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In the Matter of Statutory Fact-finding between:

EASTERN MICHIGAN UNIVERSITY,

Employer,
-and-

Fact-finder

Ben Kerner

EMU—AMERICAN ASSOCIATION OF
UNIVERSITY PROFESSORS,

Union.

MERC Case No. D 06 E-1490

Preliminary Hearing: Dec. 19, 2006
Ypsilanti, Mi.

FACT-FINDER'S PRELIMINARY REPORT
(COMPARABLE INSTITUTIONS)

Appearances:

For the Employer: James P. Greene
Dykema Gossett, PLLC

For the Union: Howard Bunsis
President, EMU-A.A.U.P.; and
Harvey I. Wax
Zausmer, Kaufman, August & Caldwell, P.C.

Also present for all or part of the proceedings: Mark Byrd, Jim Carroll, David Crary, Megan Endres, Hartmut Hoff, Paul Leighton, Rhonda Longworth, Denise Tanguay, James VandenBosch, Diana Wong, and Linda Woodland.

Dated: December 26, 2006

BACKGROUND.

The Employer is a statutory university that has been in existence since 1849. The Union represents a bargaining unit of 689 faculty in the ranks of instructor, assistant professor, associate professor, and full professor. The parties have had a bargaining relationship for 32 years, but it has recently been a stormy one. During the most recent contract talks, the Union called a work stoppage in September 2006 which lasted 14 days. The work stoppage concluded when the parties agreed to a fact-finding procedure to resolve their remaining contractual differences.

The Union petitioned the Michigan Employment Relations Commission on September 15, 2006, for fact-finding. On October 24, 2006, after participation by the parties in the selection of a fact-finder, I was appointed by the Michigan Employment Relations Commission as the Fact-finder in this matter. My authority derives from the Labor Mediation Act, MCL 425.25 et. seq., which recites that the Commission, in order to resolve labor disputes, may on its own or through an agent, hold hearings to make the facts of a labor dispute publicly known and to recommend terms of settlement.

I held a pre-hearing conference on November 21, 2006, at which time the parties surveyed the issues in dispute; decided on a procedure for moving forward; picked hearing dates, and related dates for the provision of exhibits in advance of the hearings. The first order of business appeared to be the deter-

mination by the fact-finder of the appropriate peer institutions, or comparable universities to be utilized by the parties in comparing the salaries, benefits, and working conditions of E.M.U. faculty members with others'. In my experience, such a determination is often possible to achieve on a negotiated basis at the first session of the parties in fact-finding. However, I have also been faced with situations similar to the one confronting me here, where the parties have two completely different ideas of the appropriate comparables, and in fact, there was *no overlap* in the initial positions of the Employer and the Union regarding comparable institutions. In such a situation, one of the primary jobs of fact-finding is to establish a group of appropriate comparables, so that the parties can develop their data for the remainder of the hearing with a common set of reference points. This report is limited to the findings I make, after hearing the parties' evidence, in regard to which institutions compose an appropriate comparable group of universities for the purpose of comparing faculty salaries, benefits, and working conditions.

CRITERIA AND CLASSIFICATIONS.

There are a number of studies available to assist academic administrators with setting appropriate faculty salaries and in general, to compare relevant

characteristics of universities.¹ The best known and most widely used study of them is the Carnegie Foundation for the Advancement of Teaching's summary of institutional characteristics. Most of the data for the Carnegie Foundation reports summarized here derive from 2003 and 2004. A caveat that is printed with the snapshot of each institution says, "All-inclusive classifications are time-specific snapshots of institutional attributes and behavior based on data from 2003 and 2004. Institutions might be classified differently using a different timeframe." The Carnegie classification system has been in existence since 1970 and is well-understood in academia. It has been utilized by others as a guide to looking at salary and other comparative data.

Eastern Michigan University is classified in the Carnegie system on a number of factors, showing enrollment of 23,862 in 2004. Its undergraduate instructional program features curricula in the professions, as well as in the arts and sciences, with what is termed "high graduate coexistence" (i.e., graduate fields overlap with undergraduate fields). It is considered a 4-year large non-residential university and is characterized in its basic orientation as a "Masters-Large" university meaning that it graduates more than 200 masters candidates annually, but fewer than 20 doctorates.

¹ MAC Salary Study, 2004-2005, Ball State University Office of Academic Assessment (July 2005); 2005-2006 Faculty Salary Survey by Discipline, Oklahoma State University Office of Institutional Research (2006); 2004-2005 Salary Survey Report, Association to Advance Collegiate Schools of Business (2004) and others.

