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BY APPOINTMENT OF

THE

EMPLOYMENT RELATIONS COMMISSION

STATE OF MICHIGAN

1970 3/7/70 FF
Robert S. Bowers 203

Michigan State University
LABOR AND INDUSTRIAL
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In the Matter of Fact Finding Between:

COLOMA COMMUNITY SCHOOLS

-and-

INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL 547, AFL-CIO

INTRODUCTION

The undersigned was appointed by the Employment Relations Commission as its Hearings Officer and Agent to conduct a fact finding hearing relevant to the matters in dispute between the above parties, pursuant to Section 25 of Act 176 of Public Acts of 1939 as amended. The appointment was made on December 1, 1969. Upon due notice, hearings with the parties were held on December 22, 1969 and on January 15, 1970 at the Coloma High School and the Township Hall respectively, in Coloma, Michigan. Mr. Charles E. Keller represented the School District and Mr. Robert B. Ross represented the Union.

Coloma Community Schools

At the time of the hearings, the following issues were unresolved and

were submitted for fact finding: A. Union Recognition; B. Classification; C, Union Security; D. Management Rights; E. Jurisdiction; F. Contractual Work; G. New Jobs; H. Discipline and Discharge; I. Transfer and Promotional Procedure; J. Grievance Procedure; K. Hours and Work Week; L. Shift Differential; M. Hospitalization Insurance; N. Vacations; O. Holidays; P. Sick Leave and Funeral Leave; Q. Jury Duty; R. Classification and Compensation; S. Scope and Waiver; T. Binding and Effective Agreement; U. Termination, Change or Amendment; V. Wages; W, Job Descriptions.

Items V and W were removed from the list since they were covered by other items. Items A and H were withdrawn from fact finding.

POSITION OF THE UNION

B. Classification

The Union contends that the appropriate unit classifications are Maintenance Men, Custodians, and Matrons. These classifications adequately portray the various job functions being performed by the various employees. The Union notes that the Board changed to one classification through unilateral decision.

The single classification of Custodian is unrealistic if job duties are to be involved. A female Custodian might be expected to climb ladders, plow snow, run tractors, make electrical repairs, etc. under the Board's single classification of Custodian.

If the single classification is used, provision must be provided to

insure that no punitive action will be taken against any employee who cannot perform the many and varied job functions.

C. Union Security

The Union proposes a union security clause in the contract and contends that it is both legal and proper. It bases its case on recommendations of fact finders in other cases and refers to several court decisions upholding agency shop provisions. Since the law states that the Union must represent all employees in the unit, the will of the majority must rule and there should be equal treatment for all. Although the Union proposes a union shop clause it suggests an agency shop as a compromise solution. The Union points out that three of the major school systems in the area have union security clauses.

D. Management Rights

The Union contends that the management rights clause as originally submitted gives sufficient latitude to the Board. The Board's proposal contains clauses that would negate or subrogate certain proper rights of the employee such as job security.

E. Jurisdiction

The Union proposes the following clause on jurisdiction:

"Employees of the Employer not covered by the terms of this Agreement may temporarily perform work covered by this Agreement only for purposes of instructional training, experimentation or in cases of emergency, except with the Chief Custodian who shall continue to perform work as has been historically performed in past years."

The Union holds that this clause provides sufficient flexibility in operation to allow complete management operation and will protect the work jurisdiction of the bargaining unit.

F. Contractual Work

The Union proposes the following clause on contractual work:

"The right of contracting or subcontracting is vested in the employer. The right to contract or subcontract shall not be used for the purpose of undermining the union nor to discriminate against any of its members nor shall it result in the reduction of the present work force as outlined in Schedule _____ nor in the event of extension of service shall it be used to avoid the performance of work covered under this agreement. "

This clause, the Union contends, does not restrict the Employer's abilities or prerogatives in the operation of the plant except as it protects the employee's rights to security.

