

STATE OF MICHIGAN
Dept. of Licensing and Regulatory Affairs
Michigan Employment Relations Commission

In the Matter of Statutory Factfinding between:

POTTERVILLE PUBLIC SCHOOLS,
Employer,

-and-

POTTERVILLE EDUCATION ASSOCIATION, ECEA/ MEA/ NEA,
Union.

MERC Case No. L11 K-2098

REPORT, FINDINGS, AND RECOMMENDATIONS of
FACTFINDER

Benjamin A. Kerner
Factfinder

Appearances:

For the Public Employer:

Raymond Davis
The Thrun Firm

For the Union:

Michael M. Shoudy
White Schneider Young & Chiodini, P.C.

Also present for all or part of the proceedings: (For the Employer) Mary Colton, Timothy J. Donahue, Dixie M. Pope, Donald Sovey. (For the Association) Ruth Beier, Frank Ciloski, James Manning, Holly Van Sickle, Freya Weberman.

Dated: June 24, 2013

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STATE OF MICHIGAN
DEPT. OF LICENSING & REGULATORY AFFAIRS
EMPLOYMENT RELATIONS COMMISSION
DETROIT OFFICE

INTRODUCTION.

This case was initiated by the Employer on June 12, 2012, when it filed a Petition for Factfinding with the Michigan Employment Relations Commission. In it the Employer alleges that in an effort to reach a collective bargaining contract there had been multiple bargaining sessions between it and the Potterville Education Association including 10 mediation session, but that 8-10 significant issues remained unsettled. Respondent-Potterville Education Association responded on June 21, 2012, identifying what it contended were unsettled issues and agreeing with Petitioner's conclusion that providing a statement of the facts concerning these issues to the public would aid and assist in the settlement of the 2012-13 program year and later program years.

I was appointed by the Michigan Employment Relations Commission as Factfinder on August 15, 2012, and promptly sought a pre-hearing meeting with both parties. The parties mutually agreed to postpone a pre-hearing conference (since bargaining was still in progress) until December 10, 2013, when representatives of both parties met with me in Lansing. At the pre-hearing conference a preliminary list of issues was determined; a sequence of dates for the preparation of exhibits and a protocol for hearing was agreed to; and the first hearing date of March 27, 2013 was set.

On March 27, 2013, the parties convened for hearing in Lansing. Through that day and the second day of hearing held on May 10, 2013, the parties had full opportunity to present their evidence, and to cross-examine witnesses for the other side. Extensive exhibits and testimony were received on the following subjects:

1. Article VI—Working conditions. Par. C, Sect. 5. Board proposes adding one "Viking Vision period."
2. Article IX--Leaves of absence. Par. A, Sect. 3. Board proposal on use of sick / personal leave day.
3. Article VX-Compensation.
 - a. Par. A--Amount for base wages; plus for step changes.
The Board also proposes to link step increases to teacher performance, as measured by a teaching assessment tool.
The Union proposes contingent payments for increases in pupil count; for increases in state aid; and for improvement in fund balance.
 - b. Par. H—Board proposal to eliminate attendance bonus.
4. Article XVI—Insurance. Union proposes to smooth medical insurance premiums.
5. Article XIX—Miscellaneous. Board proposes on-line contract; no paper.
6. Article XXI--Duration of contract. 2012-13 and 2013-14 (Board); or 2012-13, 2013-14 and 2014-15 (Union).
7. Appendix II.
 - a. Board proposes combining band and choral directors.
 - b. Board proposes to eliminate longevity factor in compensation for all extra duty positions.

Several items featured in the first comprehensive listing of issues have been mooted, as follows. The calendar for 2012-13 has become moot because the school year is over. The Union's proposal for dropping the provision related to the Emergency Financial Manager law has been tentatively agreed. Likewise, it developed at hearing, the first item in the above listing of issues--adding a "Viking Vision period" -- has become mooted since the testimony established that the Board's proposal on this subject is unobjectionable to the Association provided the concept "will not reduce the amount of preparation time otherwise afforded to teachers" is also added. The Board makes it clear in its brief that it has no objection to such additional language, viz., "The 'Viking Vision' period shall not replace the 'unassigned preparation time' otherwise required by this provision. [Article VI, Sect. C.5]." (E'er. Brief, p. 9).