The evidence of record indicates that Eastern Michigan University is in transition towards being a "DRU" in overall orientation. That designation is used to refer to doctoral/ research universities in which the institution confers 20 or more doctoral degrees each year. In fall 2006, Eastern conferred 15 doctoral degrees; and, the prospect is for more than 5 doctoral degrees to be awarded in the next semester, allowing E.M.U. to make a claim for 2006-07 as a "DRU university" in the Carnegie classification system.

The next level in the Carnegie overall classification system is RU/H, standing for Research University with high research activity. More research would be expected at a DRU institution than at a "Masters Large" institution; and more still would be expected at an RU/H institution. These designations are significant in that they are a thumbnail way of describing the type of faculty activity seen at a university. For instance, the intensity of research implies a negative relationship with the intensity of teaching activity.

Two other factors bearing on overall faculty activity and which are reported in the Carnegie classifications are the composition of the student body and the nature of the undergraduate curriculum. Regarding the composition of the student body, for instance, Eastern Michigan University has a high undergraduate population; but it also has a curriculum composed of professions plus arts and sciences, with high graduate coexistence. These two designations are

shared by some of the universities relied on by one or the other party including Akron, U. of M.--Dearborn, Kent State, Northern Illinois, Ohio, and Toledo.

Those that show a "very high" proportion of undergraduates (defined by the Carnegie Enrollment Profile Description as having graduate / professional students who compose less than 10% of the enrollment) are Saginaw Valley State, Northern Michigan, Grand Valley State, Ball State, and Miami (of Ohio).

Those that show "some" graduate coexistence include Northern Michigan, Ball State, Bowling Green, Western Michigan, and Central Michigan. The Carnegie Profile Description says in regard to the factor of the composition of the student body (or, proportion of undergraduates), "It reflects important differences with respect to educational mission as well as institutional climate and culture—differences that can have implications for infrastructure, services, and resource allocation." In regard to the factor of the nature of the undergraduate curriculum (specifically, "graduate coexistence") the Carnegie Profile Description says "Departments that teach only undergraduates can differ in many ways from the those that also train graduate students. Examples of such difference include faculty activities and instructional resources."

CLAIMS OF THE PARTIES.

The Union presented evidence tending to show that the Employer has relied—in other settings—upon a selection of universities known as the Mid American Conference (MAC) (athletic conference) and which is composed of Akron, Ball State, Bowling Green State, SUNY—Buffalo, Central Michigan, Kent State, Miami (of Ohio), Northern Illinois, Ohio University, Temple, Toledo, and Western Michigan.

In a wide variety of settings, says the Union, the Employer has looked to the MAC universities as an appropriate peer group. For instance, the General Education Reform Committee of the University in its strategic plan of January 2005 studied catalogues, web sites, and programs in 36 universities, including almost all the universities in the MAC. Only Grand Valley State University was included from among the administration's comparables. Again, in the 2005 Strategic Plan, the University benchmarked its plans for continuous improvement against Ball State, University of Akron, Kent State, and Western Michigan, among others, but not including any of the institutions contended by the administration as comparables here. One more example suffices: the process of setting new faculty salaries includes a reference to the 2005-06 MAC average Assistant salary level in the most closely related classification. None of the administration's comparables appear in the data supporting the hiring targets for new faculty.

The Union initially claimed that the grouping of universities known as the Mid American Conference as reported above was the appropriate peer group for considering salaries and working conditions in this proceeding. The Union emphasized that the majority of MAC schools are similar in size; in “coexistence,” or matching of graduate programs with undergraduate majors; with the existence and intensity of doctoral programs; and with the mix of graduate and undergraduate students. By the conclusion of one day’s hearing, the Union conceded that the *most appropriate* grouping of peer institutions was Akron, Central Michigan, Kent State, Toledo, and Western Michigan. In addition, the Union conceded that from among the administration’s set of comparables, Grand Valley State, and Northern Michigan might be considered comparable.

The Employer for its part took the tack that the grouping of “Masters - Large” institutions in the state of Michigan composed the appropriate group of comparables. That includes Saginaw Valley, Northern Michigan, U. of M.—Dearborn, and Grand Valley State University. Those are the only institutions in this state sharing with Eastern Michigan University the designation of an overall classification as “Masters—Large.” By the end of the hearing day, the Employer conceded that two additional universities could be considered as comparable: Central Michigan and Ball State, on the basis that both have the overall characteristic of being “DRU” or doctoral / research universities,

whereas the others in the MAC grouping (with the exception of Central Michigan and Ball State) are categorized as RU/H for high research.

DISCUSSION AND ANALYSIS .

