

TROY EDUCATION ASSOCIATION

and

Troy Board of Education

*Richard Stuchart*

MERC FACT FINDING

Case No. D 82-E2940

Fact Finder's Report

MICHIGAN STATE UNIVERSITY  
LABOR AND INDUSTRIAL  
RELATIONS DEPT.

BACKGROUND

On November 8, 1982 I was appointed fact finder in this matter and a preliminary hearing was held on November 24. The parties submitted statement of issues and the Association included contract language. The Board indicated it would submit specific language. A calendar for presentations by the parties was agreed upon. Fact finding was conducted from January 3-6, 1983 with a detailed presentation by both sides supported by numerous exhibits. This material was reviewed in great detail following the close of the hearings.

The fact finder was impressed by the sincerity of the presentations and has been assisted by the clear elucidation of the issues and by the supporting documentation.

This matter has been before various mediators, courts, and others long enough. The parents who send their children to the Troy Public Schools and the taxpayers of this school district deserve to have the matter brought to an end with an amicable settlement based on the welfare of the children, equity for the taxpayers, and a fair and just agreement for the parties to sign.

*Troy Public Schools*

With this in mind the fact finder submits these recommendations with the fervent hope that they will form the basis for a speedy resolution of this dispute.

## THE ISSUES

### 1. Wages--Schedule A

The parties are far apart on the issue of wages. The Board proposes a three year contract with a wage freeze for the first year and a five percent increase for each of the second and third years. [Board Exhibit 1] To justify its position the Board points to the substantial sums required to fund step increases and degree status changes claiming an expenditure in excess of \$700,000 and 4.2 percent of teacher salaries. [Board Exhibit 2] It also observes that there is increasing community resistance to increases in the property tax upon which it is almost fully dependent [Board Exhibit 18] with the decline in federal revenues and the district's position of being an out-of-formula district. [Board Exhibit 3] Past deficits appear to have been funded out of increases in assessed valuations which made for a higher tax yield. [Board Exhibits 27, 23, 21] This year that increase will be only one percent and the Board remains pessimistic about the future tax harvest from increasing valuations of residential and commercial construction. [Board Exhibit 21] It also points to the

high percentage of teacher salaries to all salaries paid when compared with surrounding districts. [Board Exhibit 13]

For the Association a different viewpoint is described of a Board which has not aggressively sought added millage [Association Brief pages 3-5 and Board Exhibit 30], has abandoned its commitment to maintain the position at the first rank for teachers with experience and an advanced degree [Association Exhibit 57-66], and has available to it funds which it not only refuses to use for wage improvements but has pledged to return to the taxpayers the tax "windfall" [Board Exhibit 32] resulting from an increase in the state equalized valuation of six percent (currently the subject of a legal challenge [Board Exhibit 32]). The Association acknowledges that the contract recognition of experience through step increases and longevity, and the acquisition of knowledge through degrees and additional earned academic credits, is a beneficial one to both their members and to the students. However, it disputes with great vigor the amount attributed to these step increases and degree changes [Association Brief pages 7-9, Board Supporting Brief pages 1-2, Exhibit A].

In turn, the Association has asked for a two year contract with a six percent increase for steps 1-9 and an eight percent increase for step 10. These increases are

to be effective for each year. In addition the Association proposes a cost of living increase not to exceed six percent in each year and to be rolled into base [Association Statement of Issues pages 31-32].

The Board in its Supplemental Brief [page 5] stated that unless there is a salary freeze in the first year there is "little likelihood of the District's adoption of the [fact finder's] recommendations..." In contrast, the Association has suggested a range of increases from six percent plus six percent C.O.L.A. [twelve percent] to eight percent plus six percent C.O.L.A. [fourteen percent], and does not consider the value of the step increases and degree changes.