G. New Jobs

The Union proposes the following clause:

"The Employer shall have the right to establish, evaluate, change and obsolete jobs, providing such action on the part of the Employer shall not be directed toward reducing the rate of a job in which no substantial change in the job itself has occurred. When a new or revised operation involves duties which are not adequately or specifically described or properly evaluated in an existing job description, specification and classification, the Employer has the right to develop and establish such new or revised job descriptions, specification and classifications, rates of pay and to place them into effect. Whenever new buildings or a job is made operational, the Employer shall establish the job description.

The Employer will notify the Union of such new or changed job, and will within thirty (30) days after such new or changed job is established, meet with the Union to negotiate the rate and classification. "

This clause does not cause a removal of Management Rights, the Union maintains.

I. Transfers and Promotional Procedure

The Union contends that the original language as submitted is proper, but concurs with the suggested changes and feels that this clause can be adopted as modified. The conditions in this clause can be affected by classification, job duties, etc.

J. Grievance Procedure

The Union is in basic agreement with the section on Grievance Procedure, but contends that the final step should be arbitration. In public employment, where the employer and the union are unable to resolve a grievance by going through the normal steps, some provision must be made to allow for a settlement which is not unilateral. If good employer-employee relations are to be maintained, the employer cannot act as prosecutor, judge and jury. Neither the employer nor the union should have the ability to make unilateral decisions as they involve the employees' working rights.

K. Hours and Work Week

The Union holds that the employees are entitled to scheduled and previously known work hours without fear of arbitrary, last-minute changes by the employer. It is commonly recognized that employees in all employment situations have the benefit of knowing when they are

scheduled to work.

The Union insists that it is only proper that the employer give notice of the need for any change in scheduled hours to the Union and that the parties will immediately meet to determine the best way to satisfy the need. The employer's contention that he must retain exclusive right to schedule hours of work is arbitrary and archaic.

L. Shift Differential

The Union contends that this provision is a standard condition of employment for practically all hourly rated employees regardless where they may be employed. The following clause is suggested:

"Employees who are regularly scheduled for four or more hours of work between the hours of 4:00 p. m. and 12:00 midnight, will receive a shift differential of five per cent (5%) for all hours worked that day. Employees who are regularly scheduled for work four or more hours between 12:00 midnight and 8:00 a. m. shall receive a premium of ten per cent (10%) for eight (8) hours worked that day."

M. Hospitalization Insurance

The Union maintains that hospitalization insurance is generally enjoyed by many employees. The teachers at Coloma receive a subsidy of \$12.00 a month toward this benefit. The employer's contention that sufficient money is included in the wage increase offer is not documented.

The Union proposes:

"The Employer shall pay the total cost of the M. E. A. Hospitalization Insurance for the employee and shall pay the additional cost for those employees who carry such insurance for their dependents."

N. Vacations

The Union proposes a vacation schedule providing for increased time off with length of service. The employer's suggestion of a maximum of two weeks after one year of service for all twelve-month employees is antiquated by today's standards. This schedule can be allowed with relatively little cost due to employees having to take vacation periods when school is not in session and no relief persons are required to replace the absent employee. The Union further contends that all employees are entitled to vacation and not just twelve-month employees.

The Union proposes a vacation schedule ranging from two weeks after one year of service to five weeks after five years of service.

O. Holidays

The Union maintains that since the employer currently does not schedule classes on the requested holidays he has the ability to avoid any scheduling of work by the bargaining unit involving relatively little cost.

The following schedule is proposed:

New Year's Eve Day
New Year's Day
Memorial Day
July Fourth
Labor Day
Thanksgiving and the Day After
Christmas
Good Friday

P. Sick Leave and Funeral Leave

The accrual of sick leave at one day per month of service, the Union contends, is generally standard in schools and other governmental employment. Most school systems in the State of Michigan provide greater accumulation of days than is offered by Coloma (no accumulation is proposed) and/or a greater number of earned days annually. The Coloma teachers earn at the rate of 20 days a year, and accumulate to 60 days.

The members of this bargaining unit have not been receiving benefits equivalent to those of other Coloma school employees. This inconsistent action must be corrected if fairness is to enter the bargaining scene.

