

**STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
MICHIGAN EMPLOYMENT RELATIONS COMMISSION**

*In the Matter of the Fact Finding  
between:*

**BOARD OF EDUCATION OF THE  
LAKEVIEW PUBLIC SCHOOLS**

**-and-**

**MERC Case No. D04 -0910**

**LAKEVIEW EDUCATION ASSOCIATION  
MEA/NEA LOCAL 1**

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**APPEARANCES:**

**FOR LAKEVIEW PUBLIC SCHOOLS:**

Craig W. Lange, Counsel  
Kelly A Walters, Counsel

**FOR MEA/NEA LOCAL 1:**

Rick Flynn, Executive Director  
Gerald E. Haymond, Representative

**FACT FINDER'S REPORT, FINDINGS OF FACT  
AND RECOMMENDATIONS**

**Background**

Lakeview Public Schools is located in the suburban Detroit community of St. Clair Shores. The district has approximately 2,800 students and 180 teachers. The last collective bargaining agreement between the parties expired August 31, 2004. Negotiations for a successor agreement began shortly before that date and have obviously not been successful, even after fourteen negotiation sessions and two mediation sessions. Subsequent to the filing of the fact finding petition, the undersigned was selected to preside over the fact finding. A pre-hearing conference was held on April 8, 2005, at the office of the district. The parties agreed to file briefs and rebuttal briefs, all of which were submitted to this fact finder in a timely manner, by postmark of May 8, 2005, as agreed. I have committed to the

parties that I would make every effort to have this recommendation out by Memorial Day weekend. By mutual agreement of the parties, no hearing was conducted in this matter.

As indicated, the parties have met numerous times without success. When the pre-hearing conference was held, a total of eleven issues were presented. Based on submissions contained in the briefs, several of the issues are considered settled and will be listed as such in the discussion that follows. The primary issues, of course, are salaries and health care. Have there been any negotiations over the last several years where these two issues have not assumed prime importance? There are side issues in the benefit category, namely: prescription drug coverage, vision, and life insurance benefits. Also, the LEA seeks to eliminate a requirement in the labor agreement that requires all teachers to be assigned to extra-curricular activities for a period of twenty hours. In the area of monetary compensation, in addition to salaries, issues in contention are longevity, severance and overage compensation. Finally, we have issues on paid leave days, elementary prep time, non-discrimination policy and last, but certainly not least, the school calendar. As indicated earlier, some have fallen off the table, but all major issues remain and will be discussed.

### **Budgetary Matters**

The Lakeview School District operates on a budget approximating \$24.4 million dollars. Both sides appear to agree on the size of the district's fund equity, currently projected at about \$2.3 million dollars. This constitutes about 9.8% of the yearly budget. It is not a large equity expressed as a percentage, but \$2.3 million dollars isn't exactly chicken feed, either.

I take note of several things impacting the budget, some of which are in the district's control, and some not. Obviously, the state of the State is one. The financial package

provided to the schools through Proposal A has been stagnant for some time, and in actuality, has been slightly reduced each year as a result of the State of Michigan's continuing financial woes. I understand that there is the promise of additional monies for the 2005-2006 school year. Do I believe it will materialize? No, I do not. I read about Michigan's nation-leading unemployment rate; I read about GM and Ford troubles; I see plant closings and bankruptcies. With all that surrounds us, I do not see any way for the State to deliver what it promised. A prudent financial strategy would be to plan to survive without additional State assistance.

Another concern I have regarding this district is the rather large influx of Schools of Choice (SOC) students. At the present time, there are almost 400 of those students attending Lakeview, while 124 of Lakeview residents attend elsewhere. This is a very significant fact. These students bring their Foundation Grant allowances with them. Lakeview receives about \$3 million dollars from these SOC students, who may leave at any time. This is, of course, a huge part of the district budget; about 15%. As indicated by the district, the decision to attend Lakeview is based upon the educational opportunities presented there. I would be very concerned over any impact of this fact finding that would be detrimental to the quality of education offered at Lakeview, thereby resulting in a loss, or reduction, in those students.

Finally, one additional factor that concerns me is the impact of increased retirement costs. The employer contributions are expected to rise to around 20% in a short period of time. In the 2005-2006 school year, they will be over 16%, yet this is an item that does not receive the attention that health care and wages receive. There are no options available to defer, reduce, or share this cost in any way. With minimal wage increases, this contribution

adds around \$300,000 to the yearly budget. It must weigh into any recommendation that this, or any other fact finder, makes in this State.

