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Employment Relations Commission

FACT FINDING REPORT AND RECOMMENDATIONS

In the matter of fact finding between

Richmond Community Schools

and

Michigan Education Association – National Education Association Local 1

Michigan Employment Relations Commission Case No. D09 I-0961

DATE OF FACT-FINDING PETITION:	December 18, 2009
DATE OF PRE-HEARING CONFERENCE:	April 23, 2010
LOCATION OF PRE-HEARING CONFERENCE:	Lansing, MI
DATES OF HEARING:	July 12, 13, and 23, and August 2, 2010
LOCATION OF HEARING:	Clinton Township, MI
DATE HEARING CLOSED:	August 2, 2010
FACT FINDER:	Gregory M. Saltzman

APPEARANCES:

For Richmond Community Schools:

Mr. Donald J. Bonato, Esq., Thrun Law Firm, outside counsel

Ms. Kathy Konon, Director of Business and Management Services, Richmond Community Schools

Mr. Peter Silveri, Michigan Association of School Boards

Mr. Pat Olson, high school principal, Richmond Community Schools

For Michigan Education Association-National Education Association (MEA-NEA) Local 1:

Mr. Daniel Hoekenga, executive director and attorney, Michigan Education Association-National Education Association Local 1

Mr. Arch Lewis, Michigan Education Association

Ms. Jane Cassady, UniServ Director, MEA-NEA Local 1

Dr. Sarah Neyaz, economist, MESSA insurance

Mr. Larry Banek, MESSA

Ms. Tina Cole, bargaining unit member and president, Richmond Education Association

Mr. Michael Boon, president, MEA-NEA Local 1

Ms. Sue Horde, bargaining unit member

Ms. Teresa Ranger, bargaining unit member

Mr. John Schleder, bargaining unit member

Mr. Fred Baker, MESSA

I. General Background

The collective bargaining agreement between Richmond Community Schools (hereinafter the Employer) and Michigan Education Association-National Education Association (MEA-NEA) Local 1 (hereinafter the Union) covered a bargaining unit of certified teaching personnel and social workers. The contract expired in June 2009. Negotiations for a new contract did not result in an agreement, despite the assistance of a MERC mediator. At the time that the employer filed the petition for fact finding, there were 88 employees in the bargaining unit.

Bargaining unit members are professional employees working in K-12 education. At the time of the hearing, Richmond Community Schools was also in negotiations with a bargaining unit of supervisory personnel such as principals and assistant principals.

The Employer and the Union reached tentative agreement on a number of issues, such as the 2010-11 school calendar, prior the fact-finding hearing. During the course of the fact-finding hearing, the parties narrowed their differences significantly, particularly on noneconomic issues. The principal issues remaining in dispute as of the close of the hearing were:

- The Employer sought concessions in compensation (in salary, benefits, or some combination thereof) that the Union found objectionable, and
- The Union sought seniority language applicable in cases of district annexation or consolidation, but the Employer found this language objectionable.

Employer Exhibits 1 and 2 present the Employer's summary of the issues in dispute as of the date that the exhibits were prepared. Further details of the issues in dispute are provided in Section II of this report.

Unfair labor practice (ULP) charges have been filed concerning actions involving the Employer and the Union that are alleged to have occurred prior to the pre-hearing conference for this fact finding case. It is not my role as fact finder to adjudicate these ULP charges.

On a personal note, I apologize to the parties for the delay in completing my fact finding report. I recognize the importance to the parties of a prompt report. A few days after I received the post-hearing briefs, however, my father became gravely ill; and he died on September 6. I had to put aside this fact finding report for over two months while I attended to my dying father, selected a funeral plot for him, worked on settling his estate, and took care of my elderly mother's finances.

II. The Proposals of the Parties

The parties both proposed a two-year contract to apply retroactively to 2009-10 and also to 2010-11. Their proposals on specific issues were as follows:

Salary and Benefits: Bargaining unit members are paid according to a salary schedule with different "lanes" according to the employee's level of education and different "steps" according to the employee's years of service. The employer proposes no change in the salary schedule for 2009-10. The Employer proposes that automatic step increases cease beginning in 2010-11; bargaining unit members would receive only negotiated increases, not increases for years of service. Furthermore, the Employer proposes a reduction in each step of the salary schedule beginning in 2010-11.

The amount of this reduction in each salary step would depend on whether the Union agreed to concessions in employee benefits, particularly health insurance. The Employer offers the Union a choice of (a) a 20% reduction in each step of the salary schedule in 2010-11, with no change in employee benefits, or (b) a 4.5% reduction in each step of the salary schedule in 2010-11, with significant employee benefits cutbacks. Specifically, under option (b), the MESSA health insurance PPO, dental insurance, vision insurance, long-term disability insurance, and life insurance would be replaced by a Health Alliance Plan HMO; dental, vision, LTD, and life insurance provided by companies other than MESSA; elimination of cash redemption of personal business days and personal days; elimination of one school period of release time for the Union president; elimination of longevity pay; and elimination of a 1% annuity payment.

The Union strongly objects to the Employer's proposal on salary and benefits. According to Employer Exhibit 1, the Union requested a 2% increase in each step of the salary schedule provided retroactively for 2009-10 and a further 2% increase in each step of the salary schedule for 2010-11.

The Union stressed its desire to continue relying on MESSA to provide insurance benefits for this bargaining unit. The Union indicated near the end of the hearing, however, that it is willing to consider some changes in health insurance that would reduce costs to the Employer.

Annexation/Consolidation: The Employer recently sought to have a neighboring school district annex the Richmond district or to agree to form a consolidated district with Richmond. So far, these annexation or consolidation efforts have been unsuccessful, but the Employer remains interested in arranging annexation or consolidation.

The Union proposes language requiring the "dovetailing" of seniority and the maintenance of tenure in the event of school district annexation or consolidation. Teachers in two or more districts that merge would be treated equally in terms of competitive status seniority (e.g., for transfer rights or layoff), calculation of years of service for purposes of placement on the salary schedule, etc. For example, if Armada (a neighboring school district) were to annex Richmond, then a teacher with 10 years of service just prior to the merger would be treated the same regardless of whether that service was with Armada or Richmond. In addition, under the Union proposal, teachers with tenure prior to an annexation or consolidation would continue to have tenure after the annexation or consolidation.

The Employer objects to this Union proposal.

Michigan Virtual High School (MVHS): The expired collective bargaining agreement required the Employer to utilize teachers to serve as mentors for students enrolled in online courses through MVHS. The Employer proposes that administrators who possess teaching certification be allowed to serve as mentors for students taking MVHS courses. The Union objects to this proposal.

Defined Contribution Retirement Plan: The Union proposed language requiring solicitation of Union input regarding any defined contribution retirement plan (e.g., a plan set up under Section 403(b) of the Internal Revenue Code) and prohibiting fees from being passed to employees. The Employer objects to this Union proposal.

Non-discrimination: The Union proposed adding language prohibiting employment discrimination based upon sexual orientation. The Employer objects to this language.

Calendar: At the time that Employer Exhibit 1 was being prepared, the Union had not accepted the Employer's proposal regarding the 2010-11 school calendar. This issue, however, was resolved prior to the start of the fact finding hearing.

