

11697

STATE OF MICHIGAN

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Fact Finding Between)

TRAVERSE CITY PUBLIC SCHOOLS)

and)

MICHIGAN EDUCATION ASSOCIATION)

MERC Case No. G90-0855

FACT FINDER'S REPORT

The undersigned, Kenneth P. Frankland, was appointed by the Michigan Employment Relations Commission to conduct a hearing and to issue a report in the matter captioned above. Hearings were held in the Traverse City High School auditorium from 9:00 a.m. to 8:00 p.m. on Saturday, December 15, 1990. Oral summaries were made by the parties at the close of the hearings and thereafter, the record was closed. The Fact Finder requested written summaries of the insurance issue from both parties, received by the end of December and submitted to the other party by the Fact Finder.

APPEARANCES:

For the Board:

James Maatsch, Attorney
Paul Katsoros, Personnel Service
Edward Ross, Consultant
Ida Thompkins, Asst. Supt.
Ronald Fite, Asst. Supt.

For the Association:

Lyle Painter, 15-A Uniserv Dir.
Francis Culler, Teacher
Bill Myers, Teacher
Delphine Kullman, Teacher
A. Renee Thompson, School Nurse

I. BACKGROUND

The prior collective bargaining agreement between these parties was effective from September 1, 1987, through August 31, 1990. Negotiations for a new agreement were conducted in earnest, but the parties remained at an impasse relative to five specific issues. Pursuant to Public Act 176 of 1939, MERC appointed this Fact Finder to conduct a hearing regarding those five specific issues. The parties' representatives met with the Fact Finder on December 4, to review the issues, to agree to a format for the fact finding, and an agreement to exchange exhibits. The hearing was conducted on December 15, 1990, with considerable citizen interest during most of the day.

The five issues in dispute are:

1. Recess and bus duty for teachers
2. Nurses and student assistant workers/social workers' salary schedules

3. Teachers' salary schedules
4. Health insurance
5. School calendar

It was agreed that the Association would go first on issues 1, 2 and 3 and that the Board would go first on issues 4 and 5. Numerous witnesses testified with ample opportunity for examination and cross-examination. Because of the complexity of the fringe benefit/insurance issue, the fact finder requested that each party summarize in writing their positions. As a result of their written presentations, each party has thought that the other sought to expand upon the evidence at the hearing, but both parties should rest assured that this report is based solely upon information received at the hearing and not any new information by way of their written summaries.

This report will discuss each issue setting forth the positions of each, a summary on the relative information and a recommendation. It is hoped that the report may be of assistance to the parties in reaching an agreement.

1. RECESS DUTY AND BUS DUTY FOR TEACHERS

ISSUE #1. RECESS DUTY/BUS DUTY (Sections 11 & 29)

1987-1990 CONTRACT LANGUAGE

11.6
Lunch room duty shall constitute a voluntary assignment.

ASSOCIATION PROPOSED LANGUAGE

11.6
Lunch room duty, BUS DUTY, AND RECESS DUTY shall
constitute a voluntary assignment.

BOARD OF EDUCATION PROPOSED LANGUAGE

11.6
(no change)

29.1
The regular elementary school schedule shall include a total
of 30 minutes recess time. Elementary teachers may be
assigned to recess duty by the building principal.

29.1
The regular elementary school schedule shall include a total
of 30 minutes OF recess time.

29.1
The regular elementary school schedule shall include a total
of 30 minutes OF recess time UNLESS THERE IS MUTUAL
AGREEMENT BETWEEN THE TEACHERS AND THE BUILD-
ING PRINCIPAL TO REDUCE THE AMOUNT OF RECESS
TIME AT AN INDIVIDUAL SCHOOL OR SCHOOLS. ANY
SUCH AGREEMENT TO REDUCE DAILY RECESS TIME
SHALL BE SIGNED AND DATED BY THE PRINCIPAL AND
BUILDING ASSOCIATION REPRESENTATIVE. Elementary
teachers may be assigned to recess duty by the building
principal.

The Association wishes to add recess duty and bus duty as voluntary assignments under Section 11.6 while the Board wants no change. Under Section 29.1, the Association wants 30 minutes of recess time and the Board wants to add language to the effect that recess time can be reduced if there is mutual agreement between the teachers and the principal at an individual elementary school.

At the present time, there is a senior high and a junior high in the school district. Neither one has recess or bus duty. There are 17 elementary schools; all elementary schools have recess duty; five of the seventeen schools have bus duty but twelve do not. The Association presented one witness and the Board presented Superintendent Mr. Pite.

Essentially the Association argues that it is an inappropriate use of professional staff to require bus and recess duty. The teachers, if they do it, should do it on a voluntary basis. Furthermore, the present contract includes a total of 30 minutes recess time and teachers may be assigned to recess by each building principal. Exhibit R-1 and R-2 are offered in support of the Association's position. With bus and recesses mandatory, teachers believe there is a loss of contact time with children, potentially with parents, with other teachers and administrators. They argue that other districts don't use their teachers in this fashion and only one district, Cheboygan, has bus duty.

The Board counters that decisions are made on a building to building basis by the Administrators and that the fact that only five elementary schools have teachers assist in bus duty suggests that the existing system works and that the individual building principals only assign teachers where it is actually necessary. Board Exhibit I-B shows that seven schools schedule recess separately for grades K-3 and 4-6, six schools schedule recess for grades K-2, 3-4 and 5-6 and four others have plans specific to their building.

In support of continuing procedures, the Board said that their language could allow the reduction of recess time when there is mutual agreement between teachers and the building principal. It does not require that teachers be assigned to recess duty, but permits such assignment while other alternatives are considered. Teachers at some buildings have already reduced the amount of recess time, in certain instances, and the proposed language will allow the building-level site decision process to continue.

The Board suggested that there is a cost implication that if persons had to be added, there would be approximately two employees at each of the 17 schools requiring 6 to 8 hours at \$7.09 and 108 days totalling \$96,696.

RECOMMENDATION

As with all of the issues in this matter, the party who seeks change has the burden of demonstrating the need for it. Apart from the two key economic issues of salaries and insurance, the Fact Finder got the impression that the other three issues were probably manageable and probably would have been settled if the financial issues were settled.

Thus, at least on the information presented at the hearing, there was no compelling reason shown by the teachers to move away from what appears on this record to be a system that seems to work. This is a far-flung district, schools as far north as Old Mission, as far south as Interlochen, and easterly to Cherry Knoll and northwesterly to Norris, Long Lake and West Woods. There is an extensive transportation system, and yet only five elementary schools assign bus duty. It seems clear that this policy is not overbearing and in the absence of any specific compelling reason to change, there is no specific demonstrative reason to make bus duty voluntary.

As to the recess duty, the Association wants a maximum of 30 minutes, with duty being voluntary. If the Board's exhibit is correct, that teachers have always been assigned to supervise recess, the Association would have to present some compelling information to change that history. Other than the teachers expressing subjectively that this is a desired goal, testimony and

exhibits suggest that the proposal by the Board makes sense. It requires the mutual agreement between the teachers and the building principal to reduce the amount of recess time in any individual school. Both sides agree that they should add the word "of" between 30 minutes and recess time. The Board simply says that could be changed if there is mutual agreement at each site. A compelling reason to accept the Board's position is that teachers interact with children, and to extend that contact into the recess time provides the quality supervision, seems logical and appropriate. To hire other persons simply for recess duty if no teachers volunteered, could diminish the quality of the supervision and increase the cost. The cost of \$96,696 certainly won't break the bank in and of itself, but there is no objective justification to incur the cost.

