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Michigan State University
LABOR AND INDUSTRIAL
RELATIONS COMMISSION

STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

In re Fact Finding:
DETROIT PUBLIC SCHOOLS
and
DETROIT FEDERATION OF TEACHERS

Case No. D79 A-249

Maurice Kelman

FACT FINDER'S REPORT

Appearances:

For the Employer: Elliott S. Hall, Attorney
For the Union: Theodore Sachs, Attorney

The Detroit Board of Education has petitioned for state fact finding in connection with "the issue of new teachers maintaining residency as a condition of employment. . . .". Appointed fact finder for the case by the Michigan Employment Relations Commission on January 16, 1981, the undersigned conducted hearings on May 19, 20, 22, and 26.

Testimony was received from the following persons, called as Board witnesses:

Detroit Public Schools

Clara Rutherford, member of the central Detroit
Board of Education

Dr. William Thomas, Board employee in charge of
administrative statistics

Lenora Thomas, Director of Office of Labor Affairs
for Detroit public schools

Nadine Brown, reporter and columnist for the
Michigan Chronicle

Dr. Jesse Goodwin, Chairman of education committee
of NAACP

Walter Douglas, President of New Detroit Inc.

Helen Moore, spokesperson for Black Parents for
Quality Education

George Bell, President of Detroit Board of Education

Dr. Robert Newby, Assistant Professor of Sociology,
Wayne State University

The Detroit Federation of Teachers presented testimony by:

John Elliott, President of Detroit Federation of
Teachers

Dwight Hamilton, Detroit teacher

Clyde Lewers, Detroit teacher

The parties also submitted a number of documentary
exhibits,^{1/} which the fact finder has found quite helpful in
the preparation of this report.

Background of the dispute

Whether Detroit teachers should be compelled to live within the school district, which is geographically coterminous with the City of Detroit, has been a much mooted issue for the past decade. The Detroit Federation of Teachers (DFT) has never assented to a residency restriction of any kind. The Board of Education nevertheless imposed a partial residency requirement in 1974 and again in 1978. The 1974 Board resolution provided:

"All employees in all classifications must be residents of the School District of the City of Detroit at the time of promotion and at the time of hire, except that new hires in shortage areas, may be hired on a temporary basis while non-residents."

Accusing the Board of violating its statutory duty to bargain the matter collectively, the DFT instituted an unfair labor practice proceeding. The case culminated in a decision by the Michigan Court of Appeals, Detroit Fed'n of Teachers v. Detroit Board of Education, 65 Mich. App. 182 (1975), 1v. denied, 396, Mich. 871 (1976), in which the court invoked the distinction between a "continuing condition of employment" and a "recruiting requirement" that affects the decision to hire but "ceases to exist once a job applicant is hired."^{2/} Detroit residence as a prerequisite for promotion was held to be in the first category and thus a mandatory subject for collective bargaining. On the other hand, the Board's requirement of city residence "at the time of hire" was deemed a recruiting requirement which the employer was free to impose without collective bargaining.

In 1978 the Board adopted another resolution:

"All new employees must be residents of the City of Detroit effective immediately. Details of the requirements can be worked out later."

This again provoked legal challenges by the DFT, which viewed the resolution, in the manner of its implementation by school district administrators, as going beyond a mere "recruiting requirement."^{3/} However, the issue merged into the 1979 negotiations for a new master agreement for teachers. In those negotiations the Board sought to introduce this language into the contract:

"Effective _____, all members new to the bargaining unit must establish and maintain residency within the limits of the City of Detroit as a condition of employment. The Board reserves the right to exempt from this provision individuals hired to serve in critical and shortage areas. If promoted, bargaining unit members are governed by the contract of the applicable bargaining unit."