Teaching Hours, Class Load, and Teaching Conditions: The Employer proposed language changes that it characterized as "cleanup," but the Union argued that some of these changes were both substantive and objectionable. On the third day of the fact finding hearing, the Employer withdrew the portions that the Union found most objectionable. This withdrawal removed an important obstacle to achieving a settlement.

III. Rationales Presented by the Parties

There was extensive discussion at the hearing of two norms for assessing economic proposals: employer ability to pay, and salaries and benefits offered by comparable employers. There also was some discussion of non-economic issues.

Ability to Pay

The key issue still in dispute is the extent to which limitations on the Employer's ability to pay necessitate reductions in employee compensation. The Employer argues that such reductions are unavoidable because of District financial problems, while the Union denies this.

The Employer brief argues:[1]

> Because of the way school districts are financed, they cannot generate revenue in addition to what they receive from the State of Michigan. . . Meanwhile, expenses continue to increase. Salary schedule step increases, insurance premium increases and increases in the retirement contribution required by law for each employee are the primary employment costs which make the status quo unsustainable and create the need for economic concessions from public employees.

But the Union brief argues:[2]

> [T]he parties had had substantial issues in bargaining that arose because of the District's apparent inability to accurately present the actual current financial situation; much less, accurately project its future finances. . . [T]he district, in its original budget [for 2008-09] estimated the ending fund surplus to be $324,347; then in its "Final Budget" asserted that the surplus would be $12,817 when, in

[1] Post Hearing Brief of Richmond Community Schools, August 19, 2010, p. 1.

[2] Post Hearing Brief of MEA-NEA Local 1, Richmond, August 23, 2010, pp. 3-4.

> fact, it was $636,152 or twice the original estimate and almost fifty times the "final."

The Union argues that the Employer's ability to pay is substantially greater than the Employer acknowledges and that financial pressures do not require cuts as deep as the Employer demands.

Both parties agree that:

(1)State funding for K-12 education (provided mainly on a per-student basis through a state foundation allowance) is the primary source of funding for Richmond Community Schools.

(2)Richmond received $154 less in state funding per student in 2009-10 than in 2008-09.

(3)Richmond's enrollment declined in 2009-10, cutting the number of dollars of state funding Richmond receives because of the state's per-student funding formula. Employer witness Kathy Konon estimated at the hearing that the district would have 69 fewer FTE students in 2010-11 than in 2009-10, which at $7,162 per student would cause a loss of $494,178 (= 69 × 7162) in state aid. [This July 2010 estimate can now be updated, using the actual enrollment count for fall 2010.]

(4)Health insurance prices are rising for reasons beyond the district's control.

(5)Pension costs are rising for reasons beyond the district's control.

(6)The district will save money in 2010-11 because of the retirement of 13 senior teachers at the end of 2009-10. The Employer expressed the intention at the hearing to replace 12 of the 13, saving money both because one teacher will not be replaced and because the 12 replacements on average will on average be paid less than the senior teachers who retired.

But the parties disagree about some important issues related to ability to pay:

(7)At the time the hearing began, the Employer had a more pessimistic assumption than the Union did about the amount of the state foundation allowance for 2010-11. But exhibits that the Employer submitted prior to the final day of the hearing gave revised financial estimates, accepting for the sake of argument that the Union's assumption about the per-student foundation allowance was correct. The Union's post-hearing brief argues that federal legislation enacted after the final day of the hearing will enhance state aid to local school districts, so that it is appropriate to use an even more optimistic assumption about the amount of the state foundation allowance for 2010-11. [In my analysis of the issues in a later section, I provide an updated estimate of state funding for 2010-11 based on state legislation enacted after the post-hearing briefs were submitted.]

(8)The Employer is concerned that a structural budget deficit in the state budget could lead to cuts in the per-student foundation allowance in subsequent years and argues that the District must prepare for a leaner future. The Union argues that a decline in the number of K-12 students in Michigan could allow ***per-student*** funding to remain constant even if total state spending on aid to K-12 education declines.

(9)The Employer argued at the hearing (in July and August 2010) that there was a significant risk that state funding for 2010-11 could be reduced after the 2010-11 school year began, whereas the Union argued that this risk was very low.

(10) The Employer argues that the decline in enrollment has been due to demographic and other factors beyond the Employer's control. The Union argues that the enrollment decline has been a result of management mistakes by the Employer that could be reversed, so that enrollments (and state funding allocated on a per-student basis) could be restored.

(11) The Employer argues that the District's fund balance is a crucial indicator of the District's financial strength. The Employer notes that the Michigan School Business Officials (MSBO) organization recommends a fund balance of 15-20% of annual operating expenses, that the District's fund balance does not meet this standard, and that the District's fund balance has declined substantially since 2002-03 because of deficit spending. The Employer argues that the Union's proposals would drastically worsen the District's fund balance, causing it to become negative. Michigan law requires school districts not to have a negative fund balance, and it requires any district with a negative balance to adopt a budget deficit elimination plan that provides a plausible way of eliminating this deficit over a five-year period.

The Union argues that working capital is a more important indicator of the District's financial strength than fund balance because working capital shows whether the District can pay its bills. Richmond's working capital recently rose. The Union argues that the

MSBO's recommendation of a 15-20% fund balance is unjustifiably conservative; MSBO adopted this after Proposition A in 1994 substantially increased funding for many Michigan school districts. But, the Union argues, comparable districts have a fund balance of only 7%.

(12) The Union also rejects as inaccurate the Employer projection that the Union proposals would cause a negative fund balance. This projection, argues the Union, is based on significantly overstated budget estimate for the District's non-personnel costs in 2010-11. The Union points to District errors in spending forecasts in prior years, before Kathy Konon began working for Richmond Community Schools as Director of Business and Management Services, as evidence that current District budget projections are unreliable. Furthermore, the Union challenged the credibility of Ms. Konon, who was the Employer's chief financial witness at the fact finding hearing.

(13) The Union argues that administrative costs in Richmond are excessive, while the Employer denies this. The Union stated that Richmond had 121 teachers and 13 administrators in 2004-05 but had cut this to 86 teachers and 12 administrators in 2009-10. In the Union's view, the Employer was not justified in making proportionately larger cuts in the teaching staff (13 of 121, or 10.7%) than in the administrative staff (1 of 13, or 7.7%). In the Union's view, the district should cut noninstructional staff before cutting instructional staff.

(14) Similarly, the Union argues that Richmond gave administrators larger percentage salary increases than it gave bargaining unit members, while the Employer denies this.

At the hearing, Employer witness Pat Olson, the high school principal in the Richmond District, testified that there was no increase in the salary scale for unionized administrators at Richmond in 2009-10. This directly contradicted the Union claim that the Employer had shown favoritism by providing such an increase to unionized administrators but not to teachers. Mr. Olson also testified about Employer Exhibit R-27, which showed that both unionized administrators and teachers in Richmond received 22.7% increases in their salary schedules between 2000-01 and 2008-09.