Finally, the current language allows the assignment of teachers to assist in supervision of students when busses arrive and depart. Since the teachers arrive 30 minutes before and leave 15 minutes after the schedule of classes, it does not seem to denigrate the role or the status of the teachers. Flexibility and efficiency are desired goals and without some objective evidence that it doesn't work, creates undue hardship or other factors, it should continue. Also, as pointed out, only five schools assign bus supervision and a continuation of the existing building-by-building determination should be retained.

It is the recommendation, therefore, that on this issue that the Board's proposal be adopted by the parties.

2. NURSES AND STUDENT ASSISTANTS WORKERS/SOCIAL WORKERS' SALARY SCHEDULES

TRAVERSE CITY AREA PUBLIC SCHOOLS

ISSUE #2. SALARY SCHEDULES OF SCHOOL NURSES AND STUDENT ASSISTANCE WORKERS/SOCIAL WORKERS (Section 15)

1987-1990 CONTRACT
and/or
1989-1990 HANDBOOK
LANGUAGE

ASSOCIATION PROPOSED LANGUAGE

BOARD OF EDUCATION PROPOSED LANGUAGE

BACKGROUND:
Currently the school nurses and student assistance workers/social workers have salary schedules separate from teachers. The school nurses accreted to the TCEA/NMEA in 1987. The student assistance workers/social workers accreted to the TCEA/NMEA in 1990.

(NOTE: The Association proposes to place school nurses and student assistance workers/social workers on the teachers salary schedule.)

15.11
The following subsections of Section 40 (Compensation) shall not apply to school nurses: 40.1, 40.3, 40.4, 40.5, and 40.8.

15.13 (old 15.11),
(delete)

15.13 (old 15.11)
The following subsections of Section 40 (Compensation) shall not apply to school nurses AND STUDENT ASSISTANCE/SOCIAL WORKERS: 40.1, 40.3, 40.4, 40.7, AND 40.8, and 40.9.

15.12
School nurses shall not be paid according to the teacher salary schedules in Section 43 (Salary Schedules). School nurses shall be paid according to the following salary schedule:

15.14 (old 15.12)
(delete)

15.14 (old 15.12)
School nurses AND STUDENT ASSISTANCE WORKERS/SOCIAL WORKERS shall not be paid according to the teacher salary schedules in Section 43 (Salary Schedules). School nurses AND STUDENT ASSISTANCE WORKERS/SOCIAL WORKERS shall be paid according to the following salary schedule:

Step	1987/88	1988/89	1989/90
1	17,000	18,360	19,645
2	17,600	19,008	20,339
3	18,200	19,656	21,032
4	18,800	20,304	21,725
5	19,400	21,482	22,996
6	21,000	22,860	24,268
7	22,100	23,888	25,539
8	23,200	25,086	26,810
9	24,300	26,244	28,081
10	25,400	27,432	29,352
11	26,500	28,620	30,623

15.15 1986/87 SALARY SCHEDULE (attached)

15.16 1987/88 SALARY SCHEDULE (attached)

15.17 1988/89 SALARY SCHEDULE (attached)

(NOTE: The 1988/89 student assistance workers/social workers salary schedule is attached.)

At the present time there are nine social workers and three nurses employed by the District. They have salary schedules separate from those of the teachers.

The nurses came into the Union in 1987, and the social workers came into the Union in 1990. Section 1511 states that teacher compensation shall not apply, and Section 1512 sets forth the nurses schedule. In the last year of the contract, the range goes from Step 1, \$19,645 to Step 11, \$30,623.

The Association would place the nurses on the teachers' salary schedule. The record indicates that Rene Thompson was hired in 1971 and Sue Wilson in 1972, both hired under the TCAPS Teacher Salary Schedule. In 1982, the separate nurse schedule was adopted. Because these persons at one time had a teachers' salary and because the nurses are accredited in their own field, and have

comparable professional skills to that of teachers, the Association believes the nurses should be treated no different than the teachers. Exhibit N-4 shows that Traverse City ranks 12th among the Middle Cities 1989-1990 nurses salaries using an average of full time salaries reported. Exhibit N-5 and N-6 purports to demonstrate that the majority of Middle Cities District nurses are part of the teacher bargaining unit and are paid on a teachers' salary schedule or a modification of the teachers' salary schedule. Rene Thompson specifically testified regarding the absence of credit for post-graduate work and longevity and believes that for herself that there is \$3,000 difference between that which she would make and the teachers' schedule, and that Sue Wilson would have a \$7,000 differential.

Mr. Fite explained that in 1982 the nurses were frozen and that they received the same percentage increase of what the teachers got, but not a step increase or longevity. Essentially, the Board argued that nurses do not have teaching certificates and therefore they should be paid according to their nursing skills and what the comparable market for nurses would be. They would argue that Munson and T.C. Osteopathic should be the benchmark and also possibly TBISD. When compared to those sources, particularly as it relates to 1982 and onward, the nurses have been on their own salary schedule and they have received proportionate increases the same as the teachers except the base has been different and there is no longevity, nor is there any recognition of possible post-Bachelor education. The Union counters by saying that Exhibit N-8 shows Traverse City nurses with Bachelors as compared to Munson and the Osteopathic Hospital nurses are underpaid.

This Fact Finder really did not find an explanation for the shift in 1982. However, the Board argues that we should probably look at hourly nurse rates because the school nurses work only 180 days whereas the Munson and Osteopathic nurses obviously would work more days per year for their gross salary. Thus, it would be hard to compare school nurses, working 180 days, and compare that salary with a larger salary earned for a whole year.

As to social workers, I use that phrase as opposed to student assistant workers primarily because of their degrees, B.A., B.S. and M.S.Ws. Bill Myers testified that he was hired as a student assistant/social worker, but was hired on the teachers salary and was on it for three years. In August, 1989 there was a new schedule. Exhibit SW-2 ranks Traverse City as 25th under the Middle Cities average salaries. He also felt that guidance counselors performed similar work and yet they were paid as teachers.

The other exhibits 3-D, 3-E, 3-F were offered to demonstrate the perceived inequity and the fact that Traverse City social workers' salaries are not competitive with the rest of the state.

Conversely, the District offered a series of exhibits, through Mr. Fite, purporting to demonstrate that the non-organized employees had not been treated unfairly in comparison to the teachers and that they have received comparable wages. The principle argument being that the type of work performed is not equivalent of that of persons with teacher certification and although social workers are, of course, certified in their own specialty, they ought not to be compensated at the teacher schedule. For 1989-1990, MSW Step 1 was \$22,150 and Step 11, \$34,527. Conversely, the teacher MA + 30 salary goes from \$23,335 to \$37,851 and a MA + 15 goes from \$22,609 to \$37,104.

RECOMMENDATION

This issue is as much about philosophy as it is money. Board Exhibits II-G, H, J and K set forth the economics of the various proposals. Exhibit II-K shows in particular that the total costs for 11.5 positions, over three years, is \$57,005 or \$4,956.96 per employee over that three year period. In the first year, the difference is \$10,370, the second year approximately \$18,000 and the third year, approximately \$29,000. Again, the economic factor is negligible given the total budget of the school district. The burden is on the party arguing for change to produce demonstrative evidence why change would be better. This record doesn't explain why, in 1982, nurses were changed. Assumptively, if there were grievances or litigation, this issue could have been resolved long before now as it relates to the nurses.

