

STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

Report and Recommendations of the Fact Finder
in the Matter of

Tahquamenon Area Schools
and
Tahquamenon Area Teachers Association
MERC Fact Finding No. G82 F-1386

Glenn Stevens 11-15-82

Representing the Tahquamenon Area Schools:
Harry Bishop, Director of Labor Relations,
Michigan Association of School Boards
Dr. David Bowman, Superintendent of Schools

Representing the Teachers' Association:
Lee Janssen, President TAEA
Michael Carpenter, Teacher
James Johnson, Teacher
James Strobel, Teacher
Delores Husband, Librarian
Rita Gustafson, Teacher
Otto Roggenbach, Teacher
Frank Surriano, Teacher
Bess Larson, Teacher
Nancy Wick, Teacher
William Peltier, Teacher
Sandra Walker, Michigan Education Association

Michigan State University
LABOR AND INDUSTRIAL
RELATIONS DEPARTMENT

Introduction

The undersigned Fact Finder was selected to conduct a hearing pursuant to Section 25 of Act 176 of Public Acts of 1939, as numbered, and the Commission's Regulations. This hearing was held on October 21, 1982 in the Newberry Court-house, Newberry, Michigan.

Issues at Impasse

Prior to the hearing the articles at impasse were jointly defined as salary, binding arbitration, retirement benefits and calendar (Appendix A). At the outset of the hearing, however, the parties jointly agreed that the issues would be limited to salary and binding arbitration.

Tahquamenon Area Schools

Bargaining History

A three-year (1979-80 to 1981-82) collective bargaining agreement between the parties expired on June 30, 1982. According to testimony presented by the TAEA, informal Contract negotiations began in February, 1982. A number of informal and formal negotiating sessions were held in subsequent months in an effort to reach agreement on the terms and provisions of a new contract. Although the parties reached agreement on many items, an impasse developed on the issue of salary which led to a "job action" on September 7, 1982. Following that incident, the teachers agreed to work on a day-to-day basis while continuing negotiations. On September 14, 1982, Mr. Gerald Kendziorski, a State Mediator, was present to work with both parties. His efforts proved unsuccessful as the parties were unable to resolve their differences on the salary dispute. The last formal negotiating session was held on September 21, 1982, following which the parties requested fact finding.

Discussions of the Issues at Impasse and Recommendations of the Fact Finder

Issue: Binding Arbitration

In contract negotiations, the Association had proposed that binding arbitration be the last step in the grievance procedure, whereas the Board has maintained that no changes be made in the extant grievance procedure. In its presentation the Association noted that approximately eighty-six percent (86%) of the public school contracts in Michigan contain binding arbitration as the final step in the grievance procedure. The Association further contended that the procedure which has been in place for at least the last three years has done little more than permit the Administration to exercise arbitrary judgments with regard to grievances which arise. The Association's claim that the current procedure is "administratively oriented" may aptly describe a perception of the procedure but

no evidence was presented at the hearing which suggested that the grievance procedure either does not work at all or has some serious flaws.

Recommendation:

The Fact Finder concludes that the Association's arguments for binding arbitration are not persuasive and, therefore, supports the Board's position on this issue. The Fact Finder has no basis for recommending that any changes be made in the current grievance procedure. If there are procedural and/or substantive problems within the framework of the current language, then it is incumbent upon the parties to address these issues immediately.

Issue: Salary

As evidenced by the Board Exhibits 3A-E, there is a \$73,343 difference between the salary proposal offered by the Board and that which was proposed by the TAEA. The last salary proposal tendered by the Board called for a one percent (1%) increase in salary for a total cost of \$1,396,794. The Association's proposal for a 6.3 percent salary increase would require an expenditure of \$1,470,137. Clearly the issue of salary was the major factor which led to the request for fact finding. In their presentation, the Association representatives stated that prior to the fact finding hearing the Board consistently claimed that it did not have adequate funds to meet the salary demands of the Association. Whether this was an entirely accurate characterization of the Board's position throughout negotiations is not for the Fact Finder to judge. The Fact Finder observed, however, that a sizable difference existed between the final salary proposals advanced by each party, with the Association contending that the district did indeed have sufficient funds to meet their salary demands.

At the beginning of his presentation, the Board's representative stated that the Board had sufficient funds to meet the salary demands but the issue was

whether or not it should do so. This apparent change in position, revealed for the first time, seemed to come as a surprise to the Association representatives who were present. Immediately, then, ability to pay was no longer an issue; instead the Board representative introduced the subject of priorities, i.e., how much should be committed to salary increases for instructional staff for the 1982-83 school year. Evidence submitted by various Association presenters consistently made reference to the fact that the district had a very large fund equity balance at the end of the 1981-82 school year. Moreover, it was pointed out that the fund equity balance has been growing steadily for the past several years. Throughout negotiations and again at the hearing, the Association stressed the point that, given the availability of funds, the Board was in a position to improve salaries to the levels desired by the Association. The Board on the other hand in its testimony stated that they had made a deliberate attempt over the past few years to increase the fund equity balance to a relatively high level in order to reduce the need to borrow funds and to be in a position to deal with the uncertainties of State funding. The Board also introduced evidence reflecting a projected loss of State guarantees in the amount of \$115,570 for the school year 1982-83 due to declining enrollments.

In disputes such as this, it is generally the case to look at comparables as well as availability of resources for salary increases. Other local and regional economic factors may be taken into consideration, whether current or anticipated. With the prevailing trend toward greater dependence upon local resources to support public education systems, sensitivity to voter opinion must, likewise, be considered.