This is a vigorous school district with residents living in moderate to expensive housing who have above average income [Association Exhibit 84-85, 87]. The teaching staff is young when compared with other districts in Oakland County [Association Exhibit 68] and has been well compensated. That does not mean however that it should not maintain its leadership position. But account must also be taken of the impact of a wage schedule which weighs not only experience but academic achievement by the teachers.

It is my belief Troy is a community which wants excellence in its schools and is willing to provide support for achieving this goal. It has been subject to the vicissitudes

of the economy and recognition must be given to this significant factor [Board Exhibit 26].

#### RECOMMENDATION

It is my recommendation that the parties enter into a three year contract with a four percent increase in the first year (1982-83), a six percent increase in the second year (1983-84), and a five percent increase in the third year (1984-85). The effect of a modest first year increase, when coupled with the effect of the salary schedule, will maintain the Troy School District among the leaders in Oakland County. Increases in the following two years should maintain that ranking. No cost of living adjustment is recommended. These increases would be for Schedule A of the existing contract as supplemented by the Extension Agreement.

It is my sincere conviction that the parties will find these wage recommendations fair to each side and reflective of a judgment which the community will accept.

#### 2. Wages--Schedules B, C, and D.

Although the Board proposed changes in Schedules B, C, and D from the existing percentages to a specific dollar figure for each position, it did not pursue this issue during the fact finding. The Association strongly objects to changing the current schedules which are based on

percentages and reflect adjustments made in Schedule A. These schedules have been in effect since 1975 and no compelling reason has been presented to change them. The Association is agreeable to shifting the Radiation Protection Officer from Schedule C to Schedule D and equivalent hourly rate to be set.

#### RECOMMENDATION

In Schedules B, C, and D, the salary should continue in the present form and include the roll-up costs of Schedule A.

No new positions shall be required to be added by this contract although some have been funded during the past year. The rate for the Service Squad should remain unchanged. The Radiation Protection Officer should be shifted from Schedule D to Schedule C and an hourly rate established for this position.

#### 3. Wages--Longevity.

Association Exhibit 53 demonstrates that substantial sums are paid for longevity and acknowledged that Troy ranked second among Oakland County School Districts in 1981-82. While the cost is relatively modest at this time, [Association Exhibit 54], as the staff matures this could be increasingly expensive.

## RECOMMENDATION

No change made in existing contract regarding longevity.

Wages--Proposed change in Schedule A to permit teacher with B.A. plus thirty hours of credit to progress to column 5.

The Association suggested that the existing requirement of an M.A. for teachers hired after December, 1971, penalizes those teachers who are in a master's degree program which requires more than thirty hours. It would appear that while there may be some situations where this may arise no hardship has been cited.

## RECOMMENDATION

There should be no change in the existing language regarding the requirement of an M.A. for moving to column 5.

Non-Salary Issues

1. Extra-Duty Positions--Right to grieve.

Existing contract language [Article III, D--Reduction in Rank] has been interpreted in two arbitration decisions to permit the Board to terminate extra-duty position [Board Exhibits 38, 39]. It is asserted that extra-duty positions provide substantial additional income to members of the bargaining unit who elect to staff these positions. Ten school

districts in Oakland County presently permit extra-duty personnel to file grievances [Association Exhibit 16]. The Association claims that it thought it had achieved this right in 1977 but the arbitration decisions are contrary to their position. The Board states that many of the extra-duty positions are staffed by non-bargaining unit-persons and the evaluation procedures and requirements are not similar to classroom positions.

#### RECOMMENDATION

In view of the disparity in these extra-duty positions with those of classroom teachers, it is recommended that no change be made in the existing contract.

#### 2. Article 5--Layoff and Recall.

The provisions of this article were most recently negotiated and are contained in the Extension Agreement (1981-82). The Association wishes to retain the substance of the language of the Extension Agreement but in a new form [Association Proposal Article 5]. It also seeks changes in language relating to involuntarily laid-off teachers who do not respond to recall notices are to be bypassed but retain future recall rights as opposed to current contract language placing them at the bottom of the seniority list. The Association also has a definition of qualified which differs from that of the Board which



refers to North Central requirements and a major or minor in certain subject areas and for certain grades. The Board also differs in its notice provision and current contract language.