The Union proposes sick leave at the rate of one day per month with no limit and all unused accumulated sick leave days to be paid upon retirement or separation. Up to three days off with pay for death in the employee's immediate family is proposed as funeral leave.

Q. Jury Duty

The Union contends that citizens generally should serve on jury duty if called. Employees should not be financially hurt in order to carry out this citizenship function.

The following clause is suggested:

"Employees requested to appear for jury qualification or service shall receive their pay from the employer for such time lost as a result of such appearance or service, less any compensation received for such jury service, up to a period of sixty (60) days."

R. Classification and Compensation

The Union proposes the following salary schedule:

<u>Classification</u>	<u>Probationary Rate</u>	<u>Base Rate</u>
Maintenance Man	\$ 3.25	\$ 3.50
Custodian	3.10	3.35
Matron	2.75	3.00

The Union maintains that these classifications provide for realistic job duty assignments and corresponding wage payments. The grouping of all employees into one classification with one wage scale is unrealistic.

Training and upgrading programs should be planned jointly by the employer and the Union in order to provide for job progression of employees. This would lead to economy and operation efficiency.

The required hiring of outside persons to perform maintenance work might be discontinued or reduced if proper training and upgrading programs are instituted.

Wages should be related to job duties, responsibility and performance and not to classification.

All employees, except two, have been on the wage schedule for 1968-69. These two were upgraded from sweeper to custodian and received the wage rate for that position. Employees in the bargaining unit have not received any increase in their wage schedule since the 1968-69 school year (beginning July 1, 1968 through this date). Increases in cost-of-living during this period have exceeded the current wage increase proposed by the employer.

S. Scope and Waiver

It is the contention of the Union that Section 3 of this Article must be included in its original form as proposed if the intent of the parties is to be carried out. Section 3 as advocated by the Union reads:

"If any Article or Section of this Agreement or any supplement thereto should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any Article or Section should be restrained by such tribunal, the remainder of this Agreement and Supplements shall not be affected thereby and the parties shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement for such Article or Section.

T. Binding and Effective Agreement

The Union contends that in the event the employer should sell, lease, or assign the operation of a school plant to another party and the property continues to be used for educational purposes, the contract agreement would apply and become a condition of such sale, lease or assign. This provision would also provide security of jobs and benefits in the event of contracting.

The Union proposes this clause:

"This agreement shall be binding upon the parties hereto, their successors and assigns."

U. Termination, Change or Amendment

The Union desires to have the agreement in force for a period longer than one year. The Union suggests a three-year period with an annual re-opener on compensation. Annual negotiation is too expensive, the Union maintains.

POSITION OF THE BOARD

B. Classification

It is the Board's position that the term "employee" include all custodial employees of the Board. This issue is reiterated in Items B, R, and W of the request for fact finding.

Prior to June, 1969, the Board had three classifications: sweeper, matron and custodian. For many years, the Board followed the practice of laying off sweepers and matrons at the close of the school year in June and retaining only custodians for the summer months. The custodian rate was 55¢ per hour higher than the rate paid to sweepers and matrons. Several weeks later, the Board determined that additional custodians were needed for the summer. The Superintendent consulted with the Union and it was agreed that the matrons and sweepers would be recalled and placed as custodians at the custodial rate. All laid-off employees were recalled. Since this single classification system worked well, the Board continued it through the regular school year. The classifications of sweeper and matron were consequently abolished.

Maintenance work has not been generally performed by members of the bargaining unit. It has been performed by the Chief of Custodians, a supervisor, or it has been subcontracted.

With the modifications suggested by the Board during negotiations, the Board accepts the Union's job description for the classification of custodian.

C. Union Security

The Board rejects the Union's request for a union shop because it is illegal under the decision of the Employment Relations Commission entitled Oakland County Sheriff's Department and Oakland County Board of Supervisors, Case No. C66 F-63. In this decision the Commission held that the agency shop was a proper subject for collective bargaining but that all other forms of union security were illegal.