In discussing salary matters it is not uncommon to use such terms as salary, wages, or compensation without precisely defining what is included in each of these categories. In the course of the hearing it became evident that the Board

had already made a sizable commitment to absorb the increased cost for dental and health insurance. Insofar as the Fact Finder could discern, this commitment was made either late last spring or early in the summer. The Board's reasons for agreeing to meet the increased cost for insurance without any apparent contingencies attached to closure on the negotiations are not entirely clear. By its own estimates the Board is presently paying in excess of \$24,000 more for insurance benefits this year. Argued in the posthearing brief is the Board's position that by including the increased insurance cost, the actual salary improvement package requested by the Association exceeds eight percent (8%). The Fact Finder, however, is not persuaded that it is reasonable to argue that fringe benefits already granted should be considered within the salary category, and for this reason takes the position that any financial commitments made prior to the request for fact finding have no direct bearing on the present impasse.

The Association introduced a fair amount of documentation to support its contention that salaries for its bargaining unit do not compare favorably with other professional level positions in Newberry and the surrounding area (Exhibits 13, 14, 14A). In particular, the Association compared teachers' salaries with so called "like occupations" in order to demonstrate how much lower their salaries were than other persons employed in the Newberry area. These comparisons included the State Police, Department of Transportation, Postmaster, and the position of Occupational Therapist at the Newberry Regional Mental Health Center. It is the Fact Finder's opinion that while comparisons with other public sector occupations may be interesting, the Association's view that teachers deserve to earn salaries equivalent to persons employed in other positions is without merit. The manner in which other governmental units or functions are funded is, in many instances, radically different from public school financing.

Turning our attention now to the matter of comparables, the Board introduced evidence (Exhibit 5F) which showed that the Association's salaries in 1981-82 were next to highest at the BA minimum and sixth out of eleven at the BA maximum in comparisons with other districts having an enrollment between 1,000 and 1,500 pupils. At the MA minimum the district is at the highest beginning salary level and at the MA maximum, in fifth position at the MA maximum last year. Again using districts having enrollments of 1,000 to 1,500, the Board submitted (Exhibit 5J) that if the 6.3 percent increase were to be granted, the teachers' salaries would rank second at the BA minimum, first at the BA maximum, first at the MA minimum, and first at the MA maximum. (It should be noted that the data for 1982-83 are incomplete because some contracts have not been settled.) The Board's argument that the Association did not use appropriate comparables in submitting its data on how its salaries compared with other districts is partially sustained, however, district size is not the only variable to be taken into consideration.

The Association's list of comparable districts was limited to schools in the Eastern Upper Peninsula Intermediate School District area. Although many of the comparables have lower pupil enrollments, they are in closer geographical proximity and have presumably been more directly affected by regional economic conditions. Based on evidence introduced by both parties, the district has a large number of teachers with considerable longevity, thus it can be argued that the impact of salary increases on higher steps in the salary schedule is more consequential than the effects of increases on lower steps. The Association submitted evidence (Exhibit 21C) which indicated that, when compared to other area districts, it takes substantially longer for teachers in the Tahquamenon District to reach the maximum steps. The Association also introduced evidence (Exhibits 21A and B) to support its contention that a 6.3 percent salary

increase would not appreciably affect its salary position relative to other districts in the Eastern Upper Peninsula area.

Recommendation

The Fact Finder recommends a 6.3 percent salary increase for instructional staff in the 1982-83 school year. This recommendation is based upon an analysis of the evidence submitted by both parties, including the Board representatives' statement about the Board's willingness to stipulate that the funds are available to meet the Association's proposal. This stipulation provided no indication that a 6.3 percent increase would jeopardize the district's financial condition for the present school year.

It is clear that the district has been adjusting to enrollment declines by making fairly sizable reductions in the number of its instructional staff. Now numbering 70, only five years ago 89 persons were employed within the instructional staff category. Nonetheless, the Fact Finder is mindful of the difficult short and long-term problems which the district must face. The Board's desire to avoid having to borrow funds to meet cash flow problems is defensible and commendable. Yet, it is also understandable that concerns and questions may legitimately be asked as to the appropriateness of an ever-increasing fund equity balance.

Concluding Remarks

As indicated earlier, it is not unreasonable to expect that increasing pressures will be placed upon the local community to support the operation of the school district. It is also becoming increasingly difficult to manage school finances in view of the State's economy and uncertainty about the availability of State support for local districts. This Fact Finder cannot, nor can any outside person, address the matter of recommending what the priorities

should be for the district, particularly with regard to the issue of compensation. In essence, the Fact Finder was confronted with an "either or proposition" on the matter of recommending one proposal over the other. And, absent any clear indication of what the Board was attempting to achieve by its salary proposal, the recommendation for a 6.3 percent increase was based on (1) a determination that sufficient funds are available, and (2) no compelling evidence was introduced to indicate that an increase of this magnitude would have a serious and negative impact on the District's budget and its ability to meet commitments for the current school year. Again, it must be stressed that the Board did make a significant gesture to avoid passing along the increased cost for health benefits to bargaining unit members at a stage in negotiations when it could have easily done so. That decision, however, already in place, it was the Fact Finder's responsibility to analyze the arguments, evidence and testimony regarding each party's position.

It is the Fact Finder's view that resolution of this impasse by acceptance of the recommendation to make a 6.3 percent increase available for salary improvement will enable the parties to achieve rapid closure on contract negotiations. Nevertheless, the Fact Finder recognizes that the District's financial picture can change quickly as a result of changing circumstances at the State level. If any such changes have occurred since the hearing, the Association should be willing to reassess its position and, if necessary, scale down its request for a 6.3 percent increase.

Respectfully submitted,



Glenn R. Stevens

Fact Finder

November 15, 1982