

In the Matter of Fact Finding

between

Akron-Fairgrove Schools

and

International Union of Operating Engineers

Merc Case No. L89 D-427 Edward Simpkins, Fact Finder

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STATE OF MICHIGAN
EMPLOYMENT RELATIONS DIVISION
Detroit Office

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MERC Case No. L89 D-427

Appearances:	Employer	Union
	Susan Dumala, MASB Cons.	Douglas Fogleman, Bus. Rep.
	Donald Lillrose, Superintendent	Thelma Lowe, Bus. Rep.
	Richard Bailhe, MASB	Kathy Strieter, Steward

Background

In the past the Akron-Fairgrove Schools and the I.U.O.E have had a successful collective bargaining relationship. That relationship has been strained recently because of a deteriorating fiscal situation, characterized, in part, by a drop in property valuation and a loss of student enrollment. The resulting revenue decline caused the Board of Education to establish a wage freeze. That wage freeze was incorporated into the first year of a two year contract, effective 1988-1990, which also included a wage reopener clause. Under the reopener clause the Union raised its wage demands anew at the start of the 89-90 school year. Inability on the part of the I.U.O.E. to negotiate a wage increase for 1989-90 led to a bargaining impasse. To resolve the impasse, the parties attempted mediation in August, 1989. The wage issue remained, however, so the Union in December, 1989 filed a petition for fact finding. The Employment Relations Commission, on January 15, 1990, appointed

the undersigned as fact finder and directed him to schedule a hearing with respect to the matters in disagreement and at the close of the hearing to prepare a report with recommendations. The fact finder contacted the parties on January 25 and 26 and set a hearing date for March 13, 1990. The hearing was conducted in Akron-Fairgrove at 1933 Liberty where the school board has offices. This report covers the pertinent details of that meeting and includes a single recommendation based on the findings of fact.

Basis for the Impasse as Argued by the Union

The Union is asking for a 9% across the board increase. It set forth its claims in four exhibits two of which will be cited in this report. First, the Union notes, that the bus drivers in Akron-Fairgrove are the only bus drivers in Tuscola County to go without wage increases over the past three years. The table below, based on Union Exhibit 2, shows that comparable districts awarded hourly wage increases averaging 9.8% over the past two years and 4.9% over the 88-89 school year. Akron-Fairgrove awarded no hourly wage increases to bus drivers at that time but did award a salary increase to the Superintendent of Schools. Members of the teaching faculty also received increases in their salaries. The Union questions what it calls "catastrophic projections" which, it claims, the school district uses to portray an unfavorable economic picture. It points out that in the past these projections have not come true. The district, the Union argues, is solvent and can award bus drivers hourly wage increases comparable to those increases awarded in other Tuscola districts. For purposes of comparison, the Union provided data on eight and sometimes nine other districts.

Tuscola County Wage Increases 1987-1990

	87-88	88-89	89-90	Since 1987	Since 1988
USA	9.55	9.87	10.19	6.7%	3.2%
TISD	9.59	9.88	10.17	6.1%	2.9%
Mayville	10.42	10.94	11.49	10.3%	5.0%
Vassar	10.71	11.27	11.89	11.0%	5.5%
Akron-Fairgrove	11.39	11.39			
Kingston	11.00	11.54	12.12	10.2%	5.0%
Millington	11.37	11.94	12.72	11.9%	6.5%
Reese	11.41	11.98	12.58	10.3%	5.0%

Cass City	11.56	12.13	12.74	10.2%	5.0%
Caro	13.33	14.06	14.84	11.3%	5.6%
Average	11.03	11.50	12.08	9.8%	4.9%

Table 1: *Tuscola County Wage Increases 1987-1990* (Based on Union Exhibit 2)

The above table shows that USA increased its hourly wage rates for bus drivers by 6.7% over the past two years and by 3.2% over the 88-89 school year. This represents the smallest increases awarded with the exception of those awarded by the Tuscola Intermediate School District. The largest increases were awarded by Millington. Since 1987 the hourly rates for bus drivers in that district have increased by 11.9%. Most of the increase, 6.5%, was awarded since 1988.