At the fact finding hearing, the Union, for the first time, suggested they might be willing to accept the agency shop. It is submitted that it is improper for the Union to so modify its position at the fact finding stage. Further, the principle of agency shop is not acceptable to the Board.

Since only 12 members of the bargaining unit out of 19 voted in favor of the Union, the Board feels that the rights of minority employees should be protected. Some of the custodians have indicated that they would terminate their employment with the system if they were forced to join the Union. The Board believes it would be harmful to these employees and to the school system if it were forced to discharge these employees.

Further, the contract with the Coloma teachers does not contain a provision for any type of union security. The Board is reluctant to give such a clause to a small unit of the system. Union security has not been a common clause in teacher contracts in the county - only five out of 11 school districts have such a clause.

Lastly, the issue of agency shop is currently before the courts. The

Board anticipates that the Michigan Supreme Court will find the principle of union security to be illegal under state law.

D. Management Rights

The Board has proposed a rather extensive management rights clause. (Appendix A)

Section 2A (3) dealing with subcontracting will be discussed in connection with Item F below. Section 2A (5) is in dispute - the Union would agree to the first two sentences of the clause, but desires to delete the remaining part. The Board maintains that the entire clause is needed to establish its right to lay off employees and to hire temporary and/or part-time employees when the need arises because of such factors as absenteeism, illness, vacation, extra work loads, etc. Section 2A (7) has been held by the Union pending agreement on the job description for custodians. Section 2A (8) has been agreed upon except for the phrase "determining the starting and quitting time." This issue will be discussed under Item K below. That part of Section 2A (10) dealing with the obligation of employees to perform work outside the job classification has not been settled. It is the Board's position that the job description as proposed by the Union, while fairly complete, may not cover every duty which a custodian may upon occasion be required to perform. Therefore, the Board feels that the language in this Section of the clause is desirable. Section 2B, C and D have not been agreed upon by the Union. No reason was given the Board by the Union at the fact finding hearing to substantiate any opposition.

E. Jurisdiction

The Union would like to prohibit persons other than custodians from performing any custodial work in the school system. In the opinion of the Board this type of inflexibility would severely handicap the operations of the district. This is a small school system and, therefore, the need for flexibility is great. The Head Custodian, the Superintendent, the principals, the teachers find it necessary on occasion to perform miscellaneous custodial work. The Future Teachers of America Association has historically been responsible for custodial work in the library. Teachers and students perform custodial work in the auto and work shops and elsewhere. The school facilities are used by local civic groups who do their own clean-up work. The Board does not feel that it could deny the use of the school facilities to local groups merely because the groups are unable financially to pay for custodial services. Finally, the Union at no time either in negotiations or during the fact finding hearing gave any example showing detriment to its membership caused by the current practices by the Board in this area.

F. Contractual Work

The Union wants to limit the right of the Board to subcontract work. This provision conflicts with Section 2A (3) of the Board's Management Rights proposal. The Board currently subcontracts many types of work such as snow removal and certain electrical and maintenance types of jobs. At the rural types of school buildings, custodial work might better

be subcontracted to a custodial concern. As new and improved equipment is developed by custodial concerns it may be more efficient for the Board to retain such a company to do some of its custodial work rather than have the work performed by outdated methods. While it is not the intent of the Board to discriminate against its custodial staff represented by the Union, the Board feels that it must retain the flexibility to operate the school system in the most efficient manner.

G. New Jobs

The Board makes a counter proposal to that of the Union, which is substantially identical to that of the Union with the exception that the Board used the term "classification" rather than "jobs". The term "classification" has been the subject of discussion in negotiations, not the term "jobs".

I. Transfer and Promotion

The Board holds that the parties had agreed upon the language in this clause prior to fact finding. It is the understanding of the Board that this language becomes irrelevant and may be eliminated from the contract if the fact finder sustains the Board's position regarding the single classification of custodian.