Similar language had already been accepted or later would be agreed to by the seventeen non-DFT bargaining units (which, altogether, comprise half the total work force of the school system). But the Federation rejected the proposal and after a protracted strike the parties concluded a new three-year agreement (1979-1982), containing this statement on the subject of residency, Article XIII, Section H (page 37):

"No employee shall be required to be a resident of the City of Detroit as a condition of employment in this bargaining unit or as a condition to apply for and be placed on the eligibility list

for promotions into another bargaining unit, provided that if promoted the employee is governed by the contract of the applicable bargaining unit."4/

The new provision in effect codified the status quo. Nevertheless the issue was not settled completely, for it was understood that the Board's rejected proposal on teacher residency would be referred to the Michigan Employment Relations Commission for impartial fact finding.^{5/} The question in this case, then, is the advisability of requiring teachers to maintain residence in Detroit for the duration of their employment, with a "grandfather's" exemption of the present teaching staff from the requirement. The Board's recruitment requirements, including its policy of restricting the hiring of new teachers, whenever feasible, to applicants who already live in the City of Detroit, are not affected by the collective bargaining agreement or this fact finding procedure.

The Board's arguments for teacher residency can be reduced to two principal claims: (1) teachers who live in the school district are, by and large, better teachers, and (2) required residency is justified because it produces added tax revenue for the city and the school district. This report will address those arguments in turn.

The better teacher rationale

All of the Board's "community witnesses,"^{6/} as well as Board member Clara Rutherford and sociologist Robert Newby, expressed the opinion that teachers who live in the city, as a group, are more interested in their students and better able to communicate with and inspire them. Stated in reverse, the contention is that teachers who prefer to live outside the geographical boundaries of the school district are weaker or less dedicated educators.

Mr. Walter Douglas (President of New Detroit Inc.)^{7/} spoke of a "disparity of feelings and attitudes" based on one's choice of residence. A suburbanite, he believes, is more likely than a Detroiter to be an "apathetic or insensitive" teacher. Mr. Douglas, as well as Mrs. Rutherford and reporter-columnist Nadine Brown, pointed to an anti-Detroit animus in the surrounding localities, an attitude tinged with racial disdain. Dr. Newby referred to the non-resident's lower "level of commitment" and characterized residence within the city by middle-class and professional persons as "a statement" on their part, a tangible expression of hope for the city and solidarity with its inhabitants.

Dr. Newby also alluded to the reciprocal attitudes of parents and students toward the educational system. He maintains that the people of a community are more cooperative with institutions they regard as their own than with those which are

perceived to be colonial. In major cities with large minority populations, the school system long has suffered the image, together with the police and the social service agencies, of an exogenous force -- at worst hostile, at best patronizing, but always an alien presence. Dr. Newby supports the residency requirement as a logical way to restore the "legitimacy" of the school system within the community it serves.

Echoing Professor Newby's analysis was the testimony of George Bell, whose sense of the community has been sharpened through his activities as an elected official (he is chairman of the Wayne County Community College Board of Trustees as well as President of the Detroit Board of Education). Mr. Bell acknowledges that he does not know whether it is objectively true or false to charge nonresident teachers with diminished concern for students, but he is positive that such an opinion is widely held among his Detroit constituents.

The Federation takes particularly strong exception to arguments disparaging the motivation or professional effectiveness of the 35 percent of the teaching staff who have chosen to live outside the City of Detroit. Invidious comparisons based on nothing more than a teacher's choice of residence are, in the union's view, a canard that borders on libel.

After reviewing all the testimony and arguments, this fact finder concludes that the Board's case -- insofar as it is based on the the thesis that resident teachers are better educators than their non-resident colleagues -- is unproved in fact and deficient in logic.

Professor Newby, the Board's only expert witness, conceded that his opinions were not derived from any empirical data (his own or that of any other social scientist), and he knows of no scholarly literature in his discipline of sociology or in any other discipline, purporting to correlate a teacher's home address to the quality of classroom teaching or learning. Nor is this to ask the impossible, for while teaching is an activity that resists quantification, one could look for the telltale spoor of mediocre job performance in such objective facts as higher rates of absenteeism among non-resident teachers. But no evidence of that sort exists; at least none was produced by the Board.

Also Dr. Newby failed to address the downside effect of imposing a local residence requirement on persons who prefer to live elsewhere. If it is true that a voluntary resident of the city is "making a statement," can the same possibly be said of a conscripted resident? Would such a teacher have or acquire the added enthusiasm and sensitivity which the professor thinks are attributes of city residence, or would the loss of personal

freedom be a demoralizing element in the teacher's work? In the last analysis I think that Dr. Newby's testimony does not stand on a different footing from the testimony of the Board's "community" witnesses. What was presented to the fact finder was not proof in the strict sense but personal weltansicht.

