

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

MIDLAND PUBLIC SCHOOLS

MERC Case No. L10 D-8019

-and-

**MIDLAND CITY EDUCATION
ASSOCIATION, MEA/NEA**

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MERC Fact Finder

FACT FINDING REPORT AND RECOMMENDATIONS

A fact finding hearing was held on December 9 and 12, 2011, in Midland, Michigan, under the provisions of Michigan's Labor Relations and Mediation Act (MCLA 423.25). The Midland Public Schools (hereafter the Employer or the District) was represented by Donald J. Bonato of the Thrun Law Firm, P.C. The Midland City Education Association (hereafter the Association or MCEA) was represented by Renaye Baker of the Michigan Education Association. The purpose of the fact finding procedure is to provide factual findings and non-binding recommendations to assist the parties in reaching agreement on a new contract.

The bargaining unit includes the classroom teachers, social workers, psychologists, and therapists employed by the District, excluding those in supervisory positions. There are currently about 460 employees in the bargaining unit, of which about 90 percent are classroom teachers. The parties' previous collective bargaining agreement was a two-year contract covering the period from August 28, 2008 through August 27, 2010.

The parties began bargaining in the summer of 2010. Both parties recognized that the District is facing difficult financial conditions. The Association did not ask for a wage

increase, and offered to make a number of concessions to save the District money. After the passage of 2011 PA 54, the Association modified its proposal to include a health coverage cost sharing proposal.

The parties have not, to date, been able to reach agreement on a new contract. The District has contended that it needs structural change rather than just short term savings. The Association has contended that its members are being asked to shoulder more than their fair share of the burden.

Both parties submitted petitions for fact finding. They agreed to submit only the following issues to fact finding:

1. Ability to pay
2. Salaries
3. Insurance (including premium sharing)
4. Class size

The parties filed their post-hearing briefs on February 2, 2012.

Findings of Fact

Midland Public Schools is highly rated academically, and attracts a net inflow of about 200 students from other school districts. The District has historically received strong tax support from its community. Although Midland is a community of only about 42,000 residents, it is the headquarters of Dow Chemical, Dow Corning, and Chemical bank. This has historically provided a strong tax base for the District.

All Michigan school districts have been negatively impacted by reduced State funding over the last several years. Some districts, like Midland, have been more seriously impacted than the average.

Prior to the passage of Proposal A in 1994, school districts in Michigan received most of their revenue from local property taxes. At that time the District ranked in the top 15% of Michigan school districts in terms of revenue per pupil. Now, eighteen years after the passage of Proposal A, the District has slipped from the 15th percentile to the 35th percentile (Dist. Ex. 8A). Initially, the District was able to retain some of the benefit of having a strong tax base and strong millage support. Its tax base provided it with an additional \$415 per pupil as recently as the 2008-2009 school year. However, \$293 of that amount was lost in 2009 due to a change in the method of State funding. The District now only receives \$122 more per pupil than what is known as the Basic Foundation Allowance. This loss is in addition to the reductions which have been experienced by all Michigan school districts.

At its high point for the 2008-2009 school year, the District received an effective foundation allowance of \$8,904 per pupil. By the 2011-2012 school year, that had been reduced to an effective foundation allowance of \$8,141 per pupil (Assn. Ex. 27). This is a significant loss of revenue, since the foundation allowance provides about 85 percent of the District's revenue.

The District has also experienced an ongoing decline in enrollment of about 2 or 3 percent per year, from 9,534 students in the 2005-2006 school year, to 8,170 in the 2011-2012 school year.

For just the 2011-2012 school year, the combined effect of the lower foundation grant and the lower pupil count has been a loss of \$4.8 million in the District's foundation allowance revenue from the State. This is a 6.7% reduction in foundation allowance, roughly half of which is due to fewer pupils and half of which is due to less dollars per pupil (Assn. Ex. 27).

The District has taken many steps to reduce its expenditures, including closing five schools and reducing its staffing in all categories (Dist. Ex. 26). The teachers' bargaining unit has shrunk by about 40 employees in the last two years, and 125 employees over the last 10 years. There were many retirements of high seniority teachers at the top of the salary scale. They have been partially replaced by new teachers at the bottom of the salary scale. In the last two years, this has resulted in a savings to the District of about \$3.8 million in teachers' salaries, which is about 10% of total salaries for the bargaining unit (Assn. Ex. 9). This is in excess of the percentage loss of students over the last two years, which has been about 6.2%. The 3.8% difference (10% minus 6.2%) could be analyzed as about a \$1.5 savings on the salary scale due to replacement of highly paid teachers by teachers lower on the salary scale.

