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STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION.

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STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of

Royal Oak Board of Education

-and-

Royal Oak Education Association

Royal Oak Bd. of Education

On September 3, 1970, the undersigned, Leon J. Herman, was appointed by the Employment Relations Commission as its hearings officer and agent to conduct a fact finding hearing relevant to the matters in dispute between the above parties, pursuant to Section 25 of Act 176 of Public Acts of 1939 as amended, and the Commission's regulations. Accordingly, and upon due notice, hearings were scheduled and held on September 14, 15 and 16, 1970 at the offices of the Board of Education, 4000 Crooks Road, Royal Oak, Michigan. Consultations were had with the parties on October 14 and 17, 1970.

Robert J. Battista, Attorney; Bruce K. Potthoff, Executive Director, Business Affairs; Edward W. Hoot, Assistant Superintendent; Herbert J. Goodall, Director, Business Services; Thomas Estes, Director, Pupil Personnel Services; Fred Pieper, Director, Health, Physical Education and Athletics; W. Farmer; M. J. Armstrong; Ronald Todd and A. B. Quigley represented the Board of Education.

Walter Rogowski, Executive Director; Beth Steininger, Recorder; John Duncan; John Botens; Sue Carey and Jerry Yashinski appeared on behalf of the Association.

The Royal Oak School District employs 878 teachers, of whom some 750 are members of the Association. Its pupil population, as computed in an unaudited fourth Friday in September count is 18,769.

Five issues have been presented to the fact finder for consideration: salary, supplemental pay for extracurricular duty, insurance, calendar, and an agency shop. An issue of class size and load, which had been included in the Association's petition to the Commission, was settled before presentation in fact finding.

The salary schedule in this school as it existed in 1969-70 and as proposed by both the Board and Association for the year 1970-71 is based upon a ten step index, with increases every half year. There is no recognizable formula in establishing the rates of pay from step to step and grade to grade. The Board's proposal to the teachers is shown in the following chart:

	I BA	II BA20	III MA/BA30	IV MA15/BA45	V MA30	VI MA45	VII PhD
0	7,900	8,100	8,600	8,900	9,200	9,500	
1/2	8,050	8,260	8,750	9,050	9,350	9,650	
1	8,200	8,410	8,900	9,200	9,500	9,800	
1-1/2	8,350	8,615	9,050	9,350	9,650	9,950	
2	8,500	8,825	9,200	9,500	9,800	10,100	
2-1/2	8,675	9,075	9,400	9,700	10,000	10,300	
3	8,850	9,215	9,600	9,900	10,200	10,500	
3-1/2	9,050	9,450	9,850	10,150	10,450	10,750	
4	9,300	9,700	10,150	10,450	10,750	11,050	

4-1/2	9,575	9,975	10,450	10,750	11,050	11,350	
5	9,850	10,250	10,750	11,050	11,350	11,650	11,950
5-1/2	10,125	10,525	11,100	11,400	11,700	12,000	
6	10,400	10,800	11,450	11,750	12,050	12,350	
6-1/2	10,825	11,225	11,900	12,200	12,500	12,800	
7	11,250	11,650	12,350	12,650	12,950	13,250	
7-1/2	11,700	12,100	13,000	13,300	13,600	13,900	
8	12,150	12,550	13,650	13,950	14,250	14,550	
8-1/2	12,575	12,957	14,300	14,600	14,900	15,200	
9	13,050	13,450	15,000	15,250	15,550	15,850	

The Association complains that the Board's proposal "has gutted out" steps 4 to 7 in that the increases in those steps are disproportionately lower than in the steps above and below. The Association's proposal provides for higher salaries throughout and in addition for greater increases in steps 4 through 7:

	I BA	II BA20	III MA/BA30	IV MA15/BA45	V MA30	VI MA45	VII PhD
0	8,000	8,400	8,800	9,100	9,500	9,800	
1/2	8,145	8,550	9,000	9,315	9,700	10,005	
1	8,290	8,725	9,200	9,525	9,900	10,205	
1-1/2	8,445	8,900	9,415	9,725	10,115	10,435	
2	8,595	9,085	9,625	9,925	10,325	10,660	
2-1/2	8,790	9,305	9,875	10,175	10,550	10,840	
3	8,980	9,525	10,125	10,425	10,775	11,115	
3-1/2	9,210	9,775	10,400	10,725	11,050	11,395	
4	9,440	10,025	10,675	11,025	11,325	11,670	
4-1/2	9,735	10,335	11,000	11,400	11,650	12,000	
5	10,030	10,640	11,325	11,775	11,975	12,325	12,775