#### RECOMMENDATION

In view of the recent adoption of the provisions governing layoff and recall, if the parties can not agree on changes, then the language in the Extension Agreement should be retained. The parties indicated to the fact finder that language in the Board's proposal Article V, B, had been modified to continue fringe benefits during July and August and was acceptable, and the Association agreed to Article V, C, re: retention of recall rights for three years [Association Brief page 15]. The present notice of <sup>notice</sup> layoff 60 days written<sup>^</sup>prior to the close of school should be retained [Association Exhibit 17]. The written notice provisions impose a financial burden on the Board due to the eligibility of these teachers for unemployment compensation benefits during the summer but this is due to state law which governs their rights. The parties also agree that the provision requiring the Board to assist a teacher in finding employment elsewhere is a minor issue and they should be able to work this out. Similarly, the repayment of fringe benefits to a teacher recalled by December 1 was just implemented in the Extension Agreement and should

be retained. The language on new hires was carried over from the existing contract into the Extension Agreement and should be retained. The reverse recall provision in the contract and continued in the Extension Agreement should be retained as should the retraining provision. The recall language in the existing contract placing the involuntarily laid off teacher who fails to respond within thirty days at the bottom of the seniority list should be continued.

The Association position on qualifications of teachers at the middle school and high school levels differs from the qualified position of the Board. However, it appears that the parties should be able to agree if the Association's proposal for one year's experience is deleted. The Board's use of North Central requirements without making clear to the fact finder their applicability to this situation suggests that the Board should recede from the North Central requirement in determining whether a teacher is qualified. With these two rescissions the parties should be close to agreement on this issue.

On vocational education the Association has accepted the Board's proposed language in Article V, D, with the addition of "However, the teacher retains all other assignment and bumping rights." [Association Exhibit 93] The fact finder recommends that the parties agree on this language.

3. Extra-duty payments and Credit Union.

The Board position on these issues is that the once yearly payment for extra-duty was negotiated in the last contract and it is not at fault for the failure by the Credit Union to credit deductions on the date of the pay-check since that is when the Board transfers the funds.

RECOMMENDATION

The Board position on both these issues is recommended to the parties.

4. Pay dates.

The Association wants to have teachers paid on the last work day before a vacation if the pay period falls during the vacation week. The Board resists saying it would cause extra expense.

RECOMMENDATION

The expense in agreeing to this request is minimal and should be agreed to by the parties.

5. School Calendars.

The provision proposed by the Board to declare the school calendar null and void (Section 11.1) in the event of a strike by other employees is strongly resisted by the Association.

## RECOMMENDATION

There is no reason shown that persuades the fact finder that this provision should be inserted in the contract. Past experience shows that the schools have remained open even when other employees have been on strike.

6. Teaching Hours.

## A. "Late" School.

At the hearing the fact finder recommended to the parties that this matter be referred to a study committee. The Association has agreed and suggested the Professional Relations Committee examine this issue.

## RECOMMENDATION

The parties agree to some suitable committee to examine all of the implications of the Association's proposal in order to recommend to the Board and the Association on this issue.

7. Flex time.

The Association has proposed flexible starting and ending time on the vote of the staff and the approval of the principal (the same for special education with the approval of the special education principal).

## RECOMMENDATION

Since the Board can maintain control over this matter by dictating whether a principal may or may not approve flex time, it seems that this language, with appropriate modifications to assure Board control, should be approved.

8. Recess modification.

The Board proposal would modify a practice which has been in existence since 1969.

## RECOMMENDATION

The fact finder has not been convinced there is sufficient need to overcome this long standing practice.