With respect to the social workers, four employees worked from 1986-1987 through 1988-1989 on teachers salaries and then they were changed. Four others were hired in August, 1989 on the separate schedule. The legal issues as to whether or not this action was appropriate or violated any terms of the contract were not made a part of this record. Whether any step was taken to contest a separate schedule is unknown. The Union argues that these are arbitrary and discriminatory acts and need to be corrected in the 1990 contract. However, apart from the equitable issue that "we are part of the Union and yet we have a different salary schedule", how the separate schedule evolved is not explained, and this Fact Finder cannot say on this record that the equities are so great that these employees should be on the teachers schedule. There are too many questions left unanswered as to the respective rights and obligations of the parties in 1982 and 1987 and what trade-offs the parties may have obtained when, as I understand it, the nurses accreted to the TCEA-NMEA in 1987 and the social workers accreted in 1990. In fact, if four social

workers were added in 1989 knowing that they were on a different schedule, are their rights and equities different than those persons who had already been on the teachers schedule and then reverted to a social workers schedule?

Apart from professional pride, at least on this record, it is difficult to say that these employees are grossly or inadequately compensated. There is much to be said for the concept that persons with teacher certificates should all be paid under the same schedule and those without teacher certification should be paid on a schedule commensurate with supply and demand for their service. If the record demonstrated that the Board had a disparate wage package, there might be greater sympathy for these employees. Obviously, approximately \$5,000 over three years is significant to each individual person, but in the overall specter of the collective bargaining relationships, there doesn't appear to be a solid reason why change should be incorporated unless on a voluntary basis.

Simply put, the emphasis here was upon numbers and not upon the philosophy. Ms. Thompson and Mr. Myers certainly were eloquent in their perception of unfairness and yet a comparison of the nurses/social workers salaries based upon 2,080 hours per year as set forth in Exhibit II-L suggests that these persons are not unfairly compensated in relationship to persons of similar skills. Without a satisfactory explanation of why these changes were first instituted, it is difficult to recommend a consolidation of the salary schedules. History does have a bearing and in the absence of any legal or other administrative mechanisms to reinstate a common schedule, this Fact Finder cannot recommend change and therefore would recommend that the Board's position be adopted.

3. SALARIES

ISSUE #3. TEACHERS SALARY SCHEDULE (Section 43)

1987-1990 CONTRACT LANGUAGE

The 1988/90 salary schedule is attached.

ASSOCIATION PROPOSED LANGUAGE

The Association has proposed a three-year salary schedule ranging from 5% to 6.6% (depending on the Step) in the first year, 5.9% to 6.3% (depending on the Step) in the second year, and the third year. The salary schedule is attached.

The 1988/91 salary schedule is equivalent to a straight 7.6% salary schedule increase.

The 1991/92 salary schedule is equivalent to a straight 6.2% salary schedule increase.

The 1992/93 salary schedule is equivalent to a straight 6.2% salary schedule increase.

BOARD OF EDUCATION PROPOSED LANGUAGE

The Board has ^(has added) three different salary schedules for consideration.

Under Schedule "A", the Board has proposed a salary schedule ranging from 4% to 5.5%.

Under Schedule "B", the Board has proposed a salary schedule increase of 5% in each of three years on all steps.

Under Schedule "C", the Board has proposed a salary schedule ranging from 4% to 5.5% in the first year (depending on the Step), from 4% to 5.9% in the second year (depending on the Step), and from 4% to 6.2% in the third year (depending on the Step). Copies of the salary schedule are attached.

All three salary schedules are equivalent to a straight 5% salary schedule increase.

Without copying the text of each proposal, they can be depicted as follows:

Association's Proposal

<u>Year</u>	<u>Average Increase</u>	<u>Salary Range</u>
1	7.6 %	\$21,710 - \$43,122
2	6.2 %	\$22,904 - \$45,913
3	6.2 %	\$24,164 - \$48,880

Board's Proposal

Package A

<u>Year</u>	<u>Average Increase</u>	<u>Salary Range</u>
1	5 %	\$21,503 - \$42,420
2	5 %	\$22,578 - \$44,100
3	5 %	\$23,707 - \$46,548

Package B

<u>Year</u>	<u>Average Increase</u>	<u>Salary Range</u>
1	5 %	\$21,710 - \$42,000
2	5 %	\$22,795 - \$44,100
3	5 %	\$23,935 - \$46,305

Package C

<u>Year</u>	<u>Average Increase</u>	<u>Salary Range</u>
1	5 %	\$21,503 - \$42,200
2	5 %	\$22,363 - \$44,521
3	5 %	\$23,258 - \$47,281

As set forth in Exhibit III-L based upon 519.75 FTEs the total cost is as follows:

TCEA Teachers Salary Comparisons (519.75 FTE)

<u>Board of Education</u>				<u>TCEA</u>
<u>YEAR</u>	<u>Proposal</u>			<u>PROPOSAL</u>
	<u>"A"</u>	<u>"B"</u>	<u>"C"</u>	
1990/91	\$18,314,250	\$18,309,822	\$18,293,457	\$18,754,871
1991/92	\$19,507,481	\$19,501,604	\$19,460,243	\$20,192,303
1992/93	\$20,788,332	\$20,774,358	\$20,833,490	\$21,771,474
TOTALS	\$58,610,063	\$58,585,784	\$58,587,190	\$60,718,648

Over three years, the difference between the Association proposal and the Board proposal A is \$2,108,585; between proposal B is \$2,132,864; and for proposal C, \$2,131,458. Using the 519.75 FTEs the difference ranges from \$4,057 to \$4,104 per employee over three years.

Although these are large numbers, they must be placed in context of the total budget. Total revenues for 1989-1990 were \$39,000,000, and projected for 1990-1991 are \$41.7 million. The total salaries for all employees, teachers and otherwise for 1989-1990, was \$26,362,000 with projected total salaries for all employees for 1990-1991 of \$29.4 million, \$29.215 million, \$29.215 under the three Board proposals. Association member salaries for 1989-1990 were \$17,629,000 and anywhere from \$18.293 million to \$20.833 million for 1990-1991 depending upon which of the Board proposals are used or if the Association's proposals are used \$18.754 million to \$21.771 million. Moving from the global to the more specific, it should be noted that existing salary schedule has 13 steps and then what is referred to as a longevity schedule

with three levels identified as 14-16, 17-19 and 20 +. Board proposal A, in the first year has a 4 percent raise for steps 1 through 13 and 5.5 percent for steps 14 through 20, and in the 2nd and 3rd year it is 5 percent at each step; under the Proposal B, its 5 percent for every step and under proposal C in the first year its 4 percent for steps 1 through 13; and 5 percent for 14 through 16; 5.3 for 17 through 19; 5.5 for step 20. In the second year, its 4 percent for 1 through 13; 4.5 for 14 to 16; 5 percent for 17 through 19 and 5.5 percent for step 20. In the third year, its 4 percent for 1 through 13, 5 percent for 14 to 16 and 6 percent for 17 and 19 and 6.2 percent for year 20. By comparison, the Association's proposal in the first year is 5 percent for steps one through 12 and nine percent for steps 14 through 20. In the second year, 5.5 percent for steps 1 through 12 and 6.5 percent for steps 14 through 20. In the third year, its 5.5 percent for steps 1 through 12; 6.5 for steps 14 through 20.