5-1/2	10,340	10,975	11,725	12,200	12,475	12,830
6	10,650	11,275	12,125	12,625	12,975	13,330
6-1/2	10,995	11,665	12,575	13,125	13,475	13,855
7	11,340	12,050	13,025	13,625	13,975	14,380
7-1/2	11,790	12,550	13,475	14,125	14,475	14,930
8	12,240	13,050	13,925	14,625	14,975	15,480
8-1/2	12,740	13,715	14,475	15,075	15,540	16,090
9	13,245	14,375	15,020	15,600	16,100	16,700

In support of its claim for increased salaries, the Association has shown that the State Equalized Valuation in this district for 1970-71 is \$353,339,831, an increase over the previous year of \$54,555,621. Based upon its estimate of 19,185 pupils for the year, the Association computed the SEV per pupil at 18,417, with net State Aid per student of \$272.65 for a total in State Aid of \$5,230,790. Property taxes and other local revenue would bring the Board's gross income to \$17,261,242.

The Association asked for an increase in the salary package to the teachers of \$1,030,798, which includes \$13,000 for new teachers to bring the total up to 878 teachers.

It is pointed out that the operating millage for this year in Royal Oak is 27.88, which is one of the lowest in Oakland County. The difference between the two salary proposals, in the estimate of the Association, is about \$275,000.

In rebuttal the Board pointed out that its general fund balance for 1969-70 wound up with a deficit of \$158,943. The City of Royal Oak owes \$70,000 to the Board for rental of school facilities which it has not paid and which, apparently, it is unable or unwilling

to pay. Its income is reduced by the lower interest rates presently offered on long term investments. Its insurance exposure has jumped substantially because it must now accept policies with a \$5,000 deductible clause. It estimates its expenditures for the current school year, including a 4% inflation factor, standard salary increments without increases, and without consideration of books and supplies, to be \$16,027,100, an increase from last year of \$895,951.

Under the recent Supreme Court decision the school must now supply books and supplies to students. It has always supplied books to the elementary students. Its 1969-70 revenue from book sales to junior and senior high school students was \$178,408.54, which does not include sales of used books directly between pupils. It anticipates that its cost for books and supplies for the current year will be at least the same figure which last year it received in revenue.

The Board estimates that on the basis of its own salary proposal for this year it will end the fiscal year with a deficit of \$704,863. Should the Association prevail in its salary demands, the deficit will amount to \$957,431.

Of the nine cities in Oakland County surveyed by the Board, only Southfield at 24.63 and Troy at 23.63 are lower than Royal Oak in operational millage. The other six cities range from 30.63 in Oak Park up to 32.63 in Berkley. A five mill levy expires this year and the Board must go back to the public to request a continuance in order to maintain its present operational millage. The Board is of

the opinion that five mills is the most it can secure from the voters and is reluctant to ask for more. The Association believes that the constituency will support an increase of one or two mills, which would provide additional income for each mill voted of approximately \$350,000.

As previously noted, the parties have heretofore agreed upon a restriction in class size and load. It has also been agreed that the additional cost of this factor will be \$60,000.

Fact finders in this State have frequently enunciated what has become a trite but still true epigram, that school teachers are not expected to subsidize education in their district. This is the province of the electorate. A teacher is entitled to a living wage commensurate with his education, with his work and his standing in the community, and with the level of the standard of living in his community. This has become axiomatic.

A second standard is also observed by those in the fact finding vocation. In determining what is a fair and reasonable scale of salary levels, the employer's potential income must be evaluated, together with its assiduity in obtaining the needed income from the public and the reasonableness of its offer to the teachers. Basically, it boils down to a balance between the teachers' right to a fair living wage and the Board's ability to pay. These are the factors I have sought to weigh in seeking a fair determination in this matter.