That in itself does not mean that the Board's case is bankrupt, for it may be granted that truths are not always empirically demonstrable. Important decisions are made every day without the benefit or even the possibility of scientifically testable facts. We may know a thing to be true although we cannot prove it in a court of law (or a fact finding hearing). But I do not place the Board's insulting generalizations about non-resident teachers in the category of homely, self-evident truth.

A teacher's certification, once issued by the State of Michigan, has statewide validity and attests to all school districts that the teacher is qualified. Individual school districts enjoy a considerable degree of autonomy, but they are subdivisions created by state law. The Detroit Board of Education itself laid great emphasis on the artificiality of district lines when it joined the NAACP a few years ago in urging the federal court to adopt a metropolitan school desegregation plan -- a plan embracing 53 other school districts.^{8/} It was not the Board's belief then that an educational injury would be inflicted on Detroit students by

delivering them to suburban schools for instruction by teachers who, with few exceptions, do not live in the City of Detroit.

It is also the case that a single district may encompass within its political boundaries a heterogeneous population and many distinctly different neighborhoods. Certainly that is descriptive of the Detroit school district. Dr. Newby cited ethnic diversity and widely variant income levels as features, indeed as the key definitional element, of an "urban area" in contrast to the racial and economic sameness which typifies a "suburb." The residence requirement as proposed by the Board only obligates future teachers to live somewhere -- anywhere -- within the City of Detroit. That requirement is too unrefined to produce an integration of teachers into all or many of the communities in which students live. On the Board's own sociological premises, it is fair to ask: what special rapport with students from impoverished households in the inner city can be imputed to a teacher who lives in comfortable housing at the outer edge of the city? And what virtue as an urban educator does that teacher possess which another teacher, living a few blocks across the city line, should be presumed to lack?

The two teachers called as Federation witnesses personify the crudeness of residency categories. Clyde Lewers lives in northwest Detroit, in the Schaefer-Six Mile area. He teaches at the Lilybridge elementary school on the southeast side of the city, a school that serves a low-income community. Mr. Lewers' cross town travel time is on the order of thirty to

forty minutes. By contrast, Dwight Hamilton is a teacher who lives in Oak Park and has only an eight minute drive to his school, the Coffey middle school, which is located in a neighborhood demographically comparable to his own.

On these facts, can it seriously be argued that the "suburbanite" labors under greater handicaps, geographical or psychological? Of course heteroclitics always can be produced to show the imperfections of general categories, but Mr. Lewers and Mr. Hamilton are not extreme or atypical examples. For the most part, the teachers who live outside Detroit are residents of the older and closer suburbs. As for the teachers within the city, the Board concedes that those teachers -- and the others who would hereafter be required to stay in Detroit pursuant to the Board's proposal -- tend to cluster in a few middle class neighborhoods, principally in the northwest section. There is, then, a large element of fiction in the claim that the teachers who reside in "Detroit" are involved in the lives of their students in ways that distinguish them from and make them more valuable than their faculty colleagues whose homes are in the metropolitan area but beyond the political boundaries of Detroit.

One further observation is in order. If a teacher's place of residence makes a difference to the quality of service rendered to the employing school system, one wonders why the ninety or so other school districts in the tri-county region

have not seen fit to compel residency within their districts^{9/}
or why, apart from Detroit, only three of the 25 largest school
systems in the United States have subjected teachers to any
sort of residency restrictions.^{10/}

Residency and race

In developing the more-effective-teacher argument, the Board's counsel attempted to put aside all racial considerations. His argument was that teachers of either race who live in Detroit will work harder and, on the whole, be more successful educators of Detroit children than teachers who live outside the city.