EMPLOYER'S ABILITY TO PAY.

The employer's ability to pay is a factor to be evaluated by factfinders whenever the Employer asserts that it has inadequate ability to pay demanded wage increases, step increases, insurance increases, or other costs of employment. Here, the Employer has consistently raised the specter of inability to pay, indicating through the testimony of part-time Business Manager Dixie Pope that the amount of the fund balance for the fiscal year just ending (July 1, 2012—June 30, 2013) will be \$80,000, just shy of 1% of the operating fund budget. The Employer established through the testimony of Donald Sovey that a 10-20% fund balance is customarily considered by organizations such as the Michigan School Business Officials and Government Finance Officers Association ("no less than two months of regular general fund operating revenues" E'er. Exh. 21) to be an adequate fund balance. The Board's own policy statement is to seek a fund balance of 5-15% [E'er. Exh. 18].

Furthermore and really the fundamental cause of this labor dispute are the facts related to anticipated operating budgets. The key component of the local school board's operating budget in Michigan is the Foundation Allowance setting a floor amount available on a per pupil basis to the local district; and the so-called blended count (giving 10% weight to the February count and 90% weight to the following September count in the year of the September count) of pupils in the district. In Michigan, the Foundation Allowance "took a hit" from \$7,311 in 2010-11 to \$6,861 in 2011-12 (a drop of 6.1%). It rose slightly in 2012-13 to \$6,966. [E'er. Exh. 13]. The facts also show that the Pottersville enrollment of pupils reached an all-time high in 2011-12 of 985 pupils and dropped to 924

in 2012-13 (a 6.2% drop). The projections credited by Mr. Solvey based on reputable district-by-district computations of enrollments by the Stanfred organization show 897 in 2013-14 and 880 in 2014-15 continuing with a further drop beyond the time frame of this factfinding to 867 in 2015-16. [E'er. Exh. 15].

Thus, it could be said that the District took a "one-two punch" first by its experience of 6.1% drop in Foundation Allowance and then by a 6.2% drop in pupil enrollment. It's anybody's guess what the Legislature will do with the Foundation Allowance for 2013-14, much less for 2014-15. But the reductions in pupil enrollment are based on actual figures of birth cohorts and informed projections of population movement based on economic conditions. The loss of income—assuming a steady Foundation allowance of \$6,966/ year, over the period from 2013-14 to 2014-15 would be \$118,442. Much bigger swings, of course, are possible if the Legislature cuts Foundation allowance again.

At the same time as these changes have occurred, there has been a loss or cut-back in federal dollars available to the District. This has been particularly the case with ARRA (No Child Left Behind) stimulus funds, which ended in the 2010-11 program year.

As a net of the illustrated changes and others as well, the Employer projects a fund balance change, if expenditures are not corrected, as follows [E'er. Exh. 25]:

2012-13:	1%
2013-14:	-6.3%
2014-15:	-16.8%

The need for correction in the amount of teacher salaries arises from the facts reviewed above. Salaries and associated benefits comprise 80% of the Employer's op-

erating budget. Of those, 66% are attributable to teachers [E'er. Exh. 29], roughly half the overall operating budget ($80\% \times 66\% = 52.8\%$). It would be impossible, given the heavy weighting which teachers have in the overall budget, to effectuate major reductions in the operating budget without reducing teacher salaries and/ or teacher benefits.

EMPLOYER'S WAGE PROPOSALS.

Against this backdrop, the Employer proposes a reduction in base wages of 5.5% in 2012-13; and 0% for 2013-14; and makes no proposal for 2014-15. The Employer also proposes in year 2013-14 to rebate 1% of base wages in step increases, provided fund balance permits and provided that ineffective and minimally effective teachers be paid only part or none of the step increases. Specifically, the proposal for step increases is contingent on audited fund equity being 2% (Board will fund half steps) or 4% (Board will fund full steps). And, as to teacher performance, the step increase is contingent, as follows:

If a teacher is found ineffective: no step increase;

If a teacher is found to be minimally effective: a half-a-step increase;

If a teacher is found to be effective: a full step increase;

If a teacher is found to be highly effective: a 1.25 step increase.