So, with all of the above in mind, we move on to the matters at hand. I will address the issues in no particular order..

### **Salaries**

The association has presented a proposal for a three year agreement with salary adjustments of 2%, effective retroactively for the 2004-2005 school year, and 3% for each subsequent year, split into semester installments of 1.5% each. For the 2004-2005 school year, the district has proposed a freeze, and a maximum increase of 2% in the salary schedule for 2005-2006, dependent upon a student foundation allowance increase, as well as the adoption of the district's health care proposal. The district did not present a third year proposal, even at the urging of this fact finder. While it would seem that a third resolved year would be advantageous after the latest round of contentious bargaining, I will not deal with a third year in this recommendation.

Both sides presented this fact finder with voluminous information concerning the wage issue. The district contends that the cost of incremental increases (steps), and scale movement, is currently over \$400,000 for each year. The LEA counters that the real cost of these is about \$200,000 less. It points out that the district usually has four to five teachers who retire, and are replaced by far less expensive ones. They apply the savings in the schedule and come up with their number of \$200,000. I have a problem with this rationale. If we utilize this "savings" and distribute it among the remaining staff, what happens when these "youngsters" go through the salary schedule and receive higher and higher salaries? In four years, these new teachers will receive salaries that will cost the

district a combined total of over \$60,000 more. Where will that money come from? These savings, to be of future benefit, should only be applied to non-recurring expenses. I have seen the same argument with the “savings” when changing health care plans. All we are doing is postponing the inevitable. Costs still increase, and in no time at all, will return to the current level and higher. And eventually, those very difficult decisions we would like to avoid now must be made.

When I look at the arguments and tables presented by both sides, it is apparent that, if I were to recommend either side’s position, in the final analysis, the district’s salary position relative to comparable districts will not change much. Both sides have put forth arguments in support of their selection of the “comparable” districts. I take note of their positions, but I believe a significant consideration must be given to internal comparables, and in this regard, the evidence shows that at least one bargaining unit has reached a concessionary argument with the district. And, in addition, there has been a \$1.6 million dollar reduction in the budget for the 2004-2005 school year, resulting in job eliminations, and wage reductions, in categories other than the teaching staff. Therefore, I find it very difficult to recommend adoption of the association’s 2% wage proposal for the 2004-2005 school year. I am fully aware of the LEA’s position on comparable districts, and the documentation it provided to this fact finder in support of that position. But a major comparable in any discussion must be what happened to other employees/bargaining units of the same employer. I also have to consider the fact that the LEA did not propose any changes to health care until the second year of the new agreement. By their own figure, that is \$200,000 or more that they could have saved the district in year one. They failed to do that. If they wish to continue their higher cost coverage under MESSA, then it seems

reasonable to expect they should concede something for that. The district has about 70% of its current professional staff progressing through the salary schedule. Each, therefore, has enjoyed a step increase for the 2004-2005 school year. This increase, according to the previous contract, can amount to \$2,600 for individuals on the BA scale and \$3,200 for individuals on the MA+15 schedule. In view of that, I can only recommend a wage increase of 1% for the 2004-2005 school year.

For the 2005-2006 school year, the LEA proposes a 3% wage increase, to be applied in two steps of 1.5%, resulting in a net cost to the district of 2.25%. The district proposes a 2% wage increase, but makes it contingent upon increases in State aid, as well as a change in health care, which will be addressed later herein. Too many contingencies, I think. While I understand the district's concerns over State assistance, you cannot hold down salaries for extended periods of time. Some overall increase in the salary schedule is clearly appropriate. The question is – how large an increase? I recognize all the arguments about falling behind comparables, keeping up with the cost of living, etc., even though all may not be applicable to this set of circumstances. I believe the average cost of 2.25%, as expressed in the LEA proposal, is something closer to what I have in mind. I would recommend adoption of a split wage increase for the 2005-2006 school year of 1.5% for the first semester, and a 1% increase for the second semester. I recognize that an overall increase in the schedule of 2.25% at the end of the year might be considered somewhat excessive by the district, but it is at the end of the year, and continued sound and prudent fiscal management by the district can anticipate its impact. I am confident they will find a way to cope with the cost. Perhaps in 2006-2007, we will finally get lucky in this State and foundation grant allowances will start to rise again. As I indicated previously, I do not

think it reasonable to restrict wage growth for more than one year. For the second year of the agreement, I recommend that the LEA's proposal of a 1.5% increase at the start of the school year be adopted, but followed by a 1% increase at the start of the second semester.

