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MICHIGAN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Factfinding between:

ST. CLAIR COUNTY COMMUNITY COLLEGE,

Employer,

-and-

MERC Factfinding
Case No. D 82 E-2808

ST. CLAIR COUNTY COMMUNITY COLLEGE,
MICHIGAN ASSOCIATION OF HIGHER EDUCATION,
NEA/NEA,

Labor Organization.

FACTFINDER'S REPORT AND RECOMMENDATION

INTRODUCTION:

This petition for fact-finding was jointly filed by the Board of Trustees of St. Clair County Community College (hereafter SCCCC, Board, or College) and the St. Clair County Community College Chapter of the Michigan Association for Higher Education, MEA/NEA (hereafter MAHE or Union). The undersigned was appointed by the Michigan Employment Relations Commission (hereafter MERC) as Factfinder. Hearings were held on September 16, 19, 22, 24, 29 and 30, 1983. All witnesses were sworn.

To briefly summarize the background: SCCCC was formed as a Michigan Municipal Education Corporation in 1961.^{1*} The boundaries of the College District are those of the St. Clair County Intermediate School District.² The main campus is in Port Huron, with off campus courses offered at various locations in St. Clair, Sanilac and Huron Counties.

The parties' collective bargaining relationship began in 1968. Eight contracts have been subsequently negotiated. MAHE currently

*Footnotes begin on page 58.

represents approximately 103 full time faculty members and 100 part time members.

The most recent contract was for two years, 1980 through August 1982. Negotiations for a new Agreement began that summer, and continued through August 1983 without success. Mediation failed to solve the parties' dispute. In fact, their bargaining relationship has seriously deteriorated since then. Bargaining terminated. The Employer unilaterally imposed new conditions of employment. The employees responded by withholding their service for three days, and filing three unfair labor practice charges with MERC.

Fortunately for the parties and the public, this acrimony was interrupted by two agreements. The parties would end the stoppage and reinstate the prior agreement (including any step increases that might become due for faculty members and the administrators (career plan employees)). The latter would be covered under a newly-created salary schedule.

Second, the parties agreed to submit their dispute to fact-finding. Thus, this proceeding began.

There are eleven unresolved issues. From the Union's standpoint they fall into two general categories, economics and job security. For its part, the Employer characterizes the second issue as relating primarily to management's right to run the college, and its duty to provide quality education.

The hearings were long and involved. Ten witnesses testified. Unfortunately for those stalwarts who attended the hearing, much of the record is reposed within the 104 exhibits, many of which involve charts, and some of which are exceedingly long. In short, a full

understanding of the complexities of this case can only be had from the exhibits, and the testimony that explains them.

Rendition of a recommendation did not proceed as soon as originally hoped. The original request, ten days from the completion of the hearing, was, in hindsight, outrageously optimistic. The complexity of the record forced both parties to file exhaustive briefs and reply briefs, slowing down the process. Further, the Factfinder was enveloped in an unexpected personal tragedy that made writing an Opinion impossible.

The urgency of this dispute has had an effect on the Opinion. While the parties were cooperative and sympathetic to the needs for extension, the plain fact is that this Opinion should have been out weeks ago. In order to complete this task with as little delay as possible, the Factfinder has been forced to be somewhat summary in citing facts and figures. He therefore asks those who wish to analyze the record to conduct their own review, first of the briefs and then of the exhibits, so they will understand his conclusions.

As a personal note, the parties' extensive briefs effectively and cogently summarized their respective positions. Further, the unusual competence, high degree of preparation, professional attitude and skills displayed by both advocates assisted greatly. In short, I believe I understand the positions of the parties, and the facts and arguments advanced by them; it is my task to find and make principled, final recommendations.

I. V-1-D

LENGTH OF TIME FOR DAN ROBBINS TO OBTAIN A MASTERS DEGREE

A. Demands of the parties:

The Board proposes the existing contractual language, requiring all full time liberal arts faculty to secure Masters Degrees within five years from date of hiring, be extended to include Dan Robbins. Mr. Robbins was previously excepted from that language, and the College proposes he be given three years to obtain the degree.

The Union is willing to extend the language, but counters that he should have five years to get the degree.

B. Discussion:

The requirement of a Masters Degree within five years of date of hire was put into the contract in 1970. Mr. Robbins was specifically excluded from the requirement. No evidence was presented to support a claim that Mr. Robbins teaching ability has been affected by his lack of a degree. It is significant that eighteen to twenty per cent of the faculty over the last three years have not had such degrees.

Mr. Robbins has taught at the school for eighteen years. During that time, and until such time as he obtains a M.A., he has and will be denied continuing status, the contractual equivalent of tenure. The practical effect of this is that notwithstanding his seniority, he is subject to layoff before those employees who enjoy continuing status.

Both sides propose that Mr. Robbins will have to go back to school and get his degree, or face eventual termination. The only

question is the timetable. Some of his credits are up to twenty (20) years old, and there is substantial reason to believe that many of them have lapsed. In the factfinder's opinion, Mr. Robbins' lengthy service militates against any abrupt change in his status. For better or for worse, he has relied upon the exemption, losing credits and retirement benefits as a result.³

Quite frankly, there is a real question in the Factfinder's mind whether Mr. Robbins will ultimately get the advanced degree. Nevertheless, requiring him to get the Master's within five years is punishment enough.

C. Recommendation:

The Union's proposal for five years should be adopted.

II. V-1-1

SENIORITY RIGHTS FOR ADMINISTRATORS RETURNING TO FACULTY STATUS

A. Demands of the Parties:

The Union proposes to change the current language so that former instructors promoted to administrator status shall possess only those seniority rights accumulated prior to their promotion. Administrators are not union members. They should not accumulate bargaining unit seniority and use it to bump long-standing union members in the event they, the administrators, decide to return to teaching. The proposal would exempt faculty members who became administrators prior to August, 1982.

The Board rejects the change of the present language, which grants administrators pro-rated seniority based upon the amount of time actually spent teaching.

B. Discussion:

The Union's complaint is aimed at its representing administrators who are not part of the bargaining unit, and who will be accruing seniority rights that may give them a later preference over bargaining unit members.

Much of that complaint is more theoretical than real for a number of reasons. To begin with, administrator's do not have the right to bump full time faculty; their return to faculty status is contractually conditioned upon their not displacing the full timers. Second, there are presently only two administrators who were promoted from the faculty, so it is not a grand issue in terms of scale.

Further, the problems of alleged "conflict" are more speculative than real. The administrator cannot exercise his seniority rights until he has returned to the bargaining unit. At that time, he will be a bargaining unit member, who will be entitled to union protection.

Finally, giving administrators credit for the time they teach is not unlike giving teachers credit for time spent in other institutions. It would also enhance the teacher's potential for promotion.

I am of the opinion that the Union's complaint, even if based upon real short term concerns, is outweighed by potential long-term benefits to the school and MAHE.

Loss of seniority, or even a bar of further accrual of seniority, will seriously discourage existing faculty members from filling administrative positions. MAHE, this faculty and the public, ultimately benefit if its members with their practical experiences, and perspectives are promoted to administrative positions. This is not

to intimate that promoted faculty will become a "fifth column" for MAHE; it is to suggest that there may be a quality of understanding that administrators from the outside will not possess. They understand the faculty's concerns and problems. These people have been there. Similarly, the administration will gain by promoting from within. The inside perspective of promoted faculty gives them insight into problems and solutions that might be overlooked or misunderstood.

A further important consideration is the concept of "collegiality". Ideally, there should be mutual respect between administrators and faculty. To the extent that administrators are given professional respect through this concession, it may foster mutual respect for the problems of the faculty.

Dean Norris testified to his concept that there should be an ebb and flow, from faculty to administration, and back again. Faculty would be called up from time to time to perform particular administrative jobs, and then return to teaching. That is a principled concept, and I concur with his foresight. The concept of faculty members who administer on a part time or intermittent basis should be encouraged.

C. Recommendation:

The Employer's request to maintain existing language is endorsed.

III. V-2-A-2-d-(1)

LIMITATION ON ATTAINMENT OF CONTINUING STATUS

A. Demands of the Parties:

The Union proposes to "clarify" existing contractual language

to provide that continuing status (i.e. tenure) be attained only after successful completion of the evaluation procedure.

The Employer urges continuation of the existing language (and arbitral interpretation of it) which recognizes the Board of Trustee's inherent right to grant continuing status without evaluation.

B. Discussion:

This issue arose from a grievance heard and decided in the contractual arbitration process. The background discloses the Board of Trustees chose to grant continuing status to an administrator (who was a former faculty member) that returned to teaching. The Union's objection at the time was that the evaluation process was the sole means of acquiring continuing status. The Arbitrator denied the claim.

The testimony of Dr. Norris and Dean Metz was to the effect that the evaluation process was, is and should continue to be the primary method of gaining status. They further testified that they could foresee circumstances, such as hiring teachers tenured at other schools or persons out of private industry, where the grant of such status might be indispensable to procure qualified faculty.