The current strike in General Motors plants has seriously affected the economy of this State and the Detroit area in particular. The State has reported losing millions of dollars every month in tax income as a result of the strike and as a concomitant is expending millions of dollars in welfare aid to indigent strikers. It is reasonable to assume that any hope which the Board and the Association have nourished for increase in State Aid to compensate for additional costs resulting from the Supreme Court decision on school books has been substantially dissipated. I am of the impression that the same atmosphere will permeate the millage election which the Board must conduct this year and will militate against any increase in millage, let alone a renewal of the Millage previously voted. I believe it is safe to assume that the Board's deficit is not likely to be reduced by State action or voter millage increase.

I am particularly influenced by the Association's petition, wherein emphasis has been placed, not upon the outer perimeters of the proposed salary schedule, but the asymmetrical progression of increases in Steps 4 through 7.

I believe the objection is valid. While not necessarily intentional, the Board's proposal appears designed to penalize the more experienced teachers in the group. Weighing all factors involved, I am of the opinion that a proportional increase in Steps 4 through 7 in the Board's offer to erase the inequities which are inherent in that schedule would be a fair and reasonable offer to the teachers and one which should be acceptable to them. I have revised the Board's offer with this in mind as follows:

	I BA	II BA20	III MA/BA30	IV MA15/BA45	V MA30	VI MA45	VII PhD
0	7,900	8,100	8,600	8,900	9,200	9,500	
1/2	8,050	8,260	8,750	9,050	9,350	9,650	
1	8,200	8,410	8,900	9,200	9,500	9,800	
1-1/2	8,350	8,615	9,050	9,350	9,650	9,950	
2	8,500	8,825	9,200	9,500	9,800	10,100	
2-1/2	8,675	9,075	9,400	9,700	10,000	10,300	
3	8,850	9,215	9,600	9,900	10,200	10,500	
3-1/2	9,050	9,450	9,850	10,150	10,450	10,750	
4	9,440	9,700	10,400	10,650	10,950	11,250	
4-1/2	9,700	10,000	10,600	11,000	11,300	11,600	
5	10,000	10,300	11,000	11,350	11,650	11,900	12,250
5-1/2	10,250	10,550	11,400	11,675	12,000	12,300	
6	10,600	10,900	11,750	12,100	12,350	12,600	
6-1/2	10,850	11,150	12,225	12,500	12,800	13,100	
7	11,340	11,650	12,700	13,000	13,300	13,600	
7-1/2	11,700	12,100	13,250	13,500	13,850	14,100	
8	12,150	12,550	13,800	14,100	14,400	14,700	
8-1/2	12,575	12,975	14,300	14,600	15,000	15,300	
9	13,050	13,450	15,000	15,250	15,550	15,850	

I believe this proposal to be fair and reasonable in the circumstances and consonant with all the equities of the situation, I recommend that both parties adopt this salary schedule for the current year.

The salary schedule that I have proposed will increase the Board's costs by approximately by approximately \$40,000 to \$45,000. I appreciate that this is far less than the \$275,000 the Association requests. It should be borne in mind that my recommendation is based upon the equities of the situation and the ability of the Board to pay rather than upon the asking price which the teachers have put upon their services. It would have been simpler, no doubt, to split the difference and allocate half the requested difference to the salary schedule, but this is not a fair and equitable way to dispose of the matter. The proposal I have made is not so far out of line with others in the county as to be deemed noncompetitive. Bachelor salaries in thirteen Oakland County districts for 1970-71 range at start from \$7,900 to \$8,225 and at the tenth step from \$13,025 to \$13,415. In the master's schedules the beginning range is \$8,500 to \$8,900; the the tenth step varies from \$14,272 to \$15,300. The number of steps required to reach maximum rate may be as low as nine and as high as eleven. No other district offers half step increments. My proposed schedule of \$7,900 to \$14,050 for bachelors and \$8,600 to \$15,000 for masters offers this Association a salary schedule comparable, in so far as comparisons may be made without consideration of other

constituent elements of cost such as insurance, class load, index, etc., with the neighboring schools in the county. Nor is it so far from the Board's admitted willingness to pay as to complicate the district's financial situation too greatly. It should also be borne in mind that the Association's calculations are based upon a school population of 19,185. The Board's proposal is based upon 19,020 pupils. The actual count is 18,769 which at \$272.65 per pupil amounts to an additional loss to the Board of \$68,435.15. This is a loss which the Board had not anticipated and which it must nevertheless absorb.

