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STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

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MERC CASE NO. L82 E-433

IN THE MATTER OF THE FACT
FINDING BETWEEN:

MERC CASE
NO. L82 E-433

DeWITT PUBLIC SCHOOLS (Board)

-and-

INGHAM COUNTY EDUCATION
ASSOCIATION (Association)

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Michigan State University
LABOR AND INDUSTRIAL
RELATIONS LIBRARY

INTRODUCTION

Pursuant to Section 25 of Act 176, Public Acts of 1939, as amended, and the Commission's regulations, a Fact Finding hearing was held regarding matters in dispute between the above parties. The hearing commenced at 10:00 a.m. at the MERC facilities in Lansing, Michigan, on December 14, 1982. It was concluded on that day.

APPEARANCES

Fact Finder:	Mario Chiesa
For the Board:	Thrun, Maatsch and Nordberg, P.C. By: Thomas J. Nordberg Suite 500 501 South Capital Ave Lansing, Michigan 48933
For the Association:	Ms. Tash Sogg MEA UniServ Director Ingham County Ed. Assoc. 3300 S. Pennsylvania Avenue Lansing, Michigan 48910

DeWitt Public Schools

PRELIMINARY COMMENTS

This Fact Finding is of an expedited nature. The report is being issued within one week of the date of the hearing. Such an expedited procedure was requested because of the history and circumstances surrounding the dispute.

Mario Chiesa

In fact, the Fact Finder was asked to make verbal recommendations on the day following the hearing regarding a portion of the calendar dispute. This the Fact Finder did. Of course a more specific analysis will follow.

As a result of the need to expedite this matter, the findings and recommendations contained herein will be presented in a summary fashion. It must be remembered that a substantial amount of information was submitted at the hearing and it takes time to study and analyze same. Much of the time that was available was utilized in doing just that. As a result the findings and recommendations herein must be presented in an abbreviated form. This does not mean that there wasn't careful consideration. Quite to the contrary, each item and argument was carefully considered and the mere fact that it may not be displayed or referred to in these findings and recommendations does not mean it was ignored.

The history of this dispute also includes a work stoppage, or strike, whatever the appropriate term, which took place from November 15 to November 24, 1982. As a result there was a loss of eight student instruction days. Everyone agrees they must be made up.

What is important to consider, however, is whether the fact of the work stoppage and the circumstances surrounding same should be considered by a Fact Finder. Obviously the loss of student instruction days and other ramifications which must be dealt with cannot be ignored. Yet, it seems rather inappropriate for a Fact Finder to make judgments regarding the work stoppage itself. A Fact Finder's duty is to find the facts and issue

recommendations with the intent that they lead to a negotiated settlement. He or she does not sit and judge the various factors involved with a work stoppage. Such adjudications are left for other tribunals.

ISSUES

The parties have indicated that except for the following delineated issues, they have settled the current contract. Furthermore, it was agreed that the new Collective Bargaining Agreement shall have a term of two years, i.e., 1982-1983 and 1983-1984.

The first issue that will be considered concerns the calendar for 1982-1983 and specifically the adjustments which must be made in order to accommodate the need to make up eight student days of instruction. It appears that the parties will negotiate and agree upon the 1983-1984 calendar.

The teacher's salary schedule, Appendix A, is an issue which encompasses both years of the contract. Related thereto is a question of retroactivity and prorated basis for paying the salary for 1982-1983.

Schedule B, Extra Duty Pay, is also an issue for both years of the contract. Retroactivity is an issue for the first year.

Article XVII - Professional Compensation, paragraph F, regarding the rate for a teacher substituting during their planning period is another issue.

Lastly, Article XVIII - Special Teaching Assignments, specifically summer driver education, is also an issue.

FINDINGS AND RECOMMENDATIONS

ADJUSTMENT TO THE 1982-1983 SCHOOL CALENDAR

As a result of the loss of eight student instruction days the 1982-1983 school calendar will have to be modified. Everyone

agrees that the eight student instruction days must be made up. There is no question regarding that fact. The question is: When will the days be made up?

The 1982-1983 calendar contained in Appendix C indicates that the Christmas recess begins at the end of the day on December 17, 1982. Classes resume on January 3, 1983. Relevant to the dispute is the fact that a records day is listed for January 24, 1983. The last day for students is scheduled for June 7, 1983.

