

12/26/95

STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

In the Matter of Fact Finding))	Michigan Employment Relations
between)	
Allendale Public Schools,)	Case No. G95 A-4006
Employer)	
and)	
Allendale Education)	
Association Labor)	
Organization)	

REPORT OF THE FACT FINDER

RUSSELL E. PRICE

REPRESENTING THE PARTIES

For the Allendale Public School:

John Lepard, School Attorney
David Annis, Superintendent, Allendale Public Schools
David VanderWall, Business Manager, Allendale Public Schools
Pat TerVeen, Administrator, Allendale Public Schools
John Daling, Board Member, Allendale Public Schools

For the Allendale Education Association:

Mary Ann Zimmerman, Uniserv. Director, MEA
Gay Weed - Browne, Research Assistant, MEA
Stan Burnell, Assistant Director, MEA
Gary Fitch, MESSA
Nancy Yettal, Allendale Education Association Negotiating
Team Member
Christopher Sisson, Allendale Education Association Negotiating
Team Member
William Recker, Allendale Education Association Negotiating
Team Member
Cliff Cole, Allendale Education Association Negotiating
Team Member

Allendale Public Schools

INTRODUCTORY MATTERS

This is a Fact Finding Hearing for the Allendale Public Schools and the Allendale Education Association, scheduled for December 15, 1995 at 9:00 a.m. in Classroom A of Careerline Tech Center for the Ottawa area. This was set for Fact Finding by the Michigan Employment Relations Commission on October 25, 1995. A pre-hearing conference was conducted at 10:00 a.m. November 21, 1995. By agreement of the parties, the fact finding hearing was following the fifteen (15) day period from date of notification.

THE FACT FINDING HEARINGS

In its petition for fact finding, Mary Ann Zimmerman, Uniserv. Director, cited the following as remaining unresolved issues following the nine mediation sessions conducted February 14, 1995, through September 13, 1995: Article 7.03, Elementary Preparation Time; Article 12.01, Health Insurance; Article 12.11, the Section 125 Plan; Article 13.05, Universal Service Credit; Article 18, Grievance Procedure; Article 19, Student Discipline; Schedule A, Salaries; Schedule B, Extra Duty Pay; Schedule B, Mentor Teacher Pay; Retroactivity - 1 issue.

DEMOGRAPHICS

Allendale is a K-12 district located in Ottawa County. The student enrollment of 1,353 has a teaching staff of 81 teachers. The total general fund expenditures for this district is \$7,862,862.00. The 1994-1995 Foundation Grant for Allendale was \$5,023.00. The fund equity as a percent of total expenditures for Allendale Public Schools for the year ended June 30, 1995, was 9.37 percent.

Positions of the Parties:

Issue 1: Article 7.03 - Elementary Preparation Time

A primary issue under this Article is whether teachers would be guaranteed under the Contract 200 minutes of preparation time per week for elementary classroom teachers and specialists as requested by the AEA or whether it should be 100 minutes guaranteed as is contained in the current Contract and is proposed by the District.

Findings of Fact and Recommendation:

Issue 1: Article 7.03 - Elementary Preparation Time

I find that it is appropriate to consider the comparables as proposed by the AEA which show that half of the contracts in the neighboring Ottawa County School Districts contain a specific guarantee of planning time for elementary teachers with an average time of 174 minutes per week; and that the comparables provided by the District show that the majority among the

comparables have a guarantee of 150 minutes per week and in addition, have the time provided when the elementary teacher's classes are being taught by specialists (that is art, music, physical education, etc.). In addition, it must be recognized that the present practice is that elementary teachers actually do receive elementary planning time averaging 225 per week. Also, the high school and middle school teachers in this district are now guaranteed 275 minutes per week and 225 minutes per week respectively. Therefore, by equity, the elementary teachers should also be guaranteed the 200 minutes per week planning time in the Contract.

Positions of the Parties:

Issue 2: Article 12.01 - Health Insurance

The District's position is that the health insurance coverage under Article 12.01 be changed in the Contract from Super Med II to the Super Med I, resulting in a \$100.00 per year deductible for a family as opposed to no deductible; and, providing a \$2.00 co-pay for prescriptions as opposed to the \$.50 co-pay for prescriptions. The Board also pointed out that the annual savings in costs in changing from Super Med II to Super Med I would be \$37,500.00 per year, whereas the additional cost to the teachers would be a potential of \$118.00 per teacher per year. The District's comparables show that none have Super Med II. The Association, in support of its position, noted that the current Contract provision contains Super Med II. Also, other schools in the Association's comparables improved the other insurance when they changed from Super Med II to Super Med I. The Association also noted that the District could elect MESSA PAK, which would reduce premiums for health and dental by two percent (2%) annually. This program packages together the coverages for health, vision, dental, life and LTD.