The Union expresses concern about maintaining professional standards. It notes that Dean Metz testified there had never been an instance where prospective faculty refused to come to the college because of the probationary period or the lack of "instant tenure." It urges the issue is one of granting tenure to untried faculty.

For the most part, this is a theoretical dispute. Actual variation from the established evaluation procedure has only occurred once, and that was under unusual and compelling circumstances.

Since it has only happened once, one could construe the grant of the Union's proposal as no great burden on the Board. In fact, its uniqueness suggests the Board is not going out of its way to circumvent the evaluation process. In any event, this issue is a fine question of balance, and it is undoubtedly a close question.

Nevertheless, the Factfinder is persuaded that the Board should not be contractually restricted from directly granting continuing status without the evaluation procedure. In part, this is simply because the range of circumstances and needs for the College, as they may exist in the future, are unforeseeable. A hard and fast rule may preclude the College from responding to a real need and changed circumstance, where the credentials of the individual are not in question whatsoever.

The College has been circumspect in using its power in the past, and the Factfinder sees no reason on this record to doubt their caution in the future. To paraphrase the immortal John L. Lewis: "If it ain't broke, don't fix it." I would only caution the College not to abuse the power.

C. Recommendation:

The present language and interpretation on attaining continuing status should be maintained.

This is not to say that the language should be so maintained forever. The Board has adopted a conservative approach and has ordinarily used the evaluation procedure. Abuse of its power in the future will invite a reopening of the question in future negotiations.

IV. V-6-B-10

FACULTY RECALL RIGHTS

A. Demands of the Parties:

The Union requests four-year recall rights for laid off faculty, rather than the present two years.

The Board counters with an offer of three years of recall within the same discipline, but only two years for recall to split discipline reassignment.

B. Discussion:

It is crucial to understand that layoffs at the College are done by discipline, not on college-wide seniority. Thus, depending which discipline is reduced, the most senior faculty member at the College may be laid off and not necessarily have the right to bump a less senior faculty member in another discipline, even if he is qualified for the position. This makes senior faculty members unusually vulnerable to layoff.

Declining college enrollment is an important dynamic at work here that makes this issue particularly difficult. Enrollment will likely drop in the long term as the number of graduates from high school "feeder schools" declines with the aging of the "baby boom" generation.

A complicating factor is the generally high number of years of service among full time faculty. Depending upon the relatively unpredictable popularity of a particular subject matter, senior faculty members are subject to layoff.

For example, of the thirty-eight disciplines staffed in the College, the seniority of the least senior employee is:

30 disciplines: 10 or more years of seniority;
24 disciplines: 15 or more years; and
8 disciplines: 20 or more years seniority.

Even more vulnerable are faculty members in one instructor disciplines. There are twenty-two such disciplines, and their seniority breaks down:

4 less than 10 years seniority;
4 10-14 years seniority;
9 15-19 years seniority; and
5 with 20 or more years.

As indicated by the Employer's proposal, there are two discrete issues: "in discipline" recall; "split or cross discipline" recall. In evaluating each of them, one must look at both the need for job security, and the College's obligation to provide quality instruction.

Quite plainly, recall within a discipline has virtually no adverse impact on quality of education. This is because it requires the recalled employee to continue to meet initial hiring standards: i.e. basic hiring requirements to teach at the College as set forth under Article V, Section 1. An individual may be hired with a basic college degree, which would require some thirty hours, a substantial number of which would be graduate hours in the particular area to be taught. Liberal Arts instructors are hired at the College with a Masters Degree, and the few who are hired without the Masters must obtain it within five years from date of hire or be dismissed. A Masters Degree requires additional hours, about thirty, in the field, plus a thesis. All hours for the Masters Degree must be graduate hours.

Even more to the point, faculty within a discipline have their teaching experience.

Additionally, Dr. Norris and Dean Metz testified in regard to the College's proposals on administrative seniority that even with considerable time between teaching assignments, instructional abilities may become "a little rusty", but are not lost.

What this all comes down to is that within a discipline, educational excellence is a small factor.

Recall rights in other community colleges are particularly relevant. Of the 23 colleges listed, eight have three years for recall, two have four, and eight apparently do not limit the length of recall.⁴

Thus, one can conclude that the present two-year recall at SCCCC is among the shortest in the state. Similarly, the Union's proposal is much closer to the median.

Therefore, the Factfinder is persuaded that the Union's proposal of four years recall within a discipline should prevail.

A more difficult case is presented on split assignment recalls. Certainly, the vulnerability of senior staff members to layoff evokes strong concern for their potential losses.

Currently, Article 5, Section 5, allows certain instructors to be reassigned to totally new positions or a split assignment between a new discipline and the existing discipline where he or she possesses a Masters Degree. To be allowed to make the reassignment, the person must have the minimum eighteen hours, (undergraduate) which is approximately an undergrad minor. To stay in that discipline for a second year, he must obtain the additional course totaling six hours. The reassigned instructor must complete fifteen graduate hours, or obtain a Masters Degree by the fifth year.

Both Mr. Norris and Mr. Metz testified that eighteen hours in a field is a limited background. It would usually be equivalent to a minor in the field. They further testified of a possible anomaly -- a second year student having more hours than his instructor in the field. In any event, the real purpose of the two-year requalification was to accommodate faculty members. Further, the Employer's testimony tended to establish that any instructor who actually attempted to retrain was able to do so within the two-year requirement.

Softening the Employer's testimony was the Union's proven assertion that any reassigned instructor must undergo one year of evaluation in the new assignment. So too, it would be rare for a second year student at SCCCC to have eighteen hours in one field.

Balancing the competing interests involved is not easy. Split discipline reassignments, with the most minimal levels of training required, ought not to be greatly extended in terms of duration. They are a compromise between the faculty's convenience, and the College's need for basic instructional competence. Therefore, the Board's position on that question is adopted by the Factfinder.

On the other hand, the Factfinder believes that cross-discipline reassignments can legitimately be extended for greater lengths of time where the instructor meets minimum hiring requirements equivalent to a Bachelor's Degree, with a major (equivalent hours, not necessarily declared) in the subject area. The Factfinder thus recommends this as a third and new ground for reassignment over an extended period.

C. Recommendation:

The Factfinder endorses the Union's position calling for four

years of recall rights to a discipline. However, the Factfinder believes that two years, under the current language of Article V, part 5, is quite long enough on split discipline assignments. Nevertheless, on the Factfinder's own motion, he additionally recommends that split reassignment be permitted for up to four years, provided the instructor meets minimum hiring requirements equivalent to a Bachelor's Degree with a major (equivalent hours, not necessarily declared) in the subject area.

V. V-6-D-3

RIGHT OF LAID OFF FACULTY TO PART TIME CLASSWORK BEFORE
HIRE OF ANY PART TIME INSTRUCTORS

A. Demands of the Parties:

The Union proposes a "clarification" of existing layoff provision language to require that a laid off instructor shall have the right to teach any part time class he is qualified to teach before the College hires a part time instructor.

The Employer urges that the "existing contract makes no provision for a laid off employee to have any right to part-time work". The College is willing to acknowledge a right to part time work within the discipline from which the employee was laid off, subject to the full time faculty member's right of first refusal of overload not to exceed four contact hours per semester or nine contact hours per academic year. The College opposes extension of split discipline or reassignments to recall for part time work.

B. Discussion of In-Discipline Recall Part Time Work:

The 1980-82 contract layoff proscribes the order of layoff. First to be laid off are part timers, followed by temporary status

faculty, probationary status faculty, and then continuing status faculty by seniority. Recall "shall be in inverse order" of layoff.

The obvious implications are threefold: (1) continuing status faculty would continue to work and would not be laid off until all part time faculty are laid off; (2) part time faculty are the last group to be reinstated; (3) temporary or continuing status are to be reinstated prior to part time faculty.

Notwithstanding this language and procedure, the College has implemented a policy of not recalling continuing status faculty members to either a part time or split assignment position. This decision led to a grievance and is the subject of a pending arbitration case.⁵ The Factfinder defers to Mr. Brooks' jurisdiction on that case. He is empowered to make a final and binding determination, while the Factfinder can only recommend.

Nevertheless, the issue before the Factfinder is not past conduct and language, but future policy. I am particularly concerned that the effect of the College's position is to lock continuing status faculty out of recall unless a full time position is available. Conversely, part time employees could be reinstated prior to continuing status faculty.

I respectfully disagree with the Board's position for the following reasons.

The contract specifies a hierarchy for layoff and recall. That preference protects the job security of employees, and it does so on a method proportional to their investment in the job.

Second, as a matter of educational and labor policy, the College's first obligation is to its continuing status faculty. Job security is related to long-term educational quality: good teachers

are not attracted to long-term commitments to institutions where they will be subject to permanent job termination by the first passing winds of an ill economy.