Caro follows Millington with respect to the size of increases awarded to bus drivers over the past two years. Since 1987 it awarded increases of 11.3% and since 1988, 5.6%. Vassar is next having awarded bus drivers increases totaling 11% over the past two years and 5.5% in 1988-89. Reese and Mayville awarded identical increases of 10.3% and 5.0% for those same time periods while, similarly, Cass and Kingston awarded identical increases of 10.2% and 5.0%.

In addition to the above table, the Union cites Kenneth P. Franklin, who, in a fact finding report issued (*Case No. L88 E-471*), in May, 1989, noted that:

The fund balance is one of the key issues in this matter. As of June 30, 1988, the fund balance was \$1,113,042. On June 30, 1989, the fund balance was 761,571. The projection for June 30, 1990 was a fund balance of \$95,816 and for 1991 a projected deficit of \$749,616. Needless to say, by state law, School Districts cannot have a deficit budget so we can't rely upon the 1991 projections. The 1990 proposed budget does include 8.5% increase for salaries and fringe benefits and for 1991 a six per cent increase. Additional information concludes that the District is 70.9 per cent agricultural. Value per acre was approximately \$3,000, dropped to somewhere be-

tween \$700 and \$1200 per acre and seems to be increasing again. Both in 1986-87 and 1987-88, the School District lost money and since it was out-of-formula, it had to make up the difference from its fund balance. Of the \$289,000 operating loss in 1988-89, approximately \$157,000 was picked up with State aid, with a net loss of approximately \$132,000 coming out of the fund balance.

The report goes on to state:

With the decrease in SEV and decrease in enrollment the School District has eliminated 3 of 7 custodial positions, one of four administrators, 11 teaching positions, 1 of 4 secretarial positions, 1 bus run and 1 teacher aide. Additionally, the teachers are in the third year of their contract, and received a 6 1/2 per cent raise which was bargained for in 1986-87, before the SEV reductions. The bus driver's contract is in its first year. For 1988-89, there is a wage freeze and in 1989-90 a wage reopener. The two administrators had wage freezes in 1987-88 and 1988-89 but will receive a 5 percent increase in 1989-90 with a reopener clause in 1990-91. The superintendent has a separately negotiated contract. He arrived in the District in 1987-88 and apparently negotiated a 5 percent raise for this year. (See Union Exhibit 4)

The Union called attention to the fund balance of \$1.1 million which stands in sharp contrast to the projected balance of \$95,816. In its opinion the projections were clearly off target and misrepresent a solvent district as being insolvent. It points out that fact finder Franklin noted (p. 9 Exhibit 4) that the Employer budgeted an 8.5 per cent increase in salaries and fringes for its 89-90 budget but did not show how those monies would be divided among the various classifications and units. The Union believes that the district is solvent and that the Employer cannot justify continuation of the wage freeze.

Basis for the Impasse as Argued by the Employer

In rebuttal the Employer argued that the Akron-Fairgrove Schools face a dismal future. SEV has declined astronomically, it points out, and the district has moved into formula. Acknowledging that the bus drivers have fared poorly with respect to hourly increases, the Employer points out that others, as well, in the Akron-Fairgrove District, have not received hourly wage increases. Employer Exhibit 7 shows that the superintendent's salary has been frozen and, in fact, was frozen at the time of the incumbent's arrival. He was eligible for an increase after the one year freeze because he negotiated it at the time he was hired. The high school principal's salary, likewise was frozen last year, the Employer points out, but the freeze will be lifted this year. Finally, the Employer showed (Employer Exhibit 9) that the Junior High School Principal in Akron-Fairgrove also had a salary freeze for one year. The elementary principal's position received no budget allocation and went unfilled.