Under cross-examination by the Union, Mr. Olson acknowledged that the salary scale for unionized administrators had been changed twice since 2002 by reducing the number of steps from 10 to 7 to 6. The Union asserted that these changes in the salary scale for unionized administrators effectively increased their pay.

(15) The Union argues that the savings from replacing 13 teachers who retired at the end of 2009-10 with 12 or fewer teachers having lower salaries make it financially possible for the Employer to refrain from cutting salaries or benefits for bargaining unit members. The Union brief argues, "even if the District is correct about how many more students it will lose in 2010-2011 over 2009-2010 and even if it replaces 12 of the 13 teachers that retired, rather than 8 is as [*sic*] more likely, and keeps the present insurance and grants the 2% raises, that were requested in Local 1's initial proposal, there will be a larger fund surplus at the end of 2010-2011 than there was at the end of 2008-2009."[3]

The Employer estimated, in Employer Exhibit R-13, that net savings of replacing 12 of the 13 senior teachers who retired will be $407,690 for 2010-11. [These July 2010 estimates can now be replaced with actual figures.] Still, the Employer argues that step increases will eventually boost the salaries of the 12 replacement teachers, so that the savings are only temporary. Furthermore, the Employer argues that some of these savings should appropriately be used by the District for other purposes besides compensation for bargaining unit members. More importantly, the Employer argues that the Union is incorrect in its claim that the fund surplus for the district would increase rather than decrease if the Employer granted the Union's.

Employer Exhibit R-21 shows estimates for 2010-11 of three different cost increases and one source of cost reductions for the teacher bargaining unit. Step increases would directly raise salary costs by $165,800, and they would indirectly raise retirement and FICA costs by $43,871. Insurance costs were estimated to increase by $114,450. As noted above, replacing 12 of the 13 senior teachers who retired would save $407,690. The net effect of these cost increases and this cost reduction would be a saving of $83,569. But this, the Employer noted, is not enough to offset the $494,178 reduction in state aid associated with a loss of 69 FTE students.

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[3] Post Hearing Brief of MEA-NEA Local 1, p. 8.

Appropriate Comparison Group

Both the Employer and the Union presented data on compensation among "comparable" school districts, but they disagreed on which districts were comparable. The Employer argued that four comparison groups were appropriate:

a) Other school districts in the Macomb ISD (the same Intermediate School District as Richmond)

b) Other school districts whose teachers are represented by MEA-NEA Local 1

c) Other school districts in the Blue Water Area athletic conference (because of their similar size and proximity to Richmond)

d) Other school districts throughout Michigan with 1500-1999 students (Group K in a state of Michigan data set, the group that includes Richmond).

There is substantial overlap between comparison groups a) and b). But there are some districts in the Macomb ISD where the teachers are represented by the American Federation of Teachers (AFT) or an MEA affiliate other than MEA-NEA Local 1. And MEA-NEA Local 1 represents some teachers in Wayne County.

The Union argues that the only appropriate comparison group is b), the other school districts whose teachers are represented by MEA-NEA Local 1. The Union notes that MEA-NEA Local 1 is a "MABO" (multiple association bargaining organization) that tries to implement pattern bargaining among all of the districts whose teachers are represented by MEA-NEA Local 1. The Union argues that this comparison group has been accepted by both parties in Richmond Community Schools negotiations for over 35 years. The Employer challenged the Union to provide any document showing that the Employer had ever accepted that this was the only appropriate comparison group, but the Union did not provide any such document.

The Union argues that group c) is inappropriate because it includes some districts outside Macomb County and because districts in the Blue Water Area conference are similar only in terms of their sports environment, not in terms of their financial operations.

The Union argues that group d) is a very inappropriate comparison group because it includes many districts far outside of southeastern Michigan, and teachers in Wayne, Oakland, or

Macomb County are generally paid more than teachers in other parts of the state. The Upper Peninsula of Michigan, the Union argues, is a totally different labor market.

Salaries and Benefits Provided by Comparable Employers

The Union emphasizes the large reduction in salary and benefits demanded by the Employer. The Union brief argues that: "District . . . proposals . . . demand changes in salary, benefits and other terms and conditions that have not been agreed to by Local 1 members in any district, nor for that matter by teacher bargaining units in Macomb ISD, the Blue Water Conference nor in any Group K District in southeastern Michigan."[4]

The Employer emphasizes not the change in health insurance benefits, but the level of such benefits. "It is established fact that most employees do not enjoy insurance benefits comparable to those provided to the District's teachers and that most employees pay a portion of the insurance costs. . . The District is generous when it comes to insurance benefits. In Local 1, it is the second highest school district when insurance cost as a percent of total revenue is considered."[5]

The Union, instead of focusing on health insurance costs, focuses on the Employer proposal to make a health maintenance organization (HMO) the only option for Richmond teachers. The Union brief asserts that no other school district within the Local 1, Macomb ISD, or Blue Water Conference groups makes an HMO the only health insurance option for teachers. Within Group K, only one district (Kingsley Area Schools) makes an HMO the only option, and that district is outside the southeastern Michigan area that is most comparable to Richmond.[6]

With regard to salary, the Employer contends that external comparables are potentially misleading because they may reflect multi-year contracts signed a few years ago, when school districts faced a more favorable financial situation than they do now. The Employer asserts a mixed situation in salary comparisons: "The District's salaries do not compare favorably in Local 1 and Macomb ISD, but do compare favorably in the Blue Water Conference and Group

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[4] Post Hearing Brief of MEA-NEA Local 1, p. 3.

[5] Post Hearing Brief of Richmond Community Schools, p. 13.

[6] Post Hearing Brief of MEA-NEA Local 1, p. 15.

K."[7] The Employer attributes this salary pattern to funding differences: "The district does not compare favorably in total revenue per pupil in Local 1 and Macomb ISD. . . and is average in the Blue Water Area Conference and slightly above average in Group K."[8]

The Union's interpretation differs. The Union brief states that Employer Exhibits 21 and 23 showed that:[9]

> four Local 1 districts with lower per pupil revenue than Richmond, (Chippewa Valley, Clintondale, Armada and Anchor Bay. . .) all had a higher average teacher salary than Richmond. . . Recognizing that such 'average' teacher salary comparisons are misleading because they take into account where the teachers are on the schedule, as well as the schedule itself, Local 1 compared both the salary schedules (U VIII A) in the comparable districts themselves and total compensation (U R 34, 37) The District failed to submit any rebuttal to those schedules nor even support its own failed "average" teacher salary comparison exhibit. From the evidence submitted, it is clear that the Richmond teachers' salary schedule . . . through 2007-2008 was dead last in Local 1.

Annexation/Consolidation

The Union asserts that language providing for "dovetailing" of seniority in the event of annexation or consolidation would reduce stress for teachers without adding to the costs of Richmond or any school district with which it merges. The Union seeks the same language in all MEA-NEA Local 1 districts; it does not seek special treatment that would give Richmond teachers privileges not available to teachers in other districts with the same number of years of service. Some other districts with which MEA-NEA Local 1 negotiates have already agreed to such language.

The Employer argues that "It is legally impossible for the District to determine the terms and conditions of employment of its former employees for the period following the termination of the District's existence."[10]

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[7] Post Hearing Brief of Richmond Community Schools, p. 15.

