STATE OF MICHIGAN
MICHIGAN EMPLOYMENT RELATIONS COMMISSION

SOUTHFIELD PUBLIC SCHOOLS	MERC Case No. D13 D-0448
-and-	
SOUTHFIELD MICHIGAN EDUCATION SUPPPORT PERSONNEL ASSOCIATION	Kathleen R. Opperwall MERC Fact Finder

/

FACT FINDING REPORT AND RECOMMENDATIONS

A fact finding hearing was held on May 30, 2014, under the provisions of Michigan's Labor Relations and Mediation Act (MCLA 423.25). The advocate for the Southfield Public Schools (hereafter the Employer or the District) was Dan Bully, its Director of Legal and Labor Affairs. The Advocate for the Southfield Michigan Education Support Personnel Association (hereafter the Association or S-MESPA) was Gerald Haymond of the Michigan Education Association. The record was closed on August 5, 2014, after receipt of the parties' post-heainrg briefs.

The purpose of the fact finding is to provide factual findings and non-binding recommendations to assist the parties in reaching an agreement on a new contract. The parties' previous collective bargaining agreement was a two-year contract covering the time period from July 1, 2011 through June 30, 2013. The parties engaged in extensive bargaining prior to and following the expiration of that contract but were not able to reach agreement on a new contract.

The bargaining unit currently includes about 65 employees. Three employees are in Skilled Trades positions, which pay between $30.00 and $31.75 per hour. Six employees are in

Teacher Assistant positions, which pay between $13.40 and $16.47 per hour depending on the employee's length of service. The remaining (and great majority) of bargaining unit employees are in the Paraprofessional positions, which pay $20.00 per hour. The duties of the Teacher Assistants are similar to those of the Paraprofessionals, but the Teacher Assistants have not completed the educational requirements needed for being classified as Paraprofessionals. Most of the Paraprofessionals and Teacher Assistants work with the District's special education students.

The three Skilled Tradesmen work twelve month schedules, i.e. throughout the calendar year. The Paraprofessionals and Teacher Assistants basically work when the teachers are working, which includes the student days and some additional days for records and preparation. They generally do not work in the summer, and are sometimes referred to as 10-month employees or "less than 12 month employees." Most of the Paraprofessionals and Teacher Assistants work 7.0 or 7.5 hours per day. All but about ten of them have been with the District for more than ten years. The hourly pay rates for the bargaining unit now are basically at the same level as ten years ago. The hourly rates had increased slightly through 2007, but then decreased back to $20.00 per hour.

The main point of dispute between the parties is the District's proposal to eliminate paid vacation days for the 10-month employees, i.e. the Paraprofessionals and Teacher Assistants. Article XXI (F) of the current contract provides paid vacation days based on years of service, with 8.5 vacation days after one year of service, increasing gradually to 17 paid vacation days after 10 years of service and topping out at 21 paid vacation days after 19 years of service. About 20 of the bargaining unit members are eligible for the 21 days, and most are eligible for at least 17 vacation days, based on their length of service. The contract allows the employees to use paid vacation days to continue their regular pay checks during times when school is not in session. Article XXI (G.) of the contract reads as follows:

> Less than twelve (12) month employees shall have the option of using earned vacation time in order to be compensated for non-work days such as Insufficient Membership Days; any non-holidays during the Winter break, Mid-Winter break, and Spring recess.

The testimony indicated that there are generally about 16 such days during the school year. The Paraprofessionals and Teacher Assistants are generally not permitted to actually take scheduled vacations while school is in session.

Association exhibit 9 calculated that for the long term employees who were eligible for 21 vacation days, eliminating these days would amount to nearly a 10 percent reduction in compensation. This was based on a work year of 182 teacher days, plus 12 paid holidays, plus the current maximum 21 paid vacation days, for a total of 215 paid days. With normal pay of $20 per hour, and using 7.25 hours as an average work day, losing 21 paid days would be an annual reduction in compensation of about $3,045.00. For an employee in the middle of the seniority list, with 14 years of seniority and eligible for 17 paid vacation days, the loss of compensation would be about $2,465, or about 8 percent of compensation. For a fairly new employee with five years of seniority, the loss of compensation (based on 15 paid vacation days) would be about $2,175, or about 7 percent of compensation. These calculations are based on the Paraprofessionals hourly rate; although the Teacher Assistants receive a lower hourly rate, the percentage impact would be the same.