Essentially, the Board's proposal is to shorten the Christmas recess by scheduling four student days during the week of December 19, i.e., the 20th, 21st, 22nd and 23rd of December. The students would have Christmas Eve off and then the week between Christmas and New Years. The proposal also indicated that another day could be acquired by moving the half day records session from Monday, January 24, 1983 to Saturday, January 22, 1983. Then the last three days of make up would be added at the end of the semester making the last student day June 10, 1983.

The Association's proposal adds eight makeup days to the end of the calendar and thus the last student day would be June 17, 1983. That would be a half day for students and a half day for records because according to the Association's proposal, an additional half student day could be made up by utilizing a half day student session on Friday, April 1, 1983. This would be the last student session before the spring recess.

The Board argued, inter alia, that historically the summer recess begins between June 8 and June 12 and adoption of the Association's position would extend it to June 17. The Board indicates that no makeup days would be needed if there were no strike. It further suggests that students were not in school

during the strike and thus they do not need another break. Furthermore, it argues that it is the least disruptive way to make up the lost instruction time and that to do so at the end of the calendar would disadvantage students in acquiring jobs.

The Association suggests that reducing the Christmas recess at such a late date would be unfair to the students, families and teachers. It argues that there may be such diminished attendance that a loss of state aid could incur. Furthermore, it points out that records days should come at the end of the semester and that the Board's argument regarding the extended calendar hampering student efforts to secure a job is overstated. It points out that at least three other districts in the area will be breaking for the summer on June 17, 1983, and that extending the calendar to that date is not significant.

It appears that historically the summer break began sometime between June 8 and June 12. Also, it does appear that only three of the eighteen districts have a summer recess which begins as late as June 17, 1983.

It is quite obvious that given the date of the hearing and the date of the original Christmas recess, any recommendation after December 17, 1982 would be worthless. Thus, it was agreed that the Fact Finder would make a verbal recommendation on December 15, 1982 and transmit same to the parties by telephone. The recommendation was to be limited only to the question of whether four student days would be made up during the week beginning December 19, 1982.

After carefully considering the matter, the Fact Finder did not recommend that four lost student days be made up during the week of Monday, December 20, 1982. All of the arguments

presented by the parties were considered and after so doing it was concluded that the Board's recommendation concerning the four days in question could not be adopted.

It would be fair for the Fact Finder to take notice that often families travel during the upcoming holidays and utilize same to engage in family get-togethers and celebrations. If more lead time were available then perhaps the utilization of the days requested by the Board would be more acceptable. However, under the present circumstances, the notice would be extremely short. There is concern that such a situation would cause hardship for some of the families in the district.

Certainly it would be easier for students and families to accommodate the makeup days if more notice were given.

The Fact Finder has carefully considered the argument regarding the disadvantage students may be subjected to in attempting to acquire employment at the end of the school year. However, it appears that such a disadvantage could be compensated for by the students' early activity in seeking out and acquiring employment. This could be done before the end of the school year.

The June 17, 1983 student recess date is not unknown in the area. At least three other districts recess on said date. The Fact Finder has previously commented on what weight the strike should be given.

Thus, when all the considerations were analyzed, the Fact Finder could not adopt the Board's request that four of the student days be made up during the first week of the Christmas recess.

There is of course the question of when the days shall be made up. Everyone agrees that the eight student days must be made up so there is no question of whether they will be added to the

calendar or not. Perhaps even a portion of the spring recess can be utilized to make up some of the days.

However, at this point the Fact Finder will not make any recommendation beyond that which has been stated above. It has been suggested that the parties can negotiate and agree upon the 1983-1984 calendar. Certainly given the understanding that the eight days must be made up, there is no reason to believe the parties cannot now negotiate and arrive at a calendar for the 1982-1983 school year.

TEACHER SALARY SCHEDULE

The Board has offered a 4% increase on each step of the salary schedule. This 4% offer applies to both years of the Collective Bargaining Agreement.

The Association's position is that the 1981-1982 schedule be increased by 7% on each step and the resulting 1982-1983 schedule be increased by 7% on each step for 1983-1984. Alternatively, the Association also has requested the Board's proposed salary schedule increased by 6.7% on each step for the first year and 7% on each step for the second year. Of course all proposals indicate that teachers are to receive the increment and when qualified movement to higher levels.