Thus, it is apparent that both sides have come up with slightly different ways of treating various steps but it is probably fair to say that those in the 14 to 20 range receive not only greater percentage increases, but obviously greater dollar amounts because of the larger base from which the percentage is applied. The Union's proposal, in particular, in the first year equate to a 9 percent increase in the longevity schedule. These slight variations should be kept in mind when the categorical statements are made that the Association has average increases of 7.6 in the first year, 6.2 in the second and 6.2 in the third and that the district has average increases of 5 percent across the board in all three proposals.

It is readily apparent that if a citizen examined all of the individual exhibits which were offered, there will be significant fluxuations for individual teachers depending upon their step.

Three illustrations are set forth which examine a teacher with a BA, an MA and an MA +30, at Step 1, Step 12 and Step 20 respectively.

1. Teacher with BA. Step 1 - 1989-1990 \$20,676

		<u>1990-1991</u>	<u>1991-1992</u>	<u>1992-1993</u>	<u>3 Year Total</u>
Assn. Plan		21,710	22,904	24,164	3,488
Board Plan	A	21,503	22,578	23,707	3,031
	B	21,710	22,797	23,935	3,259
	C	21,503	22,363	23,258	2,582

2. Teacher with MA 1989-1990 \$22,118

	<u>1990-1991</u>	<u>1991-1992</u>	<u>1992-1993</u>	<u>3 Year Total</u>
Assn Plan	23,224	24,501	25,849	3,731
Board Plan A	23,003	24,153	25,360	3,242
B	23,224	24,385	25,604	3,486
C	23,003	23,923	24,880	2,762

3. Teacher with MA + 30 1989-1990 \$23,335

	<u>1990-1991</u>	<u>1991-1992</u>	<u>1992-1993</u>	<u>3 Year Total</u>
Assn Plan	24,502	25,849	27,271	3,936
Board Plan A	24,268	25,482	26,756	3,421
B	24,502	25,727	27,013	3,678
C	24,268	25,239	26,249	2,914

4. Teacher with BA, Step 12 1989-1990 \$32,526

	<u>1990-1991</u>	<u>1991-1992</u>	<u>1992-1993</u>	<u>3 Year Total</u>
Assn Plan	34,152	36,031	38,012	5,486
Board Plan A	33,827	35,518	37,294	4,768
B	34,152	35,860	37,653	5,127
C	33,827	36,880	36,587	4,061

5. Teacher with MA, Step 12 1989-1990 \$36,689

	<u>1990-1991</u>	<u>1991-1992</u>	<u>1992-1993</u>	<u>3 Year Total</u>
Assn Plan	38,523	40,642	42,878	6,189
Board Plan A	38,157	40,064	42,068	5,379
B	38,523	40,450	42,472	4,783
C	38,157	39,683	41,270	4,581

6. Teacher with MA + 30, Step 12 1989-1990 \$37,851

	<u>1990-1991</u>	<u>1991-1992</u>	<u>1992-1993</u>	<u>3 Year Total</u>
Assn Plan	39,744	41,929	44,236	6,385
Board Plan A	39,365	41,333	43,400	5,549
B	39,744	41,731	43,817	5,966
C	39,365	40,940	42,577	4,726

7. Teacher with BA, Step 20, 1989-1990 \$35,887

	<u>1990-1991</u>	<u>1991-1992</u>	<u>1992-1993</u>	<u>3 Year Total</u>
Assn Plan	37,055	39,454	42,004	6,117
Board Plan A	35,887	37,681	39,656	3,678
B	35,700	37,485	39,359	3,472
C	35,870	37,843	40,189	4,302

8. Teacher with MA, Step 20, 1989-1990 \$38,400

	<u>1990-1991</u>	<u>1991-1992</u>	<u>1992-1993</u>	<u>3 Year Total</u>
Assn Plan	41,798	44,503	47,380	8,980
Board Plan A	40,531	42,558	44,686	6,286
B	40,320	42,336	44,453	6,053
C	40,512	42,740	45,390	6,990

9. Teacher with MA + 30, Step 20, 1989-1990 \$40,000

	<u>1990-1991</u>	<u>1991-1992</u>	<u>1992-1993</u>	<u>3 Year Total</u>
Assn Plan	43,122	45,913	48,880	8,880
Board Plan A	42,200	44,331	46,548	6,548
B	42,200	44,100	46,305	6,305
C	42,200	44,521	47,281	7,281

These illustrations bear out in gross dollars what the teachers at these respective levels would make as a gross salary and then what the cumulative increase would be. It is clear that entry level people would all receive less than the approximately \$4,000 which is the average per employee salary costs over three years as

estimated by the Board in Exhibit III-L. At step 12 and at step 20 the teachers clearly receive more than the average under either proposal. Since there is some built in equity under all the proposals, the question, simply, is which of the three Board proposals or the Association proposal most closely would be in the best interests of all given the obvious fact that all the proposals are top heavy.

The Board has not suggested that it does not have the ability to pay increases in salaries and insurance benefits but has made the point that they perceive resources to be scarce and that the total economic package of the salary and insurance will compound the budget problem and that existing millage cannot sustain these economic increases and other factors which will increase costs over the next three years.

It is my suggestion, based upon all of the information provided, that the parties should lower the rhetoric regarding "ability to pay". There are cost implications for the future in this package, but other factors as well. Whether the Board's millage suggestions are alarmist and whether the Union's counter claims are unrealistic should be set aside for the good of all and simply accept the fact that there is an ability to pay a salary increase now. The long range or long term impact of a salary increase must be considered, but the recognition that the Board is offering at least a 5 percent average wage suggests that current financial data would allow for at least that much of a salary increase.

The Association submitted numerous exhibits to show where Traverse City ranks with an NMEA and with the Middle Cities. At Bachelor minimums, it ranks tenth in the area, 16th in Middle Cities; Bachelor maximums, 7th in the area, and 24th in the Middle Cities. At Masters' minimum, 9th in the area, and 18th in the Middle Cities. At Masters maximums, 3rd in the area, and 22nd in the Middle Cities; and Maximum below PhD, they are third in the area and 25th in the Middle Cities.

With respect to average teacher salaries, Association statistics show the district to be 8th in the area and 26th in the Middle Cities. Although considerable exhibits were offered with respect to expenditures for people versus classroom teachers, instruction employee benefits and the like, for the purpose of this fact finding, they seem to be less important and will not be summarized here. Information overload fatigues the mind.

The number of students per classroom does seem to be significant and in this area, they rank 2nd with 21.38 students per teacher for 1989-1990, and 14th in Middle Cities. Obviously as far as student count goes, the 1989-1990 count of 10,013 makes them first in the area with Gaylord next with 2,833 and Cheboygan

with 2,064. Clearly Traverse City is the largest district in the NMEA area and among Middle Cities, Traverse City is still twelfth, again showing that it is definitely a large district.

As a percentage of current operating expenditures for 1988-1989, the Union suggests that administrative salaries are 8.86 percent which would make it 8th in the Middle Cities and 15th in the area.