9. Class size.

The Association and the Board differ greatly on this issue. The Association says the Board can do it, is doing it, and other school districts do it [Association Exhibit 13, 18-28, 94 and 95]. The Board takes the view that existing contract language is best maintained to assure curriculum flexibility, financial stability and management of the schools.

## RECOMMENDATION

In view of the uncertainty surrounding the enrollment in the District it would be unwise to adopt the ratio

proposed by the Association or a reduction in secondary class size, lab classes, English class (sixth grade) and general Math, general English and general Social Studies, Music and Study Hall. However, the position of the Association on Special Education class size and mainstreaming [essentially the same by the Board] should be adopted.

10. Promotions, Vacancies and Transfers.

New language is proposed by the Association to create a strict seniority rule if the teacher has at least three years seniority. The Board points to the language of the existing contract and suggests this language is liberal and still provides administrative discretion by employing the rule of three.

RECOMMENDATION

There is no urgent need to change the present language and the fact finder suggests the parties retain language in the existing contract.

11. School Closing.

In prior discussion dealing with the issue of "qualifications" the fact finder suggested that the parties each recede from a part of their position. Provided that agreement on that matter is arrived at by the parties, then the Association spells out a procedure to protect the experienced

teacher in the event a building is closed. The Board feels the approach it suggests in layoff and recall is the proper one.

#### RECOMMENDATION

Subject to agreement on the "qualifications" issue, the procedure suggested by the Association should be adopted.

#### 12. School Openings.

The Board suggests that its position on transfer and posting is sufficient to protect the interests of the teachers. The Association treats the whole matter differently and relates it to whether the principal is transferred from another school or is a new principal.

#### RECOMMENDATION

The Association approach is one that provides more protection for teachers than would the Board's language. It is recommended that the Association position be adopted.

#### 13. Definition of Qualified.

#### RECOMMENDATION

This definition should be consistent with that used in the sections on layoff and recall.

14. Involuntary Transfer.

Although the Association says its proposed language is like the existing contract, there are differences in approach. Similarly the Board is suggesting changes in language and approach.

## RECOMMENDATION

Since there is sufficient divergence of viewpoints on a difficult issue, the parties are encouraged to retain existing language.

15. Certification.

## RECOMMENDATION

Retain language regarding certification in the existing contract.

16. Notice of Assignment.

Sections 15.15-15.17 provide the Association's position about notice as well as interpretation of a change in assignment. The Board indicates considerable difficulty with the administrative burdens involved since the District has a declining enrollment.

## RECOMMENDATION

To the extent it is possible to give notice by June 1 this should be done. However, the language should provide



some reasonable flexibility so that the Board may make reasonable adjustments in teacher assignments. The interpretation of a change in assignment contained in Association 15.16 should be adopted.

17. Leave Days.

The Association wishes to increase leave days from fourteen to fifteen and to accumulate 190 days this year (presently 180 days), and 200 day next year and the excess to go into the Master Sick Bank. It also opposes the Board's desire to eliminate existing Article XVII A.5. which permits borrowing in advance from a teacher's annual leave allowance. The Board agreed to add scabies, lice, and conjunctivitis as school connected illnesses.

RECOMMENDATION

Retain present language except as agreed to by the Board regarding scabies, lice and conjunctivitis.

18. Substitutes.

There is some dispute about whether there should be a sixty day rule as permitted by state law or the contract period of forty days. However, by proposing to eliminate the contract language in this regard completely (present Section L) the Board has undermined its own argument.

RECOMMENDATION

Retain existing contract language in Article XVII L but modify to permit a substitute for sixty days.

19. Doctor's Certificates.

In the absence of evidence showing any pattern of abuse, it is difficult to understand why the Board wants to add this language.

RECOMMENDATION

Do not include Board proposed L on proof of illness.

20. Maternity.

The Board reiterates its position regarding an examination by an independent physician.

RECOMMENDATION

There is no grounds for granting the Board's suggestion.