But the Board's witnesses were less able or inclined to dissociate residency from race. It was apparent that when Mrs. Rutherford or Mrs. Moore (representing Black Parents for Quality Education) or Mr. Douglas spoke of attitudinal differences between Detroiters and suburbanites, they were referring to white suburban residents and ascribing to them feelings of antipathy toward black people. Mr. Douglas, for example, who spoke feelingly on the subject of suburban racism, declined the invitation of DFT counsel to compare the empathetic qualities of (A) a black teacher living in Oak Park who teaches at a school in northwest Detroit (i.e., such a teacher as Dwight Hamilton), and (B) a hypothetical white teacher who lives on the far edge of the city and teaches at an inner-city school. Dr. Newby also side stepped a similar question. But the question strikes the fact finder not only as legitimate but as a fair

test of the Board's position. If one says that (A) is the superior teacher, then the determinant is, after all, the teacher's race rather than his place of residence. Residency would be pertinent only as a rough surrogate for race (too rough, however, to do service in the case of a black suburbanite). However, to say that teacher (B) is generically the better equipped teacher is to give the single fact of residence in any part of the city transcendancy over all other commonalities between teacher and pupils -- racial, cultural, and economic; and that strains the sociological imagination to the breaking point.

A somewhat different connection between race and city residency was drawn by three of the Board's witnesses. Nadine Brown stated that she sees a Detroit residency requirement as opening up more jobs for black teachers. In her opinion it "doesn't make sense in a city that is predominantly black for white suburbanites coming in and taking the money home." Board member Rutherford voiced the hope that the residency proposal would bring the racial composition of the faculty (at present 55% black, 43.4% white, and 1.6% "other") into closer alignment with the racial makeup of the student body (now 86% black). And Mrs. Helen Moore listed as one of her reasons for urging a residency requirement a strategy of retaliation or negative reciprocity to counter what she claims is employment discrimination practiced by suburban school districts against Detroit-resident black teachers.

Whatever the merits or demerits of these arguments (and the DFT takes issue with them all on legal, factual, and ethical grounds)^{11/} there is a presupposition that the residency proposal, if implemented, would markedly lower the proportion of white teachers hired in the future. But in his closing remarks counsel for the Board made a point of denying that the proposal would upset the current racial balance of the teaching staff. On the contrary, he submitted that it would have the wholesome effect of drawing more white professionals back into the city and therefore should be considered an integrationist measure and not an exercise in racial exclusion.

The Board's residency proposal acquires a clearer racial focus when put in the context of hiring patterns since the mid-1970s. Statistics of interest are these:^{12/} of 3,379 teachers hired since 1976, 59.4% were black, 38.6% white; and of black teachers joining the system since 1978 (when the Board redeclared its policy of city residence as a recruiting requirement), 8% were non-residents while half the newly hired teachers lived outside Detroit.^{13/} From this data one can see that the absence of a requirement of continuing city residence has not caused white hiring to eclipse the recruitment of black teachers. Indeed, the Board seems to have found it expedient to waive even the lesser recruiting condition of initial residence in Detroit in the interest either of keeping a racially balanced staff or of securing enough qualified new teachers to maintain necessary staffing levels.

If the Board's proposal is seen, nonetheless, as somehow promoting job opportunities for blacks at the expense of whites, then there is another side to consider: i.e., the personal impact on black teachers or applicants for teaching positions. We are informed that as of June 1980, 65 percent of the 11,298 employees in the DFT bargaining unit^{14/} were living in Detroit. Since the Board has not subdivided the figures by race, it is not known how many of the 7,302 city residents are white or how many of the 3,996 non-residents are black, although it certainly is reasonable to suppose that at present there are many more white teachers than black teachers living outside of the city.

Nevertheless, the 1980 census reveals an accelerating movement of racial minorities from central city to suburbs, and suggestive in this connection are the Board's figures showing concentrations of Detroit teachers living in Oak Park (229) and Southfield (590) -- communities with substantial and growing black populations (12 per cent and 9.2 per cent respectively, according to the preliminary federal census report).^{15/} One does not need much foresight to project that black teachers will increasingly feel the pinch of the Board's proposal, since they comprise and presumably will continue to account for the largest group of new hires and since more of them may wish to live outside Detroit than has been the case heretofore.