The basic issue is whether this elimination of vacation days is reasonable and justified in view of the District's financial situation. One of the main exhibits submitted by the District at the fact finding hearing was its audited financial report for the year ended June 30, 2013 (Dist. Ex. 4). Although the District has just completed another school year, that audited financial report is not yet available. The 2013 financial report shows that the District has had significant financial challenges over the last ten years. The report summarizes some of the (unaudited) basic information on page 71. Student enrollment has fallen from 10,260 in 2004 to 7,431 in 2013, which is an almost 28% decline. The District's total teaching staff has been reduced by 32% over this time period. Its general fund operating revenue is down by $35.6 million, which is a 27.6% decline. Revenue *per pupil* rose slightly, and then declined, to end at almost the same dollar amount as 10 years ago, $12,595 per pupil for the 2012-2013 year versus $12,599 for 2003-2004. Average teacher salaries fluctuated slightly over this time period, with a total increase of 3 percent over the period from 2004 to 2013.

The District receives approximately 87% of its total General Fund revenue from the foundation allowance it receives from the State of Michigan (Dist. Ex. 4, page 11). This foundation allowance is paid on a per pupil basis. As enrollment has declined, the District's revenue from the State has declined. The District has also experienced an erosion in it tax base over the last five years, from a high of $3.66 billion total taxable value in 2008, to $2.46 billion in 2013. Residential property values have declined more significantly than have commercial and industrial property values within the district (page 54).

The District's financial report described the business environment in the City of Southfield as "strong." The City of Southfield makes up most of the District's geographic area. Prior to the passage of what is known as Proposal A, in 1994, the strong commercial tax base provided a strong revenue source for the District. However, Proposal A restructured school finances in Michigan. The District now is less able to benefit from its own local tax base, and is more tied to financing decisions made at the State level.

The District has needed to downsize quite dramatically over the last five years. Through 2007 the employee count stayed fairly level, at a total count of about 1,400 employees. The total count as of the end of 2013 was less than half that, at about 650 (page 70 of Dist. Ex. 4). This S-MESPA bargaining unit saw drastic losses, shrinking from over 500 employees to about 65 employees as the District out-sourced many support functions including food service and transportation (Assn. Ex. 1).

As of the end of the 2013 school year, the District had a General Fund Balance of $26.9 million, which was about 30% of its general fund expenditures of $89.2 for that year. $4.3 million was added to the General Fund balance during that year (Dist. Ex. 4, page 16). This is one of the stronger fund balances among comparably sized school districts in the area (Assn. Ex. 10, page 22). The District was projecting that a significant portion of this fund balance would in fact be spent during the 2013-2014 school year. Final figures for that year were not available at the time of the fact finding hearing. Nonetheless, it appears that the District is in relatively good financial condition at this time. The District's General Fund balance had fallen as low as 3.6% of expenditures during the worst of the State funding reductions, for the 2009-2010 school year (Assn. Ex. 10, page 22). It has since then been rebuilt with timely and aggressive downsizing and cost cutting measures.

Both parties presented some data concerning neighboring school districts which are comparable in some ways to this District. The Association presented data on eight other districts, and the District presented data on ten other districts. While they differed on some of their choices, both parties chose the following nearby school districts as "comparables": Birmingham, Farmington, Royal Oak, and Walled Lake. I believe these are appropriate comparables.

Most of these districts were at least holding their own in terms of their general fund balances between the 2011-2012 and 2012-2013 school years, and ended the 2012-2013 school year with fund balances of between 10.67% and 20.48% of operating expenditures. The districts vary significantly in terms of the ratio of paraprofessionals to teachers, from a high of about 1 to 4, to a low of below 1 to 10. This District is about in the middle, with a ratio of about one paraprofessional to every 6 teachers (Assn. Ex. 10).

In terms of hourly salaries, the bargaining unit members here are on the high end compared with the comparable districts, although the parties' numbers did not agree on many specific dollar figures (Dist. Ex. 1 versus Assn Ex. 10, page 25). The Association included longevity in its calculations, which may account for much of the difference in the parties' salary figures. Based on the Association's figures, Paraprofessionals in this District with 20 years seniority make $20.45 per hour including longevity, versus an average of $18.97 per hour in the four comparable districts used by both parties (Assn. Ex. 10, page 25). The bigger difference occurs with Paraprofessionals at the lower steps, where most of the other districts start employees at a lower hourly rate.

Both parties' exhibits showed that the bargaining unit members here receive more paid vacation days than in the comparable districts, although again the parties' figures did not entirely match (Dist Ex. 2 and Assn Ex. 10, page 26). The parties' exhibits agreed that the Birmingham and Royal Oak districts had no paid vacation days. For Farmington, the District showed 12 vacation days while the Association showed 15. For Walled Lake, the District showed 20 days while the Association showed 14.

