a general wage increase to all classifications of 15¢ per hour or 5.5% whichever is greater from July 1, 1971 to June 30, 1972, the proposed expiration date of the contract. The weighted average rate of all employees in the bargaining unit, adjusted to eliminate inequities as above recited, is \$2.97 per hour. The 5.5% Phase 2 Federal guideline applied to such rate equals an average increase of just over 16¢ per hour. The Fact Finder recommends that all adjusted rates in the bargaining unit be increased by 16¢ per hour retroactive to July 1, 1971, except for the period of the "wage freeze" and subject to applicable Federal law otherwise as to retroactivity.

Fringe Benefits

Sick Leave - Present Board policy is to allow 10 days per year with pay with a maximum accrual of 100 days, one-half of the unused portion of such accrual being payable at retirement. The Union comparisons with eight other districts in the Upper Peninsula

reveals that of these, six allow 12 days per year, 2 allow 10 days. There are differences, however, in accrual; payment on retirement or approved severance is allowed in some while it is not allowed in others; one establishes a payable maximum substantially less than allowed accrual at full pay. There are such variations that the Fact Finder is not in a position to say that current Board policy is clearly substandard in relation to other districts. The Fact Finder recommends a continuation of the above described Board policy as respects sick leave.

✓ Jury Duty Pay - Current Board policy is to allow no payment for days on which an employee is required to be on jury duty. The Union compares eight other districts in the Upper Peninsula only three of which allow no such pay. The remaining five allow payment of the difference between jury duty pay and regular pay. It has been long recognized that an employee should not have to lose pay by reason of being required to perform jury duty, a legal obligation. The Fact Finder recommends that the District pay the difference between pay the employee receives for jury duty and what he lost in wages when required to be on jury duty.

Holiday Pay - The District has had a policy of paying for the following holidays not worked: Good Friday, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day, and New Years Day. Hours worked on such holidays are paid at 2 1/4 times regular rate. Other districts with which the Union seeks comparison all grant from 8 to 10 paid holidays. The Union claims that this district has departed in the current year from last year's policy of

including as a paid holiday the Monday after Easter Sunday. It asks that this holiday be restored, and in addition, that the employee's birthday be added as a 9th paid holiday. The Fact Finder recommends that if it is a fact that in the 1970-71 school year the Monday after Easter was a paid holiday for these employees, such policy should be continued for the current 1971-72 year. The Fact Finder, however, makes no further recommendation for change in paid holidays.

Longevity Pay - The District has a policy of granting \$50 for each year to employees having 10 years of employment payable at retirement. The Fact Finder sees no reason to change this at this time since it is comparable to that in districts with which the Union seeks comparison.

Funeral Leave - This District allows 2 paid days funeral leave where the death is in the immediate family. The Union asks that this be increased to 3 such paid leave days but has no quarrel over the District's definition of "immediate family." The Union demonstrated that 3 days is uniform among the eight other U.P. districts with which it sought comparison. The Fact Finder recommends that the present 2-day paid funeral leave be increased to 3 days with no change in the "immediate family" definition.

Life Insurance and Hospitalization - The District provides the MEA Life coverage and the Super MEA Hospitalization coverage for these employees. The Fact Finder recommends that there be no change in present Board policy concerning these items.

Shift Premium - The Union presented no persuasive showing that shift premiums prevail in the districts with which it seeks comparison. Five out of the 8 districts have no such premium and one has "10¢ figured in the hourly rate." Only 3 have definite shift premiums. The Fact Finder recommends no change in prevailing Board policy on this item.

Vacations - The District's policy has been to grant these employees 2 weeks vacation with pay for those with 1 through 9 years' service and 3 weeks for those with 10 or more years' service. This is quite comparable with the other 8 districts (except one) with which the Union seeks comparison. The Fact Finder finds no reason to change this current benefit and recommends no change at this time.

Other Board Policies on Benefits - The Fact Finder recommends that all benefits not herein covered remain the same as is currently Board policy including without limitation snow days and business days.

Contract Expiration - The Fact Finder discovers that all but two of the eight districts with which the Union seeks comparison have uniform June 30, 1972 expiration dates. The Fact Finder recommends that the expiration date for this District be the same, June 30, 1972.

Union Security - Of the eight other districts with which the Union seeks comparison, seven have Union Shop security clauses and one has maintenance of membership. This District resists any requirement "which conditions employment on union membership."

This is clearly a philosophical reaction to a practical problem. However, an agency shop clause eliminates the requirement of joining the Union or maintaining membership therein and thus meets the District's sole objection. The Agency Shop requires only that an employee pay as his fair share of representation the monthly equivalent of Union dues without the obligation of becoming or remaining a Union member. This seems a fair compromise, and it takes into account the fact that this is a brand new local labor organization which has not yet had the opportunity to mature to the point of fully understanding the implications and responsibilities of Union membership.

Accordingly, the Fact Finder recommends that an "Agency Shop" clause be included in the agreement. This shall require that those who choose not to become or remain Union members must nevertheless pay the monthly equivalent of Union dues to the Union to defray the cost of representation by the Union; and that failure so to remit each month promptly shall constitute just cause for dismissal of the employee refusing or failing so to remit.

Binding Grievance Arbitration - This District has proposed what is known as advisory arbitration of grievances. Stripped of ambiguity, this means that if a grievance concerning the interpretation or application of an agreement term is not settled between the parties alone, a neutral may be called in to hear, make findings, and advise the parties as to what he believes is an appropriate resolution of the matter. His advice may be rejected by either party in which case there is only one "resolution", viz. the last

disposition given before the matter was referred to the advisory arbitrator.

The Union asks that this "non-resolution" be done away with by providing for final and binding grievance arbitration. The Union is not seeking interest arbitration, but only grievance arbitration.

The Fact Finder can see no justifiable reason for refusing the Union's demand. Of the eight other districts with which the Union seeks comparison, only one does not have final and binding arbitration as the final step in the grievance procedure. Therefore the Fact Finder recommends that the parties include a final and binding grievance arbitration clause as the last step in their grievance procedure. The arbitrator's authority should be limited to disputes over the interpretation or application of the terms of an already negotiated collective bargaining agreement. There should also be included a provision for referral to a recognized arbitration agency such as the American Arbitration Association of any disagreement as to who should be the arbitrator in any given case to be referred to arbitration under the clause.

Other Matters - The Union agrees to accept and the Fact Finder recommends inclusion in the parties' agreement, either directly or by specific reference, written Board policy concerning terms or conditions of employment not otherwise covered herein. The Fact Finder notes from the negotiations documents given him at the hearing that a number of matters have already been agreed upon in language terms or concerning which there have been counter proposals

by the District which have not been rejected by the Union. The Fact Finder recommends that such agreed items be included in the collective bargaining agreement even though they may not hitherto have been the subject matter of written Board policy.

April 1, 1972
Date

James T. Dunne
James T. Dunne, Fact Finder