Dwight Hamilton, a black teacher who moved from Detroit to Oak Park in 1977, finds it painfully ironic that black employees are here asked to surrender a freedom which was won only after long and bitter struggle -- the legal right to live where one pleases and wherever one's means allow. As a man who marched with Dr. King in the 1960s, Mr. Hamilton looks at the residency restriction from a civil rights perspective and sees it as "a giant step back." For him, it is altogether fitting that the concept of compulsory residence within the city is opposed by the teacher's union -- headed by a black president, with an executive board that boasts a black majority, and representing a rank-and-file membership more than half of whom are black.

Teachers as local taxpayers

There is another major argument for teacher residency, one which does not depend on any special relationship between home address and the caliber of job performance. The argument has broad application to all employees of the school system, whatever their job classification. It is, simply, that the resident employee pays more local taxes and so contributes more than the commuter to the financing of public services in the city and its geographical alter ego, the Detroit school district.

The Detroit city income tax rate for many years has been set at 2 per cent for residents and 0.5 per cent for nonresidents who work in the city. Recent legislation, partially implemented by a voter referendum held in June, has paved the way for an increase to 3 per cent for residents and 1.5 per cent for non-

residents. The school district's own local revenue source is the property tax, paid directly by Detroit home owners and indirectly by Detroit renters. Although no specific dollar amounts were cited, the additional municipal tax revenue that a residency requirement would produce is not negligible, and in the Board's view that is reason enough for the proposal. In fact, Board counsel ranks the tax-revenue argument ahead of all the other possible rationales for compulsory city residency.

The DFT responds by pointing out that teachers are employed by the school district, not the municipality. Unlike city employees, they do not underwrite their own salaries by paying a resident city income tax. And while it is true that teachers, as Detroit residents, are a source of school taxes, it is less clear that forced residence would appreciably increase the Board's total property tax collections. It is possible that home purchases by newly hired teachers who would be subject to the residency requirement would simply make it easier for the sellers to quit the city, netting the school treasury no real gain in tax receipts. The Federation also notes that more than two-thirds of the Detroit school system's funds come from state and federal sources, to which suburban residents contribute a full share.

The Board counters that what is good for city government is good for the school district. Not only does the city furnish vital services to the schools -- services such as police and fire protection -- but the level of municipal services affects the general quality of city life and influences, for better or

worse, the conditions under which teachers teach and students learn. Required residence also makes more teachers into local electors, and their votes -- which one assumes would be in favor of school bonding and millage proposals -- may be decisive in close elections.^{16/}

The tax-paying argument, to be sure, has more merit than the claim that city residents are intrinsically better teachers of city students. But there are adverse effects that result from compelling employees to live in the city, and these have to be weighed against the incremental gains to the public fisc.

One cost to be considered is the teacher's loss of personal liberty -- an intangible, but something felt with special acuteness by black teachers, as discussed previously in this report. There is undoubtedly a surface appeal to the contention that public employees ought to be willing to live in the political jurisdiction which pays their salaries -- especially when the jurisdiction is as fiscally distressed as Detroit. But there is a solid rejoinder: "If employees are presumed to perform work that justifies the cost of their salaries, then the city loses none of its resources by employing nonresidents."^{17/} The more-tax-revenue rationale is not unlike a suggestion that employees of the Ford Motor Company should be required by their collective bargaining agreements to buy only Ford automobiles. Certainly it would help the company's financial position if workers purchased the product they made,

and there might be good independent reasons for buying a Ford -- in this connection it is worth remembering that 65% of Detroit teachers have "bought a Ford" by their free decision to live in the city -- but it is the factor of compulsion that is unacceptable.

Perhaps the foremost disadvantage of the Board's proposal is its tendency to restrict the future pool of applicants for teaching positions. To say this is not to disparage Detroiters but only to suggest that any hiring restriction which is not job related necessarily narrows the field of talent available to the employer, and is a kind of self-inflicted wound. Of course it is true that public education is distinctly a buyer's market at present, a market in which the applicants for tenure-track positions greatly outnumber the available openings (with important exceptions in some specialties such as mathematics and bilingual education). But that does not mean that the very best teaching talent is or will always be available to the Detroit system on its own terms. If market conditions improve for new teachers -- and these things tend to be cyclical -- a residence requirement could cause more of the excellent prospects to look elsewhere. A school district that has trouble maintaining competitive salaries and reasonable class sizes does not need to make a career in the school system even less appealing to the next generation of teachers.

