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DEPARTMENT OF LABOR  
EMPLOYMENT RELATIONS COMMISSION

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EMPLOYMENT RELATIONS COMMISSION  
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In the Matter of  
ALPENA PUBLIC SCHOOLS

and

ALPENA EDUCATION ASSOCIATION  
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FACT FINDER'S REPORT

Appearances:

For the Alpena Public Schools:

William Beach, Board Spokesman;  
Richard G. Boyce, Attorney; Larry  
McConnell, Superintendent

For the Alpena Education Association:

William S. Shuler, A.E.A. Spokesman  
John F. Kowalski, Attorney; Harley  
Steinke, Representative

*Alpena Public Schools*

INTRODUCTION

The above-entitled fact finding proceedings came on for hearing before the undersigned, a fact finder duly appointed by the Employment Relations Commission, at Alpena, Michigan, on September 29th, 1969, pursuant to a petition for fact finding by the employer and an answer to said petition filed by the Association.

On the basis of the evidence presented at the hearing, including extensive documentation concerning what transpired at the negotiation sessions and concerning the merits of the salary proposals and counter-proposals, the undersigned makes the following findings and recommendations for a settlement of the dispute.

*James McCormick*

### PRELIMINARY FINDINGS

A threshold issue must be resolved in this dispute, since a disagreement on this issue has prevented progress towards agreement on a salary schedule for the teaching personnel of the Alpena Public Schools.

Bargaining sessions began in April, 1969, and numerous meetings were held between that time and August 25, 1969. The Association made numerous proposals on items of a so-called non-economic nature. It also proposed a 1969-1970 salary schedule and sought increases in Blue-Cross coverage and other matters of a fringe benefit nature. It is clear that in all of this the Association contemplated a one-year contract as to both economic and non-economic proposals. In early summer the Board of Education's team made a counter-proposal based upon a one year contract.

However, little progress was made during the summer towards reaching tentative agreements on major proposals. Neither were any significant Association demands abandoned during this period. Then, on August 25th the Board team offered to grant the agency shop and arbitration demands and certain other demands but also, for the first time, raised the idea of a two year master contract.

There is a difference in the recollection of the parties as to just what the Board Spokesman said about the two year idea that day. In essence the disagreement is as to whether the Board Spokesman tied the two year contract idea to the various concessions (such as agency shop and arbitration) in such a way as to make the concessions "contingent" upon agreement on a two year contract.

Subsequent to August 25th more marathon sessions were held. The Board made a series of salary offers, each including a salary

schedule for 1969-1970 and a higher one for 1970-1971. Each time the Association replied with a one year salary proposal. The parties were becoming progressively closer together in the process. Finally, the Board asked the Association to make a proposal based on a two year contract. The Association eventually came back with a proposal for a two year contract: 1969-1970 at \$7,300 B.A. base, and 1970-1971 at \$7,900 B.A. base. The Board eventually made an offer of \$7,250 for 1969-1970 and \$7,800 for 1970-1971. Needless to say, the parties were a hair's breadth apart at that point.

The movement towards agreement on salary proceeded substantially as follows during the final meetings:

Association:	7,750	
Board:	7,050	7,550
Association:	<del>7,075</del> 7,700	
Board:	7,075	7,575
Association:	7,400	
Board:	7,175	7,675
Association:	7,400	
Board:	7,200	7,700
Association:	7,375	
Board:	7,210	7,710
Association:	7,375	
Board:	7,225	7,750
Association:	7,300	*
Board:	rejects use of 16-47 formula	
Association:	7,350	8,250
Board:	7,250	7,800
Association:	7,250	
	or	
	7,300	7,900
Board:	7,250	7,825**

\* Base salary for 1970-1971 shall be such that it will place the M.A. maximum at the 16th position from the top of the 47 school districts mutually used for comparison.

\*\* Conditioned upon Association team's agreement to recommend this proposal to membership.

