STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMM.
DETROIT OFFICE

In the Matter of Fact Finding
Between:

Michigan Education Association (MEA)
Ingham County Education Association (ICEA)

Employee Organization

Case No. L-07 B-9016

-and-

Leslie Public Schools (LPS)
Board of Education

(Employer)

Before Fact Finder
Donald R. Burkholder

APPEARANCES:

FOR THE EMPLOYER

Bruce Bigham
Labor Relations Services
4289 Weasel Trail
Lincoln, MI 48742

Scott Blankenship -
LPS Business Manager

FOR THE ASSOCIATION

Charles Richardson
Michigan Education Association
1480 Kendale Blvd., Ste. 300
East Lansing, MI 48823

Will Derr - MEA
Ruth Beier - MEA Economist
Larry Asher – MESSA

The ICEA-LPS Collective Bargaining Agreement dealT with a unit of 94 teachers expired June 30, 2007. Thus the parties began negotiating during February 2007, with five mediation sessions occurring prior to Employer action in filing a Petition for Fact Finding on October 12, 2007. The Commission appointed this fact finder on February 15, 2008. Through conference calls and correspondence a number of concerns were dealt with, including the possibility of reducing the numerous issues, and the potential locations for the hearing, which was held at the Grand Army of the Republic Hall in Leslie on June 5, 2008. The Employer has earlier proposed that the issues be limited to insurance and wages; the ICEA did not concur, noting that "... these issues ha(d) not been resolved ...through negotiations between the parties or through Mediation..." and therefore should be included in this Fact-Finding. The hearing began at approximately 10 a.m. and ended at approximately 5.00 p.m., with a full exploration of the issues through ample testimony and voluminous exhibits, with the parties agreeing to submit briefs in mid-June. Several issues had been resolved in negotiations prior to fact finding. The most significant unresolved issues were the cost of ICEA proposals on insurance/health-care and salaries, and the impact they could have on the District's decreasing Fund Balance. The Fact-Finder sought clarification on a number of the issues as characterized in the Exhibits and Briefs, and it was provided through faxing and U.S. Postal Service communication.

Core of the Dispute – Policyholder Status and "Hard Caps"

The basis or core of this dispute is the cost of health care. It takes the form of a power struggle over 'policyholder status' regarding insurance. Along with related health insurance concerns, it generated considerable emotion between the parties. The Employer asserts its policyholder status and its statutory obligation to seek competitive bids under Michigan's Public Employee Relations Act (PERA), its subsequent legislation, and Senate Bill 418, or Public Act 106 of 2007, and the Michigan School Code. The current insurer for the majority of LPS employees is Michigan Education Special Services Association (MESSA). The Employer asserts that MESSA has not provided timely and useful cost information, and has unilaterally announced that it would discontinue the TRIMED package of coverage effective December 31, 2009. Further, the Employer asserts that MESSA has unilaterally added layoff benefits, with the cost passed on to the Employer, and that it has engaged in such practices as manipulating plan specifications and changing underwriters with other employers. The ICEA and MESSA argue that MESSA is a Voluntary Employee Benefit Association (VEBA) established by the MEA, operating under Federal statute and Internal Revenue Service (IRS) rules, and that it therefore has and will retain policyholder status.

It is not the role of a Fact-Finder to recommend whether the Employer or the MESSA has or ought to have policyholder status, or whether a specific insuring organization, e.g., MESSA, should continue to be the insurer. Section 15 (3) (a) and (4) of PERA states that who is or will be the policyholder of an employee group insurance benefit is a prohibited subject of bargaining. Fact-finding's purpose is to identify and recommend measures which would expedite bargaining. Yet, the inseparable question of which organization is the carrier and/or administers the employees insurance is clearly a matter to be negotiated. This Fact-Finder will make recommendations based on the cost, levels, and types of insurance, primarily in light of budgetary factors and in consideration of other matters in dispute, primarily salary.

Article 20 – (Insurance: General) Language regarding limitations on a unit member's cost for insurance in Article 20-J was also a heated matter of discussion at the Hearing. There was considerable ICEA dissatisfaction that the language in the current or 'expired' contract required unit members to assume the premiums in excess of the TRIMED rate during successor negotiations when no contract was in place. The ICEA urged removal of this language, plus removal of language stipulating that the Employer's contribution toward Plan A health care coverage shall not exceed the rates for the single, two party, and family TRIMED plans, and that the district's premium contribution for teachers electing Super Care 1 will not exceed the amount paid for TRIMED.

Article 20 (Insurance – Control) The Employer seeks to control "all" insurance plan carriers, with the ability to change underwriters and third party administrator, provided reasonably similar benefit levels are retained; any disputes on similarity would be resolved by a licensed insurance agent mutually agreeable to the parties. The ICEA asserts that the current contract specifying MESSA coverage should be maintained.