Conclusion and recommendation

The residency issue is, for the moment, something of a hypothetical exercise. In light of the recently announced layoffs of more than 300 fulltime teachers in Detroit, there will not be very many newcomers in the near term to whom the residency restriction could be applied. But for the Board and the Federation the issue remains an active source of disagreement and, as such, is ripe for the fact finding process. That both sides take the matter with great seriousness was apparent in the thoroughness and excellence of the opposing presentations by Mr. Hall and Mr. Sachs.

The most intractable labor disputes are those in which each side perceives a competing principle to be at stake -- a principle that cannot be abandoned or compromised. The residency controversy has that quality about it; Mr. Hall labels the Board's position a matter of "survival management," while Mr. Sachs sees it as a "company store" intrusion into the personal lives of teachers.

But I believe there is an overarching principle to which all parties subscribe: the importance of providing Detroit students the best possible education. That principle should be the solvent for this and all other controversies. I am satisfied that the Board's proposal does not promote educational quality and does not exact from employees something to which the employer or the taxpaying public has a clear moral claim. I think its effect, certainly in the long run, would be to

to deny the school district the services of some superlatively talented teachers.

I do not profess to know how broad or how intense is the community support for the proposed residency requirement. (The Board representatives say that sentiment in favor is both widespread and strong; the DFT says the proposal is the hobby horse of a small but noisy faction). What matters is the merit of the proposal, not the zeal with which it is pressed or opposed. If it retards rather than advances the cause of quality education, then it should be rejected no matter how much political acrimony may ensue. And no amount of fiscal benefit to the city's coffers can validate a school district policy that is not desirable in educational terms.

My recommendation is that the Board withdraw its proposal on residency and accept as better serving the common goal of sound education the status quo as expressed in Article XIII, Section H of the 1979 collective bargaining agreement with the DFT.

Maurice Kelman

MAURICE KELMAN
Fact Finder

Dated: July 29, 1981
Detroit, Michigan

FOOTNOTES

1. Two were post-hearing exhibits, received on June 23 and July 2, 1981.

2. The Michigan Supreme Court had previously explained the distinction in Detroit Police Officers Ass'n v. Detroit, 391 Mich. 44, 61 (1974):

"A recruiting requirement, whether it is age, mental competency, physical characteristics or residency, focuses on that point in time at which a candidate for employment is hired. At that moment the new recruit must meet established standards. Once an applicant has met these standards and has been hired as an employee, the 'recruiting requirements' as such do not continue to regulate his or her right to hold the job. Employment standards are, of course, lawful, but they must be treated as a term and condition of employment."

3. Job applicants were asked to sign a Board-prepared "residency policy affidavit" promising "to establish residency in the City of Detroit within ___ days of my official hire." After the matter was taken to court, the Board withdrew the affidavit.

4. The last phrase means that a teacher who is promoted to an administrative position becomes subject to the residency requirement spelled out in Art. 16.0(1) of the OSAS agreement (Organization of School Administrators and Supervisors):

"Employees within all OSAS unit classifications must establish and maintain residency within the limits of the City of Detroit in order to be eligible for a promotion or in order to retain promotion upon entry into the unit. . . ."

5. MCLA §423.25 provides for fact finding when "it shall become apparent to the commission that matters in disagreement between the parties might be more readily settled if the facts involved in the disagreement were determined [by a commission-appointed fact finder] and publicly known. * * * The findings shall not be binding upon the parties but shall be made public."

6. In closing remarks, Board counsel classified his witnesses into four groups: (1) policy makers (Board members Bell and Rutherford), (2) school administration (Lenora Thomas), (3) community representatives (Nadine Brown, Helen Moore, Walter Douglas, Jesse Goodwin), and (4) academic expert (Professor Newby).

7. Mr. Douglas made it clear that he was speaking for himself and not for New Detroit Inc., which has taken no organizational position on the subject.

8. In its brief to the United States Supreme Court in Milliken v. Bradley, 418 U.S. 717 (1974), the Board make these statements:

"It is a simple fact that Detroit is only a part of the larger relevant metropolitan community. Whether one's index is subjective perception or objective indicia, the community that is centered in Detroit includes at least parts of Wayne, Oakland, and Macomb counties, which comprise the proposed metropolitan desegregation area.