The first and foremost benefit of union membership is job security. If tenured employees can be arbitrarily laid off and not recalled, then the rest of the contract is "not worth one damn cent" to them in a crunch. In short, their contract is only as good as the extent it protects their jobs, and their job is only as secure as the contract provides.

Third, overload is overtime. It is unconscionable to have some staff members working overload while other staff in the same discipline are on layoff. The last agreement gave full time faculty a right to first refusal of up to four hours per semester and nine hours per year of overload. This is bad policy.

Fourth, right to part time work within a discipline presents no question of educational quality within the contractual time limits on recall. Instructional ability is not changed by the mere fact of layoff.

Finally, from SCCCC's standpoint, the pool of talent available is threatened. Laid off employees, who are given no income whatsoever are not as likely to wait around, hoping to be recalled. Good teachers may be lost to the College forever.

Thus, the real question is who is going to get the work. The Factfinder believes that the general order of layoff and recall should be applied to offers of part time work within the discipline. First right to part time work in the discipline should go to laid off continuing status employees. Only if all the laid off continuing status employees refuse the work should there be an offer of part time work

to probationary status faculty. An analogous process should be made down through the groups of temporary status faculty; and only after they have all refused the offer, should the class be offered to part time faculty.

From the Employer's standpoint, this is usually not a cost issue. Faculty recalled to part time work receive no fringe benefits, and their salary is a maximum of the C-4 level. This is the same money paid to part time faculty teaching those classes. Part time class work becomes a cost issue only when there are enough hours to return a laid off employee to full employment status. At that point, a part time instructor is almost one-half as expensive as a full time instructor, due to the difference in pay and the nonpayment of fringe benefits to part timers. Nevertheless, the Employer should not use part timers to erode the bargaining unit and the current wage rate.

The bottomline considerations are these. Overload hours are cheap since they are paid at the part time rate. Giving those hours to laid off employees on a part time basis costs the same to the College, but passes real and tangible benefits to those that are laid off. The only personnel injured are those higher status and seniority employees who like extra money. Unfortunately, that extra money is earned at the expense of their fellow employees and Union members. I recognize this honest analysis may alienate some faculty, but that is an internal problem the Union should address.

Similarly, the Factfinder anticipates objections from the Employer to the effect that overload is a sacred and honored contractual right.⁶ Unfortunately, it is not fair or just. In light of the foregoing analysis, the Employer's objections would be similarly

rejected. Costs remain approximately the same, quality is unchanged, the labor pool is preserved or enlarged, and a basic unfairness is corrected. Job security should be the first priority of the Union and the Employer. Simple justice requires that work opportunities be spread as evenly as possible to the College's employees.

C. Discussion Of Cross-Discipline Recall/Reassignment
To Part Time Work:

Right to part time work in another discipline is a tougher question. The arguments for and against such reassignments are essentially the same as those involved in the reassignment issue.

The in-discipline system was put into place by the parties, and works on a full time reassignment. It is a satisfactory way of protecting the educational quality of the College, and the Factfinder recommends that it be extended to recall/reassignment to out-of-discipline part time work.

The Factfinder recognizes that there are real differences between part time reassignments and full time reassignments. In particular, it may be unrealistic that full reeducation be required, particularly when it is anticipated that the part time job may be there only one semester. Also, qualification may not literally be within the requirements of the present reassignment language. In the past, however, the Dean has occasionally deemed someone qualified to teach an available class who might not otherwise have qualified. I believe that power ought to be shared.

Therefore, in addition to that method of obtaining reassignment to part time work, the Factfinder also recommends formation of a standing tripartite committee, composed of the Dean, a faculty

member designated by the Union, and a neutral individual agreed to in advance by the Dean and the faculty member. This committee will have final and binding discretion, based upon majority rule, to determine if the instructor is qualified to teach the class, and what, if any, educational requirements will be imposed. Upon their determination, the position will be offered to the faculty member, subject to acceptance of the faculty member of the requirements as they may appear. Further, such determination by the Committee shall not be appealable to arbitration.

D. Recommendations:

There are three:

(a) Within a discipline, general provisions of the contract for layoff and recall will be applied, so that laid off employees will have first right to part time work over other lower status employees (i.e., highest rank to lowest rank -- continuing status faculty, probationary status faculty, temporary status faculty, and part time status faculty, respectively).

(b) The right to overload will be subordinated to the right of laid off employees within a discipline to be employed part time.

(c) Laid off faculty should have the right to part time reassignment in line with the contractual provisions regarding full time reassignment, or upon recommendation of a tripartite committee, whose form and powers are outlined above.

VI. VI-One-G-9-c

UNEARNED OVERLOAD REPAYMENT FOR INSUFFICIENT HOURS

A. Demands of the Parties:

Both MAHE and the Board agree there should be a change to require repayment for unearned overload. The Employer desires repayment if less than the maximum number of contact hours are worked during the entire school year; the Union urges the appropriate standards would be based upon working a minimum number of hours.

B. Discussion:

Workload and overload standards have been in the contract since 1972-74.

Article VI-1 specifies the workload standard for each group of faculty. The first standard is a minimum and maximum number of contact hours considered to be "normal." The second standard is the number of classes, defined as maximums.

Overload is contractually defined in two ways: (a) contact hours in excess of the semester maximum; or (b) classes in excess of the maximum number of classes. It is currently computed and paid on a semester basis.

Overload is complicated by the fact that the contract permits instructors to "front load", which is a permissive election to teach more than one-half the yearly "maximum load" during the first semester. This "front load" may be used to meet the normal load in the event there are not enough available hours during the second semester. Front loading is a direct exception to the overload language, and neither party has raised it as an issue in this factfinding.

The Board urges, with considerable justification, that it is "inequitable" for two instructors, who teach the same number of hours and classes during a year, to receive different pay for the same work.

However, the practical effect of the Employer's proposal is to eliminate workload ranges and to make the maximums the standard for a full time salary. Moreover, the Union has already conceded the principle and some money at this time. Further adjustments, if any, should be made in subsequent contracts.

C. Recommendation:

The Employer's proposal looks to the Factfinder like an ill-disguised speed-up. Previously, a full time instructor would be paid a full salary, and would have no obligation to repay unearned overload pay at all.

Further, the contract has historically accepted a "range" of acceptable classes and contact hours. The Employer proposes to extract more work for the same pay or the same work for less pay. This would necessarily kill the concept, previously recognized in the contract and in decisions by arbitrators interpreting it, of a "range" of performance. Without a doubt, it is sometimes difficult to schedule classes with precision. Faculty members should have some flexibility.

Therefore, the Factfinder recommends that the Union's proposal of reimbursement for unearned overload pay, if it falls below the minimum range for the year, be implemented.

VII. APPENDIX B

BILL LAKATOS

A. Demands of the Parties:

The Union charges that Bill Lakatos' name was improperly omitted from the continuing status list, where it had been since 1979 through the 1980-82 contract.

The Employer rejoins that this is a matter subject to the jurisdiction of an arbitrator, who will rule on it in a manner that will be binding on the parties.

B. Discussion and Recommendation:

The Factfinder has no record before him as to why Mr. Lakatos' name was omitted from the list. The arbitrator will ultimately decide this issue, and there is nothing this Factfinder can or should do to change that outcome. It would be unseemly for me to usurp his jurisdiction; this is a narrow issue involving one individual, and in no way directly involves the recommendation on a future contract.

Therefore, to avoid further possible unnecessary injury to Mr. Lakatos, and to preserve the status quo, the Factfinder recommends that his name be included in the future contract with the provision that this will not prejudice the outcome of the pending arbitration, and will be expressly made subject to the determination by the arbitrator.

VIII. VI-2-D

CLASS CANCELLATION

A. Demands of the Parties:

The Employer demands that class size minimums for off campus spring and summer sessions be increased from the present seven students to a minimum of ten.

The Union proposes increasing this number to eight.

B. Discussion:

The College has offered classes off campus at Algonac, Bad Axe, Sandusky and Yale for a number of years. Although the classes have not always covered their marginal expenses, they have been offered as a service to those outlying communities. Much of the cost incurred results from the substantial expenses involved in conducting an off campus operation. Mileage paid to instructors is particularly burdensome: as an example, the 170-mile round trip to Bad Axe, for 16 classes (one semester) at 24 cents per mile, multiplies out to \$652.80.

The Employer states that its financial condition has deteriorated; it can ill afford to subsidize off campus classes if there are too few students enrolled. The Board points out that the unreimbursed costs must be made up out of the general fund, and the money is urgently needed elsewhere.

There is little point in highlighting the "statistics war" waged by both parties. The Employer's chart (Exhibit 7) is not perfect. The marginal costs of teaching a class may vary depending on which instructor is involved (salary), whether it is being taught as over-

load or part time (lower salary), and if fringe benefits are involved. Distance from the campus is only one factor.

Similarly, revenues vary depending on origin of the students, (tuition is based on whether the student is in district, out of district, or out of state). Another aspect is the definition of "revenue". The Board's figures entirely ignore property taxes and state aid payments, which amount to a hefty portion of the school's income.