The savings has, however, been more than offset by a dramatic increase in the pension contribution rate the District must pay into the Michigan Public School Employees Retirement System (MPERS). As recently as 2001, the contribution rate was about 12% of wages. It rose gradually and then stabilized at around 17% of wages from 2006 to 2009. The rate then increased to 20.66% for the 2010-2011 school year, and 24.46% for 2011-2012. In the last two years, the contribution rate has increased by about 7.5% of compensation; on a salary base of about \$34 million, this equates to a \$2.5 million increase in annual pension contributions. The contribution rate will increase again for the 2012-2013 school year, to 27.37% of wages.

Under the previous two-year contract, teachers only received a ½ % general salary increase in 2008-2009, and another ½ % in 2009-2010. The 2010-2011 school year and most of the 2010-2011 school year have now been completed without an increase or decrease.

Since September of 2011 teachers have not received step increases or increases based on additional advanced degrees.

New teachers receive annual step increases during their first 14 years with the District. These annual step increases vary from \$2,517 for teachers with a BA degree, to \$3,095 for teachers with an MA degree plus 30 credits. On a percentage basis, these step increases range from about 6.6% of salary for new teachers to about 3.7% for teachers reaching the top of the wage scale. The overall average is about 5.2% (Dist. Ex. 32). Sixty percent of the bargaining unit members have been with the District long enough to be at the top of the salary steps, and no longer receive step increases. The average salary for the District's teachers is \$ 76,779.

The parties presented information concerning other school districts that are "comparable" in some respects. A review of this information showed that Midland is fairly unique, and there are not any obviously close comparables. The other nearby districts have significantly lower per pupil revenue. The other "20j" districts are quite a mixture, with overall significantly higher per pupil revenue. The "group D" districts proposed by the District and the districts proposed by the Association are overall more comparable, at least in terms of average revenue per pupil. One of the District's response exhibits showed that the average teacher salary here is above that of the average "group D" comparables or the Association comparables (using 2009-2010 data). However, Association exhibit 20 showed that teacher salaries here at most of the degree and step levels (e.g. BA minimum, BA maximum, MA minimum, and MA maximum, etc.) are below the average of the Association's comparables. A likely explanation for this apparent contradiction is that more of the District's teachers are at the top of the steps and/or have more advanced degrees, which would account for the higher average salary.

The parties presented information concerning the District's revenues, expenditures, and general fund balance over the last ten years. The general fund balance has decreased somewhat, from roughly 20% of operating expenditures in 2001-2002, to about 18% for several years, 14% in more recent years, and back up to 17.9% as of June 30, 2011 (Dist. Ex. 30). As of June 30, 2011 the District had an audited general fund balance of \$14.5 million.

It was undisputed that the District is experiencing a significant drop in revenue for the 2011-2012 school year. The exact amount is not yet known, and will not be known for some months. The District is required to prepare its original budget before the school year begins. That budget is normally revised in January when revenue and expenditures are more certain.

The budget which the District prepared in June of 2011 for the 2011-2012 school year estimated revenues of \$75.9 million, and expenditures of \$82.9 million, which would result in a \$7 million gap, almost half of the District's \$14.5 million general fund balance. At the fact finding hearing in December, Linda Cline, the District's Associate Superintendent for Financing testified that she thought revenues would be somewhat higher than originally estimated, at about \$76.7 million. The increase would be due to receiving approximately \$800,000 for meeting the "best practices" requirements for receiving an additional \$100 per pupil from the State. The testimony and exhibits also showed that the District has historically been somewhat conservative with its original (June) budget, and the actual (audited) expenditures have generally come in several million less than the original budget (Dist. Ex. 31, Assn. Ex. 23b). If this is also true for the 2011-2012 school year, this could narrow the gap between revenues and expenditures to something closer to \$4 million.

The State is reducing the funds coming to the District by several other methods in addition to the reduction in foundation allowance per pupil. For the 2011-2012 school year,

the State discontinued payments it had been making to districts which were experiencing declining enrollment. The District had received \$166,183 for this the previous school year. The State is also changing how it pays districts for kindergarten, so that districts with half-day programs will only receive half a foundation allowance for kindergarten students. Ms. Cline testified that this change will result in the District losing about \$1.9 million per year if it stays with half day kindergarten, or taking on about \$1.1 million per year in additional expenses if it goes to a full day kindergarten program.

Ms. Cline also testified that during the 2010-2011 school year there were about \$1.5 million in non-recurring special revenues (including a Medicaid dispute settlement, an ISD adjustment, and the one-time capitalization of a phone lease.)