[8] *Ibid.*

[9] Post Hearing Brief of MEA-NEA Local 1, p. 13.

Bargaining History

The Union argues that the relationship between the parties was significantly damaged by the Employer's refusal to execute an agreement that had been negotiated for 2007-2009. The Union characterized the Employer's proposals as an "assault upon the members and their working conditions."[11]

The Employer denies having acted unreasonably or having committed unfair labor practices. The Employer also argues that the bargaining that preceded fact finding is not relevant for purposes of this fact finding report.

IV. Fact Finder's Analysis of the Issues

Credibility of Financial Witnesses for Each Party:

The Union questioned the competence and honesty of the Employer's chief witness on financial matters, Kathy Konon. But I find, on the basis of observing Ms. Konon present extensive testimony and answer questions during cross examination, that Ms. Konon was a very credible witness.

The Employer *never* questioned the competence or honesty of the Union's chief witness on financial matters, Arch Lewis. For the record, however, I find, on the basis of observing Mr. Lewis present extensive testimony and answer questions during cross examination, that Mr. Lewis was a very credible witness.

This is not to say that Mr. Lewis always agreed with Ms. Konon. They emphasized different facts, interpreted facts differently, and made different forecasts about the future. These differences were not unreasonable. In my analysis of the financial issues, I give serious consideration to the testimony of both Mr. Lewis and Ms. Konon.

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[10] Post Hearing Brief of Richmond Community Schools, p. 19.

[11] Post Hearing Brief of MEA-NEA Local 1, p. 3.

Ability to Pay:

I find convincing the Employer's argument that the Employer has had genuine budget problems that have adversely affected its ability to pay. Serious economic problems in Michigan have cut state government revenues, adversely affecting state aid to K-12 education. Furthermore, Richmond has had a decline in enrollment, which affects the District's budget because much of the state funding is provided on a per-student basis. Possibly the Union is correct that changes in District policies or in the way that the District is managed could reverse the enrollment decline; but the Union did not prove that claim. It is not prudent to spend money based on a possible future increase in enrollment without evidence that this enrollment increase actually is likely to materialize.

I find convincing the Employer's argument that the fund surplus is a better indicator than working capital is of the District's ability to pay. The Employer appropriately seeks to avoid violating state law by letting its fund balance become negative. And I accept that it would be desirable for the Employer to reach the MSBO's target of a fund balance of 15-20% of annual expenditures. Nevertheless, there is no urgency in reaching this target. It seems quite reasonable that Richmond depleted its fund balance somewhat during the recent business cycle downturn, the most severe downturn since the Great Depression of the 1930's. The Employer can wait until funding improves (as it did in the mid to late 1990's, due to both Proposal A and very favorable macroeconomic conditions) to run budget surpluses that would increase its fund balance to 15-20% of annual expenditures. ***For 2010-11, a reasonable financial goal for the Employer would be to run a balanced budget, so that the fund balance remains constant***, rather than running a budget surplus so that the fund balance increases.

Based on the information available at the start of the hearing, I think that the Union's optimistic estimate of the amount of the state foundation allowance for 2010-11 was more accurate than the Employer's pessimistic initial estimate. The Employer seemed to recognize this, revising its exhibits for subsequent days of the hearing to see how the budget figures would change if one used the Union's optimistic estimate.

Developments after the Hearing Affecting Employer Ability to Pay:

As the Union's post-hearing brief notes, federal legislation enacted in August 2010 further improves the outlook for Richmond Community Schools funding for 2010-11. Because of the importance of additional federal funding for the Employer's ability to pay, I present analysis below based on my own research about Michigan legislative developments in the period after the parties' post-hearing briefs were submitted.

HB 5872, signed by Michigan Governor Jennifer Granholm on October 11, 2010, provides **one-time** additional funding to Michigan school districts for 2010-11. This funding, provided to Michigan by the federal government, totals $312 million.

The amount that Richmond Community Schools will receive depends on the state's allocation formula. There are different versions of this formula: one in the original bill passed by the House on August 25, 2010, a second in the version of the bill passed by the legislature on September 29, a third recommended by Governor Jennifer Granholm on October 11 in her message signing the bill but vetoing a portion of it, and perhaps a fourth in the yet-to-be-enacted final version.

The version passed by the House would have provided a uniform increase for all districts of $154 per student, restoring state funding to the 2008-09 level. In addition, low-funded districts would receive additional "2X" funding. Under the House version, Richmond would have received the uniform $154 plus the maximum of $34 in 2X funding, for a total of $188 per student. The House Fiscal Agency estimated that Richmond's additional state funding for 2010-11 under the House version would be $337,223.[12]

The bill passed by the legislature in September would have provided a uniform $154 per student, plus an additional $46 per student for districts receiving the minimum state foundation grant of $7,316 per student.[13] Richmond Community Schools, as a district receiving the minimum foundation grant, would have received an additional $200 per student ($154 + $46) under this bill. I estimate Richmond's additional funding under this version at (200/188) × $337,223, or approximately $358,748.

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[12] Mary Ann Cleary and Bethany Wicksall, "SCHOOL AID: FY 2010-11 Supplemental Appropriation. Summary: Floor Substitute. House Bill 5872 (H-2)," House Fiscal Agency, August 25, 2010, pages 1 and 9. Accessed online on September 3, 2010, at: http://www.legislature.mi.gov/documents/2009-2010/billanalysis/House/pdf/2009-HLA-5872-1.pdf

[13] "Federal K-12 Money Disbursement formula OK'd," *Michigan Report* (Gongwer News Service), Volume 49, Report 191, September 29, 2010. Accessed online on November 5, 2010.

Granholm's October veto message requested that the legislature allocate the entire $312 million using Michigan's primary K-12 funding formula, a procedure that could provide lower-funded districts with an additional $220 per student, while providing higher-funded districts with only $110 per student.[14] Assuming that Richmond would receive $220 per student, Richmond's additional funding under Granholm's recommended version would be (220/188) × $337,223, or approximately $394,623.

The Michigan House overwhelmingly passed a bill on November 10, 2010, that, consistent with Granholm's veto message, provides lower-funded districts with up to $222 per student in additional funding (though also replacing the $154 per student cut in the foundation allowance with a larger $162 per student cut).[15] The precise amount that Richmond will receive for 2010-11 is not yet known because the Michigan Senate has not yet responded to Granholm's veto message. Still, it seems reasonable to assume that Richmond will receive additional funding for 2010-11 of over $350,000.

This one-time funding may not be repeated for school year 2011-12. Indeed, the prospects for another round of such federal funding in 2011-12 were dimmed by the Republican takeover of the U.S. House of Representatives in the 2010, particularly because of the aversion of the Tea Party wing of the Republican Party to domestic spending by government. Furthermore, the Michigan House of Representatives voted on August 25, 2010, to transfer $208 million out of the School Aid Fund to address the state budget deficit.[16] This transfer may create the impression in the minds of future legislators that less dedicated funding is available for future state aid to education, thus reducing the likelihood that the additional state aid for 2010-11 will be repeated in 2011-12.

