MICHIGAN EMPLOYMENT RELATIONS COMMISSION

FACTFINDING PROCEEDINGS

In the Matter of:

SAULT STE. MARIE AREA PUBLIC SCHOOLS,

and

UNITED STEEL WORKERS OF AMERICA,
LOCAL UNION NO. 13569

Sault Ste Marie Area Public Schools

REPORT AND RECOMMENDATIONS OF FACTFINDER

Fact Finder: James R. McCormick

Representing Union: Thomas R. Bush, Staff Representative

Representing Board of Education: Warren C. Andrews, Personnel Director

Hearing Held: January 4, 1973 at Sault Ste. Marie, Michigan.

Report Issued: January 12, 1973.

I. STATEMENT OF THE CASE:

This matter came on for hearing before the undersigned pursuant to appointment by the Michigan Employment Relations Commission to determine the facts and make recommendations in a labor relations dispute between the above captioned parties. The proceedings were conducted pursuant to Section 25 of the Labor Mediation Act, MSA 17.454 (27); C.L. Mich. '48 Section 423.25 and pursuant to the Rules and Regulations adopted by the Employment Relations Commission. Pursuant to the appointment, the undersigned has considered the entire record in this matter, including statistical data and other documentation and oral argument of the parties, and makes the following findings and recommendations.

II. BACKGROUND OF THE DISPUTE:

The Union represents two other bargaining units at this establishment, one encompassing the custodians and the other encompassing the clerical staff. This hearing involves a dispute between the Board of Education and the Union regarding terms for a new agreement covering school lunch personnel. The bargaining unit, which consists of "all school lunch room employees with the exception of supervisors" was recognized in 1971 and the first collective bargaining agreement was effective from July 1, 1971 through June 30, 1972, at which time it expired by its terms but was orally extended since negotiations were then pending. The three job classifications within the recognized bargaining unit are Cook I, Cook II and Helper. The Employer has also used the terms Head cook and Assistant cook to refer to Cook I and Cook II. These employees work regular shifts which vary from approximately 20 hours a week to 40 hours a week. A 12% direct wage increase was granted in the first and only agreement between the parties (the Agreement covering the 1971-1972 school year). The Union initially included among its demands for the 1972 contract a request for a direct wage increase in the maximum amount allowable by the Federal Pay Board. The Board has counteroffered various amounts which have increased to its final offer, 4½%. When the Federal Pay Board recently modified its regulations so that the 5.5% limitation ceased to apply to employees receiving less than $2.75 per hour, the Union amended its demands to seek a 12% raise for each year of a two year agreement. Some matters were granted or abandoned during the course of the negotiations and others were deferred to be handled in the future for reasons which need not be detailed herein. After a number of meetings which included the assistance of a State Labor Mediator, it became apparent that the parties could not resolve their dispute without further public intervention.

Accordingly the Union petitioned the Employment Relations Commission for fact finding proceedings.

III. POSITIONS OF THE PARTIES:

The employees in this unit have not received medical or hospital insurance in the past and the Union seeks Blue Cross-Blue Shield semi-private coverage for the employee only during the first year of a two year agreement and is asking for master medical as an improvement effective in the second year of the agreement. It should be noted parenthetically that the parties are in agreement that a two year contract would be advisable.

The Union originally sought group life insurance for the unit employees but dropped that request during the course of negotiations. Three other items requested during neogitiations were deferred, as indicated above. The parties are in agreement that the Fact Finder should not consider those items in this report. The Union also initially sought an agency shop clause but has withdrawn that request prior to factfinding.

The Union initially requested a provision whereunder the Employer would provide and launder uniforms for the cooks and helpers. This demand has not been abandoned. During the course of negotiations the Employer has agreed to a Union request with respect to the upgrading of employees. Accordingly, there is no need to discuss that item in this report.

One other relatively minor change sought by the Union involves a specification in the contract under which cooks and helpers would receive their normal pay when unable to work because of the weather. Representatives of the Board of Education stated publicly at the Factfinding hearing that cooks have not been denied their regular wages when unable to work because of the weather. Apparently absence of

cooks due to foul weather conditions has been rare during the last several years and therefore there is some question as to the precise nature of the Employer's policy on this point. The Personnel Director took the position at the hearing that its policy was to pay regular salaried employees for snow days but that it declined to make this the subject of an agreement with the Union. Since there is no "agreement" to pay the cooks on snow days, the Personnel Director does not agree to incorporate this particular Board policy into the Collective Bargaini Agreement. From the record it would appear that the helpers in this bargaining unit have not been paid when they have been forced to miss work because of the weather (if in fact any of them have ever failed to report for work because of foul weather). The explanation given by the Business Manager of the Employer is that the helpers, like teacher aides, are hourly employees whereas the cooks, custodians and other employees are really salaried employees. The Union representative disputed that the cooks or custodians are salaried employees in any significant sense of the term.