21. Maternity Leave.

The parties have agreed to change the notice under Article XVII A.1.a) to the sixth month of pregnancy.

RECOMMENDATION

Approved.

22. Options for Maternity Leave.

Present language to be retained permitting use of sick leave for disability resulting from pregnancy and recovery period and then permitting child care leave.

RECOMMENDATION

Retain existing language.

23. Child Care Leave for Male Teachers.

At this time no compelling reasons have been presented to support the Association's position to grant child care leaves to male teachers. It is the Board's position that child care leaves are given in conjunction with maternity leaves.

RECOMMENDATION

Do not include child care leave for male teachers.

24. Article 19--Leaves of Absence;  
Return from Leave.

The Association argues that the present language on return from leave is inconsistent in requiring seventh and eighth grade teachers to have at least a minor in the subject area. However, the initial teaching assignment does not impose that requirement. The Board opposes changing the existing provision.

## RECOMMENDATION

Delete the requirement of at least a minor in the subject area as inconsistent.

25. Physician's examination of teacher on health leave.

## RECOMMENDATION

In the absence of any evidence or to the necessity to change contract language, the Board's suggestion should not be approved.

26. Insurance.

Waiver of Liability.

The Board seeks a waiver of liability saying that this is a matter between the insured and the carrier. The Association says this would allow the Board to contract for inadequate coverage and then duck for cover under this provision. Association Exhibit 30 shows that fifteen districts provide for no waiver while eight have a waiver.

## RECOMMENDATION

The Board's concern about some contingent obligation does not justify a waiver of liability at this time.

27. Life Insurance.

The Board takes the position that its fringe benefit package is one of the best in the county. An examination

of the comparable agrees with this assertion. As to this benefit the Board provides a better arrangement for its administrative staff.

RECOMMENDATION

No change in the current year (1982-83) but provide two times salary term insurance in subsequent year (1983-84).

28. Dependent Life Insurance.

RECOMMENDATION

Do not include in the contract.

29. Health Insurance for Teachers on Long Term Disability.

There appears to be some arbitrariness in selecting a cut-off date of August 31 for this benefit and it is

RECOMMENDED

that the parties seek to provide a one-year benefit without regard to the August 31 date by utilizing the fringe benefit fund.

30. Vision Coverage.

RECOMMENDATION

Retain existing coverage with the named carrier as in present contract.

31. Option to Health.

RECOMMENDATION

Retain coverage as in the Extension Contract.

32. Long Term Disability Insurance.

The Association seeks to freeze the Social Security offset at the present level so that the beneficiary will get more in the future. The Board counters by saying it would increase its costs.

RECOMMENDATION

Do not change current contract language.

33. Pre-Paid Legal Insurance.

This is a new benefit in an acknowledged excellent fringe benefit package.

RECOMMENDATION

Do not include this benefit.

34. Fringe Benefit Fund.

There was no compelling reason given to change an already "good fringe benefit package" [Association Brief page 36].

RECOMMENDATION

Retain present level of funding.

35. Retirement and Severance Pay.

The Association seeks an improvement in the pay out for unused sick leave and doubling the payment for service on retirement.

RECOMMENDATION

Retain existing contract provisions.

36. District Organization.

RECOMMENDATION

Retain present contract language.

37. Article 33. Retirement.

The Association has requested an improvement in early retirement payments from \$3,500 to \$4,000 for ten years or until age 65 and \$5,000 next year. Also it wants the Board to provide a \$25,000 life insurance policy for future retirees.

RECOMMENDATION

Retain existing contract language.

38. Duration.

I have previously recommended a three year contract.

39. Shared Teaching.

The parties should jointly study the issues involved in shared teaching.

RECOMMENDATION

The parties have a joint committee study and report on the issues involved in shared teaching.

40. Amnesty Clause.

RECOMMENDATION

The parties should include an amnesty arrangement by memo of agreement.

RESPECTFULLY SUBMITTED,

  
Richard Strichartz