With respect to 1991 Exhibit S-18D suggests that there are teaching salary increases in the area. The average is 5.91 percent, a low of 4 percent in Cheboygan and 4.75 percent at Rogers City and a high of 6.95 in Elk Rapids followed by a 6.86 in Mackinaw City. They suggest that at Cheyboygan and Rogers City, the tax base was decreased and that is why there was a lower salary negotiated.

The Association also suggests that the straight life allowance and retirement are significant benefits to the teachers. Since the retirement benefit is based upon the average of the last three years, their proposal is really top heavy in favor of the persons with longevity. There are clearly more people with longevity and therefore persons who would receive a higher retirement benefit with a higher salary.

Testimony was that three fifths of the staff are on the top three steps. The Union also suggested that although they are out of formula, the history of negotiations has shown consistent ability to pay reasonable salary increases. Exhibits M-1A, M-3, M-4B and M-5 were offered to show that there clearly was a historical ability to pay. As stated previously, ability to pay is not really the issue but what are the long term consequences dependent upon what salary benefit is adopted.

The District offered information that for 1990-1991 the average teachers salary under the Board plans would be \$35,125; for the Association \$35,986. In 1991-1992 the Board plans \$37,430, for the Association, \$38,763. For 1992-1993 for the Board plans \$39,881 and for the Association \$41,812. When looked at as an average therefore, there appears to be relatively little difference between the two proposals. The Board established through Exhibit 3-B2 that Traverse City salaries, as a relationship to state wide salaries, was very consistent. The BA minimum would be above the state wide minimum average and at the average for MA minimum and at MA max. Board Exhibits III-C, D and E were offered to show the three year salary schedules in selected areas of the district and to show the comparison of Traverse City versus those other districts. Suffice it to say without an exhaustive analysis of all of the numbers and all the steps, Traverse City is in a relatively good position, with some districts below and some districts above at any particular

step. The point made was that for schools in the TBASD, the TCAA proposal at the top steps would be the highest in the area.

The annual salary increases by TCAPS bargaining units for 1990 as of the date of hearing were 5 percent. (Exhibit III-I) It is also interesting to note that in 1985-1986, it was 4.5; 1986-1987, five percent and then in the next three years the salary increases were ten percent, eight percent and seven percent. Thus there is a history of catching up and then competitive market increases in 1987 through 1990 which were consistent with the resources in the District. Exhibit III-K is a breakdown of the 519.75 positions of which 233.25 are at MA level, 35.25 at MA + 15 and 38.8 at MA + 30. Of particular note, in the longevity range, 156.4 positions at the MA, 29 MA + 15, 35 at the MA 30, whereas 43.8 are at the BA, 47.05 at the BA 20.

RECOMMENDATION

This is obviously a difficult situation and the numbers and exhibits are staggering and mind boggling. There is a rationale for almost any position and sorting through all these facts leads to the conclusion that we are simply talking about how much of an increase should be granted, in relationship to salaries offered in the Middle Cities and the immediate area; the possible cost of living; and adjustments that should be made given the resources of the school district.

In mandatory arbitration of Police and Fire, Act 312 utilizes as one of the factors, internal comparables. Here the internal comparables, that is, the other unions, have all accepted a 5 percent increase and that should have a significant bearing here. Also, the salary increases in the area districts suggests that something less than 6 percent is the average. Given the size of the student population, and the number of teachers, it might not be fair to use rankings and comparisons with other smaller districts with varying economic factors. On balance it appears that the Board proposal identified as "B" most closely approximates what salary increases could be given all the variables.

This is five percent across the board and does not disproportionately favor one end of the salary structure versus another. The Association's proposal, particularly in the first year at 7.6 percent, seems relatively high in comparison to others in the area, is higher than the internal comparables and when applied to the majority of the teachers at the upper levels it seems to be generous. Plans A and C of the Board seem slightly out of balance compared to the other proposals particularly if you look at the three illustrations developed by the Fact Finder.

Under the Association's plan over the three years, the least that any one teacher would get would be \$3,488 and the most

would be \$8,980. Under the Board plan "B", the least that anyone would get would be \$3,259 and the most would be \$6,053. These ranges seem to have more fairness built in from top to bottom and further does not exacerbate the potential retirement problem.

The School District is not crying wolf and is not saying it cannot pay, it is simply suggesting that resources will get scarce and significant priority decisions will have to be made in the near future which might include a request for millages. One cannot automatically discount that argument, but yet cannot also use it as a shield.

It is hopeful that the parties will take these comments in the spirit in which they are offered, not to denigrate the position or the arguments of any party but as comments which might help the parties solve this salary dilemma.

4. INSURANCE

The parties have made specific proposals as follows:

ISSUE #4, INSURANCE (Section 39)

1987-1990 CONTRACT LANGUAGE

38.1

The Employer shall pay health care insurance premiums from among those below as may be selected by the individual teacher on the following basis.

- a. MESSA - SuperMed II Plan, with Super Care Rider includes P.P.D. program, or
- b. Blue Cross/Blue Shield - Comprehensive Hospital, semi-Riders, D+SNM, NM, OPC, CC, OCCR, SA, Michigan Variable Fee - II with Riders ML, SD, VST, FAE, and Reciprocity; Master Medical Option IV, Prescription Drug Program - no co-pay, including \$5,000 life insurance.

NOTE: due to a change in underwriting rules by MESSA and Blue Cross, the plans can no longer co-exist in negotiated agreements in Michigan.

38.4

The Board shall pay dental insurance premiums for the purpose of dental care for eligible members represented by the bargaining unit and their dependents. Coverage shall be the Delta Dental 60/80 Plan.

38.5

The Board shall pay vision insurance premiums for the purpose of vision care for eligible members represented by the bargaining unit and their eligible dependents. Coverage shall be MESSA VSP1.

ASSOCIATION PROPOSED LANGUAGE

38.1

The Employer shall pay health care insurance premiums from among those below as may be selected by the individual teacher on the following basis.

- a. **PLAN A** For employees needing health insurance
 - Health Super Care I (Board pay major medical deductible and prescription co-pay of \$1.50 per prescription)
 - Long Term Disability 60%
 - Disability \$2,500 Maximum
 - 90 Calendar Days Modified Fill Pre-Existing Condition Waiver Freeze on Offsets
 - Alcoholism/Drug - 2 year limitation
 - Mental/Nervous - 2 year limitation
 - Negotiated Life \$15,000 AD&D
 - Vision VSP - 3
 - Dental 60/80/80: \$1,000 with sealants
70/70/70: \$1,200 with sealants
- b. **PLAN B** For employees not needing health insurance
 - Long Term Disability same as above
 - Negotiated Life \$15,000 AD&D
 - Vision VSP - 3
 - Dental 60/80/80: \$1,000 with sealants
70/70/70: \$1,200 with sealants
 - Option Money (Super Care 2 single subscriber rate toward annuities/options)

Vision VSP-3

Dental 60/80/80: \$1,000 with sealants
70/70: \$1,200 with sealants

(Part of pak proposal)

BOARD OF EDUCATION PROPOSED LANGUAGE

"AA"

The Employer shall pay health care insurance premiums for:

Blue Cross/Blue Shield Comprehensive, Semi, DMM365, BOTPE, GLE-1, XF, CC, CLC, OPC, OPFC, MYF-2, FAE-RC, ASFP, RM, PPHV-1, SAT II, RPS, VST, ML, HCB-1, COB-3, OCRM, PPHV-1, SAT II, RPS, VST, ML, HCB-1, COB-3, DC Master Medical Option IV, with Pre-determination, and Prescription Drug Program - (no co-pay.) A \$5,000 life insurance policy will also be provided to employees enrolled in the health care program.