In short, the Employer's figures and charts, artful as they are, do not adequately explain the totality of the situation. It is like trying to describe a three dimensional sculpture by a two dimensional drawing; you get the feeling, but the result is not totally accurate.⁷ However, for purposes of this discussion, it is enough to say that there really are economic problems, and that a lot of these classes are nowhere close to breaking even (tuition payments vs. salary, fringe benefits and mileage) at the ten student level proposed by the Employer.

The Union correctly states that cancellation or continuation of classes should never be based solely on whether the classes are economically self-sufficient. Historically, that has not been the sole criteria. As Dean Metz testified, all SC4 clases are about evenly split on showing a profit or loss. In sum, these classes are a service to the students and taxpayers, and they ought to continue.

The 1980-82 contract allowed classes to be cancelled if seven or fewer students enrolled. The Employer originally proposed a limit of fifteen students, but that has been modified downward in the negotiations.

The Factfinder has real empathy for the Employer's economic concerns. The Employer has demonstrated a convincing need for

economic relief, and the Factfinder accepts the ten student enrollment as the more reasonable proposal of the two. Even then, there is a substantial likelihood money will be lost in tuition and mileage with eleven students or more. However, this is not strictly an economic issue. Allowing the Employer to cancel classes impacts on both the earnings of the faculty, their job security, and the needs of the community. Fortunately, all of these competing interests can be accommodated.

C. Recommendation:

All off campus classes in the spring and summer sessions will be cancelled, if ten or fewer students enroll, unless the Dean directs that a particular class not be cancelled, or the instructor agrees to teach it and be paid only the amounts of revenue the class generates, as per the current provision governing that.

The Factfinder recognizes that granting the Employer's demand is radical surgery. This will represent a 43% increase in the threshold of class cancellation. The Factfinder would not ordinarily do this, since things have not changed that much in two years. Nevertheless, there is a real need, and the administration needs flexibility, in these severe economic times, to decide where limited resources will be allocated.

Despite all of that, the Factfinder would not have accepted the Employer's demand without the safeguards for the faculty.

IX. VII-2-D

INCREASE IN PAY FOR SUMMER ADVISING

A. Demands of the Parties:

The Union proposes that pay for advisors be increased from \$7.50 to \$10.00 per hour.

The Employer says, "No."

B. Discussion:

Summer academic counseling by faculty is a voluntary extra pay assignment. It is supplemental to the regular counseling staff.

The Employer urges its funds are limited, and that it has no trouble filling these strictly voluntary assignments with qualified volunteers. Since the amount of available funds is limited, they should be spread among all faculty members, and not given to a very limited group where there is no demonstrated need.

The Union states that the last increase was in 1978-79, from \$5.00 to the current \$7.50. The pay lags behind the rest of St. Clair County, if compared to K-12 districts, and will still be at the lower end of the range even if the request is granted. It would bring SCCCC close to the hourly rates as other community colleges. Further, compared to the fourteen colleges, the current rate is significantly below all of them. Since the total number of hours are only 200 to 250 per year, the current cost is \$1,875, and the increase would only be \$625. Out of a nine million dollar budget, this is insignificant. Moreover, the fact that volunteers can be had is hardly dispositive or enlightened.

Quite frankly, the Factfinder is convinced that the rate has seriously lagged, and is not presently comparable to other similar colleges. As the difference in pay between these "volunteers" and the regular counseling staff is narrowed, one can anticipate that the college may simply schedule more hours for the counselors. That is a decision it is presumably entitled to make. Nevertheless, the Union is entitled to its demand, and it really is the more fair of the two proposals. The College and the Union will share the consequences.

C. Recommendation:

Summer counseling pay should be increased to \$10.00 per hour.

X. V-1-C-D

CHANGING VOCATIONAL TECHNICAL HIRING REQUIREMENTS

A. Demands of the Parties:

The Employer seeks a requirement that vocational educational faculty members obtain their Bachelors Degree within five years from date of hire. It argues five years are necessary since the very nature of vocational technical education requires hiring teachers from industry, and they may or may not possess Bachelors Degrees.

The Union urges this is a substantial change from the 1980-82 contract, which required two years work experience. It counterproposes that all new hires will have a Bachelors Degree as of the date of hire; grandfathered employees will be subject to state and federal requirements, if any.

Both parties have agreed to grandfather in the existing faculty members, except where the Bachelors requirement becomes a requirement

for state or federal funding. In the latter event, the instructor will obtain the degree within the time specified by the state or federal funding agency.

B. Discussion:

The Union's proposal is an appeal to symmetry. It is also a rather loose attempt to draw parallels between vocational technical instructors and liberal arts faculty. In fact, snide remarks about the Board's position on Dan Robbins were made.

In terms of historical pattern, Dean Metz testified that in the last four or five years, no one has been hired in vocational technical areas without a Bachelors Degree.

C. Recommendation:

Again, the Factfinder must balance the competing interests involved. The Employer's need for flexibility in its vocational technical education department is well-demonstrated. I am convinced that obtaining personnel from industry may be difficult, and should not be further complicated without good cause.

Conversely, the Union's argument is based on the change in established language to get more say in hiring standards. Under the facts presented, I am convinced the scales are decidedly tipped in the College's favor. Therefore, its proposal should be granted.

XI. VIII-1-I

EXPANSION OF TUITION REIMBURSEMENT FOR FACULTY, SPOUSES
AND DEPENDENTS TO INCLUDE CONTACT HOUR FEES

A. Demands of the Parties:

The Union wants the faculty scholarship provision to be "clarified" to include contact hour fees.

The Employer refuses.

B. Discussion:

SCCC provides free tuition to faculty, spouses and specified dependents. In 1977 the College created the "contact hour fee", the equivalent of a service fee. It applies to lab courses used in excess of the credit hours. These fees started as \$2.00 per contact hour in 1977, became \$5.00 in 1980, \$15.00 in 1981, and \$23.50 in 1982.

The Union characterizes contact hour fees as tuition. Their substance would seem to confirm that in general; however, there are valid distinctions. Contact hour fees, unlike tuition, are the same regardless of the student's residency status, and the fees only apply to lab type courses.

There are difficulties in calculating the true costs of this proposal. To begin with, the Employer does not have to run a course solely because the faculty or dependents have signed up, since the contract makes a specific exception for that. There are, therefore, limited marginal costs. The Employer calculates the added costs of the Union's demand to be \$7,000 to \$9,000, depending upon which document you believe.

The discussion of "costs" is somewhat misleading as it appears that the Employer will simply suffer loss of revenue in the approximate amounts indicated, not additional expense.

Concerning comparisons with other community colleges, it is clear that six of the twenty-four listed had no contractual provision concerning it. There is a dispute whether another six have restrictions. The Employer asserts that another 25% limit the benefit to only one class, or a limited number of hours, or to only the faculty member themselves. The Union claims the remaining colleges make the benefit available to spouses and dependents, and that no college hides behind the elusive contact hour fee designation to avoid its obligation.

The College should be gratified when its employees take additional course work; presumably the experience and educational diversity makes them more competent. Obviously, this is relatively rare, since SCCCC does not teach graduate courses. Nevertheless, providing such course work for faculty is good for the school, and the costs (or even lost revenue from contact hour fees) is minimal. Therefore, the Factfinder believes that tuition and contact hour fees should be waived for all faculty members.

The case is not quite so clear for relatives. Most of the costs incurred by the college in connection with staff/dependent enrollment has to do with dependents. Exhibit 55 reveals that faculty dependents appear to take a fairly large number of lab related courses. As a final consideration, not all faculty members have spouses or dependents and thus cannot take advantage of this benefit. However, in a very real sense, these employees subsidize it since there is a finite amount of money available for benefits.

C. Recommendation:

Whether the cost is \$7,000 or \$9,000, the economic times are hard. That amount should be spread among all the faculty evenly, not just among a few.

Therefore, the contact hour fees for the spouses and dependents of faculty should not be reimbursed. There should be a full waiver, however, on faculty contact hour fees.

XII. APPENDICES K-1 and K-2

SALARY PROPOSALS

A. Demands of the Parties:

For the 1982-83 college year, the Employer offers a five percent lump sum cash bonus not to the base, for full time employees as their regular compensation. This bonus would not be applied to overload, part time or summer school salaries. In addition, the Board offers a four percent increase to the base for the 1983-84 college year.

The Union proposes a two year salary increases totaling ten percent, broken down to annual increases of four percent-five percent; five percent-five percent; or six percent-four percent. All of these increases would be "to the base", and therefore would increase the pay for overload, part time and summer school salaries.

B. Discussion:

This is a multi-faceted, complicated and bedeviling problem.

1. Background

The contract expired August 16, 1982. Further, negotiations

failed to produce an agreement, leading the Board to adopt work rules for 1982-83 which included a salary freeze for all faculty. The rules were applied to all employees, including administrators. Step increases were subsequently implemented for the faculty and administrators.