Information was also presented concerning "internal comparables," which are other bargaining units within this District. Association exhibit 8 showed that the teachers unit (SEA) and the secretarial unit (ESOS) have experienced a similar history of wage freezes and concessions as has been experienced by this S-MESPA support unit. However, the SEA and ESOS bargaining units were given 1.5% wage increases for 2013-2014, and were not asked to make significant concessions for this round of bargaining.

The District presented several budget documents which showed that it expected its budgeted expenditures to be significantly higher for the 2013-2014 and 2014-2015 school years than in the previous few years. After General Fund operating expenditures of $88.9 million in 2011-2012, and $89.2 in 2012-2013, the budget documents show this increasing to $101 million for 2013-2014 and 2014-2015 (compare page 71 of District Ex. 4 with Dist Exs. 7 and 11). The reason for this projected increase in expenditures, in a time of shrinking enrollment, was not explained at the fact finding hearing. The District did argue that with these projected expenditure amounts the District would have a negative fund balance by the end of the 2014-2015 school year.

There was also testimony that there are seven charter schools in Southfield, and that this is the highest number of charter schools in the county. There was additionally testimony that other nearby districts have been taking students from this District through open enrollment programs.

The parties also presented some information concerning the Common Sick Leave Bank. The Association estimated in testimony that there were approximately 200 days accumulated. The District argued that eliminating it would free up administrators' time which has been required to administer the program.

Summary of the Parties' Arguments

Both parties made reasonable arguments, based on their different perspectives and interests. The District argued that its proposal was necessary in order to preserve the quality of public education in a school district that has fewer economic resources than previously. The District argued that expenditures were outpacing revenues for the District, and that its proposal was based on economic necessity. The District also argued that its proposal was consistent with what other comparable school districts are offering.

The Association argued that employees in the District's other bargaining units have not been asked to accept similar reductions in compensation. The Association also argued that the District's General Fund balance was healthy, and did not require these types of cuts. The Association further argued that eliminating paid vacation days would put this bargaining unit below that of the comparable districts.

Recommendations

1. Three year contract duration: school years 2013-2014, 2014-2015, and 2015-2016.
2. No change for 2013-2014, the already completed school year.
3. For 2014-2015 a 1.5% salary increase off-schedule. For 2015-2016 a 1.5% salary increase on-schedule.
4. Reduce paid vacation days by three days for 2014-2015, and by an additional three days for 2015-2016, applied at all years of service on the schedule at Art. XXI (F).
5. Eliminate the Common Sick Leave Bank.

Reasoning

The District is not in dire financial condition. It has had to make many spending cuts over the last five years. Much of that was due to the declining enrollment. The revenue declines caused by declining enrollment need to be handled and have been handled by downsizing the District. Enrollment declines are not a strong argument for reducing compensation for the employees who remain after downsizing. State funding on a *per pupil* basis appears to have stabilized, although at a lower level than prior to the economic downturn.

As of the end of the last year for which audited financial information was provided, the 2011-2012 year, the District had a comfortable General Fund balance, higher than that of the comparables which both parties used (Birmingham, Farmington, Royal Oak and Walled Lake districts). The District is projecting that it will use much of its fund balance, under projected budgets which show a significant increase in general fund expenditures. The reason for the projected expenditure increases was not explained, and the projections cannot be given determinative weight, in view of the known expenditures for 2011-2012 and 2012-2013.

While salaries and benefits here are by no means excessive, they are somewhat higher than in the comparable nearby school districts. That may be due to the historically stronger tax base which this District had, but which is now providing less benefit than it did prior to the implementation of Proposal A.

An immediate loss of paid vacation days would have a significant financial impact on bargaining unit members, many of whom have been with the District most of their careers. For some, the proposed loss of vacation days would amount to a 10% cut in compensation. The District's financial condition does not require this type of drastic action. If drastic action were required, it should realistically be required of all employees, not just this unit which does not account for a very large portion of the District's budget.

My recommendation is basically to continue an overall compensation "freeze" for this bargaining unit, to be accomplished by increasing the hourly rate modestly (as proposed by both parties), but simultaneously reducing paid vacation days. Three days less paid vacation is close to 1.5% of compensation. After several years the vacation days will be more in line with what the comparable districts are paying.

I am recommending a three-year contract basically because one year has already passed, and with only a two-year contract the parties would need to begin bargaining again almost immediately. Eliminating the Common Sick Leave bank would generate some savings, and would reduce the administrative time required for it.

The parties may wish to allocate resources differently than I am recommending. My main conclusion is that, on balance, the evidence supported not increasing overall compensation, but did not support the significant reductions which would occur if paid vacation days were eliminated.

Dated: August 13, 2014

Kathleen R. Opperwall
MERC Fact Finder