On grounds going beyond the economic one the Association objects to this formula for distributing step increases, as will be developed below.

THE UNION'S WAGE PROPOSALS.

The Association proposes a 2% off-schedule (temporary) wage reduction for 2012-13; a 2% wage reduction for 2013-14; and no wage reduction for 2014-15.

In addition, the Association argues for an advance each year of a step in the step-lane matrix.

Furthermore, for the 2012-13 year, the Association makes the following proposal for contingent improvement on a temporary basis of teachers' salaries:

In the event of an increase in the February 2013 blended student count from the Fall 2012 student count, the District shall provide additional off-schedule compensation to all bargaining unit members based on FTE in the following amount and manner: (a) Amount: 50% of the State Per Pupil Foundation Allowance for each pupil beyond 5, divided equally among the members; (b) manner, at the member's option: HSA contribution, 403(b) contribution or direct payment to the member less mandatory withholdings. Said off-schedule payment shall be made on or before the last pay period of May 2013.

For the 2013-14 year, the Association argues for the above-expressed improvement. The Association also argues for a contingency temporary wage increase in the event of increase in Foundation Allowance, as follows:

In the event of any increase in the State per Pupil Foundation Allowance from the 2012-2013 school year, the District shall provide off-schedule compensation to all bargaining unit members based on FTE in the following amount and manner: (a) amount: 50% of the increased amount, multiplied by the student count divided equally among the members; (b) manner, at the member's option: HSA contribution, 403(b) contribution or direct payment to the member less mandatory withholdings. Said off-schedule compensation shall be made on or before the last pay period of December 2013.

Also for the 2013-14 year, the Association also makes a proposal in the event the Board achieves its stated goal of a 5% fund balance, as follows:

In the event that the general fund balance for the 2012-2013 school year reaches 5% or above, as determined by the 2012-2013 audit, all bargaining unit members shall receive a 1% on-schedule increase no later than November 30, 2013.

For the 2014-15 year, the Association makes proposals similar to the above, on student count, on per pupil Foundation Allowance, and on improvement in the general fund balance (5% or above shall result in teachers receiving a 1% on-schedule increase no later than November 30, 2014).

My observations, findings and recommendations on each of the issues in dispute between the parties follow.

DURATION.

The decision on wages only makes sense in the context of an overall understanding on the duration of the proposed contract. The Employer wants to retain flexibility for the 2014-15 year, i.e., it wants to re-negotiate another collective bargaining agreement covering that period. The Union says that the bargaining for the current contract has been long and arduous, extending over a two-year period (first meeting on May 31, 2011). Once the parties settle this contract, the parties should be protected in their relationship from renewed bargaining for the 2014-15 period, which would necessarily have to commence in June or July or August of 2013.

One of the purposes of a final collective bargaining agreement is to stabilize labor relations for the duration of the contract period. If the relationship, once entered, is almost immediately de-stabilized by renewed bargaining for a successor agreement, the purpose of stability is not achieved.

RECOMMENDATION.

For this reason I find merit in the Union's proposal for a 3-year contract, extending from July 1, 2012, to June 30, 2015.

BASE WAGES.

On the subject of base wages, I find that the Employer has proven the likelihood of substantial deficits in the coming two years, if corrections are not made in teacher wages. Of course, the teachers' wages need not be corrected permanently; however, the indicators are that the downsizing in the amount of State Foundation allowance, as well as the downsizing in federally-available programs will continue. Thus, permanent wage-cuts appear inevitable. Based on the projections provided by Business Manager Dixie Pope, Superintendent Donahue and consultant Donald Solvey it appears that a deficit as large as \$621,147 could be seen in 2013-14. [E'er. Exh. 9, p. 4]. According to Ruth Beier, Economist, MEA, \$381,000 has been saved in 2012-13 due to changes in the composition of the bargaining unit. [Ruth Beier, Direct].

