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STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION

Warren Woods
Public Schools

- and -

MERC Case No. DOO D5033

Teamsters State, County and
Municipal Workers
Local 214

Raymond J. Buratto,
Fact Finder

REPORT AND RECOMMENDATION
OF THE FACT FINDER

APPEARING ON BEHALF OF
THE PARTIES

FOR THE EMPLOYER:

John L. Gierak, Attorney
Ronald Moore, Superintendent
Russell Maranzano, Assistant Superintendent
Carl Boscarino, Business Manager

FOR THE UNION:

Michael L. Fayette, Attorney
Dennis C. Rasch, Business Agent
Pat Urban, Bargaining Unit Member
Debbie Brown, Bargaining Unit Member
Les Barrett, Witness and former Business Agent

The Commission's letter dated February 27, 2002 assigned the instant case to the Fact Finder. The parties were initially contacted telephonically and Mr. Fayette filed a written appearance on behalf of Local 214 on March 20, 2002. A public hearing was conducted on July 17, 2002 at the District's offices. The parties submitted briefs by October 1, 2002.

REPORT OF THE FINDINGS

Based on the parties' submissions, there is at least one and perhaps as many as four issues for recommendation, three of which are ancillary to the imposition of insurance caps. The District argues that the only issue still open is that of caps for health insurance and that any deviation from a recommendation of adopting the tentative agreement would require the Fact Finder to recommend concomitant reductions in wage increases, payment in lieu of insurance coverage, and elimination of vacations for those secretaries and clerks working less than a full calendar year. The Union urges the elimination of insurance caps, replacing them with insurance coverage fully paid for by the District. Anticipating a change in the District's position regarding the three ancillary issues, the Union preemptively argues for retention of the salary increases, amount of the payment in lieu of health insurance coverage, and the provision of vacation to secretaries working either ten or eleven months. Each of these issues was discussed at the hearing and developed more fully in the parties' briefs. All of them are treated hereinafter.

THE PAYMENT OF VACATION TO SECRETARIES EMPLOYED TEN OR ELEVEN MONTHS OF THE CALENDAR YEAR

Arguing for the elimination of this benefit the District notes that these employees already enjoy a significant amount of time off during the school year and indicates the MEA, AFSCME and MFT represented employees receive no vacation. No argument was

presented relative to the cost of the benefit, either with respect to the direct cost of the payment to the secretaries, nor of the indirect cost of possible replacement employees or in the loss of productivity.

While I do not accept the teachers as representing an analogous situation or an internal comparable, I do believe there is merit in the District's argument that the AFSCME and MFT units represent internal comparables. Whether we speak of bus drivers, custodians, or teacher paraprofessionals, the employees represented in these two units perform a support function in the District, as do the secretaries in this Teamster unit. Conversely, the District exists solely for the purpose of providing K-12 education in which the teachers are an indispensable element.

Although I do concur with the District's underlying argument that all employees having less than twelve months' employment already receive plenty of time off, I am not persuaded to recommend the retraction of the existing contractual provisions which were not changed by the parties' tentative agreement.

Therefore I recommend the continuation of vacation for currently employed secretaries working less than the full twelve-month calendar year. However, I further recommend the elimination of the benefit for employees hired after June, 2002, in an effort to bring this group in line with the other support units in the District, namely the AFSCME and MFT represented employees. This recommended change has no impact on the existing employees and will afford the District, through attrition, an opportunity to reduce and eliminate the costs associated with this benefit.

PAYMENT IN LIEU OF DISTRICT PROVIDED HEALTH INSURANCE

The tentative agreement between the parties (Employer Exhibit 1a-b) provided a \$1,250.00 annual payment to any secretary electing not to take District provided health insurance coverage. While this increase of \$250.00 over the \$1,000 payment in the expired contract is substantial, the District still realizes a significant savings when secretaries accept this payment in lieu of and opt out of coverage. Thirty out of forty members of this bargaining unit receive the payment in lieu of health insurance.

Recognizing the rapidly escalating cost of medical insurance to both itself and these bargaining unit members, the District stated its concern about employees opting back into insurance coverage and sought some protective limitations on entry. The Union suggests a requisite "qualifying event" be shown such as those enumerated in Attachment A to its brief. Likewise the District suggests that no secretary not currently covered should be allowed to elect coverage absent a qualifying event as recognized by the Comprehensive Omnibus Budget Reconciliation Act of 1985 (COBRA).

Based on the record, I find merit in allowing future enrollment albeit on a limited basis. Therefore I recommend the parties adopt a provision in their collective bargaining agreement to allow secretaries in circumstances such as those contemplated by COBRA to opt into the program at the caps then in effect. Surely the administration and the citizens of the District recognize the importance of health insurance and would not want to find themselves in a situation whereby they had lost health insurance coverage as a result of a change in employment or marital status. However, this recommendation is limited solely to those situations when health insurance coverage is not available. It is not intended to apply to those situations where health insurance coverage is available

through non-District sources yet not selected by the employee. In sum this recommendation is predicated on the District being the insurer of last resort.

CHANGE IN WAGE INCREASES

The tentative agreement contains negotiated increases of 3 – 3 – 3.5 percent over the contract term. Given the economic climate in southeastern Michigan and the overall rate of inflation, I believe these increases to be both fair and justified by the record. Therefore I recommend no change in the wage rates negotiated and tentatively agreed to by the parties.

THE INSURANCE CAPS

The tentative agreement placed caps on the District's portion of the health insurance bill. That portion greater than the District's share was to be borne by the employees. It also included a new tier of caps for employees hired after July 2002. The District claims the tentative agreement was more favorable in insurance caps than either of those enjoyed by AFSCME or MFT represented units.

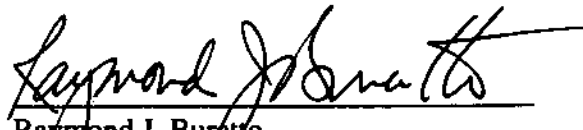
In fact finding the Union urged for the elimination of caps, supporting their argument by stating the District will enjoy a surplus each year of the three years of the contract and can thus afford the increases. Neither the teachers unit nor the administrators are subject to caps and the Union argues that the District further failed to negotiate "meaningful" caps with AFSCME. Supporting its position, the District stated both AFSCME and MFT members employed by Warren Woods have insurance caps lower than this unit, thus the employee's portion of the increase attaches at a lower dollar value.

The District also noted twelve of twenty-two districts submitted as comparables have imposed either caps or some sort of pro-ration of cost upon its employees. Conversely ten of the twenty-two comparable districts have neither caps nor pro-ration. Therefore no trend is evident.

As noted earlier, only ten of forty-one bargaining unit employees elect health care coverage provided by the District. While three of the ten pay zero for their coverage the Union stated four secretaries would pay over \$4,000.00 for full family coverage.

Although I am sympathetic to the dilemma faced by this unit, I cannot recommend the Union's suggestion that the District shift monies earmarked for a program such as drivers' education to provide free health care insurance to this group of employees. I do accept the District's argument that labor market forces greatly influence the provision of health care insurance coverage without caps to the teachers and the administrators. The provision or withholding of labor is a function of a free market economy and as such the secretaries may seek employment elsewhere if the terms of their insurance coverage is too onerous.

Accordingly and based on the record as a whole, including the positions of the parties both in hearing and in their post-hearing briefs, and the guiding principles of Act 312 which while not dispositive of these issues certainly provide a framework for decision-making, it is my recommendation that the parties accept the tentative agreement except as otherwise stated herein.


Raymond J. Buratto,
Fact Finder

Dated: November 22, 2002
Rochester Hills, Michigan