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STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION

RIVERVIEW COMMUNITY SCHOOL DISTRICT

-and-

RIVERVIEW EDUCATION ASSOCIATION

Ruth Kahn 1-25-78

January 25, 1978

Case No. D76-13019

LABOR AND INDUSTRIAL
RELATIONS

REPORT

The parties to this dispute are the Riverview Community School District, hereafter referred to as the School District or simply the District, and the Riverview Education Association, hereafter referred to as the Association. The School District and the Association were unable to negotiate an Agreement for the three-year period following expiration of the 1972-1976 Master Agreement. Pursuant to the School District's application for fact finding, dated July 14, 1977, the undersigned was designated by the Employment Relations Commission of the State of Michigan to serve as the fact finder.

A pre-hearing conference was held with representatives of the two parties on August 25, 1977. Its purpose was to clarify and define the issues to be presented and to establish hearing times and procedure. Three sessions of hearings were held at the offices of the Employment Relations Commission, on October 11, October 12 and November 10, 1977. Briefs were filed on December 10, 1977. Appearing on behalf of the School District were: Kenneth J. Barnes, Business Manager; Grant Bliss, School Board President; John Brady and George Roumell, Attorneys; Douglas Haywood, Superintendent; and Charles Kromer, Administrative Assistant and Chief Negotiator. Appearing on behalf of the Association were: Kenneth Gabel and Joan Kosky, Michigan Education Association (MEA) Executive Directors; Richard Sinner, Association President; George Trudell, MEA Uniserv Director; and Mary C. Zellner, Chief Negotiator.

Riverview Community School District

The differences between the parties involve the following issues: salary; extra-duty salaries; scheduled absence days and payment for unused days; sick bank; maternity and child care leaves of absence; bereavement days; long-term disability insurance; reduction of personnel; seniority; school calendar*; calculation of daily rate of pay and payment schedule.

SALARY

The salary schedule for teachers has a six-lane structure to correspond with the teacher's degree and post-degree education: BA, BA+10, BA+18, M.A., Specialist, Doctoral. Each lane has eleven steps. A teacher moves up a step for each given period of time until he reaches the maximum. He also moves laterally when he acquires the requisite post-graduate hours and/or degree.

The 1975-1976 salary ranges, base to maximum, in each lane were as follows:

	<u>Base</u>	<u>Max</u>
B. A.	\$11,011	\$17,976
B. A. plus 10	11,627	18,717
B. A. plus 18	12,387	19,642
M. A.	13,033	21,326
Specialist	13,980	22,274
Doctor	14,217	22,511

The parties disagree on the size of the salary increase to be granted to teachers for each of the first two years to be covered by the new Agreement. The School District proposes to increase each step of the 1975-1976 salary schedule by 1.5 percent for the 1976-1977 school year. It also agrees to pay the teachers a lump sum equal to 2.5 percent of base salary, to reimburse them for non-contributory retirement benefits (NCR) under the Michigan Public School Employees Retirement Fund. For 1977-1978, it proposes to raise each step of the preceding year's schedule by 5 percent and to pay 2.5 percent NCR. Calculation of the resulting salary ranges shows the following:

* The parties have subsequently resolved this issue.

	1976 - 1977		1977 - 1978	
	BASE	MAXIMUM	BASE	MAXIMUM
B. A.	\$11,177	\$18,246	\$11,735	\$19,158
B. A. +10	11,802	18,999	12,382	19,948
B. A. +18	12,573	19,937	13,201	20,933
M. A.	13,229	21,647	13,890	22,729
Specialist	14,191	22,609	14,900	23,739
Doctoral	14,431	22,849	15,152	23,991

The District and Association have reached agreement that the salary adjustment for the third year of the Agreement, 1978-1979, will contain the following: a Cost-of-Living Adjustment of between four and seven percent, and a three percent improvement factor.

The Association seeks to increase the 1975-1976 salaries by four percent for the 1976-1977 school year, and by seven percent for 1977-1978. It seeks these increases in addition to the 2.5 percent NCR payment each year. Under its proposals, the range of the salary schedules for these two years would be approximately as follows:

	1976 - 1977		1977 - 1978	
	BASE	MAXIMUM	BASE	MAXIMUM
B. A.	\$11,452	\$18,695	\$12,253	\$20,003
B. A. +10	12,093	19,466	12,139	20,828
B. A. +18	12,882	20,427	13,781	21,856
M. A.	13,554	22,180	14,502	23,732
Specialist	14,540	23,165	15,557	24,786
Doctoral	14,785	23,412	14,819	25,050

The District believes its proposal is both fair and reasonable. It claims it cannot go beyond its offer and still maintain its fiscal integrity and provide educational services to the Riverview students. It urges that its Riverview teachers are better paid than 99 percent of the school districts in Michigan, and third best in Wayne County. It also emphasizes the generous fringe benefits which protect Riverview teachers. It claims the reduction in pupil enrollment has caused a drop in Section 143 allocations. It states its financial picture is "bleak".