Findings of Fact and Recommendation:

I find that it is appropriate to recommend that the District's proposal on this issue be adopted. The projected savings of \$37,500.00, which is approximately equivalent to a one-half percent ($\frac{1}{2}\%$) increase in salary, can be utilized to cover part of the additional costs of the recommended salary increases in Issue #7. This is more appropriate in view of the fact that the Association and the District have not negotiated other quid pro quo improvements in other insurance in exchange for reducing Super Med II to Super Med I.

Positions of the Parties:

Issue 3: Article 12.11 - Section 125 Plan

The Issue under consideration is whether to introduce the Association's MESSA Option All Cash Option Plan for the District or to introduce the District's proposed 26 page plan presented at

the Fact Finding Hearing.

Findings of Fact and Recommendations:

Issue 3: Article 12.11 - Section 125 Plan

It was mutually agreed by the parties at the Fact Finding Hearing to work upon this issue outside of the Fact Finding process because these extensive introductory plans are not adaptable to this Fact Finding process. Therefore, I find that it is appropriate that the Section 125 Plan should be pursued by the parties.

Positions of the Parties:

Issue 4: Article 13.05 - Universal Service Credit

The Board's proposal is to maintain the status quo in terms of contract language. It proposes to maintain and continue the early retirement incentive provisions of the Contract under Section 13.04. The Association's position is to add provisions for the District to buy up to five (5) years of Universal Service Credit for teachers between 25 and 30 years of service in lieu of the early retirement incentive in Section 13.04 of the Contract.

Findings of Fact and Recommendation:

Issue 4: Article 13.05 - Universal Service Credit

The District points out that only two of the districts among the District's comparables have Universal Service Credit. The District also costs this item at \$6,688.00 for one (1) year of Universal Service Credit and the cost of five (5) years of Universal Service Credit would then be \$38,112.00, which is required to be paid in full at the time the teacher elects to use this Service Credit. It is the District's position that a teacher who wants to take early retirement would do so whether the District offered Universal Service Credit or not. During the past year, one teacher did so elect early retirement. The Association's position is that this school district is the only one in the Association's comparables that does not have Board paid Universal Service Credit. The District would recoup the cost of the Universal Service Credit during the second year. The Association's rationale contained in its supporting documents to the Fact Finding Hearing show that the proposal for Universal Service Credit would cost the District less than the early retirement incentive in the current Contract.

Findings of Fact and Recommendation:

Issue 4: Article 13.05 - Universal Service Credit

I find that it is appropriate to grant the Universal Service Credit, but to require that a teacher retiring early must elect

either the Universal Service Credit or the early retirement incentive in the current Contract but cannot receive both.

Positions of the Parties:

Issue 5: Article 18 - Grievance Procedure

The Association proposes that a grievance procedure with binding arbitration be added to the current Contract. The District's proposal is to keep the current Contract, which has no grievance procedure, or in the alternative, add a grievance procedure without binding arbitration where the School Board would be the final step of the grievance procedure.

Findings of Fact and Recommendation:

Issue 5: Article 18 - Grievance Procedure

I find that it is appropriate to add a grievance procedure with binding arbitration to this Contract. Grievance procedures in union contracts are universal. The Board of Education cannot be expected to be an unbiased third party since the grievance is filed against the Board of Education.

Universal practice and experience has demonstrated that even though a contract has binding arbitration, the parties very seldom proceed to binding arbitration as the final step of a grievance procedure. Normally, grievances are settled at earlier steps, but to validate the grievance procedure, arbitration by an impartial party must be available. The supporting documents provided by the Association shows that among MEA contracts from 1,007 locals, 95% contain binding arbitration. Therefore, I find that it is appropriate to add a grievance procedure, including binding arbitration as the final step.

Positions of the Parties:

Issue 6: Article 19 - Student Discipline

The Association proposes that a provision be added to the current Contract pledging administrative support for teachers in the area of student discipline. It also proposes that corporal punishment language be included in the Contract, which describes what teachers are allowed to do under the corporal punishment statute. The District's proposal is to leave the Contract as it is with respect to this issue, that is, without student discipline language and without corporal punishment language.