At first blush, there appears to be little difference between the Employer's and the Union's proposals. However, a close examination of the difference in the positions on rolling the funds into the salary schedule is substantial.

The Union contends the Employer's offer, particularly its bonus plan, is a further erosion of the faculty's wages and relative position. It is asserted that the schedule will suffer injury that will repeat in every subsequent contract. For its part, the Employer has urged the offer is fair.

The Employer has repeatedly stated that any deviation from the bonus plan, such as rolling it into the salary, will doom the Factfinder's recommendation to certain rejection by the Board. Similarly, the Union has said that any adherence to bonuses and rejection of adding increases into the salary schedule will cause the recommendation to be rejected -- summarily.

2. Consumer's Price Index and Cost of Living

Until 1978, there was only one cost of living (COLA) index. During that year, two indices were developed: (1) Consumers Price Index -- All Urban Consumers (CPI-U); and (2) Consumers Price Index -- Wage Earners and Clerical Workers (CPI-W).⁸

The Employer urges CPI-U as the proper index. It is the more familiar index, used by Social Security and many major collective

bargaining agreements to peg the cost of living and provide allowances for it.

CPI-U represents all urban consumers -- eighty percent of the population. CPI-U reflects an updated (as of 1978) fixed market basket that "reflects new patterns of consumption" and is taken from surveyed outlets "that are more representative of those which consumers actually frequent."

The Bureau of Labor Statistics tells us about CPI-U. The broad coverage:

"Lowers the average annual income of the index population. Although the addition of salaried and self-employed workers increased the annual average income of the index population, the incomes of the unemployed and of those not in the labor force, also added to the index population, were low enough to more than offset this increase."

An important question is whether to use the index for the Detroit "Standard Metropolitan Statistical Area" (SMSA) or the national index. The Employer favors the former, because the covered area is narrower, and actually includes St. Clair County. The Union opposes use of the Detroit CPI-U because of its inclusion of the unemployed; the very high unemployment rate in the City disproportionately skews the index downward.

The Union is pushing CPI-W, Detroit SMSA as being most analogous of the indices available. It excludes the unemployed and excludes teachers, but includes the self-employed professional (doctors, lawyers, and accountants). The Union's expert witness indicated there was a greater similarity to these teachers than CPI-U.

Further complicating this is the Employer's assertion that because the Employer is contractually obligated to provide increasingly expensive medical coverage, the medical expense component of the CPI should be eliminated. It is said that to do otherwise is to pay employees for costs they are not actually incurring, and thereby penalizing the Employer by making him pay twice for the same costs.

Ordinarily, that argument would be persuasive. However, the Union's expert witness pointed out that there are components of the medical costs under the CPI that are not covered by the college. These include such things as Ace bandages, aspirins, vitamins, plastic surgery, liver transplants (classified as experimental by the insurance carrier and thus not covered), etc. She asserts that there is no justification to exclude medical expenses.

With experts testifying for both sides, this explosive issue becomes difficult to resolve. As an illustration, even the Union's expert admitted the issues "are not cut and dried."

Based in part upon the following charts, which are my distillation of similar evidence presented, the Factfinder decides the CPI-W Detroit SMSA less medical, is the more comparable index applicable to the faculty. (Charts at pages 35 and 36.)

CONSUMER PRICE INDEXES

UNITED STATES CITY AVERAGE

(1967=100)

CPI-U

CPI-W

GROUP

ALL URBAN CONSUMERS

WAGE EARNERS & CLERICAL WORKERS

URBAN

		Percent change from				Percent change from	
		1 yr. ago	1 mo. ago			1 yr. ago	1 mo ago
July 1980	ALL ITEMS	247.8	13.2	0.1	248.0	13.0	0.1
	ALL ITEMS (1957-59=100)	288.2			288.4		
	All items less med. care	246.5	13.3	.0	246.6	13.1	.0
July 1981	ALL ITEMS	274.4	10.7	1.1	274.6	10.7	1.2
	ALL ITEMS (1957-59=100)	319.2			319.4		
	All items less med. care	273.0	10.8	1.1	273.1	10.7	1.2
July 1982	ALL ITEMS	292.2	6.5	0.6	291.8	6.3	0.6
	ALL ITEMS (1957-59=100)	339.8			339.4		
	All items less med. care	289.9	6.2	.5	289.6	6.0	.6
July 1983	ALL ITEMS	299.3	2.4	0.4	298.2	2.2	0.3
	ALL ITEMS (1957-59=100)	348.1			346.8		
	All items less med. care	296.0	2.1	.4	295.1	1.9	.3

CONSUMER PRICE INDEXES

DETROIT

(1967=100)

CPI-U

CPI-W

GROUP

ALL URBAN CONSUMERS

WAGE EARNERS & CLERICAL WORKERS

URBAN

		Percent change from		Percent change from			
		1 yr. ago	1 mo. ago	1 yr. ago	1 mo ago		
July 1980	ALL ITEMS	253.7	15.6	-1.2	252.1	14.7	-1.4
	ALL ITEMS (1957-59=100)	291.5			289.7		
	All items less med. care	249.2	15.9	-1.2	247.4	15.0	-1.5
July 1981	ALL ITEMS	283.1	11.6	0.9	278.9	10.6	1.1
	ALL ITEMS (1957-59=100)	325.3			320.5		
	All items less med. care	278.5	11.8	.9	274.1	10.8	1.1
July 1982	ALL ITEMS	292.4	3.3	1.1	289.3	3.7	1.2
	ALL ITEMS (1957-59=100)	335.9			332.4		
	All items less med. care	287.0	3.1	1.1	283.8	3.5	1.1
July 1983	ALL ITEMS	298.4	2.1	0.6	303.8	5.0	1.0
	ALL ITEMS (1957-59=100)	342.9			349.1		
	All items less med. care	292.6	2.0	.5	298.1	5.0	1.0

There is no need to recapitulate what these charts display so well: Inflation has continuously eroded the value of the faculty's salary. Equally obvious are the substantial differences between these sets of figures, which accounts for the vehemence of this technical argument.

As argumentative as cost of living figures are, they are an important component that must be considered, particularly when, as here, almost ninety percent of the faculty is at the top of the salary schedule and they do not receive step increases. In a similar way, part time instructors have their pay fixed at the maximum C-4 level of the schedule. Thus, inflation's effects are particularly onerous to them.

Fortunately, the cost of living is only one component making up the basis for the recommendation. It is important to remember that inflation is everywhere, and it has an equal impact on similar bargaining units in the area. To that extent, inflation has presumably been reflected in their bargaining. Comparability is a related consideration.

In any event, inflation is one clear illustration why the Employer's bonus plan is so unfair. A five percent bonus in the first year, not rolled into the schedule, does not have the compounding effect that inflation does. It is similar to firmly tying a salvage vessel to a sunken ship wreck with a twenty-foot chain in twenty feet of water. As the tide rises, the rowboat maintains the same level -- and is ultimately swamped. The Employer's proposal will put these employees permanently behind. The "improvement" in the salary schedule will only be four percent at the end of two years. If the Union members are expected to sell their future earnings, a one time five percent bonus is just too cheap.

Another factor militating against the Employer's bonus plan is the harmful effects it will have on those faculty members who retire in the next five years. Their benefits will be computed on the average of their best five years, which are their last five years. A bonus will harm them because it does not roll in, and thus compound their retirement.

A further objection to the bonus plan is its contravention of the unvarying practice going all the way back to 1968.

A major objection to the bonus plan is its inequity. The Employer repeatedly insisted at the hearing that it has always given any increase that MAHE obtains to all other employees. This has said it considered this to be a matter of honor and fairness. In fact, it was so committed to this principle that in evaluating the proposed wages for MAHE, it costed out the increases based not merely on the pay to MAHE members, but instead based the projections upon the costs to give the increase to all employees at the College. Quite frankly, I think this is generally good labor policy,⁹ and I commend the College for its concern about fairness. It is for these reasons that the Factfinder is most perplexed by the College's attempt to deviate from this avowed policy. This bonus is directed only to full time faculty, and then only to base pay. It ignores part timers and temporary employees. It disregards overload. No credit is given for extra duty and summer school assignments. To sum up, the scope of the proposed bonus plan is woefully inadequate, inequitable, and contrary to the Board's stated concern of fairness.¹⁰

The bonus will produce the unconscionable result of the faculty earning less the second year than they did the first for identical work. No one can recommend, or be forced to agree to that.

The long-term effect of inflation must be considered, beyond the short-term. Many faculty were at the maximum of the salary schedule as early as 1971-72. More than half were at that step before 1975. Those persons who have "maxed-out" and are still on the faculty are described as the Employer's "worst case." They are the ones who have seen their earning power eroded. Exhibit 17 shows the MA maximum step in 1971-72 to be \$14,761. At the end of 1981-82, that same individual would receive \$25,973. The salary increase of \$11,212 was seventy-six percent, according to the exhibit. During that time the CPI went from 123.9 to 282.8, an increase of 160.9 or 130 percent.