J. Grievance Procedure

The parties are in agreement on the grievance procedure as outlined in the proposed agreement with the exception of binding arbitration as the

final step in the procedure. It is the Board's position that the Michigan courts have not yet decided the legality of arbitration. Further, the Board of Education is an elected body responsible to the general public and cannot abdicate its fiduciary responsibility by permitting an outside party to make a binding decision which the Board as the elected body should make. The public policy of the State is that fact finding, not arbitration, is the appropriate avenue for the settlement of labor disputes.

The Board has not granted arbitration to the teachers. Even if arbitration should be held legal, the Board maintains that because this is the first contract with the Union, the Union should attempt to work with the Board in the resolution of any problems. If this proves unsuccessful, the Union can re-institute its demand for arbitration. If the Board should consider the arbitration step at some future date, the language proposed by the Union is unsatisfactory.

K. Hours and Work Week

In regard to the topic of scheduled work week, the Board proposes the following language:

"The normal workday shall consist of eight (8) hours, excluding lunch periods, and the normal workweek shall consist of forty (40) hours. However, nothing contained herein shall be construed as a guarantee of eight (8) hours of work per workday or forty (40) hours of work per week, nor as a limit on the employer's right to schedule work in excess of the normal workday or the normal workweek.

Normal work schedules shall be established by the employer at the beginning of each semester and at the beginning of the summer period. If the employer desires to make permanent changes during

these periods, it will notify the Union and will meet, upon request, to discuss the matter."

The Board submits that the above language would satisfy the Union's position, and also provide the necessary flexibility to run efficiently the custodian operations. The Union does not object to the current schedule of starting times.

Sections 2 and 3 of the Union's proposal dealt with overtime. The Board concedes that it should pay time and one-half for all hours worked over eight (8) in one day or over forty (40) in one week. It is opposed, however, to the Union's proposals regarding call-back pay, and distribution of overtime. The Board maintains that the call-back pay issue is covered by the general overtime provisions. The Union's proposals on distribution of overtime are impractical and the Union has made no claim that the Board's current practice of assigning overtime has been discriminatory or unfair to any employee.

L. Shift Differential

The Union conceded at the hearing that this demand is relatively unimportant if starting times can be settled. The Board maintains that the very nature of custodial work requires employees to begin work following the close of the school day and employees accept this when hired. A provision for shift differential would be tantamount to an additional pay raise for most employees, a subject covered in a future item.

M through R: Hospitalization Insurance; Vacations; Holidays, Sick Leave and Funeral Leave; Jury Duty; Classification and Compensation

It is the position of the Board that these items are all economic issues which must be dealt with as a single package.

The Board proposes provisions regarding wages, sick leave and funeral leave, holidays and vacations as shown in Appendices B - E.

The Board makes no proposals on hospitalization insurance or jury duty.

It is the position of the Board that its wage offer establishes its position as the area's highest paying district for custodial employees.

The assumption of the Union that vacation costs are small is not true. The custodial staff is needed for full time summer employment. If vacations are taken in the summertime, the Board must fill work requirements just as if the vacations are taken during the school year.

S. Scope and Waiver

The parties disagree on the final phrase in Section 3 (see clause under Union's position) which would obligate the parties to enter into immediate collective bargaining on any contract clause which might be declared illegal by the courts. It is the position of the Board that if a clause is declared illegal, the clause should be deleted from the contract. Inasmuch as a one-year contract is being proposed, the Union would have an opportunity to re-open at the end of the contract period.

In addition, the Board contends that its proposals on "Waiver" and "Entire Agreement" were agreed upon by the Union. While at the fact finding hearing the Union withheld agreement on the "Entire Agreement" clause, no reasons were submitted.

T. Binding and Effective Agreement

The Board cannot agree with the Union to commit a purchaser of any building, which the Board might sell, to the Union contract. The Board maintains that it is not legally or practically feasible to bind an independent third party to a collective bargaining agreement between the Board and the Union. Moreover, under the state school law, if the Coloma School District should merge with another district, it would be legally impossible for this Board to bind a consolidated Board of Education. It is possible that the two groups of custodians would be represented by different unions and a new representative election would have to be held.