Findings of Fact and Recommendation:

Issue 6: Article 19 - Student Discipline

It should be considered that the current Contract has no student discipline nor corporal punishment language. Also, the

Michigan Statutes contain the law. The Board noted that there have been no problems in the District under the current Contract which has no language regarding student discipline nor protection of teachers. The documents provided by the District at the Fact Finding Hearing indicate that none of the District's fourteen comparables contain corporal punishment provisions in their contracts. Also, only two of the Association's comparable contracts contain corporal punishment language. The Association provided documents at the Fact Finding Hearing showing that all but five schools among the Board's comparable contracts do contain a brief general statement of reasonable administration support for student discipline. Therefore, I find that it is appropriate to insert the proposal made by the Association regarding student discipline and administrative support as contained in Section 19.01 of the Association's proposal. However, since there have been no instances of student violations and because the state law contains the same language as proposed by the Association concerning corporal punishment, that should suffice and the Association's proposal Section 19.02 concerning corporal punishment should not be included in the Contract. I find that it might be appropriate for the District to also post the state law along with their posting of other state law requirements in the school in order that all teachers are made aware of what is expected and required.

Positions of the Parties:

Issue 7: Schedule A - Salaries

The parties are approximately one percentage point per year apart for the salary schedule proposals. The Association has requested a first year increase of 3.3 percent, a second year increase of 3.6 percent, and a third year increase of 3.8 percent. The District has proposed a first year increase of 2.2 percent, a second year increase of 2.4 percent, and a third year increase of 2.7 percent. The District also proposed a fourth year to the Contract proposing an increase equal to the area average.

Findings of Fact and Recommendation:

Issue 7: Schedule A - Salaries

The materials presented by the Association and using the Association's comparables of other school districts in Ottawa County indicate that Allendale is at the bottom of schools in Ottawa County which are all larger than Allendale. The costs of the Association's salary proposal is contained in the District's cost sheet for Issue #7, which show that the additional estimated cost of the Association's proposal for the first year of the Contract is \$157,731.00; the additional cost of the Association's proposal for the second year of the Contract would be \$332,502.00; and the additional cost of the Association's proposal for the third year of the Contract would \$305,564.00.

For the three year contract, this would be a total additional cost over and above the increases offered by the District, amounting to \$695,798.00. This includes not only the cost of the salaries but also the benefits that are directly tied and directly increase when the salaries increase. The fund equity of the District for the year ending June 30, 1995, was \$719,528.00. The comparison of the fund equity as a percentage of total expenditures for the year ended June 30, 1995, was 9.37 percent.

The Districts comparables indicate that Allendale is in the upper range of 15 schools of comparable size in the four county area which includes schools between 700 students to 2,100 students. Allendale District has 1,358 students and ranks ninth in size among the 15 comparables provided by the District. Both the District and Association thoroughly documented their position on salaries and costs and comparables as indicated by the attached books of exhibits.

Findings of Fact and Recommendation:

Issue 7: Schedule A - Salaries

This recommendation under Issue #7 includes not only the recommendation for the salary schedules but also includes the issue of indexing the salary schedules and longevity for the salary schedules.

The Fact Finder should not re-index Schedule A for teacher's salaries. Both the Association and the District presented excellent materials in support of opposing positions on indexing the salary schedule, but this is a major issue comparable to the complexities of the Section 125 Plan previously discussed in this Fact Finding Report. This indexing issue is simply not adaptable to the process of fact finding and will need to be pursued by the parties in future contracts.

Neither should the Fact Finder unilaterally direct a salary schedule for the 1997-1998 school year as proposed by the District because that was also beyond the scope of this case. The parties have negotiated and gone through mediation for a three (3) year contract and that is the recommendation of the Fact Finder.

Therefore, in full consideration of all the presentations and supporting documents and arguments provided by the parties for this Fact Finding process, it is the recommendation of the Fact Finder that the salary schedules be increased in an amount equal to the Bureau of Labor Statistics cost of living increase from January to December of each prior year of the three (3) contract years as follows:

1994/1995
Effective 7/1/94
2.9%
(This was the % change
in the C.P.I.-U.- U.S.
City average for all
urban consumers for the
calendar year ending
12/31/93.)

1995/1996
Effective 7/1/95
2/7%
To be determined by
the % change
in the C.P.I.-U.-U.S.
City average for all
urban consumers for
the calendar year
ending 12/31/94.

1996/1997
Effective 7/1/96
%
To be determined
by the % change
in the C.P.I.-U.
U.S. City avg.
for all urban
consumers for
the calendar
year ending
12/31/95.
(This is curr-
ently estimated
to be 2.7%.)

The salary enhancements offered by the District shall be introduced into the salary schedules as follows: \$450.00 for the BA+ level of the salary schedule; \$600.00 for the MA+15 level of the salary schedule; \$600.00 for the MA+30 level of the salary schedule; \$75.00 per step for Steps 16 through 19 for the MA level; and \$100.00 per step for Steps 21 through 24 for the MA level of the salary schedule.