As mentioned earlier in this report, the Union actually moved in a reverse direction in terms of a wage agreement when the Pay Board announced that employees receiving less than $2.75 per hour were not to be covered by the standard 5.5% wage limitation. Presently the Union seeks a 12% increase for each of the next two years and the Employer offers 4.5%. While it is not entirely clear from the hearing whether the Employer is offering precisely 4.5% for the second year of the two year agreement, the inference from the record is to that effect.

With respect to the hospitalization issue, the Employer has proposed that it would provide semi-private Blue Cross hospitalization, but for the employee only, not including the family. This provision would become effective for the 1973-1974 school year, under the

proposal of the Board of Education.

IV: FINDINGS AND CONCLUSIONS:

Data submitted by the Board of Education to the Factfinder indicates that the custodians, secretaries, bus drivers, and teachers all have hospitalization insurance paid for by the Employer. The teacher aides on the other hand, have no such insurance protection. The record does not indicate whether the teacher aides are organized and represented by an employee organization. Since the Employer is in agreement to begin a Blue Cross plan, said plan to begin next year, it is obvious that some form of Blue Cross hospitalization should be incorporated into the recommendation to be made by the undersigned. The relevant questions are whether such hospitalization should be put into effect for this year or delayed to next year and whether it should include master medical coverage. In evaluating this demand, the undersigned makes notice of the fact that basic hospitalization insurance has become a routine fringe benefit throughout the United States, as prevalent in public employment as in private industry. Secondly, I am impressed by the fact that the two other units represented by this Union (custodial unit and secretarial unit) each have such insurance as part of their collective bargaining agreement. The custodians have full family coverage while the clerical-secretarial employees have individual employee coverage. Finally, I cannot help but observe that the contract year beginning July 1, 1972 is more than half over. While it is the understanding of the parties that the Agreement to be reached will be retroactive to July 1, 1972, the Employer would not be obligated to pay insurance premiums retroactively. Accordingly, the cost of implementing this fringe benefit now rather than July 1, 1973 would cost the Employer considerably less than it

would have cost it had the contract been executed last July. For all of these reasons I would recommend as part of the settlement of this dispute that the parties agree to immediately implement a basic Blue Cross hospitalization program including semi-private room with the Employer paying the full premium for the employee only. While arguments could well be made for broadening the coverage or including the master medical the second year, realistic bargaining in this set of circumstances dictates that only a small beginning be made in connection with the fringe benefit of hospitalization. Accordingly I will recommend that the contract include Blue Cross coverage for the individual employee only, effective as soon as the employees can be enrolled but with no change in that plan for the second year of the contract.

With respect to the demand for provision and laundering of uniforms worn by the cooks and helpers, the evidence presented at the hearing reveals that these employees are provided with hairnets and large aprons, including the laundering of the aprons, at the expense of the Employer. The record also reveals that there is no general requirement that these employees wear any particular kind of uniform. While all or nearly all of them traditionally do wear white uniform dresses, this is not a condition of employment. It was at least suggested at the hearing by the Personnel Director that there would be no objection if these employees reported for work in suitable attire other than white uniforms. Accordingly, since there is no requirement that the employees wear a particular uniform, this demand seems to be dispensable. It should be withdrawn by the Union. The Employer could not at a later date unilaterally institute a requirement that the employees wear a specific uniform at their own expense without first negotiating on that point with the Union. Therefore the employees are protected in withdrawing

this demand at this particular time.

Since statements made at the hearing indicate that all employees except helpers working in this bargaining unit are treated as being entitled to pay when unable to report for work because of the weather, the dispute between the parties is somewhat semantic in nature. The stated basis for excluding helpers from entitlement to pay on snow days is an inadequate foundation for denying them the same treatment accorded to comparable employees. The contention that they are hourly rated while cooks and custodians are salaried is somewhat debatable in light of statements made on the record at the hearing. I strongly recommend that the settlement of this case include a paragraph in the contract providing that all employees in this bargaining unit be paid the normal amount they would have earned absent the weather conditions on days when it is determined that the employees are unable to report or unable to work, because of such weather conditions. The Employer is technically on thin ice in its reluctance to enshrine its commitment with respect to the cooks in a written agreement. While it characterizes its commitment to pay cooks on snow days as a board policy, as distinguished from a bilateral agreement with the Union, this seems to be a distinction without a difference. When a Union makes a demand and the Employer responds that such demand has already been met, the Union is probably entitled, as a matter of law, to have that working condition framed in the contract in order to avoid uncertainties as to the precise nature of the working condition involved.