Notwithstanding the Employer's statements indicated above, the disparity is perhaps not quite so bad. To begin with, a person's place in the salary schedule does not necessarily reflect actual earnings. Overload, extra duty and summ assignments mean extra pay. Another factor is changes in fringe benefits. A particularly good example occurred in 1974-75. At that time, the College began paying the employees' five percent retirement contribution, in lieu of a larger salary increase. Since this contribution is related to gross wage, it was in effect an increase in base pay, and has compounded in line with the general increase in the base salary. Addition of dental insurance had a similar effect, though less profound. Further, the CPI does not take into account changes in quality of goods and services. Part of the reason why medical expenses have increased so dramatically is that medical services are better, and longer, as people live more years. Those are all costs paid for by the Employer under its medical insurance plan, and they are a very real, though subtle, benefit to the employee.

Then too, the worst case is partially offset by all of the rest. An employee who was at the M.A. minimum in 1971-72 was receiving \$9,021. Due to step increases over the next ten years, that teacher's scheduled salary reached \$25,973; the \$16,952 increase amounts to 188 percent. Obviously, that comparison is clouded by the fact that the instructor, with increased experience, became more valued under the terms of the parties' agreement.

Another important but often overlooked fact is that no matter what happened to salaries over the last ten years, what we are really concerned with is the CPI since the last contract. The parties were in possession of these older facts, and they were merged into the contract as it was written; it is relevant background, but it is nowhere near as important as what has happened since.

The difference in the various CPI indices cited by the parties is graphically illustrated during that two-year period.

SUMMARY OF PERCENTAGE CHANGE IN CPI -- 7/81 TO 7/83

<u>INDEX & GROUP</u>	<u>%</u>	<u>INDEX & GROUP</u>	<u>%</u>
Detroit CPI-U All items	5.4	Detroit CPI-U Less med.	5.1
Detroit CPI-W All items	8.9	Detroit CPI-W Less med.	8.8
<u>U.S. CITY AVERAGE</u>		<u>U.S. CITY AVERAGE</u>	
CPI-U All items	9.1	CPI-U Less med.	8.4
CPI-W All items	6.4	CPI-W Less med.	6.9

The Employer relies on the lowest figure, 5.1 percent. In the context of the other figures, that figure seems dubious. The Factfinder thinks the CPI-W Detroit figure is closer to the mark at 8.8 percent, but also recognizes a case can be made for using the U.S. City Average of 6.9 percent. In any event, these figures are a starting point for

any examination. And it is clear the College's offer does not stand up to close scrutiny. The Employer characterizes its five percent bonus, four percent to the schedule offer as "approximately a nine percent increase over that time period." Since it is not rolled into the schedule, it does not fit that generously interpreted description. It is actually five percent in one year, followed by what is effectively an approximate one percent reduction the second year. This is an aggregate four percent or four-and-one-half percent in two years, depending on how you count. It is less than the inflation rate as acknowledged by the Employer.

3. Comparability And Comparisons To Other Schools

The Employer has argued that the community college is so unlike high schools that any comparison between them is unfair and inappropriate. It emphasizes that the college work year is about 160 days, compared to 185 days in high school, and that SCCCC faculty have opportunities for overload classes, and spring and summer sessions which add substantially to their compensation.

Notwithstanding these facts, the College's claim again fails to pass close scrutiny. The different work years have existed for years, hand-in-hand with the relative differences in salary. No evidence of a change in the historical pattern has been suggested.

It is also true that there are slight differences in funding between the College and K-12 districts. But these districts are subjected to similar, albeit not exactly matching, pressures from the state government. Similarly, changes in State Equalized Value within the county hurt or help both the College and the involved school district.

The Factfinder is persuaded that districts with a demonstrated relationship may be used as a valid basis of comparison, even if there are substantial differences between their situations. Obviously, the Factfinder must be aware of the differences, since they may affect the weight to be given to the comparison. Nevertheless, this is a valid analytical tool, and one of the few objective criteria available.

The College faculty can and should be compared to the K-12 teachers in the county since they are clearly the most similar professional group within this large area. Their educational backgrounds are similar, although the average instructor at the College is more highly educated. Similar services in similar environments in a contiguous geographic area are performed by both groups. More persuasive still is the historical correlation between the high school salaries and the college's.

Specifically, for the last ten years, the College has maintained a relatively stable leadership position when compared to the other school districts in St. Clair County. The Employer's proposal would drop the College ranking significantly. Exhibit 16 ranks the salaries of the eight districts in the county for the past twelve or thirteen years. The districts are ranked from lowest to highest; four different levels (BA minimum and maximum and MA minimum and maximum) are compared. These rankings conclusively demonstrate that the College has consistently ranked at or near the top of salaries. This is consistent with the common sense impression that the college is the educational leader of the county, both in terms of education and specialization.¹¹

The Board's current proposal would change this dramatically. At the BA and MA minimum levels, the College would break a pattern

where ten of the last eleven years it has ranked first. It would drop to third and second with the Employer's proposal. At the MA minimum level, the College also ranked first in all but one of the last eleven years.

At the BA maximum level, the College offer would drop the faculty from second (1981-82) to fourth (1982-83) and then fifth (1983-84).

The College makes its comparisons to other community colleges. In Exhibit 58, the College was thirteenth in size for the year 1982-83, and 12th in average salary for full time faculty. In 1981-82, it was fourteenth in size and seventh in average salary. It was thirteenth in size and salary for 1980-81.

It must be noted that other schools require faculty to teach additional classes or be present for "non-teaching days of responsibility." The College claims it compares unfavorably to those schools and concludes that its relative position, as exemplified in Exhibit 18, is maintained by the Employer's offer. The Union persuasively argues that comparisons to other colleges are valuable, but that there are many more relevant factors than just size. It submits the most useful comparison are based upon considerations of size, geography, wealth, and other factors.¹²

The Union's conclusion, based on Exhibit 18, is that faculty at the maximum on the schedules were the lowest paid at SCCCC of all the colleges for the year 1980-81. While there was an improvement in the next year, the Employer's proposal will cause a downward slide for the two years of the contract.

4. Administrative Comparison

Faculty and administrators perform different functions, work

different schedules and hours, and are compensated differently. As a general comparison, there is not much more in all the invective than that.

The Factfinder is persuaded that administrators and faculty are rivals for the same slice of the College's economic pie. To that extent, it is important to note that the new career plan for administrators was implemented after the strike, and for the first time in history provided for automatic step increases ranging from four percent to nineteen percent. Furthermore, the Board has always granted career plan employees the same additional percentage increase the faculty negotiated in its contract. These automatic step increases are particularly significant in light of the fact that the preponderant majority of the faculty is at the top of the scale and is therefore ineligible for step increases.

In conclusion, the Factfinder expressly rejects the Union's attempt to compare administrators and faculty if the purpose of that comparison is to suggest they should be paid the same rate or receive the same benefits. It is fundamentally an "apples and oranges" kind of exercise. However, to the extent that the College, through its administration, is willing to grant administrators large automatic step increases, this is an apparent vote of confidence in the College's ability to withstand the costs.

Fair comment requires the further observation that this institution has historically devoted a substantially smaller percentage of its revenues to administration than almost any other community college in the state; while at the same time it devotes an extremely high percentage of its revenues to instructional expenses.

5. Relative Costs of College Program

St. Clair County Community College usually ranks third (sometimes fourth) in the state based on the percent of budget spent on direct instruction.¹³

The hearing established that there is some kind of problem at SCCCC. While the College is almost in the middle of Michigan community colleges based on full year equated students (FYES) and total revenues, the ranking seems disproportionate to its instructional costs. The College is in fact a high revenue/high costs institution.

The causes of this apparent imbalance are obscure. While some claims were advanced at the hearing that the age of the faculty was a factor, it appears that many of the community colleges also have 85 percent to 95 percent of their faculties at the top of the schedule. The College claimed that SCCCC has a shorter work year and a lower work load than some institutions, and a disproportionately high ratio of full time instructors to part timers, compared to other colleges. It was also asserted that classes were small on the average. From this, the College indirectly argues that the faculty can have sloth, or it can have money, but it is economically impossible to provide both.

The Union does not dispute the revenues, expenditures, and instructional expenses. It does note, however, that the College ranks fourteenth in total compensation costs, and asserts that is a low rank given the high revenues and instructional costs per student. It asserts (correctly, I believe) that the Employer did not demonstrate on this record that the College faculty has a significantly shorter work year than other colleges. Moreover, it points out that contact hours are similar to other colleges, and Dr. Norris admitted that is

the truest measure of the work year. Further, average headcounts per section, according to the ACS Report (Exhibit 79, page 23) compiled by the state, are slightly higher than the state average.