(Plans – General) The Employer urges conversion to Blue Cross/Blue Shield Flexible Blues 2 which is in place with all other district employees. The Employer is also open to a Preferred Health Plan (PHP). The ICEA wants to keep TRIMED and Super Care as choices, with the teacher continuing to pay $30 per pay period for TRIMED and any difference in premiums. The ICEA advocates the provisions in the current contract.

(Dental) The ICEA seeks to improve the dental plan; the Employer favors the current contract unless there is a change in health care plan and hard caps.

(In-lieu Payment) The ICEA wants an increased cash payment from $215 per month to $250 in year two, in lieu of health care enrollment, The Employer position is current contract.

<u>Other Matters in Dispute</u>

Article 6-H, terminal leave payment, the ICEA requesting doubling of the terminal leave payment per year of service from $50.00 to $100.00.

Article 7 – C, working conditions regarding class size. The ICEA proposes a compensation of $7.50 for each student per day if stipulated class size is exceeded, and removal of language requiring the Employer to notify the Association. The ICEA also seeks to reduce class size "guidelines" in K-3 from 28 to 25, and in grades 2-8 from 30 to 27. The Employer asserts that the Special

Education class size language should be deleted in that it is sufficiently covered by state regulations which include variance procedures for class size and class loads.

Article 14 – The Employer seeks to remove the just cause provision for members of the unit who have not completed a probationary period, asserting that a probationary teacher should not be subject to the just cause provision and should not have access to the grievance procedure. The Association asserts that the current contract should remain in place. The Employer seeks to change the probationary period to four years for those in the unit not subject to the Tenure Act's provisions.

Article 23 Duration – The ICEA position is a two-year contract ending in June 2009; the Employer urges a three-year duration ending in June 2010.

Appendix A Regular Salary – The Employer position is a freeze for 2007-08; and a formula based upon net revenue for 2008-09, and for 2009-10. The Association position is 1.75% retroactive both for 2007-08 and for 2008-09.

Appendix B. Extra Duty – The Employer position is a freeze for 2007-08 and a formula based upon net new revenue for 2008-09 and for 2009 – 10, plus deletion of the travel stipend for teachers with more than one building assignment. The ICEA position is 6.5% retroactive for 2007- 08, and 1.75 retroactive for 2008 – 09, with current contract provisions otherwise.

Increment – The Employer asserts that not paying the increment and redirecting that cost could assist in settling the contract; doing this for 2008-09 would afford approximately 1.3% increase in the salary schedule. Likewise, "...delaying the prospective implementation of increment in any given year could also assist..

General Budgetary/Financial Analysis

Studying and formulating a recommendation on economic issues requires analysis of the history, present condition, and future shape of the organization's finances. The State requires all governmental units, including school districts, to maintain a balanced budget or, in common parlance, not to operate in the red.

Although the information provided to the Fact Finder did not suggest an immediate danger of that possibility, it did clearly imply that continuously increasing insurance expenses over several years, along with salary costs, have been primarily responsible for a decreasing fund balance level, measured as a percent of expenditures. The LPS 10.3 percent fund balance level for both 2006-2007 and for 2007-2008, approximately the same, must be considered in light of the trend over the years since 1998-99, with a 13.5 percent fund balance of approximately $1,250,000, increasing to 20.5% or $2,080,000 in 2001-2002, with continuous deficit spending since then. Leslie has been making major budget reductions over the course of the last five years, with average cuts of $300,000 per year, which equates to 3 per cent of the budget. An unchecked continuation of this trend would obviously lead to continuous deficit spending. Importantly, the LPS has shown that careful planning and significant steps have been taken during the last few years to reduce spending, inasmuch as planning for increased tax revenue over the next several years would be unrealistic.

The Michigan School Business Officials (MSBO) and the Michigan Association of School Boards (MASB) recommend a 15 – 20% fund balance. Notably, this level is also endorsed by the Michigan Education Association (MEA). It is noteworthy that 15% to 20% is a significantly higher level of fund balance than the 10% recommended by the Government Accounting Standards Board (GASB) for general government (local and state), and therefore might be a prime subject of criticism that there has been padding or potential hiding of funds. However, on closer examination, the higher MSBO and MASB standards recommended for Michigan's 556 K-12 school districts are quite rational when one realizes the variety of circumstances in each of the districts. It should be noted that this same or a similar variety of factors reflect reality when one considers the fact that there are 13,522 school districts in the United States, operating under 50 state systems with differing educational requirements and funding provisions, local economic conditions, tax collection provisions, borrowing requirements, population and birth rate changes, and popular levels of support for public education. A persistent trend of declining birth rates in Ingham County and in the district over the last few years is directly relevant to financial future of the District. Continuing decline in birthrate and uncertain Foundation Grants are major factors in reduction of the fund balance, which appears to have stabilized at 10.3 per cent for 2006-07 and 2007-08. It is clear that a higher fund balance standard, or the 15 to 20 % MASB/MSBO standard for Michigan's public school districts, is not unrealistic or unjustified.