The Association, on the other hand, argues that its salary demands are consistent with patterns of salary settlement in comparable school districts. It urges that if it were to accept less than its demand, the resulting

settlement "would dramatically diminish the salaries of Riverview teachers, as [they] previously compared with remuneration of other teachers." It agrees its teachers have been relatively well paid and it is determined to maintain that relative position. It argues the District's claim concerning fringe benefits is irrelevant. It disputes the District's asserted inability to pay. It believes there is money available for the higher salary levels which it seeks.

After thorough consideration of these arguments and supporting data, I recommend that teacher salaries for this School District be increased by 3 percent for 1976-1977, and by 4 percent for 1977-1978. The agreed-upon NCR contributions are in addition to these salary increases. The increase for 1978-1979 has been decided: a cost-of-living adjustment together with a 3 percent increase. Viewed together with other economic benefits and improvements to be provided in this contract period, I believe this recommendation is fair and reasonable to both parties.

I am convinced the School District has the ability to pay the recommended percent increases. Its portrayal of its financial picture as "bleak" simply is not credible. First, its 1976-1977 State Equalized Valuation Per Child was \$58,897, which was second highest among the 14 Wayne County school districts which it selected for comparative purposes. Only River Rouge was higher. Second, I cannot give great weight to the District's expression of fears for its economic future. At the hearings, it stated that an important part of its industrial base is with the steel industry. It asserted its concern about an imminent steel industry recession. It appeared to base these concerns on the fact that at the time of the hearing several major steel-producing companies were closing down out-moded facilities in Ohio and Pennsylvania. The District has not shown that it faced similar losses. In fact it presented no evidence of any anticipated decline in its S. E. V. Third, it claims its projected Section 143 revenue has been reduced because of a decline in student enrollment. However, as a practical consequence of student decline, the District is able to effect some budgetary savings. For example, it now employs 165 teachers whereas in 1976 it employed 170. Fourth, a review of the District's proposed budget leads me to believe that the money is available. It has a present equity surplus of \$260,700. Likely added sources may be found through adjustments in plant operations and maintenance, as well as by deferring some planned capital and non-capital improvements. It is possible also to plan a somewhat slower pace

for program improvement without in any way jeopardizing educational attainments. And last, I cannot give much weight to the District's fears of an adverse vote in an upcoming millage renewal. The District believes if excessive increases are granted to the teachers, the voters may express their objection by defeating the 10 mill renewal. In view of my conclusion that my overall recommendations are reasonable and fair to both sides, the District's fears appear to me to be unreasonable and conjectural at most. Its data indicates that among its comparable Wayne County districts its operating millage is fifth from lowest, while as noted earlier, its SEV is second highest. Its teachers are highly trained. One-third have degrees of M. A., Specialist or Doctorate. It has an experienced teacher work force as evidenced by the fact that over 50 percent of the teachers are at the maximum step of their salary progression. It has made a survey of its students' achievements which indicates that Riverview students are above the state average in mathematics and reading objectives. All these factors convince me that the District should have little difficulty in enlisting its voters to support the schools.

I am persuaded that an important element in deciding upon the size of a wage adjustment must be protection of the employees' standard of living from erosive effects of inflation. The cost of living increased by 5.2 percent in the Detroit area between September 1975 and September 1976. It then rose another 6.7 percent by September 1977.* The step increments and lane increments are not intended to offset the effects of inflation. Step and lane increments are an integral part of the salary structure. As a teacher acquires greater experience and/or formal training, it is presumed his classroom performance improves. The increments compensate the teacher for enhanced value. The increments are not intended to compensate for escalating living costs. Increments are a part of the salary progression and equally entitled to protection against inflation. The District has recognized the impact of inflation upon its own budget. Its campaign literature prepared in connection with the June 1977 millage proposal stated: "...our available dollars have been eroded by inflation...[for example, these] increases: notebook paper, 51%; typewriters, 44%; and textbooks, 29%...utilities, 54%."

* U. S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners.