U. Termination, Change or Amendment

The Board points out that prior to fact finding the Union wanted a one-year contract with an annual re-opener on economic items but changed its demand to a three-year contract at the hearing.

The Board prefers a one-year contract, on the grounds that some changes might be desirable after the parties have worked under the agreement, and the shorter period would permit quicker modification.

RECOMMENDATIONS

B. Classification

Recommendation: That a single classification of custodian be established to include all the employees in the bargaining unit.

In this relatively small school district employing only 13 employees, the breaking down of the functions of building care to several distinct and separate classifications does not seem feasible. The same individuals have been performing the tasks of matrons as well as custodians. Maintenance work has generally been done by the supervision or subcontracted. The concern of the Union that women could be discharged if unable to do custodial tasks should be noted. The Board has given assurances that women would not be asked to perform unsuitable tasks. Both parties are in agreement that no present employees would be excluded from the bargaining unit under the adoption of this single classification. With the modifications made during negotiations, the Board accepts the Union's job description for the classification of custodian.

C. Union Security

Recommendation: Neither a union nor agency shop is recommended at this time.

In the certification election, held on March 13, 1969, 19 employees voted. Twelve voted for the union and 7 voted against the union. The Union did not specify the exact number of the present staff of 13 employees

who are Union members but stated that a majority have paid fees and are in the Union.

The Union has been in existence for less than one year and is still in the process of concluding its first agreement. It has not had the opportunity to stabilize its position either with the bargaining unit or with the Board. More time is needed by the Union to establish itself as the effective representative of the bargaining unit. When the Union has had the time and the opportunity to validate its position with the employees whom it represents then the situation should be reassessed.

D. Management Rights

Recommendation: That all clauses in the Management Rights (Board's Rights) Article be adopted except the following which should be deleted:

Section 2A(3) - Covered by Item F

Section 2A(7) - Covered by other clauses, particularly Item B

Section 2A(10) - Largely covered by proposed single classification

Section 2D - Any disagreement that is connected with the interpretation of any part of the Agreement should be subject to the grievance procedure

E. Jurisdiction

Recommendation: That the clause on Jurisdiction as proposed by the Union be adopted.

This does not prevent the Chief Custodian from doing work which he has customarily done, or the Superintendent or others from doing occasional

or miscellaneous jobs, or civic groups (who are not "employees") from performing their own clean-up work.

F. Contractual Work

Recommendation: That the clause on Contractual Work as proposed by the Union be adopted.

This is a general clause that permits the Board to subcontract work but protects the jobs of the bargaining unit. The Board should have the right to contract out work provided such action does not result in layoffs or a reduction in wages or other benefits. The Board states that this has not been a problem and that employment has not been taken away.

G. New Jobs

Recommendation: That the term "classification" be substituted for the word "jobs" in the clause proposed by the Union.

I. Transfers and Promotional Procedure

Recommendation: That this clause be made consistent with the recommendation to have a single classification of custodian.

J. Grievance Procedure

Recommendation: Arbitration is recommended as the final step in the grievance procedure.

One of the main purposes of a grievance procedure is to provide a process whereby an employee who has a grievance can receive a fair hearing. The Board and the Union have already agreed on a grievance

procedure involving several steps. It is a good procedure. Adding arbitration as the final step will improve it. Most disputes will be settled on the lower steps, but in those few cases where the parties have tried unsuccessfully to settle the dispute by discussions between representatives of the Board and the Union at various levels, the matter should be submitted to an outside, neutral party for settlement. Over 90% of present agreements in the United States provide for arbitration as the final step. Some school districts in Michigan already have incorporated arbitration in their agreements. The grievant can only receive a fair hearing of his case by a disinterested party. No representative of either of the involved parties is in a position to render an impartial decision. The Board of Education is the employer and as such has a direct interest in the dispute. When the parties agree to have arbitration as the final step in the grievance procedure neither party is relinquishing its authority. The arbitrator has no authority to add to, subtract from, or modify any provisions of the Agreement. His authority is limited solely to the interpretation and application of the specific provisions contained in the Agreement. When the parties cannot reach a decision themselves, arbitration is a better alternative than any other course that might be taken.