That leaves for consideration the primary dispute between the parties, viz., the amount of wage increase which ought to be granted to the cooks and helpers. The Union seeks to justify its 12% increase on the grounds that these employees need to catch up with custodians and matrons working for this Employer and also are entitled to move

towards parity with cooks and helpers employed by other nearby school districts. The Board, on the other hand, asserts that the school lunch program should be self-sustaining financially, and that it is just barely breaking even at the present time. Funds for the school lunch program (which covers the labor expenses for the employees in this unit) come from various governmental sources and from fees charged the pupils. The Employer asserts that school lunch programs traditionally have operated without dipping into general fund money and that this Board of Education feels strongly committed to continuing to operate the school lunch program as an independent and self-sustaining entity. The Board had been forced to dip into general fund money recently but views that as an undesirable situation which it seeks to avoid. The Union responds that the Board receives funds from various sources and that this is simply one of the proper uses for those funds. The Union sees no justification in distinguishing between this particular Board operation and its other programs.

The Board contends, and the Union does not deny it, that Sault Ste. Marie has a relatively low state equalized valuation per pupil, being one of the lowest in its area. The Board also points out that its total millage is relatively high in comparison with all districts in the State of Michigan. While these facts would be significant if the Board were contending a fundamental inability to meet the Union demands, the fact of the matter is that the Board makes no such contention. While it does not suggest it has money to burn, its argument against the demands of the Union is based upon a contention that those demands are in themselves unreasonable along with a contention that such demands would force the Board to use money from the general fund to support the school lunch program. While the Factfinder comprehends the attitude of the Board with respect to the desirability of having a self-sustaining school lunch program, such a position is not particularly persuasive

if it is shown that the employees in question are not being paid an equitable salary. The Board's position verges on being a legalistic stance, one which must give way to the reality of the entitlement of the employees to a fair wage.

Both parties submitted comparative figures from nearby small school districts. In general it may be said that comparable employees in those districts are paid somewhat more than the cooks and helpers employed by the Sault Ste. Marie Public Schools. However, the Board makes some legitimate points which tend to deflate the figures from the other districts. For example, the business manager testified that in some of these very small districts the cooks receive nothing beyond their basic hourly rate, that is to say they receive nothing in the way of fringe benefits. However the business manager indicated that his statement was based upon experience as an administrator in certain small districts prior to his employment with the Sault Ste.Marie Public Schools. Since he has been with this district for some time, it is not certain that his information is up to date with respect to the total absence of fringe benefits in those districts. The Superintendent of Schools pointed out that in some of these very small neighboring districts the school lunch program is able to operate more efficiently than in a larger district such as Sault Ste. Marie since there may be only one lunch room shared by elementary and high school students and manned by perhaps one or two people. Since the food must be prepared and delivered to various schools in Sault Ste. Marie, there is a built-in inefficiency. At least an inefficiency when compared to the tiny school districts. The Superintendent also observed that the cook jobs are highly desirable in terms of the pleasant working conditions and favorable hours. He stated that for such reasons it is relatively easy to obtain employees in these positions. Apparently none of the cooks has resigned in recent times.

Figures presented by the Union reveal that the employees in the custodian,maintenance and matron bargaining unit (also represented by this Union) recently received a two year collective bargaining agreem which provided a 5.5% increase the first year and a 4.5% increase the second year, along with improvements in the life insurance and the addition of master medical through their existing Blue Cross coverage. The employees covered in the secretarial-clerical bargaining unit (also represented by this Union) also entered into a two year collective bargaining agreement recently. The first year provides for a 5.5% increase while the second year provides for a 4% increase plus the addition of master medical coverage through the existing Blue Cross insurance plan. The matrons, under the collective bargaining agreement which they have with the Board of Education, have an entry rate of $2.49 as contrasted to the entry rate of $2.03 for a cook I (also known as a head cook). A matron needs to have no particular training or experience and her work is repetitive in nature whereas a Cook I must be able to plan and prepare meals, operate equipment and to some extent direct the work of cooks II and helpers. The Union maintains that there is an obvious inequity when the wage rate of the custodians and matrons is contrasted to that of the cooks. The only rebuttal to this point on the part of the Administration is that the Union apparently did a very good job of bargaining for the matrons and boosted them beyond where their skills should have placed them in terms of wage rate. There is no doubt that the Union is engaging in a bit of whipsawing in comparing the matron rate with the cook rate, since this Union itself recently succeeded in obtaining the higher rates for the matrons. Nevertheless, comparisons will be made by an employee and it is apparent that cooks require at least as much skill and exercise at least as much responsibility as a matron or custodian. In the best of all possible

words they would at once receive increases which would erase such an inequity. However, we are herein involved in the process of collective bargaining rather than devising a blueprint for utopia. That fact serves as a drag or anchor on the wage recommendations which the undersigned will make hereinafter.