Positions of the Parties:

Issue 8: Schedule B - Extra Duty Pay

The Association's proposal for extra curricular pay for driver's training, lunch supervisor, and intramural by the same percentage as the increase in the BA Base, which was originally proposed by the Association as 3.3% for 1995, 3.6% for 1996, and 3.8% for 1997. The District's proposal for an increase in extra-curricular pay for these three areas was a 2.2% increase for the 1995/1996 Contract year only.

Findings of Fact and Recommendations:

Issue 8: Schedule B - Extra Duty Pay

The District's survey indicates that the current pay for these extra-curricular pay schedule positions of lunch supervisor, driver's training and intramurals, is above average where rates are set among the comparables. However, the District's comparables did not specify rates for these three extra duty positions in the majority of the districts.

Since all other duty positions are keyed to the BA Base and receive the same percentage increase each year that the BA Base receives, there does not appear to be any good reason to exclude driver's training, lunch supervision and intramurals from this same treatment.

Therefore, it is the recommendation of the Fact Finder that

the Contract should key these three extra duty positions to the BA Base and apply the same percentage increase to the hourly pay for these three extra duty positions as is granted to the BA Base each year of the Contract.

Positions of the Parties:

Issue 9: Schedule B - Mentor Teacher Pay

The Association has proposed that Schedule B for Mentor Teacher Pay be increased 2% of the BA Base to mentor a first year teacher; 1.5% of the BA Base to mentor a second year teacher; and 1% of the BA Base to mentor a third year teacher. The District proposed during Fact Finding that when a teacher is assigned and agrees to serve as a mentor, the teacher shall be paid \$300.00 per mentee assignment per school year.

Findings of Fact and Recommendation:

Issue 9: Schedule B - Mentor Teacher Pay

According to the Survey presented by the District, mentor pay among comparable districts is above the average in the Allendale District compared to those rates which are indicated in other districts. However, the majority of the comparables do not show the amount for mentor pay. It is the recommendation of the Fact Finder that the District's offer of \$300.00 per mentee assignment per school year is reasonable and fair. It produces an increase which is in the mid-range of the 1% or \$263.00 per mentee assignment requested by the Association and the 2% or \$525.00 per mentee assignment requested by the Association. This is a new law for Mentor Teacher Pay and therefore there is little among the comparables to provide a guide for the parties.

Positions of the Parties:

Issue 10: Retroactivity

The Association has requested full retroactivity, including retroactivity for teachers who taught during the 1994/1995 year and left or retired. The District has proposed that only the 1994/1995 salary schedule and the 1995/1996 salary schedule be given retroactive effect and then only for teachers employed by the Board on the date of Association ratification and Board approval of this Contract.

Findings of Fact and Recommendation:

Issue 10: Retroactivity

The Association stated during Fact Finding that there was only one teacher who retired after the 1994/1995 Contract year and that the negotiated increase for the 1994/1995 year would affect that teacher's retirement pay. The District indicated

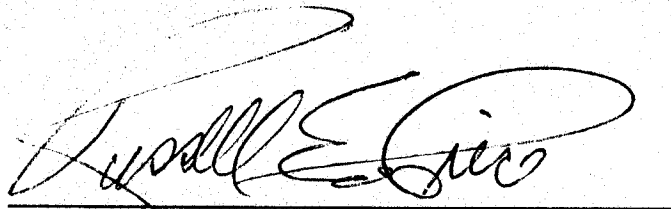
during Fact Finding that retroactivity normally only applies to the salary schedules. The Association agreed that the salary schedules are the most important area for retroactivity and that it is normally not possible to give retroactive effect to other contract changes.

Therefore, it is the recommendation of the Fact Finder that the District's proposal is fair and reasonable and normally this is what retroactivity means. The salary schedule should be given retroactive effect for both the 1994/1995 and 1995/1996 contract years.

It should be applied to the one teacher who worked the complete 1994/1995 school year and then retired. That teacher earned the extra compensation and deserves to have her retirement pay computed on the basis of the salary increase granted for the 1994/1995 contract year.

CONCLUSION

The above Report, together with the Exhibits presented at the Fact Finding Hearing by the Association and by the District represent the findings of fact and recommendations arrived at following the hearing conducted by the Fact Finder. Originals of the Exhibits have been submitted to the Michigan Employment Relations Commission together with the eight (8) copies of the signed Report. In addition, a copy of the signed Report is hereby served on each party. Finally, a copy of the signed Report is also submitted to the Librarian, Michigan State University, which is the State's repository for Fact Finding Reports.



Russell E. Price

Dated: December 26, 1995.