RECOMMENDATIONS

Health Care

The reality of continuously increasing health insurance costs must be dealt with directly. Both parties will be harmed in the long run if this fact of life is ignored. It denigrates common sense to ignore the fact that salary and insurance come from the same pot, that resources are and will continue to be limited (most likely becoming scarcer) in the foreseeable future especially given the precarious condition of the Michigan economy, (e.g., Michigan's job losses, decreasing tax revenues, population loss, etc).

Insurance packages should be solicited from the various insurers. There are reasonably similar plans to those provided by MESSA. In any case the District's premium obligation should be limited to the rates which approximate the quotes for a Blue Cross/Blue Shield Flexible Blues 2 plan that is already in place with the MEA support staff in Leslie and the administrative, supervisory, and non-union personnel. Agreement on a health insurance package should be negotiated between the parties under this costing limitation. Circumstances could lead the parties to agree to alter this suggested limit. Disputes on similarity could be resolved, as the Employer suggests, by a licensed insurance agent mutually agreeable to the parties, assuming the parties cannot agree on the most suitable insurance carrier. The dental plan and payments in-lieu of health care should remain unchanged unless savings from a new insurance package justify changed or improved benefits, which accordingly could be arrived at through negotiations.

The ICEA contribution for membership in the plan ultimately made available obviously should depend upon the expense of the plan he/she selects. Again, this is a clearly negotiable matter, and it is hoped that good will and mature bargaining will lead to an agreement. The negative attitude and deleterious, enervating emotions associated with so called "hard caps" should not be allowed to poison a potential settlement. The caps generated much anger among some ICEA members primarily because of the perception that they were put in place to punish them for not agreeing to LPS proposals during negotiations. Nevertheless, not agreeing to some form of limit when selecting a preferred plan would be irresponsible and illogical. An additional advantage is that it motivates more attention to plan selection and use by the insured. And, the availability of a Section 125 plan makes possible a salary reduction agreement to facilitate the payment of out-of-pocket premiums above the Board's monthly contributions with pre-tax dollars.

<u>Regular Salary</u>

Appendix A

2007- 2008 – 1.75% retroactive

2008-2009 – 1.75% retroactive

2009 – 2010 – 1.75%

LPS can reasonably be expected to realize significant reductions, or at minimum a reduction of the rate of increase, in health care costs. Unit members should have at least minimum salary increases especially in view of inflation. It is also noteworthy that ICEA members are entitled to tax savings for their health care costs, should they choose to exercise that option.

<u>Extra Duty Compensation</u>

Appendix B

Current language.

Given the recommendation on regular salary, the fact of $300,000 in service cuts each year for the last five years, and increments received otherwise, additional compensation is not recommended.

<u>Traveling Teacher Stipend</u>

Current language.

There is no persuasive rationale for removing a stipend for traveling, especially given the drastic increases in fuel costs. Although the distances traveled appear to be short, starting a vehicle on depending on the weather, may take several minutes for warm-up, therefore requiring more fuel and wear on the vehicle.

Terminal Leave Payment

Article 6 H

Current language. Retirement costs are already substantial and provide reasonable support for retired teachers. There is no justification for an increase in view of the totality of these recommendations.

Special Education – Class Size and 'Bounty' Payments

Article 7 C

Current language. No changes are justified.

Probationary Employees

Article 14 K

Current language. There is no persuasive rationale for altering the protections afforded any member of the bargaining unit by the existing language.

Letter of Agreement

The letter of agreement under the current or expired contract seems to have been a reasonable step for the parties at the time. Conceivably, another such letter could be conducive to positive movement, but that is a matter for the parties to decide. In view of the reasonably improved financial status that should result from the totality of these recommendations, it may not be necessary.

Duration

Three years as indicated in the salary recommendation, providing for enhanced stability and increasingly amicable relations between the ICEA members and the Board. Such an outcome would also enhance the community perception of both the Employees and the Board .

The purpose of these recommendations is to provide suggestions for a path which would lead to early settlement of a dispute which has dragged on far too long.
There is nothing recommended here which could not be altered if it would lead to better communication, understanding, and acceptance of change. An acceptance of financial realities and a positive, productive labor relations environment is sorely needed, following a period of hard feeling, strong emotions, and therefore limited progress. .

In the process of studying the issues as set forth in the hearing and voluminous briefs and exhibits, the advocates were called upon for specific information through conference calls and correspondence. They were highly professional, clarifying a number of issues for the Fact-Finder, and forwarding additional information when appropriate. Their professional demeanor and cooperation are appreciated.

Donald R. Burkholder, Ph.D., Fact-Finder

September 29, 2008