I start by making a differentiation based on size, of total student population. Here, the target institution, Eastern Michigan University, has a student enrollment reported at 23,862. The smallest schools from these combined lists have enrollments of 8,420 (U of M.—Dearborn), 9,331 (Northern Michigan), and 9,448 (Saginaw Valley State). The next largest institution among all those considered in these proceedings² is Miami (of Ohio) with an enrollment of 17,161. It is clear that there is a quantitative difference of some significance between Eastern Michigan on the one hand, and U. of M.—Dearborn, Northern Michigan, and Saginaw Valley State on the other. Thus, on the basis of size alone, I would conclude that U. of M.—Dearborn, Northern Michigan, and Saginaw Valley State should be eliminated.

Looking at Grand Valley State University, it is clear that even though it is not a member of the same athletic conference as the others in the Union's list, it is nonetheless on the basis of many of the Carnegie system's classifications similar to the MAC schools. For instance, it has a very similar enrollment

² I have not considered Oakland University, proffered by the Employer, because it was not within the scope of those institutions initially noticed at the pre-hearing conference as subject to study and claim by one or the other party. Furthermore, there was no data presented by either party with respect to SUNY—Buffalo or Temple University. I would deem those institutions to be withdrawn.

(22,063). It has a "very high" undergraduate proportion, whereas Eastern and many of the MAC schools have a "high" undergraduate proportion. Grand Valley State has a curriculum which is balanced between arts and sciences and the professions, as is typical of the MAC schools including Eastern Michigan. Grand Valley State has "some" undergraduate coexistence. And, as reported above, it has a "Masters-Large" program in common with Eastern Michigan and in contrast to the majority of the MAC schools, which have DRU (doctoral /research) in the case of Ball State and Central Michigan, or RU/H (high research activity) in the case of the others. Based on these factors, I find that Grand Valley State University should be included in our final list of comparable institutions.

Turning to the Union's list: Notwithstanding the differences implied in the different designations of DRU and RU/H, I would conclude that the 5 institutions on the Union's revised list are sufficiently like the target institution on other factors to merit consideration as peer institutions. Among those other factors are the overall size as gauged by enrollment; the curricular mix (including a balance between professional and arts and science curricula) plus having "some" or "high" graduate coexistence; the enrollment profile of being "high" or "very high" in proportion of undergraduates. Another factor, which the Union introduced at hearing, based on its own research, is the size of 2005 revenues. (Appendix XI) Eastern Michigan had \$276,829,000 in revenue; Central Michigan had

\$326,232,000, Toledo slightly more than Central; Akron had almost the same revenues at Toledo at \$351,925,000; Kent State had \$431,393,000 in revenues; to a high of \$460,007,000 for Western Michigan. By contrast, Northern Michigan had revenues of \$147,683,000 and U. of M.—Dearborn and Saginaw Valley State had less than \$100,000,000. Based on the factors reviewed, I would include Akron, Kent State, Toledo, Central Michigan and Western Michigan on our final list of comparables.

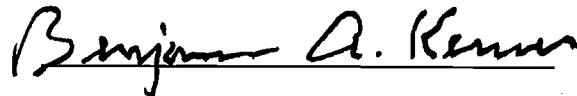
Finally, I think the Employer's claim to add Ball State to the final list of comparables is a good one. Ball State has a student population of 20,507 (compared to Eastern's 23,862). It has revenues of \$351,627,000. Ball State is categorized in the Carnegie classifications as a DRU institution (Doctoral / High research activity). This is the classification that Eastern sits on the verge of achieving. Ball State has the same curricular mix, of professional subjects plus arts and sciences, with "some" graduate coexistence (whereas Eastern has "high" graduate coexistence). Ball State has a "very high" proportion of undergraduates, whereas Eastern has a "high" proportion of undergraduates.

The Union objected to Ball State on the grounds that it does not have a collective bargaining relationship with its faculty. This is not a factor I would consider in gauging whether an institution is a peer institution, *ab initio*. This factor may limit the kinds of data that are available from Ball State, for instance making it difficult to impossible to gauge what future years' salary increases will

be. But certainly, there are many facets of the parties' positions on collective bargaining topics for which Ball State would have valuable information to impart. Based on the data shown above, I would conclude that Ball State is comparable to Eastern Michigan University on significant factors for which the two may be compared in addressing the subjects of faculty salaries, benefits, and working conditions.

CONCLUSIONS.

The parties have developed a remarkably comprehensive record of factors, and data arrayed across the factors on which the Fact-finder has been able to discern patterns that contribute to my determination of what institutions are peer institutions to Eastern Michigan University. For the purposes of this Fact-finding hearing, we will use Akron, Kent State, Toledo, Ball State, Grand Valley State, Central Michigan, and Western Michigan Universities as the realm of comparables for development of further data on the salaries, benefits and working conditions pertinent to Eastern Michigan University and its faculty.



Benjamin A. Kerner
Fact-finder

Dated: December 26, 2006
Detroit, Michigan.