K. Hours and Work Week

Recommendation: That the normal work day consist of eight hours, excluding lunch periods, and that the normal work week shall consist of forty hours. That the schedule for each employee be established by the Board. That the Board give notice of any changes in these schedules to the Union and that the two parties agree on the changes.

The Board is to pay time and a half for all hours worked over eight in one day or over forty in one week. Call-back pay is not recommended. That overtime be distributed as equally as possible provided the employees are qualified to do the assigned job.

L. Shift Differential

Recommendation: That no shift differential be paid.

The Union stated at the hearing that if regular starting times can be agreed upon then shift differentials are unnecessary.

M. Hospitalization Insurance

Recommendation: That beginning with July 1, 1970, the Board shall pay \$6.00 per month toward hospitalization insurance.

This is quite a modest contribution toward a plan which is quite widely accepted. Several school districts in the area already are paying more than this amount to their custodial staff and the Coloma teachers are now receiving a subsidy of \$12.00 per month.

N. Vacations

Recommendation: All twelve-month employees who have completed one year of service shall receive two weeks of vacation, and after ten years of service shall receive three weeks.

There should be at least some relation between the length of service and the vacation schedule.

O. Holidays

Recommendation: That the following holidays be paid holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, Christmas.

P. Sick Leave and Funeral Leave

Recommendation: Sick leave shall accrue at the rate of one day a month to a total of 12 days per year non-accumulative. Funeral leave shall be granted up to three working days with pay for a death in the employee's immediate family.

This schedule is consistent with most school districts in the area.

Q. Jury Duty

Recommendation: That employees required to perform jury duty should be paid for time lost less any compensation received for such service up to a period of thirty days.

About half of the school districts in the area make provision for this service. It is a benefit enjoyed by State employees. Employees should not lose pay because they are required to perform this public duty.

R. Classification and Compensation

Recommendation: That compensation be paid to the classification of custodians ranging from a beginning rate of \$2.80 to \$3.25 in five steps.

This represents an increase of approximately 9% over the 1968-69 schedule and compares quite favorably with other rates for custodians in the area.

S. Scope and Waiver

Recommendation: That the last phrase of Section 3 of Article XXII as originally proposed be retained. The phrase reads: ". . . and the parties shall enter into immediate collective bargaining negotiation for the purpose of arriving at a mutually satisfactory replacement for such Article or Section. "

A clause which is held invalid by law or the courts should, of course, be deleted. Such a clause, however, should be replaced as soon as possible with one which is mutually acceptable.

T. Binding and Effective Agreement

Recommendation: That this clause be omitted from the Agreement.

It does not appear feasible to bind another School District to the Agreement between the present Board and Union. In case of such a merger, however, all should be done to protect the positions of the present employees.

U. Termination, Change or Amendment

Recommendation: That the Agreement be in force until June 30, 1971, subject to be re-opened on July 1, 1970 in regard to economic clauses.

I agree with the Union that annual negotiation is too expensive, but I also agree with the Board that a shorter period than three years will permit the parties to test some of the provisions and make modifications if necessary.

March 7, 1970
Kalamazoo, Michigan

Robert S. Bowers
Robert S. Bowers, Fact Finder

APPENDIX A

BOARD RIGHTS

Section 1. The Board retains all the rights, powers, functions, and authority which it had prior to the signing of this Agreement, including those with respect to wages, hours, and working conditions, except as those rights, powers, functions, or authority are expressly and specifically abridged, modified, or limited by this Agreement and then only to the extent so specifically and expressly abridged, modified, or limited.