It appears to me that the half year increment schedule is extremely cumbersome. It enhances the already troublesome problems attendant upon the negotiation of a contract from year to year. Certainly such an index is anomalous in this State. While I do not suggest that it be discontinued as to the teachers in the system, since such a proposal would be manifestly unfair, I do recommend that it be phased out, with new teachers hired on a straight yearly salary, to the end that eventually the half year system will be discontinued completely.

In the light of the critical financial situation which the Board finds itself, I do not recommend that a longevity payment of 1% be granted to the teachers. I do not recommend an increase in extra pay for extra duty except for those already offered by the Board,

since such increases will unduly enlarge the Board's deficit. Furthermore the extra pay schedule, which is on a percentage basis, will automatically increase as the base salaries to which they are applied are increased.

It has become a common element in employer-employee agreements, in the public as well as the private sector, to provide employer financed group life insurance for the employees. Despite the Board's deficit position, I believe it should take a preliminary step in that direction. \$5,000 in life insurance to cover all the teachers in the system would cost the Board no more than approximately \$21,000. This sum would have little overall impact on the budget for the year and would provide a necessary protection to the families of the faculty. I strongly recommend that such an insurance package be included in the contract pending between the parties.

The Board has proposed a school year of 188 days. The Association asks that the calendar be limited to 185 days.

185 days has become almost a standard school year throughout the State and it certainly is the average for most of the schools in this area. I see no great need for the additional three days and I recommend that the calendar be reduced to 185 days.

The remaining issue in dispute is the agency shop issue. The teachers have requested that the Board grant an agency shop. The Board has declared its philosophical objection to the agency shop and has unanimously rejected the proposal over several years past.

I can find no justification for the Board's position, unless it be assumed that the agency shop is illegal in this State. The Association spends substantial sums of money in negotiation of contracts on behalf of all the teachers and in representing them before the Board of Education. Those who are not members of the Association get the full benefit of the Association's representation and should at least bear a proportionate brunt of the cost of the Association's labors. It is unfair that some teachers should be "free riders", sitting back and taking advantage of the increases negotiated for them while in no way contributing to the cost of the Association's work.

The only substantive argument presented by the Board against an agency shop is the decision of the Michigan Court of Appeals, Division 1, in Smigel vs. Southgate School District wherein the Court indicated that an agency shop is not necessarily "a valid condition of employment". It is to be noted, however, that the Court did not state the agency shop to be illegal per se nor an invalid subject of bargaining, but only that in its opinion the cost to non-members should be limited to the sum equivalent to the actual cost of negotiating and administering the contract. The case was remanded to the Circuit Court for that purpose.

To fall within the restrictions of the Smigel case, I recommend that every non-member of the Association be required to pay a sum equivalent to Association dues. The Board should collect this sum and remit to the Association an amount to be stipulated between the Association and the Board, but not less than 50% of

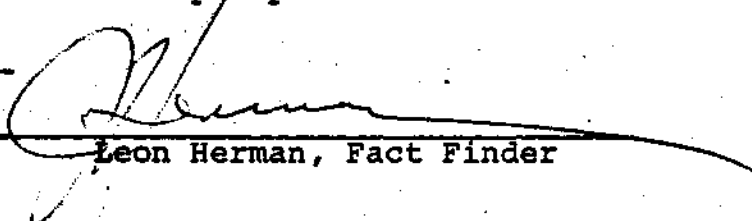
the sum collected. The remainder is to be held by the Board in escrow pending final determination on appeal of the Smigel case.

I further recommend that a grandfather clause be included to protect teachers who are themselves philosophically opposed to an agency shop. I also recommend that all new teachers who join the system be required to subscribe to the agency shop provision, either as members or by agreement to pay the equivalent in contributory dues.

To protect the Board, I also recommend that the MEA as well as the local Association subscribe to an indemnity agreement to reimburse the Board in the event any sums collected by it are ruled improperly collected by the courts and ordered refunded.

I believe my recommendations are equitable and fair to both parties.

I sincerely hope that they will lead to a prompt amicable settlement.


Leon Herman, Fact Finder

Southfield, Michigan

November 6, 1970.