Presently, contract talks with the teachers are going forward. The Employer points out that teachers are on a three year contract and have been under contract during the present economic crisis, hence they have not suffered a freeze. The custodians, secretaries and food service workers in Akron-Fairgrove did take a two year wage freeze.

The district, the Employer argues, avoided the impact of last year's projections because it took appropriate action. When it saw a worsening economic picture, it did not give out 8.5% increases. Instead the district cut one administrator, eliminated ten teaching positions and made other hard decisions which resulted in the solvency that the Union now points to as a reason for being able to grant its members a nine per cent increase. But, this Union, the Employer argues, has not yet sustained a two year wage freeze. Every other unit of support employees who were not under long term contracts--notably custodians, secretaries and food service workers--assisted in the return to solvency by accepting such a freeze, the Employer notes.

Discussion and Findings

The question that is implicit in the Employer's argument is whether one support unit, the bus drivers, should be allowed to have the wage freeze relaxed at the end of one year while employees in other classifications sustain--or are in the process of sustaining the freeze for two years. Now, the facts pertaining to employees outside of this unit are not known to this fact finder so he will not be able to address wage issues concerning them. He does, however, note that often times disparate treatment can be justified when the facts pertaining to different classes of employees are dissimilar. For that reason, one group of employees may

be given an increase in salary while another group may not. Or one group may receive a higher salary increase than another for any number of reasons which need not be expanded upon here. There is, of course, sometimes merit to the argument for internal equity and consistency if, for no other reason, simply keeping employees feeling that their worth and contribution are valued equally by the Employer.

But there are limits particularly when the equity to be shared is negative such as a pay freeze. Injuries whether physical or economic are generally viewed as sustainable only when they cannot be avoided. We do not insist that the evening crew work with hazardous equipment that is in need of repair because the day crew did. We, generally, reduce the exposure to the hazard by removing or repairing it as soon as we can.

To some degree we have that kind of a situation here in Akron-Fairgrove. The District has been injured by an economic down-turn. Citizens sustained the injury in the form of increased tax levies. Employees sustained the injury through loss of employment and other cutbacks including wage freezes. The repair process involved increased financial support from the State. This increased support along with the District's diminished, but not totally disabled capacity, provided a means to continue operations. This meant some ability for partially restoring the fund balance and some ability for normalizing Employer-Employee relations.

Other districts have faced and continue to face fiscal crises similar to those faced by Akron-Fairgrove. The question that must be answered is whether Akron-Fairgrove should attempt to respond to its crisis in a manner similar to the way in which similarly affected districts have responded?

Clearly, the Union is not satisfied with a wage freeze. The Employer, it seems is trying to pursue a policy of spreading the "misery" evenly among Employee ranks. This, to the extent that it was absolutely necessary, occurred. Now there is some evidence of stability returning so the Union wants relief from the freeze. The Employer is cautious and wants to sustain the freeze. Generally, economic down-turns produce caution and a distrust of what appears to be an improving situation. Yet, the situation as it exists is the situation that the parties must work with.

Employer's Exhibit 20 shows an improving situation with respect to student SEV. Kingston, Reese and USA, like Akron-Fairgrove, have had an overall decline in SEV since 1983-84. Despite gains in state aid membership by Kingston and Reese, like Akron-Fairgrove and USA they, too, have suffered a decline in Per Pupil SEV (Employer Exhibit

20). Looking at the loss in SEV, we note that from 1983 to 1990 Akron-Fairgrove lost 26% of its SEV. The greatest loss in SEV on a percentage basis was sustained by Reese, however, which lost 27% of its SEV over that period. Other losses stand at 19% for USA and 16% for Kingston. These data show that with respect to SEV, Akron-Fairgrove was one of four districts sustaining a loss in tax base.