Salaries and retirement monies (FICA and MPERS) for the 2011-12 year for this bargaining unit cost the Board \$4,151,935. [U. Exh. E]. Insurances for 2010-11 for this bargaining unit cost the Board \$815,159. [U. Exh. I]. (This would include health, vision, dental, life and long-term disability insurances, plus workers' compensation and unemployment.) While obviously some of these insurance costs are wage-related and vary directly with wages paid, some are not. To examine just the costs of *changes* in wages by looking at wages plus retirement costs would be to understate the amount of

benefits paid or benefits saved. For the sake of simplicity, and because I do not have a break-out of all insurance costs, I calculate the value of the parties' base wage proposals in terms of salaries plus retirement monies. One percent of salaries and retirement monies is \$41,519. A reduction of 3% in base wages would theoretically save the District \$124,557 (plus some modest amount due to reduction in insurance costs). This amount is a savings in addition to the \$381,000 realized by changes in the composition of the unit. Thus, if a 3% reduction were to be implemented in the next year, an overall savings of \$505,557 would be realized. This would be enough not only to avoid a crushing deficit, but to build fund equity, if similar reductions are accepted by other employee groups of the Employer. (The Employer has shown that other organized groups have accepted reductions.)

While other solutions to the problem posed by the probable shortfall of District revenues versus expenses are possible, I believe the 3% solution is fair, equitable, and doable for both parties--especially when taken in combination with other contingent increases, as will be discussed below.

RECOMMENDATION.

I therefore recommend that the parties accept a 3% wage reduction, to be incorporated into the wage schedule for 2013-14 and continued in 2014-15 (i.e., 0% decrease from 2013-14 to 2014-15).

STEP INCREASES.

The Board advances the proposal that it will fund a ½ step increase is audited fund equity is at least 2%. Further, the Board will fund full steps if the audited fund equi-

ty is at least 4%. There is no change in the "lane" advancement by which teachers earn more money for their educational achievement.

The Board proposes additional restrictions on the amount of money a teacher can earn via step increases. The Board proposes a system of evaluations based on student achievement. Bargaining unit members evaluated "ineffective" the previous year receive no steps; those rated "minimally effective" receive half steps; those rated "effective" receive full steps; and those rated "highly effective" receive 1.25 step.

The Board argues that the concept of merit pay for performance as measured by student achievement is an idea whose time has come. It is enshrined in Section 1250 of the School Code. MCL 380.1250(1). Under that section, says the Board, a merit pay system is required by statute. Furthermore, argues the Board, the 2011 Education Amendments to PERA, MCL 423.15(3)(o) indicate that this subset of wages is no longer considered a mandatory subject of bargaining, and in fact according to MCL 423.215(4) "the matters described in Subsection (3) are prohibited subjects of bargaining...." It is clear, says the Board, that the PERA amendments carve out a subsection of wages which will no longer be regarded as a mandatory subject of bargaining and which is the sole prerogative of Public School Employers to work out.

The Union is adamantly against conditioning step increases on performance evaluations. The Union shows through the testimony of Mr. Manning and Mr. Ciloski that the development of teacher evaluation tools is in its formative stage. The legislature has provided for a Michigan Council for Educator Effectiveness which is to make a report to the legislature in June 2013 (the current month). It has recommended that the first year of implementation should be 2013-14 and that that year should focus on de-

veloping necessary training. [U. Rebuttal Exh. M, Executive Summary, Feb. 18, 2013] and further that, "This staging is crucial in order to fulfill our charge to build an ethical, transparent, and fair system of evaluating educators, dedicated to educational improvement in the state." [U.Rebuttal Exh. M, Update report, Feb. 18, 2013, p. 8].

The Union argues that the Employer's plan in that it does not provide for rating of senior teachers (those who are at the top of the salary grid) disproportionately impacts newer teachers. In addition, there may be budgetary pressure to "under-rate" teachers at all levels of the salary grid. The Union argues that the Employer proposal has the clear potential for misuse, namely to punish teachers who receive lower ratings, rather than to help them improve their performance.