The Union argues from the recent exclusion of wage rates below $2.75 per hour from Pay Board control that any wages below that figure must be sub-standard. It is not at all certain that the pay board intended such a construction to be placed on its action. There are undoubtedly forms of human toil which may be fairly compensated at an amount below $2.75. It nevertheless is true that the theory behind the action of the Pay Board was that increases in excess of 5.5% for employees currently receiving less than $2.75 per hour will not significantly contribute to inflation. The reason why large increases for low paid employees are less inflationary than large increases for highly paid employees involves complicated economic theories which do not lend themselves to discussion by report of this kind. However, I am cognizant that it is the judgment of the Federal Pay Board that an increase in excess of 5.5% in a case of this kind is not contrary to either the letter or the spirit of the federal regulations.

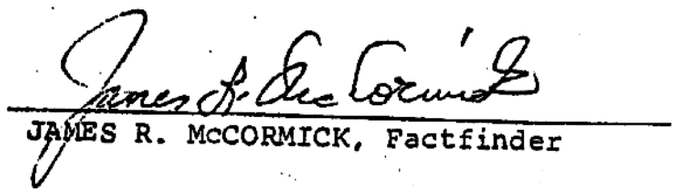
To summarize my findings with respect to the base wage rate issue, I find that a 4.5% increase for each of the next two years, as offered by the Board, will not eliminate certain existing inequities in the salary structure. These employees are paid considerably less than other employees performing comparable work in other school districts in the area and are also paid considerably less than matrons who do work in this school district which is surely not of a more sophisticated nature. The 4.5% offer is less than the settlements made with other employee groups by the Sault Ste. Marie Public Schools this year. I am inclined to the view that the Board has withheld something in contem-

plation of the factfinding proceedings, recognizing the likelihood that the undersigned would recommend a wage increase larger than the increase already offered. If the Employer followed that course, it would be doing precisely what most public bodies in the State of Michigan have done in similar situations. It is axiomatic among people sophisticated in the field of labor relations in government that the final offer prior to either factfinding or binding arbitration is designed to leave a little room so that the neutral party can raise the figure and still remain within the target area that is acceptable to the Employer. Typically employee organizations have adopted a strategy which is the converse of the employer strategy. In this instance the Factfinder would be willing to wager that the Union has never seriously expected to obtain a 12% settlement or even anything close to that figure. While such a settlement would not result in new wage rates for cooks that would be greater than those paid in other eastern upper Peninsula districts, it would be rather difficult for the Board to explain why it could grant no more than 5% or 5.5% to other employee groups. Some of what has been said herein is in the nature of what I would hopefully denominate as an enlightened speculation. Nevertheless, the role of the Factfinder is not simply to come to some mathematically logical conclusion. The dynamics of collective bargaining do not come to a halt when the factfindings begin. My recommendations will not in themselves be binding on the parties but will merely act as a catalyst when the parties meet to review my report. On the basis of the positions and arguments of the parties and the equities of the case, I am impressed that this case should be settled with a wage increase of 6% for each of the two years of the new contract. From my own experience in matters of this kind and from my "feel" of this case, I am persuaded that a settlement along such line would not only be fair and equitable, it should be acceptable to both sides.

In studying this report the parties will no doubt take note that I have not set forth each and every point of argument or piece of information provided to me during the course of the proceedings. Lest it be thought that I have not given due weight to all data and every argument, I wish to make clear that I have studied everything presented to me and have selected for inclusion in my findings of fact those matters of evidence and argument which seemed worthy of particular attention. While the Union representative indicated at the hearing that the membership of the bargaining unit would have rejected a 6% offer, I am optimistic that the membership will see such a settlement as fair and realistic. While I suspect the administration has anticipated a recommendation from the undersigned in the area of 5% or 5½% rather than 6%, I do not anticipate that the administration will balk at a 6% settlement. Its own gathering of data from other districts, in preparation for the factfinding hearing, must have impressed upon the administrators the disparity between the wages paid to the employees in this unit and those paid to other cooks with similar skills in the smaller districts of the eastern upper Peninsula. The preparation for a factfinding hearing is in itself an educational experience for the parties and I believe it should have provided the Sault Ste. Marie administrators with a better appreciation of the need to grant a somewhat higher percentage increase to this bargaining unit.

Upon receipt of these findings and recommendations the parties should at once contact the mediator assigned to the case so that arrangements can be made for the holding of a meeting at which these recommendations may be reviewed by the parties.

Respectfully submitted,



JAMES R. McCORMICK, Factfinder