Per Pupil SEV

Table 2: (Source: Employer Exhibit 20)

District	83-84	84-85	85-86	86-87
Akron-Fairgrove	112314	118855	133687	118792
Caro	41293	43467	44607	43314
Cass City	58039	62618	66998	62055
Kingston	45876	48201	47885	43265
Mayville	35443	42106	40622	38179
Millington	33864	36434	37076	36806
Reese	101092	100944	102737	99973
USA	120975	122304	133797	123650
Vassar	42968	45767	47048	47390

Per Pupil SEV

(Source: Employer Exhibit 20)

District	87-88	88-89	89-90	+/-
Akron-Fairgrove	91086	78923	83262	-29052
Caro	42562	44045	46763	5470
Cass City	58847	56287	59692	1653
Kingston	41695	39648	38487	-7389
Mayville	37869	38880	40335	4892
Millington	37294	39279	41615	7751
Reese	79555	71898	74214	-26878
USA	99678	94556	97908	-23067
Vassar	44182	46017	48018	5050

Employer Exhibit 25 shows that with the exception of Kingston and Reese all of the surrounding comparable school districts have lost State Aid Membership since 1983. In the case of Akron-Fairgrove, enrollment increased in only one of the seven years reported. From 1984 to 1985 the district's enrollment dropped by 15 (2.2%). The next year it dropped by 28 (3.9%). Subsequently its enrollment over the next four years changed by +5 (.7%); -42 (-6%); -19 (-2.9%) and -20 (-3.1%).

No. of Students (State Aid Members)
Table 3: (Source: Employer Exhibit 25)

	83-84	84-85	85-86	86-87
Akron-Fairgrove	741	726	698	703
Caro	2633	2563	2558	2553
Cass City	1804	1720	1659	1693
Kingston	738	729	725	751
Mayville	1400	1405	1407	1393
Millington	2177	2100	2092	2091
Reese	1047	1064	1085	1063
USA	1016	1045	1018	1001
Vassar	2037	1992	1969	1889

Increase (Decrease)	87-88	88-89	89-90	+/-
Akron-Fairgrove	661	642	622 (16.1%)	-16.1%
Caro	2503	2476	2413 (8.4%)	-8.4%
Cass City	1654	1670	662 (7.9%)	-7.9%
Kingston	738	755	8028 (7%)	8.7%
Mayville	1385	1344	1357 (3.1%)	-3.1%
Millington	2064	1994	1988 (8.7%)	-8.7%
Reese	1107	1147	11348 (8.3%)	8.3%
USA	1005	947	925 (9.0%)	-9.0%
Vassar	1849	1812	1802 (11.5%)	-11.5%

Significantly, Caro, Mayville and Millington followed the same pattern with an up-turn in enrollment occurring only once between 1983-84 and 1988-89. Vassar had no up-turns and only Reese had more up-turns than down-turns.

Yet, wage rates have been frozen only in Akron-Fairgrove. Reese is increasing its wage rates for bus drivers by five per cent this year and provided an increase in the same amount last year. Kingston increased its hourly rates over that same period by nearly the same amounts the difference being a tenth of a per cent less or 4.9% in the 88-89 school year. USA awarded increases of three and three tenths per cent in both years. (See Union Exhibit 2) The fact finder believes that something less than an all out freeze on wage increases is warranted in Akron-Fairgrove at this time.

Having formerly been an out-of-formula district, the uncertainty of learning to live as an in-formula district may have led to necessary caution to prevent the economic down-turn from getting out of control. That has been achieved. To some extent it was achieved with the cooperation of the I.U.O.E. These Employees appear to be represented by agents who understand the need for measures as drastic as a wage freeze when the times demand it. Figuratively speaking, their concern appears to be that the treatment is continuing to be applied in heavy dosage after the malady which required it has lessened.

To accept the Employer's argument for a continuation of the freeze one has to assume that nothing has changed. That assumption, though, cannot be made in light of a forecast which set the fund balance for June, 1990 at \$95,816. More recent forecasts predict a fund balance of more than a million dollars (\$1,021,030), a difference of over \$900,000. It was the earlier forecast which, at least in part, persuaded the previous fact finder that a wage freeze would be in order. A more favorable forecast, at least in part, tends to persuade this fact finder differently.