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[14] "K-12 Veto Expected to Boost Lower-Funded Districts," *Michigan Report* (Gongwer News Service), Volume 49, Report 201, October 12, 2010. Accessed online on November 5, 2010.

[15] "Fed Ed Money Redo Passes House," *Michigan Report* (Gongwer News Service), Volume 49, Report 222, November 10, 2010. Accessed online on November 21, 2010.

[16] "K-12 Schools See Cuts Restored, But School Funds Raided," *Michigan Report* (Gongwer News Service), Vol. 49, Report 165, Wednesday, August 25, 2010. Accessed online on September 3, 2010.

Nevertheless, $350,000 or more in one-time funding for 2010-11, combined with the estimated $407,690 in savings from replacing 12 of the 13 senior teachers who retired at the end of 2009-10, is almost enough to offset the combined effect of the estimated $494,178 loss of state aid due to declining enrollment, the $165,800 in additional salary due to step increases, the $43,871 in retirement/FICA rollup on these step increases, and the estimated $114,450 in increased health insurance premiums. This means that ***the Richmond district does not face an immediate crisis in its ability to pay.*** Indeed, even before this one-time funding materialized, the Employer's decision to replace 12 of the 13 teachers who retired at the end of 2009-10 provided powerful evidence that there was no immediate financial crisis. ***Moderate cuts in health insurance benefits that take place late in the 2010-11 school year should suffice to balance Richmond's budget for 2010-11.***

The Employer faces a <u>long-term</u> financial problem stemming from economic stagnation in Michigan and chronic increases in health care costs. There is nothing that the Employer can do about economic stagnation in Michigan. But ***the Employer can and should focus on gaining acceptance by the Union of changes in health insurance that will slow the rate of increase in health care costs.*** Without such changes, a future Richmond Community Schools financial crisis seems very plausible—perhaps in 2011-12, though more likely within a few years.

<u>Richmond Expenses in 2010-11 Other Than Compensation:</u>

I find convincing the Union's claim that the Employer used too high a figure in its budget for 2010-11 for expenses other than compensation. While the Employer may have needed a new school bus to avoid losing enrollment (and thus, state funding) in 2010-11, the Employer did not demonstrate at the hearing why it needed as large an increase in 2010-11 for expenses other than compensation as its budget listed.

The Employer has some discretion over when books and equipment are replaced. Previously, the Employer accelerated its plans to purchase textbooks when a mild winter led to lower than expected costs for snow removal. This acceleration of purchasing plans seems quite reasonable, given the circumstances; but delays in book or equipment purchases could be quite reasonable if circumstances are different. If money is tight in 2010-11, then some of the expenditures other than compensation included in the Employer's 2010-11 budget can be delayed to a subsequent year.

Reducing the somewhat high figure for expenses other than compensation would make it possible for the Employer to afford more generous compensation without running a budget deficit in 2010-11, and thus, without reducing the Employer's fund balance.

<u>Favored Treatment for Richmond Administrators:</u>

My assessment is that the Union has exaggerated the extent to which the Employer favored unionized administrators in the Richmond district in granting salary increases, though it does appear that the reduction in the number of steps in the salary scale for unionized administrators had the effect of raising average administrator compensation. ***Shared sacrifice is essential in gaining acceptance by the teachers' bargaining unit of any cutbacks needed to address the Employer's financial problems. Any freeze in the salary schedule, and certainly any cutbacks in the salary schedule or benefits, that apply to teachers should also apply to both unionized administrators and nonunion administrators.***

<u>Appropriate Comparison Group:</u>

I find very convincing the Union's claim that it is inappropriate to compare compensation in Richmond to that in all other school districts in Michigan with 1,500 to 1,999 students (Group K). The Union is quite correct that the Upper Peninsula of Michigan is a different labor market than the suburbs of Detroit.

The other three comparison groups—Macomb ISD districts, MEA-NEA Local 1 districts, and Blue Water Area athletic conference districts—are all plausible. Each group has a reasonable number of school districts: Macomb ISD has 21, whereas MEA-NEA Local 1 has 14, and Blue Water Area has 8. More importantly, all three of these groups are geographically proximate to Richmond and thus could be considered part of the same local labor market as Richmond.

Still, there are slight geographic differences among these three groups. Richmond is at the northeastern edge of Macomb ISD and the MEA-NEA Local 1 districts. Richmond is in the southern part of the Blue Water Area athletic conference, though Algonac (also in the Blue Water conference) is south of the southernmost part of Richmond. More importantly, Macomb ISD and MEA-NEA Local 1 include many districts closer to the core of the Detroit metropolitan area than Richmond, while Blue Water area includes districts generally farther from the core of the Detroit metro area.

Macomb ISD roughly corresponds to Macomb County, but three Macomb ISD districts—Anchor Bay, Armada, and, of particular relevance, Richmond—extend into St. Clair County, while two extend into Oakland County.[17] MEA-NEA Local 1 districts include most but not all districts in Macomb ISD plus one in Wayne RESA in Wayne County: Harper Woods. The Macomb ISD districts not included in MEA-NEA Local 1 tend to be in the southern half of the Macomb ISD; the teachers in these districts are represented by the AFT or, in one case, another MEA group. The Blue Water Area athletic conference includes schools in the Macomb ISD (Armada and Richmond), St. Clair ISD (Algonac, Capac, and Yale), Lapeer ISD (Almont and Imlay City), and Sanilac ISD (Croswell-Lexington). Sanilac County, where Croswell-Lexington is primarily located, is not part of the Detroit-Warren-Livonia Metropolitan Statistical Area.

The Union argues that MEA-NEA Local 1's desire to engage in pattern bargaining and a 35-year past practice in negotiations makes MEA-NEA Local 1 the most appropriate comparison group for Richmond Community Schools. But the Employer challenged the Union to provide evidence that the Employer had ever agreed to exclude AFT-represented teachers or Blue Water Area Conference districts outside Macomb ISD from compensation comparisons, and the Union did not produce such evidence.

Similarity among District ability to pay is also relevant in determining an appropriate comparison group. The Employer brief notes that "most of the Districts in Local I receive a per pupil foundation allowance far greater than Richmond receives," suggesting that other MEA-NEA Local 1 districts differ from Richmond in ability to pay.[18] For example, Center Line and Warren Consolidated (included in both the MEA-NEA Local 1 group and the Macomb ISD group) have 2010-11 foundation allowances of $9,823 per student and $9,326 per student, respectively; whereas Richmond receives the minimum allowance of $7,316.[19] The one MEA-NEA Local 1 district <u>not</u> in the Macomb ISD, Harper Woods, receives a foundation allowance of

[17] Map of Michigan school districts, accessed online November 7, 2010 at: http://www.michigan.gov/documents/CGI-state_sch_district_67407_7.pdf

[18] Post Hearing Brief of Richmond Community Schools, p. 2.

[19] Cleary and Wicksall, "SCHOOL AID: FY 2010-11 Supplemental Appropriation. Summary: Floor Substitute. House Bill 5872 (H-2)," p. 9.