As regards the Board's concept of "merit pay" it is recommended that the School Board appoint a Quality Assurance Council to study this concept, and await further developments from the Michigan Council for Educator Effectiveness. This recommendation is made in full awareness that the PERA amendments call for "no bargaining" on the subject of methods of compensation required under Section 1250 of the School Code. Even absent bargaining, however, and even realizing that the subject matter here under discussion is the sole prerogative of the School Board, it behooves the School Board to notice that many stakeholders in the educational community have valuable contributions to make on the subject; and that the State Council endorses the inclusion of many stakeholders; and, finally that for increased acceptability of the ultimate product of performance-based compensation, it is important for the Employer to *consult with teachers*. It is suggested that a way could be found to achieve such consultation via a

Quality Assurance Council, which the Board would voluntarily establish, without running afoul of the proscriptions of the 2011 Education Amendments to PERA.

RECOMMENDATION.

I therefore recommend the Board's proposal on step increases for 2013-14 [$\frac{1}{2}$ step increase if audited fund equity is at least 2%; full steps if the audited fund equity is at least 4%; no change in the "lane" advancement] be adopted; but not the proposal for merit-based step increases.

I recommend the same step increases for 2014-15.

I furthermore recommend the initiation of a Quality Assurance Council, as described above.

OTHER WAGE ITEM.

The Union's proposal for contingent temporary increase in the event that State Foundation Allowance goes up or in the event that the District experiences increases in enrollment has much to recommend it. While neither party can predict with certainty what the amounts of State Foundation Allowance will be in the next two years; and neither party can predict with accuracy the student enrollment, the Board is protected to the extent its projections are accurate given the large amount of the base wage cut above recommended. And, the Union stands to gain modest increases on a temporary basis if the projections should somehow prove to be much more conservative than warranted.

Furthermore, it appears to me that the contingent increase of 1% in salaries on-schedule is warranted in the event that audited fund balance achieves 5% of operating budget. The 5% has been the Board's stated goal, and it appears equitable that teachers should share in the achievement of that goal, if it happens.

RECOMMENDATION.

Thus, I recommend that the parties adopt the following language for each of the remaining two years of their contract. (2013-15).

In the event of an increase in the Fall 2013 student count from the blended February 2013 student count, the District shall provide additional off-schedule compensation to all bargaining unit members based on FTE in the following amount and manner: (a) Amount: 50% of the State Per Pupil Foundation Allowance for each pupil beyond 5, divided equally among the members; (b) manner, at the member's option: HSA contribution, 403(b) contribution or direct payment to the member less mandatory withholdings. Said off-schedule payment shall be made on or before the last pay period of December 2013.

[identical language, changing dates, for 2014-15]

In the event of any increase in the State per Pupil Foundation Allowance from the 2012-2013 school year, the District shall provide off-schedule compensation to all bargaining unit members based on FTE in the following amount and manner: (a) amount: 50% of the increased amount, multiplied by the student count divided equally among the members; (b) manner, at the member's option: HSA contribution, 403(b) contribution or direct payment to the member less mandatory withholdings. Said off-schedule compensation shall be made on or before the last pay period of December 2013.

[Identical language, changing dates, for 2014-15]

In the event that the general fund balance for the 2012-2013 school year reaches 5% or above, as determined by the 2012-2013 audit, all bargaining unit members shall receive a 1% on-schedule increase no later than November 30, 2014.

[identical language, changing dates, for 2014-15]

ATTENDANCE BONUS.

The parties' contract for 2010-11 provides that sick leave accrual, up to certain limits, are applied to retirement. [Article XV, Sect. K.1] The employees also earns a bonus for good attendance. [Article XV, Sect. H]. The Board believes that the bonus is redundant, and should be eliminated.

The Union says that this is "one of the few perks that the Pottersville teachers have in comparison with the comparator districts." [testimony of Mr. Manning, and U. Brief, p. 21]. Further, says the Union, the provision in the contract for current pay [Article VX, Sect. H] is supposed to result in current good attendance.