### **Insurance**

I would like to postpone the discussion of this issue until 2012, or later, but I imagine the parties would not be in agreement. This issue has vexed many a fact finder, arbitrator, etc. for a number of years. There are no easy answers. We have in this dispute the classic confrontation – MESSA vs. Blue Cross/Blue Shield. Interesting, isn't it, that we get into these arguments throughout the State, yet MESSA is administered by Blue Cross?

The district's proposal is to provide a Blue Cross/Blue Shield Community Blue Option 1 Plan at no cost to the employee. This plan contains no deductibles or co-pays. The LEA proposes that the MESSA Choices II Plan be provided at no cost to the employee, albeit with some deductibles and co-pays. There are some differences in coverage between the two plans. As the LEA pointed out, there is some difference in mental health coverage, but in other areas, the district's proposed plan would provide equal or better coverage. The district believes that their proposed plan would result in over \$450,000 less cost than Choices II. It would seem to be easy, wouldn't it? The district proposal would also cost employees less out of pocket than the LEA plan. It provides for no co-pays and deductibles, which quite frankly is a most unusual proposal to be made by an employer in today's collective bargaining atmosphere. MESSA presents other problems, one of which is that it does not share any information on utilization. Another is their willingness to change benefit levels at any time. In effect, they have created this conflict themselves. In my experience as a mediator, I have seen Community Blue Option 1 since its inception. At

first, like anything new, it was met with much trepidation. Now, after years of application, it is the standard by which all other public employer plans are judged, except for schools and MESSA, of course. There are several districts in the vicinity of Lakeview that have Blue Cross/Blue Shield Community Blue. I do not know their experiences with the plan. I can, however, relate that, of all contracts that I have been involved in, where Blue Cross/Blue Shield Community Blue Option 1 has been implemented, I have never heard of any dissatisfaction. Hopefully, the staff will be able to get past the preconceived notions that nothing compares with MESSA. I recommend that the district's proposal of Blue Cross/Blue Shield Community Blue Option 1, fully paid by the district, be implemented for the second year of the agreement. If given a fair shake by the staff, I believe they will find this plan to be an excellent one. It will be important to keep in mind that the LEA proposal would have required additional out of pocket expenses.

With respect to other matters concerning health care, we have differing proposals on prescription drugs and vision care. With respect to prescription drugs, the district proposes a \$10/\$20/\$30 plan, while the Choices II Plan proposed by the LEA provides for \$5/\$10 co-pays. The district's proffered plan, however, provides for a single co-pay for extended supplies, which makes the teacher co-pay less under the district proposal. On this issue, I find that the \$5/\$10 co-pay as proposed by the LEA is simply not adequate. Virtually every agreement I have seen in the last several years in the public sector has contained at least a \$10/\$20 drug card, with a \$10/\$40 card rapidly becoming the standard. I would like to recommend a smaller co-pay, but I cannot. The cost savings are simply too great to ignore. I find the district's proposal to be acceptable and recommend its adoption.



With respect to the vision proposal, I also find that the district position is one which I can recommend. Any request for additional benefit coverage, at this point in time, given the current state of school finances, is inappropriate. Frankly, once my recommendation with respect to health care is arrived at, the subsequent issues matter very little, since I believe MESSA will not write other coverage without the health care package. This is another MESSA quirk that needs addressing.

In its brief, the LEA dropped its proposal for an increase in life insurance coverage from \$40,000 to \$60,000. The district's response was status quo, pointing out that insurance provided above \$50,000 creates IRS liabilities, etc. It seems to me that a number somewhere between \$40,000 and \$60,000 would have been a solution, had I been provided the opportunity to evaluate the proposals.

Finally, we come to the last issue in the benefit area, although it is technically an issue on compensation. As part of the current agreement, the district pays an annual stipend of \$400 to every teacher who chooses MESSA Choices as their health care plan, instead of MESSA Super Care. The LEA proposed that this payment cease upon the adoption of their proposal of MESSA Choices II as the only health care plan. Unfortunately, this fact finder did not see fit to recommend Choices II, and consequently, there is no need for the stipend to be continued as a result of this recommendation.