WITH CONTRACT INSURANCE SAVINGS ADDENDUM PAID TO EACH EMPLOYEE:

1. Less than ten years of service: \$ 850.00 -
2. Ten through 19 years of service: \$ 1,100.00 -
3. Twenty or more years of service: \$ 1,350.00

OR "B"

38.1

The Employer shall pay health care insurance premiums for MESSA - SuperMed I Plan, with Super Care Rider including P.P.D. program, for the 1990/91 school year.

38.2

From July 1, 1991, through June 30, 1992, the Employer will pay not more than ten (10%) percent above the 1990/91 MESSA SuperCare I single, two-person, or full-family premium rate.

38.3

From July 1, 1992, through June 30, 1993, the Employer will pay not more than ten (10%) percent above the Board's 1991/92 contribution toward premiums for MESSA SuperCare I, single, two-person, or full-family premium rate.

38.4

For the months of July and August, 1993, the Employer will pay not more than five (5%) percent above the Board's 1992/93 contribution toward premiums for MESSA SuperCare I single, two-person, or full-family premium rate.

OR "C"

38.1

The Employer shall pay health care insurance premiums for MESSA - SuperMed II Plan, with Super Care Rider including P.P.D. program, for the 1990/91 school year.

38.2

From July 1, 1991, through June 30, 1992, the Employer will pay not more than five (5%) percent above the 1990/91 MESSA SuperCare II single, two-person, or full-family premium rate.

38.3

From July 1, 1992, through June 30, 1993, the Employer will pay not more than five (5%) percent above the Board's 1991/92 contribution toward premiums for MESSA SuperCare II, single, two-person, or full-family coverage.

38.4

For the months of July and August, 1993, the Employer will pay not more than five (5%) percent above the Board's 1992/93 contribution toward premiums for the MESSA SuperCare II single, two-person, or full-family coverage.

Although, presently there is an option between MESSA and Blue Cross Blue Shield (BCBS), the record reflects that the majority, if not all, participants are taking the MESSA plan at the present time. That is the Super Care II plan. The plan is fully paid by the employer. BCBS is the underwriter for the MESSA plan. As a result of a change in policy, BCBS will no longer participate where the bargaining unit employees have a choice between MESSA or BCBS. Thus, the parties have been exchanging proposals to find an acceptable arrangement.

Although BCBS is called insurance, knowledgeable parties recognize it is not insurance where there is a transfer of risk. Rather it is a benefit plan in which BCBS agrees to reimburse providers at a specified rate and by doing so, and also handling claims, is able to offer a program which is affordable. MESSA is a non-profit corporation affiliated with the MEA. In fact, the record here shows that all MEA representing bargaining units have MESSA coverage and the two communities that do not have MESSA are not MEA represented entities.

MESSA is essentially a third party administrator and negotiates a program for health benefits and administers the plan, including claims, purportedly at less cost than Blue Cross and passes part of that savings on. However, there is obviously a cost incidental to administration which is unknown on this record and is within the discretion of MESSA. MESSA argues that its bargaining power on behalf of large groups gives it leverage, which is true, and that leverage has allowed it to develop what it calls PAKs which extensively provide even greater coverage at possibly lower prices than if you were to purchase the individual items within the program separately.

Because of the complexity of this issue, the Fact Finder requested that the parties present written summaries of their position developed on the record. It was not the intent to supplement the record and information contained in the summarizations that was not part of the record on December 15, will not be considered. As one of the parties expressed in the post-hearing exchange of communications with the Fact Finder, "rebutting rebuttals is very time consuming and anti-productive". Introduction of new information in whatever form beyond that which was introduced on December 15, is counter productive and will have absolutely no bearing on the recommendations herein.

Essentially, the Association has suggested downgrading from Super Care II to Super Care I, but in doing so wants to put together a PAK which would have expanded dental, expanded vision and a total package which it perceives to be a lower premium than what it would cost for Super Care I. Long term disability would also be an additional benefit.

The Board has made three proposals, all of which they argue have cost containment. The Board's first proposal identified as AA wishes to adopt BCBS in what it calls an enhanced program, comparable to the benefits provided by the existing Super Care II program. As alternatives, the Board suggests plan B, a switch from Super Care II to Super Care I, but with a cap, the employer not paying any annual rate increase exceeding 10 percent, starting in the second year of the contract. Teachers would pay the difference between the 10 percent increase and the actual cost. A third alternative identified as Plan C would be a continuation of existing Super Care II with a cap of 5 percent on annual cost increases.

Fringe benefits, particularly health care, have become very extensive in public sector collective bargaining. The MEA, to its credit, has bargained on behalf of its members a very complete program through MESSA. Having bargained for these benefits, and possibly giving up other benefits in return, they feel strongly that a move from MESSA to the enhanced BCBS is a step down, both in quality and in quantity. This is not only a perception but is based in fact.

Conversely, the School District, as the custodian of public funds, has a fiduciary duty to make sure that the funds will go as far as they can and cost containment is a very legitimate objective.

How to achieve that objective with spiraling medical care costs is, of course, the ultimate question. Experience in other public sector and private sector bargaining suggests that it is extraordinary and very unlikely that a benefit, once obtained, will ever be bargained away. Thus, even if the School Board has the most laudatory of objectives, it is extremely difficult to develop a scenario where public employees will voluntarily give up what they perceive to be a hard fought health care package and accept something less.

With these preparatory comments, the record as developed on December 15, shows that there clearly is a difference between the Board enhanced BCBS program and MESSA. Association Exhibits B-29, B-30, B-31, B-32 and B-33 explain some of those differences. Mr. Schroeder testified as to some of those differences. Mr. Wyatt conversely on behalf of the Board down played any differences and felt that the programs were comparable. Mr. Ross testified that the Board proposal is more similar to Super Care I and that a switch from Super Care II would amount to 31 percent premium reduction. (Board Exhibit IV and V) There is an increase drug co-pay from 50 cents to \$2.00 and the annual \$50.00 deductible for single, \$100 for family are principle differences.

Apart from those financial considerations, there are qualitative differences as it relates to psychiatric services available, some maximum out of pocket expense considerations and the whole question of reasonable and customary charges of a non-participating doctor. Without getting into a lengthy comparison of each product, suffice it to say it is the sense of this writer that the MESSA Super Care II program is the "Cadillac" of health programs and that the enhanced Blue Cross program is something less than the "Cadillac". Clearly not a "Ford Escort", but perhaps falling short of a luxury automobile. Again, detailed examination of all the fine points of the program will not materially change the recommendation.

The BCBS program simply is not fully comparable and it is unrealistic to expect the teachers to accept such a program unless there is extraordinary strong incentives in other areas. Apparently, even the offer of the school district to remit part of the first year savings back to the teachers of \$850 for less than ten years of services, \$1100 for ten through nineteen years and \$1,350 for 20 or more years of service is not such an incentive.