I am persuaded that the Employer has the burden of proof to show that the cost of this benefit is excessive. There is no record testimony establishing such excessive cost. Accordingly, and because the benefit is a traditional benefit for Pottersville teachers, I recommend in favor of the Union.

RECOMMENDATION.

The Union's recommendation of no change in the status quo is accepted.

LEAVES OF ABSENCE.

The parties' 2010-11 contract on the subject of Leaves of Absence says as follows:

At the beginning of each school year the employee shall be credited with four (4) days to be used for his personal business. Unused days shall be added each year to the employee's accumulated sick leave. Personal business days may be used at the employee's discretion provided that the personal business cannot be conducted on other than a school day. Personal business leave shall be approved by the principal provided the request is submitted to comply with the following conditions....
[Article IX, Sect. A.3]

The subject of concern to the School Board is that teachers, on half-day student report days, are accustomed to taking the other half day off and are paid for the full day. The Board contends that the teacher who wishes to take a half-day off work, on a half-day student report day, should be required to utilize a full-day's personal leave time, which is adequately provided for in the contract.

The Union says that this use of time off is commensurate with the school calendar, recognizing some few days as student-report half days, and the tradition of teachers' being free, after 10 minutes from student dismissal, to utilize the other half day at their discretion, in or away from the classroom. Personal leave time utilized on a student-report day thus should, as it has in the past, be considered a half-personal leave day, says the Union.

The evidence shows that the Employer is required to hire a substitute for only $\frac{1}{2}$ day, if a regular teacher has utilized a sick or personal leave day on a student-report half-day. In addition, the frequency of this occurrence is very low, being in the recollection of Mr. Manning one instance in 2012-13.

It is the Employer who desires the change in contract language. There must be some rational if not compelling reason that the Employer can substantiate with evidence to support a change. Here, there is little or no reason to substantiate a change. While it may be true that the occasional employee may call for a personal leave day on a student report $\frac{1}{2}$ day, and obtain full pay for the day, it has not been shown to be a benefit which is either frequent or abused. It also has not been shown to have a significant impact on the Employer's budgetary position. At the most, there has been shown some

concern with continuity of classroom instruction. But no more nor less than might be found in a teacher's authorized use of sick days.

RECOMMENDATION.

Thus, I recommend for the Union's position on leaves of absence.

SMOOTHING OF INSURANCE PREMIUMS.

The smoothing of insurance premiums is a mechanism whereby the harsh effects of insurance premiums for the two-person subscribers can be redistributed to individual subscribers or to full-family subscribers. The Union proposes new language allowing for smoothing in Article VXi.

The Association argues that such redistribution of premium has been accomplished, de facto, for a number of years under MESSA insurance plans. "In the past, MESSA plans provided a packaged rate for all members, meaning all members paid the same amount regardless of whether they were a single subscriber, two person, or full family." [U. Brief, p. 23].

The Employer takes the position that such redistribution of premiums is not permitted under IRS regulations related to pre-tax dollar cafeteria plans. The Employer cited in its brief for the first time IRC SS 1.125(H)(2) "allowing participants to pay for the insurance coverage of unrelated persons, but only on an after-tax basis. Importantly, IRC SS 106-1 only allows monies to be excluded from gross income if a premium contribution is shared by an employee with the employee's spouse or dependents..." argues the Employer. [E'er. Brief, p. 17-18]. The Union has not had a chance to review or rebut these assertions regarding allegedly applicable sections of the Internal Revenue Code.

Furthermore, the Employer objects that the administrative burden of the Union's proposal on its Business Manager and her meager staff would be substantial. On a monthly basis, changes in insurance contribution levels fluctuate, and these changes are not registered from the insurance provider until on average two months later. Reductions or increases in Employer contributions to insurance have to be made on an after-the-fact basis. Such changes would be complicated if smoothing were in effect.

To the last objection the Associations says that it is willing to take the burden of calculating the proper amounts of pre-tax contributions by the Employer for each employee.