The parties' exhibits gave the District's total revenue for the last six years and also gave the District's pupil count. From these figures I have calculated the overall *per pupil* revenue as follows:

<u>school year</u>	<u>revenue</u>	<u>pupil count</u>	<u>revenue per pupil</u>
2005-2006	\$ 88,142,771	9,534	\$9,245
2006-2007	89,362,668	9,343	9,565
2007-2008	89,328,994	9,196	9,714
2008-2009	86,028,558	8,963	9,598
2009-2010	84,799,444	8,713	9,732
2010-2011	83,792,266	8,467	9,896
2011-2012	<i>76,700,000 est.</i>	<i>8,170</i>	<i>9,388 estimated</i>

If the special \$1.5 million in revenue in 2010-2011 is considered something of an anomaly and is subtracted from that year, it would result in a revenue for that year of about \$82.3

million, and revenue per pupil of \$9,720 for that year. Using that figure for analysis would result in a drop of \$332 per pupil, or a 3.4% drop in per pupil revenue over the last year. I also calculated the average per pupil revenue over the previous three school years (2008-2009 through 2010-2011, without adjustment); that yields a three-year average per pupil revenue of \$9,742. Compared with that three year average, the 2011-2012 per pupil revenue experienced a drop of \$372 per pupil, or about 3.8%. These figures are quite similar to the percentage drop in per pupil State foundation allowance for 2011-2012 shown on Association Exhibit 27, which is 3.6%.

It is reasonable and prudent for the District to aim to maintain a 15 percent general fund balance. The fund balance percentage may have increased in 2010-2011 partially as a result of the \$1.5 million in special revenue items discussed above. A sizeable fund balance cushion is advisable. State funding may be stabilizing somewhat compared to the last few years, but it is still quite uncertain.

Overall, the District has a reduced “ability to pay” compared with past years. The District is not in dire circumstances. It does need to reduce its expenses in keeping with its reduced revenue, including its reduced revenue per pupil.

Proposals of the Parties

Salary Proposals

Both parties recognized that the 2010-2011 school year was over, and did not propose any salary changes for that year. For 2011-2012, the District proposed a 1 percent salary reduction; the Association proposed 3 furlough days, no salary reduction, and postponement

of step increases from August to January. The real difference between the parties was for the 2012-2013 school year.

The District proposed a 7% salary reduction, which would be reduced by application of the "Grosse Pointe formula." Very generally, that formula provides for teachers sharing in the increase or decrease in foundation allowance revenue, with adjustments for pension costs and step increases, and further adjustments if the general fund equity falls below 10 percent or increases above 15 percent. The District's proposal included making this formula a permanent part of the parties' contract, i.e. it would extend beyond the 2012-2013 year.

The Association proposed a different formula: if total revenue for 2011-2012 fell below the projected \$75.9 million, the teachers' salary schedule would be reduced by 46% of the shortfall up to a 2 percent maximum reduction; likewise, if it exceeded the projected \$75.9 million, 46% of the excess would be applied to the teachers' salary schedule up to a 2 percent maximum increase. The Association proposal also included a continuation of the 3 furlough days if the earlier \$470 reduction in the State foundation allowance was not reinstated.

Both parties' proposals also included a variety of reductions in ancillary payments other than base salary.

Health Insurance

The District is self-insured, and its health insurance costs are not as high as some other school districts. The parties did agree to certain changes in deductibles and co-pays which the Association estimated would save the District \$283,000 per year. Up until now, the teachers have not paid any portion of the insurance premiums. The Association proposed premium sharing, with the teachers paying 1.75% of base salary for single coverage, 2.5% for two person coverage, and 3% for full family coverage. The District proposed somewhat higher

amounts - 1.9% of salary plus longevity for single coverage, 3.3% for two person coverage, and 4.5% for full family coverage.

Class Size

The Employer proposed increasing the class size maximum by 1 pupil for grades 1 through 5, and by 2 pupils for grades 6 through 12, with no change for kindergarten. The Association proposed no change in class sizes.

Recommendations

Class Size – increase the maximum by 2 pupils for sixth grade only.

Reasoning: the evidence indicated that sixth grade has been a particular problem. Sixth grade is included in the middle schools, but has a lower class size maximum, 28, than the other middle school maximums, which are generally 30. The District is not prohibited from exceeding the contractual maximums, but it does need to pay the teacher a \$360 stipend per excess pupil when the class size maximum is exceeded. This is a reasonable way of recognizing the extra work involved for teachers who have larger than normal classes.

Health Coverage Cost Sharing -adopt the Association's proposal (1.75%/ 2.5% / 3%), with the understanding that if the District needs to require 20% cost sharing that the percentages will be increased as necessary to meet this requirement.