Conversely, when the School Board is talking about cost containment and presents a total overall budget perspective which suggests the need for reprioritization of scarce resources, it is unrealistic for the teachers to expect to receive expanded benefits program such as the MESSA PAK no matter how well presented. The theory of the PAK is that by purchasing in one program all of the components rather than separately, you can get a better deal, you can offer more services and yet have the same or possibly slightly increased rates than from the year previously. This record doesn't demonstrate that the PAK is "the wave of the future". The Association states that the benefits of the PAK will reduce the cost to the Board and allow the teachers to receive expanded benefits which are more equivalent to other area teachers citing Exhibit B-59 through 63 and Board Exhibit IV-I. However, a review of those exhibits does not sustain that statement. There are no demonstrable facts which suggest that the MESSA PAK is cheaper and based upon history, 17 percent annual increases, there is clearly no guarantee that the rates will not increase dramatically in the future. It just is not possible that expanded benefits are ever going to get any cheaper. If anything, those benefits are going to get more expensive and once obtained, by possibly offering them at an initial low rate, they always go up. Therein lies the advantage of MESSA in being able to work in the competitive market to structure a package which will be attractive to its members and have some advantages at first blush to the employer as opposed to the other packages. Sooner or later the cost savings tend to disappear.

If, by process of elimination, BCBS does not appear to be acceptable and MESSA PAK does not appear to be reasonably

acceptable, that leaves two proposals set forth by the School Board. Each of those recognizes the retention of MESSA and that should be a common ground acceptable to both parties. The Union clearly want MESSA and the Board at least acknowledges that is a possibility with certain caveats. Essentially, it can be a win/win if the parties want to perceive it that way. The Board can obtain its concepts of cost containment and the Union can retain its well-earned, well-bargained MESSA benefits.

What then should be said of Board Plans A and B. The Board says the need for cost containment comes from the testimony of Ida Thompkins and Board Exhibit IV-Y. Since there will be new buildings for elementary, junior high and high school; a elementary in addition to the two recently opened schools are slated for 1991-1992, junior high for 1992-1993 and a new high school for 1994-1996, the Board sees significant cost problems. With this expansion in construction, there is obviously going to be an increase in staff both instructional and otherwise. It obviously makes some sense to plan for the future to anticipate what some of those costs might be but not to use those other projected costs as a reason why it would be difficult for the Board not to pay compensation packages as presented by the Union. Ms. Thompkins testimony was certainly credible, but it could be characterized as putting all of the district's future problems as the burden of the teachers and why the teachers should forego the economic packages that they sought. Clearly that is not the case. There are rough times ahead, the Board needs to be prudent in its management of its resources, a desirable goal. The perception should not be all of the future problems and possible millages are going to be a direct result of the compensation package negotiated in this contract. That may not be what the Board intended, but it is obviously a conclusion that can be drawn and possibly a perception which may have hindered the resolution of these issues.

The Board suggests that a switch to BC would amount to savings of \$712,673 in 1990-1991, but with certain reductions, it would be a net savings in the first year of \$144,778. Even with a 9 percent cost increase the net savings for 1991-1992 would be \$963,044, and 1992-1992 would be \$1,267,609. These numbers are impression in and of themselves. But for reasons expressed above, it is not realistic to expect the teachers to accept what they perceive to be a diminution in the benefit. To achieve some savings and to diminish the affect of 17 percent premium increase projections, the concept of a cap, is not only plausible, but realistic. Plan B would not change the qualitative program, but would have a quantitative impact by going from Super Care II to Super Care I. That would be the 50 cent co-pay for prescription drugs to \$2.00 and the \$50 to \$100 annual deduction. The Board proposes that in exchange for the employees picking up the co-pays they would pick up all the premiums in the first year and establish a ten percent cap on increases in the second and third year. The

Board projects that the switch to Super Care I, which I perceive to have no material affect on the services available, would have net savings to the District in 1990-1991 of \$236,282 in 1991-1992 of \$414,062 in 1992-1993 \$646,123. There is precedent for switching to Super Care I as most if not all of the surrounding Districts have not retained Super Care II (See Board Exhibit IV-I). The Board suggests for 1990-1991 there could be savings of \$128,569 with the shift from Super Care II to Super Care I and the payment of the deductibles not in the MESSA PAK. This is done by analysis of Board Exhibit IV-H and IV-G less the cost of deductibles and co-pays set forth in Association Exhibit B-49. In the second and third years with a ten percent cap the projected savings are again \$414,062 and \$646,123.

One of the principle reasons for accepting this concept is there appears to be an annualized rate increase under the existing plan of 17 percent. That number really was not rebutted. If that is true, the Board says "why can't we get our own experience, and if our experience is less than the average, why don't we get the benefit of having something less than the 17 percent increase." MESSA counters by saying that all the Blue Cross individual experience is available, but all experiences are pooled together so MESSA is able to offer a better package to all. It would seem that if a district has experience better than average, they should receive the benefit. Conversely, if they have bad experience, they should pay more. The absence of being experience rated and the inability to determine what administrative factor MESSA builds into its premium leaves the school district somewhat out in left field and it must accept the next increase because it is contractually bargained. To guard against these uncertainties, it would seem that there should be a sharing of the increase and that if the teachers want to retain the "Cadillac" and not trade it in for what they perceive to be an undervalued product, they should be willing to share some of the expense on an annualized basis for the Cadillac. Thus, it would not seem unreasonable to take Plan B, go to Super Care I and have a ten percent cap in the second and third year, or if the teachers really prefer the Cadillac and Super Care II then the cap would be 5 percent as proposed by the Board. The Fact Finder is not persuaded that there is significant qualitative difference between Super Care I and II and that the principle difference is the co-pays. If the Fact Finder's conclusion is not completely accurate, the cap could be 5 percent as the Board suggested or possibly a compromised figure negotiated by the parties after they have had an opportunity to do a thorough cost analysis of the real economic impact of simply switching from Super Care II to Super Care I.

In summary, it is the recommendation on this issue that the Board objective of some cost containment is met along with the Association's very clear signal that it would not give up the core concept of the MESSA health package. Both interests can be accommodated.

Accordingly, it is the ultimate recommendation that the Board proposal be given very serious consideration by both parties as the more viable of all the options. It would seem that the District's payment of the premium up to 10 percent would probably exceed the normal cost of living increase that could be expected and the introduction of co-pays, ought not to be a significant burden to the employees. It should also be noted that there are more full families than singles and that if a cap is adopted, a formula should be worked out so that the amount above the cap is prorated among those full family members and single members so that the same is equitably distributed.

5. SCHOOL CALENDAR

In reality, this issue is really several subissues built around the school calendar. One issue has to do with making up of snow days; a second, appropriate time frame for spring break; and a third, is whether to add four additional half days to allow more teacher free time either for parent/teacher conferences or other services.

The Association and Board proposals are as follows:

ISSUE #5. SCHOOL CALENDARS (Section 44)

TRAVERSE CITY AREA PUBLIC SCHOOLS

1987-1990 CONTRACT LANGUAGE

ASSOCIATION PROPOSED LANGUAGE

BOARD OF EDUCATION PROPOSED LANGUAGE

6.1
The school calendar provides a minimum of 180 instruction days for students and 182 work days for teachers.

44.1
(same as old contract, 6.1)

44.1
With the inception of the 1990/91 school calendar, each annual school calendar contains 180 student instruction days and 187 teacher workdays. It is mutually agreed and understood between the parties that classes will actually be held on no more than 180 student instruction days and that teachers under the annual salary schedule which is a part of this Agreement will be required to work no more than 182 teacher workdays annually.