#### **Longevity Pay**

The current agreement between the parties provides that teachers who reach twenty years of service with district receive \$700 in longevity pay for every year thereafter. The LEA proposes that the longevity be paid at an earlier service level and extended out, at substantially higher amounts. The district, of course, would like to remain at the current

level, citing the relative position of the Lakeview teachers to comparable districts, even at the current level of longevity pay. I think, in view of most of the comparables, the current figure appears to be a little light. One of the factors in my wage increase recommendation was that it was apparent to me that longevity needed to be adjusted. There is a very large disparity in this agreement between teachers on the schedule and those at the top. Teachers in the schedule receive approximately \$2,700 in step adjustments, as well as any general increase. So, how much of an adjustment is necessary? The LEA would argue that it is unfair to wait 10 years after going through the schedule before any longevity payment is made. I agree. I believe a longevity step after fifteen years of service would be appropriate. I also believe that the current amount of \$700 should be applied at that step. At this time, because of the budgetary concerns, I do not feel comfortable recommending an extended scale of longevity payments. I think a step at twenty years would be a good middle ground, sort of a step in the right direction, so to speak. As for the amount to attach to that step, I think an additional \$500, or \$1,200 total, is appropriate. That is my recommendation.

#### **Secondary Twenty Hour Requirement**

The current agreement between the parties contains a provision that requires secondary staff to be assigned an activity which requires a twenty hour commitment for the school year. In its brief, the LEA urges me to remand the matter back to the parties, arguing that it was not adequately discussed. In view of fourteen bargaining sessions and two mediation sessions, I find it hard to believe that not enough discussion was held. The district, in its brief, provided some support for its position that the language be retained. That is my recommendation.

### **Elementary Prep Time**

It seems like all the major issues were in dispute in this negotiation. Wages, health care, prep time; the only thing missing was class size. Currently, the district provides 180 minutes of preparation time for all elementary teachers. The proposal is to increase this time to 200 minutes, or 40 minutes per day, and guarantee that each elementary teacher would have a daily preparation period similar to all other teachers in the district. The district, once again, wishes to retain the status quo. It points out that adding additional minutes to the guarantee could result in the hiring of additional staff, at considerable expense. It does not say that the additional time would not be useful. I find the district's argument somewhat inconsistent, in light of its stated previous position regarding the quality of education that it wishes to maintain in the district, particularly in light of its desire to keep SOC students. This issue has repeatedly surfaced throughout my years of experience. It seems to me that elementary teachers often receive inadequate consideration when discussing this issue. I believe that the LEA's proposal has merit. I also believe that the creative minds existent in the Lakeview Schools system can find a way to achieve the extra time. I therefore recommend that elementary prep time be increased to 200 minutes per week.

### **Severance Pay**

Under the terms of the current agreement, an employee who resigns the district after ten years of service is entitled to receive \$10 for each unused sick leave day up to the maximum allowable accumulated days, which is 180. A retiree may receive \$20 per day if notice is received by February 15, or ninety (90) days prior to the effective date of the separation. The LEA proposal is to pay these days (for retirees) at one-half the current

substitute teacher per diem rate, (\$88) or \$44 per day. For those who resign, the LEA proposes no change in the current \$10 payment. The LEA proposal also eliminates all notice requirements. The rationale, of course is that, by accumulating these days, the teacher has saved the cost of the substitute, and should receive a greater share of the savings. The district wishes to maintain the status quo, arguing that the Lakeview teachers are highly compensated, above the average of comparable districts, and that adding additional monies to this is unnecessary. The LEA proposal is also based on the premise that an increase in the payoff for sick leave days can induce longer service employees to retire, saving the district money by opening the door for replacements earning lower salaries. This is another of the “savings “ arguments that I alluded to earlier. And, quite frankly, I do not believe there will be many individuals who will be induced to retire just because the payout is increased. However, I am inclined to consider to consider this proposal. Anyone who retires from the district with a sizable accumulation of days has, in fact, saved the district some dollars along the way. In fact, anyone who retires with 180 days, has effectively worked 15 years without a sick day off. That deserves some consideration. I would be in favor of a graduated system of payment such as a certain amount for 50 days, another for 100 days, and yet another for 150 or more days. I think that is probably a little too much to include in this recommendation. I will recommend that the pay-off of sick leave days for retirees be increased to \$30 per day, with no change in the notice requirements. I further recommend that the pay-off for people who resign remain at \$10 per day.