Section 2. Except as otherwise provided in this Agreement:

- A. Nothing in this Agreement shall be construed to limit in any way the Board's sole right to manage its operations and school system efficiently and economically, including the right to:
1. Decide the quantity and quality of services to be rendered, the methods of performing such services, the scheduling of services, the control of the materials, tools, and equipment to be used, discontinuance of any material or method of performance.
 2. Introduce new equipment, machinery, or processes, change or eliminate existing equipment, machinery and processes and institute technological changes, decide on the nature of materials, supplies, equipment, tools, or machinery to be bought, made, or used and price to be paid.
 3. Subcontract or purchase any or all work or processes, maintenance and repair work, school services, or the construction of new facilities and the improvement of existing facilities.
 4. Determine the number, location, and types of schools and buildings, discontinue temporarily or permanently, in whole or in part, any of the Board's operations, sell or close buildings, move schools and buildings operated by the Board from one location to another.
 5. Determine the size of the work force and increase or decrease its size, to hire, assign, and lay off employees, reduce the workweek or the workday or to effect reductions in hours worked by combining layoffs and reductions in the workweek or the workday, hire part-time employees, substitute employees, or hire temporary employees.

6. Permit persons employed by the manufacturer of equipment used in the district to set up, construct, and service equipment and to perform work in connection with the installation or service of such equipment.
 7. Direct the work force, assign work, determine the number of employees assigned to any operation and the number of operations assigned to any employee, establish, change, combine, or discontinue jobs, prescribe and assign job duties and content.
 8. Determine lunch, rest periods, and clean-up times, determine the starting and quitting time and the number of hours to be worked, establish work schedules as conditions and available work require, fix efficient work schedules, and assign employees to work overtime in excess of their usual shift schedules.
 9. Discipline and discharge for cause, adopt, revise, and enforce working rules, maintain order and efficiency, fix the standards of workmanship both as to quality and quantity, test, investigate, and improve individual and unit productivity and initiate and carry out cost and general improvement programs.
 10. Transfer, promote, and demote employees from one classification, department, or shift to another on a temporary or permanent basis, select employees for promotion or transfer to supervisory or other positions outside the bargaining unit, require employees to perform work outside their assigned job classification when such assignment is, in the management's judgment, advisable regardless of the availability of work in their regular classifications, give special training to selected employees.
- B. Nothing in this Agreement shall limit in any way the right of supervisors and/or work leaders to perform bargaining unit work.
- C. The listing of specific rights in this Agreement is not intended to be nor shall be restrictive of or a waiver of the rights of management not listed and specifically surrendered herein whether or not such rights have been exercised in the past.
- D. The management rights clauses shall not be subject to the grievance procedure.

APPENDIX B
SALARY SCHEDULE

Custodians:	1968-69 Rate	1969-70 Rate
0 Years experience	\$2.55	\$2.80
1 " "	2.66	2.91
2 " "	2.77	3.02
3 " "	2.88	3.13
4 " "	3.00	3.25

APPENDIX C
SICK LEAVE AND FUNERAL LEAVE

Section 1.

Each 12 month, 8 hour day employee covered by this Agreement will be entitled to sick leave of ten (10) days per year non-accumulative earned at the rate of one day per month.

Section 2.

Sick leave shall be granted to an employee when he is incapacitated from the performance of his duties by sickness or injury provided that the employee immediately notifies the employer.

Section 3.

A. All employees shall be granted up to three (3) working days off with pay for a death in the employee's immediate family. The immediate family shall be construed to mean spouse, parents, parents-in-law, brother, sister or children of employee.

APPENDIX D
HOLIDAYS

All twelve (12) month, 8 hour per day employee covered by this Agreement will receive from the employer pay for 8 hours for the following holidays, even though no work is performed by the employee: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, Christmas.

To be eligible for holiday pay an employee must work the last scheduled work day prior to the holiday and the next scheduled working day following the holiday.

- APPENDIX E

VACATIONS

All 12-month, 8 hour per day employees covered by this Agreement who have completed one (1) year of service shall receive two (2) weeks vacation with pay.

To be eligible for a vacation, an employee must have worked eighty per cent (80%) of his regularly scheduled working hours.

Employees terminating employment or on a leave of absence shall receive prorate vacation allowance based upon 1/12 of the vacation pay for each month or major fraction thereof between his anniversary date and his termination date provided employees have completed no less than one year of employment.

The employer reserves the right to designate when vacation will be taken.