At one point the Association Spokesman indicated that he was not opposed to the concept of a two year contract but that he wanted to get the first year resolved first. As noted above, the Association did make two year proposals towards the end of the negotiations. However, the Association finally sought to "accept" the \$7,250 first year offer while rejecting the second year. The Board pointed out that it had made other concessions on the basis of a two year contract. This was essentially correct, inasmuch as the agency shop, arbitration, medical improvements and other concessions had not been made until after the Board began talking about a two year agreement. Proposals are not severable and may not be accepted piecemeal. When each clause or item is agreed to and tentatively approved, there is an implicit understanding that such approval is not given in isolation but rather is conditioned upon overall agreement on an entire contractual package. Of course, it is possible for parties to expressly provide, as they go along, that each item stands by itself as an independent contract, regardless of whether or not overall agreement is ever reached. Such was never intended here.

I find that:

- (1) the Association drafted and presented its proposals with the idea of a one year contract in mind,
- (2) few, if any, important concessions were made on non-economic items by either side prior to the introduction of the two year contract idea on August 25th,
- (3) beginning with August 25th important concessions were made by the Board, including agency shop and arbitration, and the Association modified or abandoned many of its original non-economic proposals,

(4) the said concessions of the parties were made in connection with various salary proposals and offers, but were not expressly tied to either a one year or a two year contract,

(5) both parties failed effectively to articulate the intended dependence of their other agreements on the one or two year duration of the contract,

(6) the present positions of both parties are consistent with a good faith misunderstanding of each other's intentions,

(7) under the circumstances the Board was entitled to treat all of its concessions as contingent upon a complete contract, whether it be one year or two years,

(8) Since no complete agreement was ever reached, the Board could properly refuse an Association proposal of \$7,250 for one year which included a rejection of the second year.

The Association urges the undersigned to recommend the \$7,250 one year package, with all Board non-economic items intact, without any consideration of the competitiveness, fairness, or feasibility of that package. I conclude that nothing in the record justifies cutting off the inquiry at this point. Accordingly, I shall proceed to look at the factors necessary to evaluate the salary positions of the two parties.

#### FINDINGS AND RECOMMENDATIONS

Both parties supplied the undersigned with a wealth of data showing where Alpena stands in comparison to other districts in terms of operating millage and salary levels. The figures reveal that the proposed first year salary offer of \$7,250 is a little below the median salary for districts of comparable size, statewide, but is

relatively high for Northern Michigan. Alpena's B.A. maximum is quite low by any standards, but this is part of a calculated effort to encourage teachers to earn additional credits, since there is a substantially higher maximum for a teacher with a B.A. plus 15 additional hours.

The 23.06 operating mills in Alpena is modest by Statewide standards, but, again, is quite high in Northern Michigan. In any event, there is no dispute regarding the Alpena district's ability to pay a salary higher than its final offer. That is to say, the district is not "pleading poverty". In fact, the statement was made at the hearing that the Midland settlement (\$7,500 B.A. base) was used for preparation of the Board's tentative budget. And that tentative budget still leaves a considerable surplus.

Under these unusual circumstances, the undersigned is faced with a choice of recommending a one-year contract at a \$7,250 B.A. base, as sought by the Association, or a two-year contract with hard salary figures for both years.

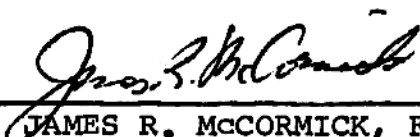
I am persuaded that the Board's agreement to agency shop and arbitration are sufficiently important non-economic concessions to support a recommendation for a two-year contract, and I so recommend. The Association, at one point, made a proposal based on a two year agreement, so it is apparent that the Association's interests are not really damaged by a two year agreement.

Specifically, I recommend that the parties settle for \$7,250 for the first year and a formula for determining the second year schedule. While the Board once rejected this concept, it is a legitimate way of arriving at a fair compromise, and is conceptually sound, particularly in view of the uncertain effect of the Governor's legislative reform bills upon salary schedules for 1970-1971.

Therefore, I recommend a 1970-1971 schedule which will place Alpena 16th out of the 47 districts used for comparison purposes.

Admittedly, there is no scientific precision to my calculations because the subject matter does not lend itself to such treatment. However, in the interests of a settlement the parties ought to accept these findings and be governed accordingly.

Dated: October 14, 1969.

  
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JAMES R. MCCORMICK, Fact Finder