What this all adds up to is unclear. What is clear is there is a problem with high instructional expense. It may be related to the ratio of full time to part time faculty, but that is not clearly established. This is an area that needs study and correction, since it threatens the long term viability of the entire institution.

6. Gains Already Made

The Employer claims to have already given the compromises that were justified at the table. It urges the Factfinder to not engage in baby splitting, since this will only send a message to the College to hold things back to "lose" or give up in fact finding.

The Union's response is to minimize the success it had at the bargaining table as only minor revisions of old language.

7. Ability to Pay

Compared to the earlier issues, this is probably the most complicated problem facing the Factfinder and the parties. It is the Employer's main line of defense, and if for no other reason, deserves serious consideration and scrutiny. As an aid to understanding the reader, a relatively brief recapitulation of the salient points by each part will be had.

The Employer contends it has a legal, moral and equitable obligation to consider all of its employees and compensate them fairly in light of the funds available. In all previous years, all employees were granted similar increases, with only occasional minor differences

within the units. Thus, the Factfinder should review this controversy only from the perspective of treating all the units with the same general benefits. Moreover, any increase that becomes part of the permanent compensation package should also be reviewed as it may relate to future budgets and negotiations.

The Employer offers a history of the general fund balance. In the ten years leading up to 1982, the balance of unspent revenues had gradually grown to about \$346,000.¹⁴ This slow but steady growth illustrates, among other things, the Board and Administration's realistic budgeting.

From a budgetary standpoint, 1982-83 was as outstanding as it was unique. The state's fiscal problems forced the College to suspend intercollegiate athletics, college health services, and lay off staff. All of the College employees took a wage freeze (except for some faculty under the contract, but no step increases were paid). On the positive side, the warmest winter in recent memory significantly reduced utility bills. Costs of fringe benefits unexpectedly slowed. By the spring a major income tax increase provided sufficient additional revenues so that the state could pay its commitments of state aid, which had previously been reduced by executive order. The cumulative result was that revenues were 1.9 percent over projections, and expenditures were .7 percent under budget. This provided the College with a fiscal year balance of \$214,000, thereby increasing the cumulative fund balance to \$560,000.

The 1983-84 budget calls for total expenditures of \$8,670,000, of which 77 percent are designated for salaries or fringe benefits. The figure does not include increases for wages or step increases for any of the employee groups. The Employer avers that there are no

contingency funds or other unappropriated funds in the budget.

The Employer states that student enrollments at the College have remained fairly stable over the past ten years. There has been a modest rate of decrease since 1980-81, and the Employer anticipates that will continue over the next few years. Another revenue factor in addition to raw enrollment figures is the number of student credit hours enrolled. Dr. Norris indicated they were down four percent in the autumn 1981, and eight percent the next fall. Therefore, tuition and fee income is projected at about 2.8 million dollars, assuming a two percent enrollment decline. The Employer hastens to add that enrollment will probably decrease by only one to 1.5 percent, based on current enrollment figures. Increased enrollment may or may not result in increased expenditures unless the College has to hire more part time instructors. That will depend upon what classes the students enroll in.

Property tax revenue is projected at \$2,685,000, based upon the state equalized value (SEV) provided by the county. SEV has been leveling off because major adjustments from construction of new power plants by Detroit Edison and Consumers Power have been offset by the moth balling of older power generating facilities.

State aid is projected at \$3,015,000, although recent estimates now place the figure at \$135,000 more.

Total income under the revised projections is said to be \$8,820,000 for 1983-84, and the Employer deems this realistic and in agreement with past revenue trends.

The Board costed out its proposal. The five percent bonus for all full time staff would cost \$275,000. The four percent added to the base would cost another \$255,000. The two-year step increases

would add in \$153,000. Total costs are \$683,000, which must be added to the present budgeted expenditures.

Therefore, the total expenses should exceed projected revenue by \$533,000 for 1983-84. This will leave \$26,000 in the accumulated balance fund at the end of the 1983-84 college year.

The Board examines the lowest possible combination acceptable to the faculty. It costs these out, including step increases and payments to all employees, at \$1,063,000. This would create a net loss of \$913,000 for the year, and would create a negative accumulated fund balance of \$560,000. That would wipe out ten years of hard work accumulating a sizeable fund balance. It would also violate the external auditor's recommendation that the College carry an accumulated fund balance of at least five percent of total expenditure, since there is no contingency fund to smooth out cash flow or protect against unexpected contingencies.

The College's final ability to pay argument relates to projected future impact. Income projections for 1984-85 provide for an eight percent increase in tuition. With a falling enrollment, this will mean an increase of tuition rates of about ten percent. The College has also projected a two percent increase in property taxes, which is slightly higher than forecasts by other agencies. The state aid increase is estimated at seven percent, which is higher than that for 1983-84. Miscellaneous income is supposed to be about the same. In sum, the College forecasts a 5.8 percent increase in revenues, for total revenues of 9.3 million dollars.

Estimated expenditures excluding salary, are projected to increase by twelve percent, about \$300,000. This is despite the average yearly increase of 15.9 percent in the past. Without compensation increases,

total 1984-85 expenditures would be up 3.5 percent to \$8,971,000. The Employer then adds in the four percent it offered for the second year of the contract, plus step increases, and comes up with a total of \$493,000. As a result, the Employer anticipates expenditures, based on its own offer, of \$9,464,000 for 1984-85. This is all based on an assumption of no salary increase for 1984-85.

On the 1984-85 projection, income is pegged at \$9,305,000, after the refund of \$25,000 tax to Consumers Power. To sum up, the Employer sees a projected excess in 1984-85 of expenditures over income to the tune of \$159,000.

The College projects that the Union's proposal would create a net yearly loss \$814,000, based on the roll in of the percentages to the base.

The Union asserts the Employer has the ability to pay, but is simply unwilling. Over the past seven years, the Employer has had a consistent increase in total revenue (see Exhibits 32, 33 and 72). The steadily growing fund balance conclusively proves revenues have grown faster than expenditures.

In that connection, it should be noted that the \$11,000 dip in the fund balance was caused, in the Union's opinion, by the totally discretionary transfer of \$86,000.¹⁵

Further, the clear trend is to spend less on instruction. If the Employer only continued to spend a constant percentage of its increasing revenues on instruction, the Union's proposal could easily be granted.

The Union doubts the validity of the College's projected 5.4 percent increase in expenditures, excluding increases in compensation. It urges that the College's denial that there are no contingency or

unappropriated funds in the budget is incredible. There was an \$80,000 discretionary transfer for maintenance and replacement. Almost \$100,00 more in salaries seems to be lurking there. It must be noted that \$138,964 is budgeted for equipment maintenance, and \$52,350 for building and ground maintenance. These projections are said to be, at best, "guess-timates".

Further, while the Employer adopts a supposedly balanced budget, where revenues are nearly equal to expenditures, revenues are habitually underestimated and expenditures overestimated. Thus, the fund balance grows and grows, according to MAHE.

Concerning the College's projected costs-outs, the College's figures are said to be very misleading. Costs were not based on bargaining unit members, but on the entire college staff. As an example, the college claims that step increases will total \$153,000, yet Dr. Norris admitted that steps for the faculty cost only \$12,00 per year. The Union therefore concludes the bulk of that amount is being spent on another group of employees, probably administrators.

Union Exhibit 30 is the Union's cost analysis. It meticulously documents that the Union proposal can cost no more than \$425,000, tops.

As a further note, one alleged consequence of the College's overestimating the costs of these proposals is that the projections on future fund balances and net revenues/losses are meaningless.

Finally, the 1984-85 projections on future fund balances and net revenues/losses are meaningless. Finally, the 1984-85 projections of the Employer are said to be guesses. No one knows what revenues or expenditures will be. No one can know the health of the Michigan economy. Nor can anyone project the enrollment, weather, or political climate. Unsubstantiated long-term projections are no rational basis for a fact-finding recommendation.

Without a doubt, the ability to pay issue is hotly contested. In large part, it comes down to the credibility and integrity of the budgeting and spending process. The factfinder generally believes the projections by the employer. With the exception of the 1982-83 school year, the growth in the fund balance has been slowly upward. This signals astute and accurate budgeting in the past. 82-83 was highly unusual, and the factfinder does not consider it to be a pattern for the future, or a stain on the forecasting ability of the budget makers.

A great amount of ink has been spread around about the fund balance. The ten year growth, incremental as it was, supports the employer's contention more than it does the association's theory. Further, there is nothing wrong with the existence of a fund balance. The independent auditors are right that prudent financial planning requires the existence of a fund for contingencies.

While the Union has vociferously protested that there was profligate "discretionary" spending, the record does not support that claim. Nor does the factfinder find any evidence of a secret contingency fund.

To sum up, the Factfinder is persuaded by the College's ability to pay argument. This limited ability narrowly circumscribes the Factfinder's discretion. The college's offer is not wholly unreasonable in light of its ability to pay. Nevertheless, the Factfinder believes the packaging of those figures is quite another matter.