### **Leave Days**

The LEA has proposed that the amount of paid leave days per year be increased by one, to thirteen days. Apparently, sick leave bank usage has increased such that two days have been deducted from each employee per year, resulting in ten days available for personal use. The LEA argues that ten days causes them to fall below the average for comparable districts. The district counters that the use of sick bank days is controlled by the LEA, and that the district should not have to fund additional days when it has no control over how many go into the bank, or how they are distributed. Historically, the district had maintained control over the sick bank, and in each year would place 350 days in to the system. Some years ago, the LEA assumed control over the days, and now determines the number of days to deduct from each teacher, and determines the amount of time a teacher may receive from the bank. One of the reasons that the additional day has been deducted from each teacher's account is the increasing number of maternity leaves, according to the LEA. The district alleges that there has been granting of days from the sick bank to individuals who still had accumulated days in their respective personal banks. Based upon conversations from both sides, this appears to be true. After examining the applicable contract language, which is Article XI-G, I note that the rules therein allow sick days to be granted from the bank, without any restriction based upon the recipient's accumulated sick leave bank. Perhaps that is not how the language was intended to be applied, but nonetheless it is permissible under this provision. I take note that such use of sick bank days is far different than what I have observed. I have not seen instances where days are granted without regard to accumulated total. I would normally consider that to be an inappropriate use of days, but it appears to be allowable under the general language contained in Article

XI-G. However, I do find that control of these days does rest solely with the Association. Normally, twelve days of leave per year should be sufficient. Maybe the LEA needs to be a little more selective and less generous when granting days to individuals who have days in their personal banks. That would obviate the need for one more day. I recommend that the status quo be maintained.

#### **Non-Discrimination Policy/Special Education Overage**

In their respective briefs, the parties have taken positions that appear to resolve both of these issues. I do not believe any further discussion, on my part, is necessary. I therefore remand these issues back to the parties for final resolution.

#### **Calendar**

For the 2004-2005 school year, the parties agreed to a reduction of two days in the school calendar, from 180 to 178 days. This was accomplished by taking Martin Luther King Day as a non-instructional day off and moving up the last day of school by one day. The district maintains that this was a one-time adjustment in the calendar, and that no agreement exists to continue the shorter schedule. The LEA did not address this issue in either of its briefs. In telephone conversation with the fact-finder, the LEA representative stated that the LEA would like to retain the 178 day schedule. Frankly, this appears to be another issue likely to be solved by the parties in the final discussions heading to a settlement. Absent that, I have no choice, given the evidence presented, but to recommend the district's position.

#### **Summary**

Once again , I would like to thank the parties for their cooperation in getting all the briefs, reply briefs and affidavits and exhibits to this fact-finder in a timely manner. I

recognize that my recommendation will not make either party happy dependant on the issue. But, that is the very nature of the process. As in bargaining, you never get all of what you ask for. I hope that each side will carefully consider the recommendations contained herein (which follow below) with an open mind, and utilize them in constructing a settlement that will continue the quality of education that the citizens of the Lakeview School District have come to expect. In so doing, it is also my hope that all of the parties keep in mind the importance of the Schools of Choice students to the future well-being of Lakeview Schools and its entire professional staff. Loss of those students will render all of these recommendations virtually useless, because of the havoc it would wreak on the budget.

#### **Recommendations**

WAGES	2004-2005	1%
	2005-2006	1.5% First Semester
		1% Second Semester
INSURANCE	2005-2006	Blue/Blue Shield Community Blue Option1 \$10/\$20/\$30 Drug Card Current Vision Plan Life Insurance Withdrawn by LEA
LONGEVITY	2005-2006	Fifteen Years \$700
		Twenty Years \$1,200
SECONDARY 20 HOUR REQUIREMENT		Current Contract Language
ELEMENTARY PREP TIME		200 Minutes per Week
SEVERANCE PAY		Increased to \$30 per Day for Retirees, Status Quo for Resignations
LEAVE DAYS		Current Contract Language

NON-DISCRIMINATION  
POLICY

Parties agreed to Association proposal

SPECIAL EDUCATION  
OVERAGE COMPENSATION

Parties agreed to Association proposal

CALENDAR

2005-06

Referred back to parties.

A handwritten signature in black ink, appearing to read "William P. Borushko", is written over a horizontal line.

William P. Borushko, Fact-Finder

May 31, 2005