Without passing on the adequacy of the legal objection (since it has not been fully developed on this record) I find that the administrative justification of the Employer has substantial merit. I don't think it is practical or achievable for the Union to undertake this administrative function. It is clearly a management function to determine the levels of insurance contributions needed in accordance with 2011 P.A. 152 (annual caps), based on information provided by employee-subscribers. The administration of this function would be complicated by arrangements for smoothing of insurance premiums.

RECOMMENDATION.

I recommend for the Employer's position on the subject of Insurance Protection or smoothing.

PAPERLESS CONTRACT.

The parties' 2010-11 contract calls for all bargaining unit employees and new employees to be provided with a copy of the master Agreement. [Article XIX, Sect. B] The Board would eliminate this provision as unnecessary when all employees have access to a computer and the contract can be downloaded from the Board's website.

The Union opposes the Board's proposal. It feels that the contract should be immediately accessible to employees in the ordinary course of business, such as in disciplinary meetings, evaluation meetings, and the like. The 2010-11 contract provides for a sharing of the cost of printing. It is not a great cost. And, the cost of the alternative is not necessarily less, says the Union. "[Members printing a copy of the electronic agreement] seems to be likely a greater expense to the District," argues the Union. [U. Brief, p. 24]. The tradition of having contract language accessible on paper should be continued, says the Union.

While arguably the savings of paper and printing toner could be significant, the Board has not quantized this cost. Further, it appears that if the parties went to a paperless contract, there would be regular printings of all or parts of the contract during the course of proceedings calling for knowledge of and access to contract language. This off-sets any gain made in the cost of paper contracts for all. In the end, the Employer has not persuaded me that a change in the status quo is desirable, or even particularly cost-efficient.

RECOMMENDATION.

I recommend the Union's proposal for status quo be adopted.

APPENDIX II. EXTRA DUTY ASSIGNMENTS.

Among the extra duty assignments for which additional compensation is provided are the Band Director and the Vocal Director. The Band Director is scheduled to earn 8.5% of step 0, BA salary-level base pay. The Vocal Director is scheduled to earn 2.0% of step 0, BA salary. Currently one individual occupies both positions. In addition there is a weight coach who earns 8.5% of step 0, BA salary-level base pay.

The Board proposes to effectively eliminate the Vocal Director by combining the two positions; and to peg the Band Director/ Vocal Director's pay at 9%. The Board proposes to eliminate the weight coach.

In addition, with respect to the basic listing of Appendix II assignments, the Board intends to eliminate the longevity pay factor. It is currently stated in the 2010-11 contract as follows:

Take 7% of base pay time number of years coaching experience in a particular sport/ activity, up to 15 years, then add that total to the base pay.

The Union argues that the activities and skills of the Band Director and the Vocal Director are distinct. They each have a schedule of extra-curricular performances to prepare for and the two positions should therefore remain distinct.

Regarding longevity pay for the coaches / activity directors, the additional pay for additional years of service encourages continuity in the assignment, and rewards the teacher who takes such an assignment on a long-term basis appropriately, argues the Union.

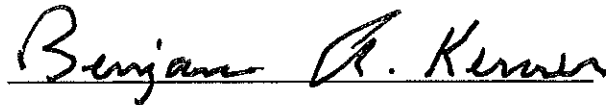
The current situation of one individual assuming the extra-duty assignments of both vocal director and band director may or may not continue. Both activities have

student followings; both require rehearsal for inter-scholastic competitions; both require a teacher devoted to the interests of the students who elect these activities. It seems necessary that the two positions be considered separate, as memorialized in the 2010-11 contract.

As regards the longevity element in the pay for most if not all Appendix II assignments, it appears that the predominant element is the attraction of qualified and dynamic individuals to perform these tasks. For that purpose, the provision of longevity pay is warranted. The Employer has not persuaded me that a change in the status quo is desirable.

RECOMMENDATION.

I recommend the Union's position in its entirety on this subject.

A handwritten signature in black ink, reading "Benjamin A. Kerner", written over a horizontal line.

Benjamin A. Kerner
Factfinder

Dated: June 24, 2013