Additionally, the Association is seeking change in some of the language contained in Appendix A. The language in the prior Collective Bargaining Agreement indicated:

"BA+20 - Semester hours must be in an approved (by the college or university) course of study leading towards an advanced degree at an accredited college or university. All hours completed as of September 1, 1981, are considered acceptable. Three semester hours of the above type are required within every five year period to maintain BA+20 tract status."

The Association's proposal reads:

"Paragraph 1 following schedule to read:

"BA+20: Semester hours must be at accredited college. (Delete remainder of paragraph.)"

In dealing with the information it is customary to use the BA minimum, BA maximum, MA minimum and MA maximum figures for comparison. This is what the Fact Finder has done. Additionally, he has utilized the 1981-1982 salary schedule as a base and thus the 7% improvement figure requested by the Association. All analysis was done utilizing these figures.

The Board has not taken the position that it has financial problems and thus lacks the ability to pay. It suggests, however, that its future financial situation could be jeopardized by the recommendation of the Association's position.

While the Board has suggested that it is financially sound at this point, the Association did introduce substantial evidence to establish that fact. However, considering the Board's position, it is not really necessary to engage in a detailed examination of the Association's ability to pay proofs.

The Fact Finder certainly must find that the Board is in financially sound condition. This of course is attributed to those who have managed and made the financial decisions. Furthermore, it must be recognized that the 1981-1982 millage levied establishes that the taxpayers in the district are doing an excellent job of providing local support for their school district.

The financial statements and auditor's report indicate that for the year ending June 30, 1982, the Board had an undesignated general fund balance of \$757,634. This in fact was a substantial increase over the \$444,644 which existed at the beginning of the year. Actually the general fund balance is

approximately 22% of the actual total expenditures of \$3,484,719.

The evidence establishes that a substantial portion of the staff is at the higher levels of the salary tracts. In fact, six of the staff are receiving longevity payments, which according to the prior agreement, are not paid until 15 years of service.

The 1981-1982 salary schedule provided for a BA minimum of \$13,009, a BA maximum of \$21,673, a MA minimum of \$14,192, and a MA maximum of \$24,528.

Application of the Board's proposal for 1982-1983 would establish a BA minimum of \$13,529, a BA maximum of \$22,540, a MA minimum of \$14,760 and a MA maximum of \$25,509. For 1983-1984, the Board's offer would establish a BA minimum of \$14,070, a BA maximum of \$23,442, a MA minimum of \$15,350, and a MA maximum of \$26,529.

The Association's 7% proposal would, for 1982-1983, establish a BA minimum of \$13,920, a BA maximum of \$23,190, a MA minimum of \$15,185, and a MA maximum of \$26,245. For 1983-1984, the BA minimum would be \$14,894, the BA maximum would be \$24,813, the MA minimum would be \$16,248 and the MA maximum would be \$28,082.

There was much data introduced comparing the district and the salary offers to other districts and their salary schedules and current settlements. The basis of comparison varied from the Association's utilization of Ingham and Clinton County districts, with three exceptions, to the Board utilizing comparisons based upon Clinton and contiguous county school districts, Clinton County districts, Clinton County and contiguous county districts with enrollment size of 1,000 to 2,499, and Clinton and contiguous county districts with an SEV per pupil of \$32,000 to \$38,000. Additionally, the Board offered data for other districts whose

teachers were represented by the Ingham County Education Association.

The conclusions that can be drawn from the above comparisons obviously depend upon which set of data is being utilized. If only the Association's data is being utilized, DeWitt does not rank very favorably. However, much of the data introduced by the Board establishes that DeWitt ranks substantially better than suggested by the Association's evidence. This is especially so at the maximum steps of the salary tracts. While it appears, again, depending on what data is utilized, DeWitt ranks much lower at the minimum levels, the comparison becomes more favorable at the top of the salary comparisons.