6.2
The Employer retains the right to make up or reschedule employee workdays cancelled or lost due to strike or the withholding of services. Make-up days shall be student instruction days and will not require teachers to work more than the total number of contract days as indicated in the attached school calendar.

44.2
(same as old contract, 6.2)

44.2
The Employer retains the right to make up or reschedule student instruction days and/or employee workdays which are cancelled or lost due to a strike or the withholding of services, or which are cancelled due to "acts of God" (snow, ice, fog, epidemic, etc.). Make-up days shall not be student instruction days and will not require teachers to work more than the total number of contract student instruction days as indicated in the attached school calendar outlined in 44.1 above.

6.3
School calendars shall be a part of this Agreement.

DELETE 6.3 of old contract

6.4
The Association and the Employer will negotiate a school calendar for the ensuing school year by June 1 of the year in which this contract expires.

44.3
(same as old contract, 6.4)

44.3
Adjustments in the school calendar to reduce or extend the school year to comply with requiring students to attend no more than 182 workdays under the annual salary schedule will be made and announced by the Employer on or before May 1 of each school year. All such adjustments shall impact only the end of the school year.

6.5
Student instruction days scheduled in the calendar which are cancelled due to "acts of God" (snow, ice, fog, epidemic, etc.) will be rescheduled as required by State Statute, the Department of Education, or the State Board of Education. Teachers required to work on both "acts of God" days and rescheduled days will be compensated at an individual teacher's normal daily rate for days worked in excess of the teacher work days as listed in the calendar. Teachers required to work only on rescheduled days (not "acts of God" days) will receive no additional compensation. If it becomes necessary to make up student instruction days, those instruction days will be added on at the end of the school year.

44.4
(same as old contract, 6.5)

44.4
The number of days that teachers will work under the annual salary schedule (excluding days cancelled on which teachers may not report) shall not exceed 182.

44.5
It is mutually understood and agreed between the parties that the two half-days of student instruction at the end of the first semester and the two half-days of student instruction at the end of the school year may be on different dates than noted due to snow days, or due to the need to adjust the end of the school year to comply with the intent of adjusting the calendar to provide the appropriate number of student instruction days and teacher workdays. It is mutually understood and agreed between the parties that the intent of the school calendar is to provide for ending each semester with two one-half days of student instruction (the remaining half-days will be employee workdays).

44.6
Up to four (4) of the full student instruction days may be reduced to one-half student instruction days to allow for up to four (4) one-half days of teacher in-service during each school year. Employees will be notified at least two weeks in advance that a student instruction day will be reduced to a one-half student instruction day to allow for teacher in-service.

44.7
This negotiated agreement shall contain a school calendar extending at least one year beyond the year in which this Master Agreement expires.

First, addressing snow days, under the current contract, they are rescheduled as required by State regulation. If a teacher works on the cancelled and rescheduled days they are to be compensated, but if they work only on the rescheduled day, they will receive no compensation. The total number of days that teachers can work is 182 with a minimum of 180 instruction days for students. The Board wants to increase the calendar to 185 student instruction days and 187 teacher work days, but a maximum of 182 teacher work days. In essence, the Board wants to provide for the 185-187 days and then if necessary, drop days if there has been no snow days, or if the teachers have worked 182 days. This issue arises as a result of the Michigan Supreme Court case in State Board of Education v Houghton Lake Community Schools, wherein it was held that school districts have no legal duty to provide 180 days of instruction, but will forfeit 1/180th of state aid for every day lost less than 180 days, minus a two day allowance. The existing contract language was subject to arbitration. Teachers who worked a rescheduled snow day were denied additional compensation. The question still remains whether or not the employer was required to reschedule cancelled student instruction days.

The Association argued that making up snow days at the end of the year is not very good because students are not motivated and high school students want to be out to secure jobs. The District argues that making up snow days is the pattern and cited language from other districts found in Exhibit 5-B. Exhibit 5-E shows missed days from 1978 through 1990-1991. In 1987-1988 there were three days lost. One was made up and that was subject to the grievance. In 1988-1989 there were three days lost, in 1989-1990 one day and thus far, one day as of the date of hearing. The Board did not make up the days in 1989-1990 and took the monetary penalty for those days in excess of the two allowed by State law. Since the school is not technically required to make up a day as long as it is willing to take a penalty, the Association argues that if a day is made up, the teachers should be paid an extra day for each day made up even though such make up day would not require teachers to work more than 182 days. The Board wants maximum flexibility to extend the school year possibly to 187 teacher days and to make up days as long as no teacher works more than 182. This seems to be slightly overreaching and could potentially have a negative impact not only upon the morale of the teachers, but also the student body. Since the Board took a one day penalty in 1988-1989 and a four day penalty in 1989-1990, it would seem that they were awaiting either additional legal clarification through the Courts or statutory change. Although they won the grievance, apparently they did not want to make up the days and incur the wrath of the teachers for not being compensated for what the teachers perceived to be extra teacher days.

A possible compromise and recommendation is to build in one additional snow day above the two that are permitted by State statute so the school district would not suffer a monetary penalty. It would also seem to be reasonable to have that extra day scheduled within the 182 called for in the contract. It is further recommended that the Association's proposal 44-4 should be adopted so that teachers who work on both the snow day and the rescheduled day would be compensated at their individual daily rate for a day's work. That seems equitable and to the extent that a teacher may have come in and worked a portion of the day that was ultimately cancelled and that day was rescheduled, the teachers should receive compensation.

With respect to the spring break, the testimony of the Association was that the best teaching time was between the Christmas break and Easter and therefore they should push the break back as far as possible. The District believes that there should be some consistency either the last week in March or the first week in April in order to coordinate some of their activities with the intermediate school district. This apparently would allow the break to fall more near the half way point and perhaps would allow consistency, in planning for spring breaks, both for staff and community members.

On this issue is it recommended that spring break remain consistent with Easter because it does seem logical that once the Easter break occurs, student interest goes downhill. If instruction is more productive from Christmas break to Easter then it would not seem appropriate to have the break sometimes two or possibly three weeks before Easter and disrupt that flow.

On the issue of adding four half days, the Association produced teacher enrollment statistics which suggested that 47 percent or 114 sections in the District have more than 24 pupils per section. Because of this additional teacher load, the Association suggests that the additional four half days would be available for the teachers to give more time to parents at parent/teacher conferences or additional time to prepare and work on other factors which will enhance the teacher productivity and what they perceive to be a heavy teacher/student ratio. The teachers would prefer that these additional half days be scheduled in the tenth week, and they would prefer the end rather than the first of the week. The Board counters by saying that prescheduling six half days as is currently the case, seems appropriate because there has not really been any sense of discontent among parents, or for that matter, with the teachers in the past.

Since the proposing party has the burden to demonstrate why a change would be for the better, the Fact Finder perceives that there is really little concrete information as to why the four additional half days will improve the quality of instruction.

Although there may be reasons, it just seemed that the information presented at the hearing does not suggest that the four additional half days will in fact be used in productive purposes. Thus, additional 1/2 days should not be adopted.

It appears there are other subissues, one of which is whether or not the calendar should be negotiated for three years and attached to the contract, or be done on an individual year basis. It would seem that the Board's proposal for continuing a school calendar at least one year beyond the year in which the master agreement expires makes sense as consistent with past practices and to incorporate the calendars in the contract.

Respectfully submitted,

McGINTY, BROWN, JAKUBIAK,
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