$8,173—higher than Richmond, but not as high as Center Line or Warren Consolidated.[20] By the ability to pay criterion, the Blue Water Area athletic conference may be the most appropriate comparison group, as most of the districts in this group, like Richmond, receive the minimum per-student foundation allowance of $7,316 in 2010-11.[21]

The choice of comparison group influences how competitive Richmond compensation seems compared to other districts. Richmond seems less competitive if the comparison group excludes AFT districts in Macomb ISD (which have lower health insurance costs than do MEA-NEA Local 1 districts) and districts in the Blue Water Area athletic conference that are at or beyond the fringes of the Detroit metropolitan area (which tend to have lower per student foundation allowances than do MEA-NEA Local 1 districts). Richmond seems more competitive if the comparison group includes these districts.

In summary, I find that Group K (all school districts in Michigan with 1,500 to 1,999 students) is an inappropriate comparison group for Richmond because many of these districts are not in the same local labor market as Richmond Community Schools. I find that Macomb ISD districts, MEA-NEA Local 1 districts, and Blue Water Area athletic conference districts are all reasonable comparison groups for Richmond. But ***I give slightly more weight to comparisons with:***

(1) ***Anchor Bay, Armada, New Haven, and Romeo (northern part of Macomb ISD, foundation allowances similar to Richmond),***

(2) ***Algonac, Capac, and Yale (St. Clair ISD, foundation allowances identical to Richmond), and***

(3) ***Almont (in Lapeer ISD, but a significant portion of the district is in either St. Clair County or Macomb County; foundation allowance identical to Richmond).***

__Salaries and Benefits in Richmond and Comparable School Districts__

Data provided by the Employer on pupil count, general fund total revenue per pupil, average teacher salary, and annual employer-paid health insurance premiums for Richmond and the school districts that I deem most comparable are shown in Table 1 below.

[20] *Ibid.*, p. 16.

[21] *Ibid.*, pp. 8, 9, 13, and 14.

Table 1: General Fund Total Revenue Per Pupil, Average Teacher Salary, and Employer-Paid Health Insurance Premiums in Richmond and Eight Comparable Districts

District	ISD	Pupil Count, 2009-2010[1]	Revenue per pupil, 2009-2010[1]	Average teacher salary, 2009-2010[2]	Employer-paid health insurance premium, 2008-2009[3]	Salary plus health insurance	Salary as % of Richmond	Insurance as % of Richmond	(Salary + Insurance) as % of Richmond
Richmond	*Macomb*	*1,881.39*	*7,983*	*63,526*	*15,469.20*	*78,995.20*			
Romeo	Macomb	5,652.03	8,336	68,829	15,227.28	84,056.28	108.3%	98.4%	106.4%
New Haven	Macomb	1,378.70	8,224	59,144	17,183.76	76,327.76	93.1%	111.1%	96.6%
Armada	Macomb	1,978.24	7,837	64,476	16,072.08	80,548.08	101.5%	103.9%	102.0%
Anchor Bay	Macomb	6,671.11	7,810	68,897	16,330.80	85,227.80	108.5%	105.6%	107.9%
Capac	St. Clair	1,638.78	8,042	61,899	16,187.04	78,086.04	97.4%	104.6%	98.8%
Algonac	St. Clair	2,098.60	7,872	58,068	14,649.60	72,717.60	91.4%	94.7%	92.1%
Yale	St. Clair	2,250.99	7,753	60,440	14,307.96	74,747.96	95.1%	92.5%	94.6%
Almont	Lapeer	1,810.63	7,815	59,169	14,267.16	73,436.16	93.1%	92.2%	93.0%
Average excluding Richmond		*2,935*	*7,961*	*62,615*	*15,528*	*78,143*	98.6%	100.4%	98.9%
Northern Macomb ISD average, excluding Richmond		*3,920*	*8,052*	*65,337*	*16,203*	*81,540*	102.9%	104.7%	103.2%
Average of Capac, Algonac, Yale, Almont		*1,950*	*7,871*	*59,894*	*14,853*	*74,747*	94.3%	96.0%	94.6%

[1]From Employer Exhibits 21 and 29

[2]From Employer Exhibits 23 and 30

[3]From Employer Exhibits 46 and 48, multiplying monthly premiums times 12 to get annual figures

These figures can be misleading. Average salary reflects not only the salary schedule, but also the characteristics of individual teachers (years of service and years of education) and local cost of living (presumably higher in Oakland County, where part of the Romeo district is, than in St. Clair or Lapeer County). Similarly, employer contributions for health insurance reflect not only the generosity of benefits design, but also the fraction of teachers receiving dependent coverage.

Data provided by the Union address these concerns about characteristics of individual teachers and the fraction of teachers receiving dependent health insurance coverage, though not the concern about differences in the local cost of living. Union Rebuttal Exhibit 37 presented data for 2009-10 for all districts whose teachers are represented by MEA-NEA Local 1 (a reasonable comparison group for Richmond that overlaps what I consider the most appropriate comparison group). This Exhibit uses the salary schedule for each district and the actual education and experience of each **<u>Richmond</u>** teacher to predict what Richmond's average teacher salary would be if Richmond applied the salary schedule of other districts. This Exhibit also uses the health insurance rates for three coverage categories (single, employee plus one dependent, or family coverage) for each district and the actual coverage category of each **<u>Richmond</u>** teacher to predict what health insurance costs would be for Richmond if Richmond paid the insurance rates of other districts. Union Rebuttal Exhibit 37 appears to do an excellent job of making an apples-to-apples comparison. Data for Richmond and the four other districts in the northern part of Macomb ISD (Romeo, New Haven, Armada, and Anchor Bay, the Local 1 districts that I consider most comparable to Richmond) are shown in Table 2:

Table 2: Actual Average 2009-10 Richmond Teacher Salary and Total Compensation, vs. Predicted Richmond Average Salary and Total Compensation, Applying Characteristics of Richmond Teachers to Salary Schedules and Insurance Rates in Four Comparable Districts in Northern Macomb ISD

District	Pupil Count, 2009-2010[1]	Revenue per pupil, 2009-2010[1]	Predicted average teacher salary, 2009-2010[2]	Predicted employee benefits cost, 2009-2010[3]	Predicted average total compensation[2]	Predicted salary as % of Richmond actual	Predicted benefits cost as % of Richmond actual	Predicted total compensation as % of Richmond actual
Richmond	*1,881.39*	*7,983*	*65,231*	*33,900*	*99,131*			
Romeo	5,652.03	8,336	72,101	*32,240*	104,341	110.5%	95.1%	105.3%
New Haven	1,378.70	8,224	65,785	*34,540*	100,325	100.8%	101.9%	101.2%
Armada	1,978.24	7,837	68,112	*32,820*	100,932	104.4%	96.8%	101.8%
Anchor Bay	6,671.11	7,810	71,664	*35,481*	107,145	109.9%	104.7%	108.1%
Average excluding Richmond	*3,920*	*8,052*	*69,416*	*33,770*	*103,186*	106.4%	99.6%	104.1%

[1]From Employer Exhibits 21 and 29

[2]From Union Rebuttal Exhibit 37

[3]Calculated from Union Rebuttal Exhibit 37 by subtracting salary from total compensation

Comparing Tables 1 and 2, it is puzzling that the Employer's figure for actual average teacher salary in Richmond ($63,526) differed from the Union's figure ($65,231). Still, these tables show some similar patterns. Both Table 1 (based on the Employer's figures) and Table 2 (based on the Union's figures) show that total compensation for teachers is several percent lower in Richmond than in the two northern Macomb ISD districts with much larger enrollments, Romeo and Anchor Bay. Both show that total compensation for teachers is about two percent lower in Richmond than in Armada. While Table 1 showed higher total compensation in Richmond than in New Haven, Table 2 showed just the reverse. The latter discrepancy could be explained by differences between Richmond and New Haven in average teacher characteristics (with Richmond presumably having more educated and experienced teachers than New Haven).