8. Conclusion and recommendation on salary

This is a sophisticated problem. It is real world, not just an academic discussion. All of the relevant factors must be considered, not just one in isolation.

The College and the Union have both been adversely affected by inflation. Costs have risen, and neither party is in much of a position to do anything about it. Nevertheless, the Board's proposal is less than the rate of inflation, as proven. The refusal to roll the salary increase into the base rates is unconscionable. Further, the Board's willingness to provide a "one shot bonus" to some employees, is inconsistent with its general position that equity requires all of its employees to receive the same treatment. On the other hand, the Union's proposal significantly exceeds the inflation rate. As a surface level, it is a plea for significant salary improvement in the midst of an economic downturn. The cost of living narrowly is closer to the Union's position than the Employer's, but both are off the mark.

Comparisons to other schools and teachers was another issue. Quite clearly, these comparisons favored the Union's demand, although again it seemed to err on the side of too much generosity. The Union's demand met or exceeded virtually all of the comparable settlements. Conversely, the Board's proposal will break with historic patterns, and leave these teachers, particularly the faculty at the top of the salary schedule, substantially poorer when compared to their brother and sister instructors.

The Factfinder rejects the administrative comparison. It is essentially irrelevant. The single relevant fact in that comparison was that the college chose this year to implement an automatic schedule for administrative salary increases. The increases range from four to nineteen percent, and increases have never been automatic before. This seems to be a vote of confidence by the Board of Trustees and the administrators in the college's long term prospects.

Relative costs of the college program is another factor, and it seems to support the college's position. This is a comparatively high

cost, high revenue institution. Both sides must negotiate about this in the future, since it threatens the college and the faculty.

This college has in fact a limited ability to pay. The budgeting process was credible enough to establish the existence of long term problems. These problems are over and above the uncertainties of a state-funded institution in an era of recalls and new found fiscal conservatism. Because of the limited ability to pay, the factfinder has earnestly tried to work within the rather narrow frame work of "the possible" provided by the college's proposal.

The parties asked the factfinder to resolve their disputes for this year and last. Unfortunately, this process has been slow, cumbersome and difficult. We are faced with the prospect of settling this contract and turning immediately to a new round of negotiations. This will be just so much more instability, and it will hurt the college, the union, and the public. The damage will be to each group individually, and to their interrelationships and interdependencies. Further, the college and the union will be denied an opportunity to see how rather substantial language changes work in practice, and those issues may be reopened without an adequate basis of information. Everyone deserves and needs a shelter from continued conflict.

Another important consideration is the ability of the parties to plan and budget. We are half way through the second year of an unresolved two year contract. The Board of Trustees has little flexibility at this point. On the other hand, the faculty deserves some incentive to swallow what is a rather large pill. The factfinder believes that a larger increase, in a third year of a contract, could very well accomplish beneficial results. Moreover, the college could budget and plan around it.

The factfinder therefore has undertaken to recommend a three year wage package. In basic form, the first two years are the money offered by the Employer, but apportioned among the faculty in a different way. This will be marginally more expensive in those two years than the college's offer, but it is within spitting distance of it. On the other hand, it will go a long way toward protecting the rather compelling needs and position of the faculty.

The three year package calls for three percent to the base for each of the first two years, and six percent in the third year. This is marginally more than the Union demanded, although it is spread over three years. Since most of the full time faculty is at the top of the salary schedule, the effect on those individuals is illustrated below:

	82-83	83-84	2 year total	84-85	3 year total
COLLEGE PROPOSAL	5% bonus \$31,816	4% to base \$31,513	\$63,329	6% to base* \$33,404	\$96,733
UNION PROPOSAL	4% to base \$31,513	6% to base \$33,404	\$64,917	6% to base* \$35,408	\$100,325
FACTFINDER PROPOSAL	3% to base \$31,210	3% to base \$32,146	\$63,356	6% to base* \$34,075	\$97,431

*Neither party made any offer for the third year.

This may not make anyone happy. If the parties want the factfinder to make a recommendation for just the first two years, he is available. Both parties should be forewarned, however, that the numbers will not necessarily be the same for a two year package.

The total costs of such a settlement are not set forth herein. The factfinder leaves it to the parties to explore the full parameters of this recommendation.

Nonetheless, this is a good and honest resolution of the rather difficult problem presented. It will protect both sides vested interests, while providing some needed flexibility.

GENERAL CONCLUSION

The factfinder will not repeat each and every recommendation set out above. Instead, the reader will have to muddle through the rather long entirety of the opinion. In the process of reading it, perhaps the reader will get some understanding for the rationale.

On the issues presented, reasonable men could differ as to the outcome. However, there were real needs on both sides that had to be protected. The administration must be able to run the college; the faculty deserves security. These interests have been balanced in the non-economic issues. On the economic side, there is a need for fair compensation to the employees and reasonable expense for the employer. Those interests have been assessed from a long term perspective, and the factfinder believes they were accommodated.

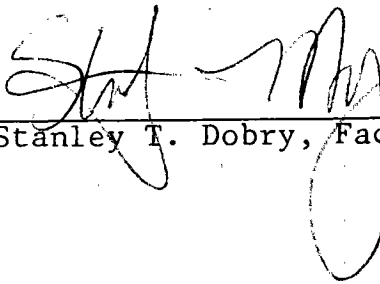
Saint Clair County Community College has a lot of employees who have been there for a very long time. Their self-interest is more mutual than divisive. The Board, the Administration, the Faculty and the Union have a duty to recognize that and act accordingly.

Obviously, these are recommendations only. The parties can choose to ignore them and go back to economic warfare if they choose. It is gently urged, however, that these are rational and reasonable solutions to the problems confronting the parties. It is a compromise with reality.

With that, I wish to thank the parties for permitting my involvement. Douglas Touma and Mary Ann Zimmerman did yeoman work in the services of their causes, and in aiding the factfinder to

come to grips with a difficult and fascinating case. Let us pray
they have not labored in vain.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Stanley T. Dobry', is written over a horizontal line. The signature is stylized with a large, looped 'S' and a long, sweeping 'D'.

Stanley T. Dobry, Factfinder

Dated: December 19, 1983.

FOOTNOTES

1

Prior to January, 1968, the SCCCC was a junior college, included in the Port Huron School district. The faculty were covered under contracts between Port Huron and its teachers.

2The Intermediate School District lines are not exactly coterminous with county lines.

3

Ordinarily, an employee with a Masters Degree will be pushed across the salary schedule to higher pay levels. By contrast, Mr. Robbins is fairly well along in his career. He cannot expect the long-term return on his educational investment that the change in rules will require.

4

In Exhibit 54, the College apparently attempted to refute the Union's exhibits. However, of the nine colleges listed, the parties agree on the recall period for four of them: Mott, Bay De Noc, Alpena, and Kalamazoo. The Union presented the actual layoff/recall language for four other colleges. The Kellogg contract (Exh. 81) provides for recall in Section 23-B, and does not limit the period of recall, and an additional 2 years upon notification from the faculty member, for a total of four years. The Macomb contract (Exh. 84) provides for recall, and does not limit the period of recall. The Jackson contract (Exh. 85) likewise provides for recall, and does not limit the recall period. With respect to the 9th school, Mid Michigan, the college is accurate when it states that that contract contains no recall language.

5

Arbitrator Jerome Brooks, AAA Case No. 54-39-1965-82.

6

Although the Factfinder is not certain, it appears that the right to get overload as interpreted by the Employer is across disciplines. If that is the case, it is indeed ironic, since cross disciplinary teaching has elsewhere in these arguments been roundly criticized by the Employer.

7

For those who have an overwhelming urge to study the facts, figures and fancy, they are referred to the briefs.

8

For the uninitiated, it should be pointed out that the Consumer Price Index is an analytical tool compiled and published by the United States Bureau of Labor Statistics. Since it is a general statistical measure, no one should spend much time trying to decide whether his or her spending habits match the hypothetical family of four's typical market basket.

9

Although it must be remembered that 5 percent of an elephant is really a lot more than 5 percent of an ant. Sometimes equal percentage increases are not fundamentally fair to all concerned.

10

If the Factfinder were not convinced of the honorable intentions of the Board, he might be persuaded that the bonus plan was a crude attempt to split the bargaining unit and to get the full time staff members to sell out the rest of the MAHE membership.

11

Over 80 percent of the faculty have a Master's Degree or better.

FOOTNOTES, continued

12

Other factors include presence in the same statistical metropolitan area for the CPI, and use by the Michigan Employment Security Commission of mutual colleges to determine work availability for unemployment compensation.

13

Grand Rapids and Henry Ford are both higher, but are K-14 districts, which causes some substantial differences in costs and accounting.

14

There was a 1978 reduction in the balance due to the purchase of a computer, which was expensed in one year rather than amortized over three.

15

The Factfinder would note that the transfer was for creation of a building and maintenance fund. Those monies appear to have been spent on furnace and parking lot repairs; items that would have to be taken care of sooner or later.