Some of the evidence introduced by the Board establishes that districts in Clinton and contiguous counties with enrollment sizes between 1,000 and 2,499 students, receive a much higher percentage increase on step for 1982-1983 if they are already covered by a multi-year agreement. In other words, if the percentage salary increase is contained in the current Collective Bargaining Agreement, it is much higher than newly negotiated settlements. According to the Board's proofs, the percentage increase for 1982-1983 for districts which are in a multi-year contract situation, is 8.61%. For the newly negotiated settlements, the percentage is 3.49%. However, in arriving at the 3.49%, it must be understood that there are two districts with a salary freeze. If they are ignored, the percentage increase for 1982-1983 is 5.1%. For districts in Clinton and contiguous counties with SEVs per pupil of \$32,000 to \$38,000 previously negotiated settlements are providing 1982-1983 percentage increases averaging 9.1%. Newly negotiated settlements average 2.15%. But

again there are at least three freezes included in that group. When they are excluded the average is approximately 4.6%.

Further information suggests that as of October 8, 1982, new or first-year contracts, state-wide, provide an average percentage increase of 4.26% for a BA minimum, 4.82% for the BA maximum, 4.35% for MA minimum and 4.99% for MA maximum. All contracts for the same period provide an increase of 6.96% for the BA minimum, 7.28% for the BA maximum, 6.97% for the MA minimum and 7.34 for the MA maximum.

When all the evidence is considered, it must be found that the Board's proposal is lacking. Indeed, even in newly negotiated situations its 4% offer is inadequate. By the same token, the Fact Finder is not confident that a 7% increase on each step is appropriate.

After considering the available evidence, the Fact Finder recommends that each step of the salary schedule be increased 6.00% for 1982-1983 and 6.00% for 1983-1984.

If the calculations are correct this would establish a BA minimum in 1982-1983 of \$13,790. The BA maximum would be \$22,973, the MA minimum would be \$15,044, and the MA maximum would be \$26,000. In 1983-1984, the BA minimum would be \$14,617, the BA maximum would be \$24,352, the MA minimum would be \$15,946, and the MA maximum would be \$27,560.

Various conclusions can be drawn when the recommendation is compared to the information regarding the salary levels in other districts. Some comparisons indicate the recommendation compares very well. Certainly it will help DeWitt hold its rank with the large percentage multi-year contracts.

While new or first-year contracts are settling at a rate lower than the increases provided by contracts in place, contracts in place still provide increases which must be considered and certainly the 6.00% increase goes much further in recognizing the increases provided by existing contracts. It also more equitably compares with the known percentage increases for 1983-1984.

Whatever evidence there is suggests that the recommendation equitably balances the considerations of the economic climate with other considerations such as salary increases, salary levels, etc.

It is clear that the Board can easily afford the recommended increases. Thus, all the considerations suggest to this Fact Finder that the recommended salary increase shall be 6.00% on each step of the salary schedule for both years of the contract. There is no basis for recommending the Association's language proposal.

EXTRA DUTY PAY, PROFESSIONAL COMPENSATION, SPECIAL TEACHING ASSIGNMENTS

The evidence available regarding these topics centers around the extra duty schedules and suggests that based upon the comparisons offered by the Association, the extra duty schedule should be increased by a percentage factor greater than the 5% and 4% offered by the Board. Thus, it is recommended that the 6.00% recommended salary increase apply to the extra duty schedule. Additionally, the same 6.00% factor shall apply to the professional compensation question, i.e., substitute rate and the special teaching assignments, i.e., summer driver education. The 6.00% increase shall be recognized in both years of the contract.

OTHER CONSIDERATIONS

As will be recalled there is an issue of retroactivity. In this regard it must be remembered that all the student days will

be made up. Thus, a full year's work will be performed. Keeping this in mind, the Fact Finder is compelled to recommend that the salary increase for 1982-1983 be retroactive to August 30, 1982. Furthermore, it is also recommended that the increases in other areas be applied with full retroactivity.

The last item for consideration is the Board's recommendation that the 1982-1983 salary be paid on the prorated basis of 181/182½. The basis for its proposal has not been established because there was no recommendation regarding January 24 and June 8. Thus, at this point the Fact Finder must recommend that no proration be utilized and that the teachers be paid a full year's salary. Even if 1½ teacher days are lost the Fact Finder still cannot recommend the proposal.

CONCLUSIONS

The Fact Finder recognizes that the above is a rather abbreviated statement of findings and recommendations. However, as explained, under the circumstances such a summary is not only warranted, but mandated.

Further, the Fact Finder is confident that the above recommendations can act as a basis for settling this dispute.


MARIO CHIESA

Dated: December 19, 1982