The adjustments for teacher education and experience in Table 2 make Richmond's average teacher salary look *less* competitive than the unadjusted figures in Table 1. On the other hand, the adjustments for health insurance coverage category (single, employee plus one, or family) in Table 2 make Richmond's average employee benefits package look *more* competitive than the unadjusted figures in Table 1.

Another important difference between Tables 1 and 2 is that Table 1 includes information for four Blue Water Area Conference districts that are not in Macomb ISD and where the teachers are not represented by MEA-NEA Local 1. These districts—Capac, Algonac, and Yale in St. Clair ISD, and Almont in Lapeer ISD—all had lower average salaries than Richmond, though it is important to note that these averages are NOT adjusted for differences in teacher education or experience. Employer-paid health insurance premiums per teacher were higher in Capac than in Richmond, but they were lower in Algonac, Yale, and Almont than in Richmond, with the caveat that these figures were not adjusted for possible differences among districts in the percentage of teachers getting family rather than single insurance coverage.

To summarize the information in Tables 1 and 2, ***teacher salaries and employer contributions for health insurance are neither excessive nor deficient in Richmond, in comparison to the eight school districts that I consider most comparable to Richmond.*** On comparability grounds (which are distinct from ability to pay grounds), it is hard to justify large changes in teacher salaries. With regard to health insurance, however, it should be noted that teachers represented by MEA (true of Richmond and all eight comparison districts) tend to have substantially more generous benefits design than do private-sector employees *other* than employees of GM, Ford, and Chrysler.

In view of the one-time federal/state funding for 2010-11, middle-of-the-pack salaries and (by school district standards) health insurance costs for Richmond, but the likelihood that the Employer will face significant financial pressure in 2011-12, ***I recommend (a) continuation of automatic step increases for 2010-11, but (b) a freeze in the salary schedule for both 2009-10 and 2010-11, and (c)changes in health insurance aimed at reducing utilization of health goods and services that are not cost-effective.*** The next two sections provide further discussion of the health insurance issue.

MESSA vs. Other Health Insurance Plans

The Union is eager to continue offering a MESSA health insurance plan, while the Employer is suspicious of the close relationship between MESSA and the Michigan Education Association. Employer Exhibit 49 showed clearly that non-MESSA plans within the MEA-NEA Local 1, Macomb ISD, and Blue Water Area Conference groups tend to have lower employer-paid premiums than do MESSA plans. Although Employer Exhibit 49 did not identify non-MESSA plans by union, it is notable that the five districts in this Exhibit with the lowest employer-paid premiums (Imlay City, East Detroit, Lake Shore, Roseville, and Warren) all are districts where the teachers are represented by a union **other** than MEA-NEA Local 1: the AFT in the case of the first four, and an MEA organization not part of MEA-NEA Local 1 in the case of Warren. The Union argued at the hearing that MEA-NEA Local 1 has made generous health insurance benefits a higher priority than the AFT has.

It is impossible to determine from Employer Exhibit 49, however, what specific health insurance attributes caused the difference in employer-paid premiums. Conceivably, it could be due to:

- Employers paying a higher percentage of premiums in MESSA plans
- Dependents being more likely to elect coverage under MESSA plans
- MESSA plans having a more generous benefit design (smaller out-of-pocket payments by patients, more services covered, less restrictive managed care provisions)
- MESSA plans being less efficient (higher administrative expenses, less effective in restricting utilization of health care services that are not cost-effective)

Only the last reason listed (inferior efficiency for MESSA) would be a compelling justification for switching from MESSA to another plan. But the Employer did not provide substantial evidence that MESSA has higher administrative expenses than other health plans or is less effective than other health plans in restricting utilization of health services that are not cost-effective. ***The Employer has not met the burden of justifying its proposal to switch from MESSA to another health plan.*** I therefore accept the modified Union proposal, made at the end of the fact finding hearing, to continue using a MESSA health plan but to make changes in the MESSA health insurance plan that will Employer contributions for premiums. Ideally, these changes will not only cause a one-time reduction in Employer contributions for premiums, but also slow the growth rate in health insurance premiums.

Changes in the MESSA Health Insurance Plan

There are many possible ways of slowing the growth of Employer contributions for health insurance premiums. As of the end of the fact finding hearing, the parties had not thoroughly discussed this issue, and I am reluctant to make detailed recommendations in the absence of information about the parties' preferences. Still, I make the following general recommendation: ***Changes in the health insurance plan should be aimed at reducing utilization of those health goods or services that are not cost-effective (i.e., that have a very high dollar cost relative to the health benefit that they provide.*** For example, I suggested to the parties at the fact finding hearing that they consider a three-tier prescription drug plan, with the lowest copay for generic drugs, an intermediate copay for in-formulary brand-name drugs, and the highest copay for out-of-formulary brand name drugs. If the formulary is well designed (including cost-effective brand-name drugs but excluding brand-name drugs that are generally not cost-effective), then this three-tier prescription drug system will reduce Employer contributions for health premiums with little or no adverse effect on the health of the patients covered by the health plan.

If an employer offers only one health insurance plan, than instituting or increasing employee contributions for premiums mainly shifts costs from the employer to the employees; it potentially improves cost-effectiveness only very indirectly (by making employees slightly less likely to seek benefits design changes that are not cost-effective). On the other hand, if an employer offers two or more health plans, and if the employee contribution is less for one plan than for another, then instituting or increasing employee contributions may serve a purpose that goes beyond mere cost shifting. If the low-premium plan has lower administrative costs or has superior results in cost-effectiveness (neither of which is necessarily the case), then there would be an excellent justification for employee contributions for premiums: employee contributions would steer them to the more efficient health plan. In the case of Richmond Community Schools, however, only one health plan is offered to members of this bargaining unit, so that ***the***

justification is weak for instituting employee contributions for health insurance premiums in the case of Richmond Community Schools.

There is stronger justification for increasing out-of-pocket payments for the utilization of health goods or services. If patients have to pay at least a portion of the cost of a good or service, then they typically utilize less than if they pay nothing out of pocket, as the RAND health insurance experiment convincingly demonstrated.[22] But there is a risk that out-of-pocket payments may limit utilization even of services that **<u>are</u>** cost-effective, such as medications to control hypertension or preventive care for those at high risk of developing diabetes. Thus, it is appropriate to have first-dollar coverage for some health care goods or services where a typical patient might not see utilization as an urgent necessity but where there is very strong evidence that the health care goods or services provide benefits that exceed their costs.