I believe the Riverview teachers, who face higher living costs as well, are entitled to maintain their purchasing power through salary adjustments. My recommendations as to salary increase are intended to accomplish this goal. They are consistent with the pattern of increases in comparable communities. At the same time I recognize that Riverview teachers have excellent fringe benefits. For example, the health protection afforded them insulate them in large part from the spiraling costs of medical-dental care. Viewed in their entirety, I believe these recommendations to be equitable.

EXTRA-CONTRACTUAL SALARIES

Appendix I of the District's proposal contains a schedule of dollar payments to persons undertaking specified extra-duty assignments, e.g., various athletic coaching positions, music instruction, clubs and class sponsorships, drivers education, etc. In all almost one hundred positions are listed. The District offers this schedule for the 1976-1977 and 1977-1978 school years, with an overall 10 percent increase in 1978-1979. The District states the Association disputes its method of computing pay. The Association however presented no evidence or argument in opposition to the District's proposal. Hence I make no recommendation on this matter.

SCHEDULED ABSENCES

In the 1972-1976 Agreement, the parties have a provision for an annual scheduled absence pay-out. It works this way. A teacher is allowed ten paid absences a year for any cause. He may accumulate up to thirty days for absences. Each teacher then receives payment at the end of each school year for his unused accumulated absence days above the total of thirty, calculated at the teacher's daily rate. The parties refer to this as "the annual pay-out". There is a pay-out for unused absence days under two other circumstances: upon termination, at one-half the daily rate for up to thirty days, and at the full daily rate for days over thirty but not more than ten; upon retirement, disability or death, pay-out is at the daily rate for up to forty accumulated days.

The crux of the parties' dispute is that the District wants to eliminate the annual pay-out altogether. It states that its entire economic package is based upon the Association's agreement to eliminate scheduled

absence pay-outs. The Association is equally adamant that it will not sign an Agreement which does not contain provision for an annual pay-out. And it seeks an increase in the number of annual and accumulative days.

The District bases its opposition to the annual pay-out on two grounds, neither of which do I find persuasive. First, it urges that the costs are "escalating and fluctuating". The claim of "escalation" pertains to the built-in relationship between the pay-out and the salary schedule. The same can be said of all benefits which are tied to pay levels, for example, disability insurance or even paid absence days themselves. The purpose of such a relationship is to provide stable income maintenance.

As to "fluctuation", that claim relates to varying eligibility each year, namely in the numbers of teachers who may be entitled to pay-out and the number of days to be paid out. I do not find this objection meritorious. The District does not demonstrate in what way fluctuation per se is burdensome. The "fluctuation" in the pay-out, after all, is no different from fluctuation in utilization of paid absence days or payment for substitute teachers. With a few years' experience under the plan, it should be possible for the District to develop data to enable it to predict with reasonable accuracy the utilization factors.

The District's second argument is that it believes the pay-out would be a major obstacle to voter approval of an upcoming millage renewal. It believes that Riverview voters will object because no down-river district has a comparable benefit. But this was undoubtedly true when the benefit was first introduced six years ago. Yet the voters have subsequently approved a millage increase. I find this argument highly speculative. It provides no sound basis for eliminating a benefit which the teachers have had for a number of years.

It seems reasonable to infer that the pay-out was adopted as an inducement and/or reward to teachers who minimize their absences. If paid absences are reduced, there are two principal salutary effects: the District saves the additional costs for substitute teachers' salaries, and the children benefit from less disruption in the classroom, an important qualitative effect not measurable in dollars.

Most recent figures show that the annual pay-out costs the District between \$70,000-\$75,000. That is about two percent of the total

salary bill. Or stated another way, on a per capita basis, it amounts to approximately \$435 per teacher. Beneficiaries of the pay-out are logically the longer-service teachers who have been able to accumulate the thirty unused days necessary before any pay-out is made. Hence the pay-out not only rewards those who do not use their entire annual allotment of paid absences but it also serves partly as a bonus for longevity.

In light of its several advantages, I believe the annual pay-out is a valuable benefit and should be retained. However, I believe the Association has presented no persuasive evidence that the annual pay-out should be expanded. I recommend that provision for annual pay-out be continued. For teachers who are disabled, retire or die, I recommend retaining the provision for payment at the teacher's daily rate for accumulated absences up to the maximum of forty (40) days. However, I recommend a change in pay-out upon termination. Those teachers shall receive only the annual pay-out, that is, payment at his/her daily rate for no more than ten unused days over the accumulated thirty. I recommend no payment for the thirty days.