Reasoning: The parties have also agreed to other modifications of the medical coverage which will result in savings of about \$280,00 per year for the District, before cost sharing occurs. The Association's proposal was estimated to shift another \$859,000 in cost from the District to the bargaining unit members. This brings the medical coverage savings to about \$1.139 million (before consideration of any reduction in the number of bargaining unit

members.) The percentages proposed by the Association are the percentages which the administrative staff is currently paying. The evidence presented at the hearing did not include a final decision on whether the District would opt for the “hard cap” rather than the 20% sharing requirement, but the “hard cap” would give the District more flexibility.

Salaries - reduce salaries by 2% on the salary scale going forward. For the remainder of 2011-2012 apply one unpaid furlough day. For 2012-2013 apply two unpaid furlough days. Apply the other compensation reductions which the parties have agreed upon, but do not delay the step increases by a semester.

Reasoning: There are two fundamental reasons that the District has been experiencing a loss of revenue – its declining enrollment, and its declining revenue *per pupil*. In recent years, these two factors have contributed about equally to the District’s loss of revenue. It is reasonable to ask the bargaining unit members to absorb about a 3.6% decrease in their total compensation at this time, consistent with the decrease which the District has experienced in its *per pupil* revenue. The additional revenue losses due to declining student counts need to continue to be handled through further downsizing of the District, rather than from a larger reduction in compensation.

It is challenging to analyze the financial information, because many factors have been changing simultaneously. The parties have different goals and perspectives, and have marshaled the facts differently in order to support their differing positions.

The Association’s salary proposal did not adequately recognize the reduction in per pupil revenue which the District has already experienced. The District’s salary proposal did not adequately recognize that ongoing reductions in staffing can continue to achieve some of its needed reductions in expenditures.

My salary recommendation is based on recommending an overall 3.6% reduction in bargaining unit members' compensation including benefits. My calculations are not exact, because final dollar figures were not available and because I did not have complete dollar figures for some items. In general, the testimony indicated that bargaining unit salaries and benefits currently represent about 62% of total District expenditures. I am estimating \$80 million in District expenditures for 2011-2012, based on the exhibits and the testimony concerning historical reductions of about 3.5% from initial budgets. Multiplying 62% by \$80 million yields \$49.6 million in total bargaining unit salaries and benefits. Calculating 3.6% of this \$49.6 million yields a needed overall savings from this bargaining unit of about \$1.8 million.

The pension contribution rate will be going up by another 2.91% for 2012-2013. This will result in an added expense for pension contributions for bargaining unit members approaching \$1 million. The health coverage reductions and cost sharing should result in savings to the District of about \$1.14 million. This is a net savings for these two major benefits of about \$140,000. The miscellaneous changes in compensation can result in additional savings, perhaps about another \$400,000. That would leave \$1.26 million still needed in reductions.

Each percentage reduction on the salary scale would bring with it a .2737 reduction in pension contribution. Assuming about \$34 million in salaries, a 1% reduction would be \$340,000 in salaries, plus \$93,000 in pension, for a total of \$433,000. A 2% reduction would therefore mean a reduction of about \$866,000 in salary and pension. This would leave about \$400,000 in additional needed reductions, which could be covered by two unpaid furlough days.

I am not recommending delaying the step increases by a half year, because delaying the step increases would primarily impact the lower paid members of the bargaining unit.

I am not recommending a specific formula for the parties to use in future years, although they could use the same general approach: i.e. focusing on the increase or decrease in *per pupil* revenue and adjusting total bargaining unit compensation and benefits up or down consistent with that. This three-year contract only goes through the 2012-2013 school year. It is not possible to predict what will happen with State funding. However, the State's economy has begun to recover. It is likely that the trend here of replacing higher paid teachers with lower paid teachers will continue; however, it is also likely that the savings generated by this shift will continue to be offset by increases in benefit costs.

I do not think the "Grosse Pointe formula" would be the best option for this District. It was not clear from the exhibits whether Grosse Pointe is experiencing the kind of enrollment loss which Midland is. The District obviously has more control over expenditures than the Association does, and that could be an additional source of conflict under a formula like that adopted by Grosse Pointe.

While the District may not consider these recommendations to constitute a truly "structural" change, they do constitute a significant change. The bargaining unit members will be absorbing health coverage costs in the vicinity of 3% of compensation. In addition they will experience a 2% reduction on the wage scale, plus about a 1% reduction off the wage scale, and a variety of other reductions.

Dated: March 5, 2012


Kathleen R. Opperwall, Fact Finder