Employer Exhibit 21 shows at least the transition from an out-of-formula to an in-formula district. Michigan, the fact finder notes, operates its schools under a District Power Equalizing concept which means that a district's schools can be funded beyond its own ability to pay for them if it is willing to levy more mills on the taxable property that supports its schools. The State will supplement local operating revenues with \$83,610 (\$83.10) of tax base for each mill levied by a district. In addition to this the State adds a flat grant of \$277 and additional incentives that an in-formula district can qualify for.

Employer Exhibit 21 shows that Akron-Fairgrove qualified for both incentives and received the other monies which were, in fact, a cushion against the full impact of the economic down-turn the district was experiencing. By levying thirty-three mills Akron-Fairgrove, at 83.61 per mill raised its gross allowance to \$2,759.00. The flat grant and added incentives brought this figure to approximately \$3069 and when the local operating revenue was subtracted, Akron-Fairgrove received from the State \$321.48 for each of its 622 4th Friday Count State Aid Members. Two hundred thousand dollars in State Aid and local operating revenues of \$1.7 million gives the district a revenue base of slightly more than \$2 million dollars.

History of District Going "into Formula"

Table 4: (Source: Employer Exhibit 21)

	Formula 88-89		Formula 89-90	
SEV Per Pupil	118792	91086	78923	83262
Mills Levied	28	30	33	33
Computation	Flat	na	na	
88-89 77.71 per mill			350	310
89-90 83.61 per mill			2564	2759
Less SEV Per Pupil			2914	3069
Multiplied by mills levied			78923	83262
Subtotal			33	33
State Aid			2604	2747
District SEV			268	277
Per Pupil	118792	91086	78923	83262
Multiplied by Mills	28	30	33	33
Local Property	3326	2733	2604	2747
Total Revenue				
State Aid	0	0	268	277
Property Tax	3326	2733	2604	2747
	3326	2733	2872	3024
				321.48

The fund balance, the fact finder believes, is buying the District some time for an economic up-turn. This is, of course, one of several uses to which such a balance may prudently be put. In the face of a worsening situation, the Employer still has options for keeping the District solvent. On the other hand dire projections may be wrong and the District may find its situation improving rather than worsening.

Akron-Fairgrove, the fact finder notes, has a total of sixty-five employees. Nine are classified as drivers. The district's ability to negotiate and award the increase which these Employees are seeking is not at all in question. The Employer's question is whether these Employees should be exempt from a general freeze which it has tried to apply evenly. The fact finder believes the facts in this dispute support a relaxation of the freeze. He notes that similarly situated employee groups are not under such freezes. The fact finder is not persuaded, however, that the 9% increase which the Union is requesting is reasonable. An increase in that amount is twice the average increase for 1988 which the I.U.O.E. cited in its Exhibit 2 and would be roughly comparable to the average two year increase for similarly situated districts which averaged 9.8% for the two year period. To recommend such an increase would, in effect, be to recommend a restoration of wages that were lost over the first year of the contract. That recommendation would seemingly deny the existence of the serious fiscal problems which Akron-Fairgrove is trying to adjust to. The fact finder does not deny that the fiscal problems, despite some error in projections with respect to the fund balance, actually exist in the district. He believes that the facts support an effort to reach a wage settlement that is in some way commensurate to the effort being made by those districts that are most comparable to Akron-Fairgrove. They are found to be Kingston, Reese and USA. In light of this finding and based on the average of the increases awarded in those districts: Kingston, 5%; Reese, 5% and USA, 3.2% the fact finder makes the following

Recommendation:

Bus Drivers for the Akron-Fairgrove Schools shall be awarded an increase of four and a half per cent for the 89-90 school year.


Edward Simpkins, Fact Finder


Date