SICK BANK

There is at present no sick bank. A teacher has protection for a possible maximum of forty paid absence days, that is, for the accumulated thirty days and the current year's ten added days. A long-term disability insurance program begins after a sixty-day waiting period. Hence with maximum protection, the teacher may be without income for twenty days, or four school weeks. It seems reasonable that the parties should attempt to fill in this gap. I believe a sick leave bank has merit. However, I do not feel the parties have given serious consideration to the best method to achieve this coverage. I therefore propose no bank be established at this time. I recommend formation of a joint study committee to examine alternatives with a view to introducing a sick leave bank in the next contract period.

MATERNITY AND CHILD CARE LEAVES

The prior agreement provided for a Maternity Leave of up to six months. An employee could elect either a "disability leave with benefits" or "a maternity leave without benefits." A longer leave could be granted for extenuating circumstances.

The parties now propose to establish two distinct leaves, and I will deal with each separately. Maternity Leave is intended to cover the time during which an employee is unable to work due to her pregnancy. Its starting and ending dates require a physician's statement regarding the employee's capability to work. During her maternity leave, the employee will continue to be covered by these benefits: life insurance, hospitalization and dental insurance, vision insurance (after 1978-1979), scheduled absence days and seniority.

The Association objects to two conditions which the District seeks to impose. The District would require an employee electing to take a Maternity Leave to give at least sixty days' notice to that effect. It also seeks to reserve the right to require the employee to be examined by a Board physician. As to the first, the Board claims notice is necessary in order to secure a replacement teacher. I can agree that such notice would be desirable. However, I do not recommend that the sixty-day notice be an absolute condition of eligibility. A pregnancy-related disability may occur suddenly, making sixty days' notice impossible. I recommend a test of reasonableness. I concur in reserving to the District the right to have its physician examine the employee.

The Association proposes that the Agreement's provision on Maternity Leave contain language stating that "any incapacitation due to pregnancy is to be considered as any other disability..." The full impact of such language is not clear. The District is concerned that it might give rise to a claim under the Long-Term Disability Insurance Plan which expressly excludes pregnancy-related illness. I recommend the Association's proposed language not be adopted.

A Child Care Leave which does not require physical incapacity may be elected. It does not provide for continuance of such benefits as health care insurance, seniority and scheduled absence days. The District would set the following conditions for eligibility: written notice by application sixty days before starting date, with starting-ending dates specified; physician's certification of pregnancy, estimated delivery date, and recommended last date for work. It proposes to limit the term to one year. The Association believes thirty days' notice is sufficient and might be waived in cases of emergency. It calls for no physician statement.

I recommend a sixty-day notice requirement, to be waived in the event of an emergency. In view of the lengthy leave period, the District

should have sufficient opportunity to procure replacement personnel. As to requiring a physician's statement to establish eligibility, the District has presented no persuasive reasons. Disability is not an element of eligibility for a Child Care Leave. Hence, I see no need for a physician's certification.

BEREAVEMENT DAYS

The parties have agreed on a new benefit, bereavement days. They agree on the number of days to be allotted, according to the closeness of the deceased family member. The District insists on certain eligibility provisions. The first is attendance at the funeral. Others include provisions regarding the effect of vacations, weekends, etc. On the whole, the District's conditions appear reasonable. However, I believe the District's insistence on actual and certified attendance "at the funeral" is unnecessarily intrusive. I propose that this language be modified to provide for reasonable exceptions such as health, family requirements and the like. With that one reservation, I recommend the District's provisions be adopted.

LONG-TERM DISABILITY INSURANCE

A long-term disability insurance benefit program is currently in effect. It provides a monthly benefit of 60 percent of base salary, with a ceiling of \$1000 per month. Its cost is \$12.98 per teacher per month, according to District Exhibit #43. The carrier is selected by the District. The District proposes to continue the plan without change. The Association seeks a higher benefit rate, of 66-2/3 percent of base salary, with a \$1500 monthly maximum. It also seeks other liberalizations. And it proposes MESSA as carrier. It provides no figures to indicate the cost of its proposal.

I recommend that the present insurance program remain in effect for 1977-1978. I recommend for 1978-1979 an increase in the benefit level to 66-2/3 percent of monthly base salary, with a monthly maximum of \$1500. I believe this will provide more realistic income to the disabled employee without imposing a serious cost burden. I recommend no other changes.

REDUCTION OF PERSONNEL

The issue here is whether the Agreement should contain restrictions on the authority of the School District to reduce total teacher employment. It does not pertain to procedures, such as the order of layoff or of recall, nor does it address problems of class size or teacher/student ratio.