I urge the parties to work with knowledgeable persons on the staff of MESSA (such as Union witness Sarah Neyaz) ***to develop either out-of-pocket payments or managed care utilization review and provider selection procedures that target utilization of health goods and services that are <u>not</u> cost-effective, while sparing health goods or services that are cost-effective.***

The Union brief suggests that the Union might be open to this approach:[23]

> "Local 1 has for several contracts made the conscious decision to reduce the employers' cost of benefits by making other concessions rather than make such direct premium contributions and remains willing to continue doing so. . . Local 1 has indicated that it would favorably consider a recommendation to go from the $10/20 drug program to. . . MESSA's new Saver Rx program which will save roughly 3.2% of the total health insurance premium cost. . . Increasing the in network deductible from "0" to "100/200 was also an idea that Local 1 did not find utterly without merit.

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[22]See, for example, Newhouse, J.P., W.G. Manning, C.N. Morris, et al., "Some Interim Results from a Controlled Trial in Health Insurance," *The New England Journal of Medicine*, 305: 1501-1507, 1981. See also Manning, W.G., J.P. Newhouse, N. Duan, et al., "Health Insurance and the Demand for Medical Care: Evidence from a Randomized Experiment," *American Economic Review*, 77(3): 251-277, 1987.

[23] Post Hearing Brief of MEA-NEA Local 1, pp. 15-16.

Copayments (e.g., a flat dollar out-of-pocket payment for each emergency room visit) or coinsurance (e.g., a fixed percentage out-of-pocket payment for each health service) would be more likely to reduce inappropriate utilization of health services than would an increase in the in-network deductible to 100/200, as the increased deductible has no effect on utilization after the deductible is met. If the parties adopt the coinsurance approach, however, then they should also institute a reasonable annual maximum for each individual's or family's in-network coinsurance payments so that a person with a grave illness such as leukemia does not face a crushing burden of health care costs.

Given the lead time it takes to change health insurance benefits design or to institute utilization review or provider selection procedures to reduce the use of health goods or services that are not cost-effective, ***I recommend that the parties plan to make changes in the MESSA health plan that take effect May 1, 2011. The goal of these changes should be to reduce monthly Employer contributions to health premiums by 10% of the amount that the Employer contributed in April 2011.*** The May 1 implementation date will allow reasonable time to negotiate changes in the health plan but will also ensure that the changes are in place prior to 2011-12, when one-time federal money may no longer be available to the Employer.

It is likely, however, that increases in health insurance prices will erode some of these Employer savings when new rates take effect for the 2011-12 school year. Also, a problem for MESSA (but not for this Employer) is that persons covered by the Employer's health plan may choose to schedule medical procedures for the period prior to May 1, 2011, to avoid higher coinsurance payments, so that MESSA might have unusually bad claims experience for this bargaining unit in March and April 2011.

Annexation/Consolidation

I find the Union's arguments on this issue persuasive. Bargaining unit members' wages, job security, or other terms and conditions of employment could be significantly and adversely affected if an annexation or consolidation were to erase the benefits of their years of service with Richmond Community Schools. The Union's proposed language, if adopted by both Richmond Community Schools and by another district with which Richmond might merge, would merely ensure that Richmond teachers and teachers in the other district were on an equal footing after the merger and that tenured teachers would not be stripped of tenure by an annexation or consolidation.

I am not an attorney and thus am not qualified to assess the legal merits of the arguments on annexation/consolidation presented in the Employer brief, but I did not find the Employer's arguments on this issue persuasive.

Michigan Virtual High School

It is not my role to make a binding legal determination of the scope of bargaining or to rule on an unfair labor practice charge about MVHS mentoring. Still, I do not find convincing the Employer argument that mentoring arrangements for MVHS students are a prohibited subject of bargaining. The mentor is not necessarily an information technology specialist, so that this matter does not concern "staffing to provide the technology" as described in Subsection 15(3)(h) of the Public Employment Relations Act. Rather, the mentor is a teaching specialist who advises the student on educational issues. The Employer acknowledges this educational role of mentors by proposing that only "administrators who possess teaching certification" serve as mentors.[24] An IT expert whose job was limited to providing the technology would not need teaching certification.

Much more convincing is the Employer argument that having an administrator do the mentoring work would save the district money. The Employer noted that the district had paid teachers $14,000 in 2008-09 for MVHS duties, while it paid the administrator nothing beyond the administrator's normal salary to serve as MVHS mentor in 2009-10.

Furthermore, the Employer noted that the failure rate of Richmond's MVHS students declined from 35% or more to only 11% when an administrator assumed the MVHS mentor duties in 2009-10. Possibly, this decline in the failure rate reflected improved mentoring, though it is also possible that it reflected more careful screening of student requests to take MVHS courses.

The Employer's proposal clearly saves the district money, and it ***may*** also improve outcomes for MVHS students. On those grounds, ***I recommend adoption of the Employer's proposal regarding mentoring for MVHS students.***

[24] Post Hearing Brief of Richmond Community Schools, p. 16.

Defined Contribution Retirement Plan; Non-discrimination Based on Sexual Orientation

Although these were listed as unresolved issues, the parties barely addressed them during the four days of fact finding hearings. Therefore, I make no recommendations about these two issues.

V. Recommendations of the Fact Finder

I make the following recommendations regarding a new collective bargaining agreement:

Salaries

- Continue automatic step increases for 2010-11.
- Freeze the salary schedule for both 2009-10 and 2010-11.

Health Insurance

- Continue to use MESSA for insurance.
- Continue to have 100% Employer-paid premiums for health insurance.
- Make changes in the MESSA health insurance plan aimed at reducing utilization of those health goods or services that are not cost-effective (i.e., that have a very high dollar cost relative to the health benefit that they provide). These could include increased coinsurance (a fixed percentage of each bill paid by patients out of pocket, subject to a reasonable annual maximum), increased copays (a flat dollar amount paid by patients out of pocket for each prescription or medical visit), more aggressive managed care utilization review, and more careful selection of in-network providers to exclude those with high-cost practice styles. One of the health insurance changes could be adoption of a three-tier prescription drug plan, with low copays for generic drugs, medium copays for in-formulary brand-name drugs, and high copays for out-of-formulary brand name drugs.
- The parties should negotiate specific changes in the MESSA health plan, but they should meet the following two objectives: First, the changes should take effect May 1, 2011, so that the Employer will have some cost savings in 2010-11 and will have larger cost savings in 2011-12, when the Employer may not receive the one-time federal aid available for 2010-11. Second, the changes should reduce Employer contributions to health premiums by 10% of the amount that the employer will contribute in April 2011.

Annexation/Consolidation

- Adopt the Union's proposed language to dovetail seniority and maintain tenure in the event of an annexation or consolidation.

Michigan Virtual High School

- Adopt the Employer's proposed language to permit administrators who possess teaching certification to serve as mentors for MVHS students.

CONCLUSION

The above report represents the Findings of Fact and the Recommendations arrived at as a result of the hearing I conducted and my review of the parties' submissions.

Gregory M. Saltzman

Gregory M. Saltzman
Fact Finder

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at Ann Arbor, Michigan