"The tri-county metropolitan area has been labeled, by the Bureau of the Census, as a Standard Metropolitan Statistical Area largely on the basis of the high degree of interaction among the populus [sic] of the three counties." (p. 92 of Brief, entered as Union Ex. 7 in the fact finding proceeding)

"There is no record-evidence on which to base an assumption that the perception of the community felt by a black child in Detroit is limited by the irregular boundaries of the Detroit school system. On the contrary, it is obvious in a community that is so inter-related between city and suburbs that the child would be wondering why his school does not reflect the total racial composition of the metropolitan community." Id., p. 94.

9. According to the Union's Ex. 2, an analysis of tri-county teacher contracts, only Ecorse has a residency requirement and it is applicable to "aides."

10. The union's post-hearing exhibit, prepared at the request of the fact finder, reports no residency restrictions for teachers in New York City, Los Angeles, Philadelphia, Houston, Baltimore, Dallas, San Diego, or Cleveland (among others). The three exceptions are Chicago (which, effective September 1980, requires new employees to live in the city and current employees already living in the city to remain there, but does not affect current non-resident employees); Washington, D.C. (which adopted an ordinance in 1979 requiring municipal employees, including teachers, to live in the District -- giving non-residents 180 days to move into the city); and Milwaukee (which, since 1978, has required new teachers to live in the city).

11. As the Federation points out, the contract pledges the parties "to provide quality integrated education" (Art. III, p. 5), to "further staff integration at all levels and in all sections of the city" (Art. III(B), p. 6), and, through the Balanced Staff Concept, to assure that "pupils shall have experiences with teachers and administrators of different races" (Art. XII(A), p. 23). Similar requirements were incorporated into the federal court's desegregation plan. The Sixth Circuit Court of Appeals described faculty reassignment as a means of "provid[ing] these children with the maximum desegregative experience possible under the circumstances." Bradley v. Milliken, 540 F.2d 229, 247 (6th Cir. 1976). And in the last reported district court opinion in Bradley, Judge DeMascio wrote:

"We reject the rigid concept that students would receive a desegregated experience in a school with 90% black faculty simply because the faculty was 90% system wide. A faculty is desegregated only when there is adequate opportunity for students to interact with teachers of both races and teacher assignments are made on a racially neutral basis." 460 F. Supp. 299, 314-315 (E.D. Mich. 1978).

The faculty assignment formula currently in force provides that no more than sixty percent of the teachers at any school should be of the same race.

12. The cited figures were extrapolated from the Board's post-hearing exhibit, prepared at the fact finder's request.

13. What is not clear from the source exhibit is whether the hiring statistics are confined to new fulltime, permanent positions, or include other classifications within the bargaining unit (see note 14, infra).

14. In addition to all elementary and secondary teachers, the DFT unit includes a variety of other classifications: among them, counselors, attendance officers, librarians, speech therapists, and two groups of substitute teachers -- "emergency substitutes" and "emergency substitutes in regular positions."

15. See Detroit Free Press, June 1, 1981.

16. An argument the Board no longer presses is that resident employees strengthen the local economy by patronizing businesses within the city. Since most resident teachers are not far from suburban shopping opportunities and do not depend on public transportation, much of their spending takes place outside the city -- a phenomenon documented by Union Ex. 6 (the Scarborough Report for 1978, showing inter alia that 41.5% of adult shoppers at Northland were Detroit residents) and ruefully conceded by Board counsel.

One of the Board's secondary arguments is that the proposal would merely place teachers on an equal footing with the other seventeen employee units in the Detroit school district which have all yielded to a similar residency restriction for new hires. The DFT's rejoinder is that as the dominant unit, accounting for more than 11,000 of the Board's 22,000 employees, it does not follow the settlement patterns of the non-instructional groups. The more relevant comparisons, the Federation suggests, are with other teacher agreements in the area (discussed at notes 9 and 10, supra).

17. Note, Municipal Employee Residency Requirements and Equal Protection, 84 Yale L.J. 1684, 1699 (1975).