The previous Agreement contained two provisions concerning the size of the total teacher work force. For the year 1974-1975, the District agreed to employ the same number of teachers employed at the end of the previous school year, less positions vacated through attrition. It agreed to "make every good faith effort to fill all vacated positions where financially possible." For the year 1975-1976, it agreed to retain the same number of teachers as were employed in September 1974 "unless irreparable harm, inability to pay, or a proportional reduction of student enrollment can be shown."

The Association testified that the District employed 170 teachers in 1976 and it now employs 167* teachers. It seeks to have the District agree to employ at least 170 teachers in 1977-1978 and 1978-1979, the last two years of the Agreement. It also proposes that the District agree to employ the maximum number employed during 1976-1977 "unless irreparable harm, inability to pay, or a proportional reduction of student enrollment can be shown."

The District opposes such a provision. It maintains it should have the right to lay off teachers as it may deem necessary without being bound to a minimum level of teachers during any school year. It proposes the following language:

Section 1. (1) "When due to a substantial decrease in student enrollment and/or district revenue, the Board determines that a reduction in teaching personnel is necessary, the Board will give written notification to the Association..."

* District data indicates the figure is 165.

I recommend that the parties insert the following as a first sentence preceding the above-quoted language:

"The Board will make every good faith effort to maintain the same number of teachers it employed in the 1976-1977 school year."

This is a statement adopted from Section 5 of Article X in the prior Agreement.

I agree with the District's position that it must be able to adjust teacher employment to correspond with its demonstrated needs. As one example, it states that it needs fewer teachers currently because its student population has dropped considerably. It states it now has 3,359 students enrolled, whereas there were 3,582 students in 1975-1976, a loss of 223 children.

I believe the proposed language provides a reasonable balance between the Association's interest in a guarantee and the District's interest in flexibility.

SENIORITY

The parties are in dispute over two issues here. First, they disagree as to whether administrators who have been teachers should continue to accumulate seniority after they have been promoted and are no longer teaching. The past practice has been for teachers promoted to administrative positions to continue to accumulate seniority. Second, they disagree about seniority for a rehired teacher. Presently a teacher who has terminated but who then is rehired is allowed to pick up his past seniority. The Association wants both of these practices to stop. It urges that seniority should be defined as the months of service accumulated only as a teacher and from the most recent date of hire.

Seniority is a benefit conferred by a collective bargaining agreement upon members of the appropriate bargaining unit. It provides protection at times of a reduction in force or a recall. It also may be among the criteria for promotion or other kinds of transfer. In most circumstances, it protects a teacher vis-a-vis another teacher. Given this view,

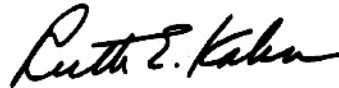
I do not believe the Agreement should confer such protection upon persons who are no longer in the bargaining unit. I make the following recommendations. The seniority list of June 30, 1976 is valid. Thereafter, no administrator shall continue to accumulate seniority for service outside the Association bargaining unit. An employee who was once a member, who then terminated and now has been rehired into the Association unit after June 30, 1976 shall have his seniority commence with his last date of hire.

CALCULATION OF DAILY RATE AND PAYMENT SCHEDULE

Determination of a teacher's daily rate affects payment for days worked beyond the regular school year as well as payment for unused absences. It also affects calculation of the amount on each pay check during the school year but not the total amount received which is determined by the annual figure set forth in the salary schedule. The school year covers approximately 41 weeks or 205 days. The District has calculated the daily rate under the past Agreement by dividing annual pay by 200. It proposes to continue using that figure. The Association wants the divisor to be 187. It urges that figure apparently because it corresponds more nearly to total teacher work days. Neither side presented data to indicate the relative cost of its position. In view of the fact that a teacher is paid an annual salary, it seems appropriate to relate the daily rate to the year. I recommend retaining a divisor of 200 in calculating daily rate.

A final comment concerning this fact finding opinion is appropriate. The overall recommendations represent an accommodation of competing economic pressures on both parties. The District is properly proud of the educational standards it has achieved. It feels an obligation to continue to provide a program of enhanced educational service to the River-view students. It faces inflationary pressures upon its budget. It fears voter rejection of adequate financial support. On the other side, the Association is also proud of the high level of security which it has achieved for

its members. It seeks to provide them with even greater economic security and well-being. Its teachers also face spiraling costs and diminished purchasing power. I have attempted to make recommendations for the new Agreement which will strike a balance between these competing interests. I urge their adoption.



Ruth E. Kahn
Fact Finder