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Robert Bowers
In the Matter of a Dispute
between
Dowagiac Union School District No. 31
and
Building Service Employees' International Union, AFL-CIO)
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FACT FINDING REPORT AND RECOMMENDATIONS

The undersigned was appointed Fact Finder pursuant to Section 25 of Act 176 of Public Acts of 1939, as amended, in a dispute between the Dowagiac Union School District and the Building Service Employees' International Union. The appointment was made by Hyman Parker, Chief Mediation Officer of the Labor Mediation Board in a letter dated August 6, 1968.

Hearings with the parties were held on Thursday, August 22, 1968 in the Community State Bank building, Dowagiac, Michigan.

ISSUES

At the time the Union petitioned the State Labor Mediation Board for a fact finding hearing the following issues in dispute were listed: union shop; management rights; wages; arbitration; fringe benefits; and subcontracting. During the Hearing the Union withdrew the issue on management rights.

Dowagiac Union School District

POSITION OF THE UNION

Union Shop

The Union contends that a union shop clause should be included in the Agreement since the Union represents all the custodians, bus driving personnel and maintenance men. The Union points out that such a clause is legal under the Public Employment Relations Act. The Act permits a union security clause to be negotiable. The Union suggests the possibility of a modified union shop; particularly suggesting an agency shop. Under this arrangement once a person is in the Union he must retain his membership. Employees not in the Union would pay a sum equal to the initiation fee and a monthly sum equal to Union dues.

Wages

The Union did not submit a current, detailed wage schedule at the Hearings. The Union's reaction to the schedule as proposed by the Board was not entirely negative. The main concern of the Union revolved around the matter of extra pay for shift leaders. These shift leaders, the Union contended, should continue to receive extra pay of \$300 per year for any supervisory functions which they performed and such pay should be guaranteed.

The Union raised certain objections in regard to the proposed pay schedule for bus drivers. Essentially, the Union maintained that drivers should be paid on a trip basis rather than on an hourly basis. If the drivers were paid on an hourly basis they should be paid for the total number of

elapsed hours for the round trip and not just for the driving hours. The Union also suggested the establishment of a minimum rate per trip.

Arbitration

The Union maintains that the final step in the settlement of grievances which grow out of the interpretation of the contract must be in the hands of a disinterested party. Any member of the school administration is not such a party. The Board of Education cannot be the final step because it is a party to the dispute and thus cannot act in the role of judge. The Union further maintains that it is the intent of legislation to provide a terminal end of the grievance procedure--an unbiased termination. The Union points out that in the majority of contracts in the United States arbitration by an impartial third party is the final step in the grievance procedure.

Fringe Benefits

Sick Leave--One day a month cumulative to 120 days. One-half of the days accumulated to be paid upon termination of service for any reason.

Insurance--A \$3,000 life insurance policy on each employee plus fully paid hospital and surgical insurance equivalent to the best Blue Cross policy.

Holidays--The Union proposes the following eight holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; the employee's birthday, and Columbus Day. There should be doubletime and holiday pay for those who must work on a holiday.

Funeral Leave--There should be a paid three-day leave of absence to an employee when death occurs to a member of the immediate family and

the funeral is within a 300 mile radius of Berrien County. A five-day leave for those beyond a 300 mile radius is proposed. The family shall include wife or husband, son or daughter, parents, father or mother-in-law, grandchildren, brother or sister, legal dependents or relatives living in same household.

Clothing--If employees are required to wear special clothing or to change clothing frequently there should either be a uniform allowance or uniforms supplied by the school system.

Vacations--Two weeks after one year; three weeks after eight years; four weeks after fifteen years.

Subcontracting

The Union proposes that a guarantee be established that would protect the bargaining unit from either layoffs or reductions that might occur as a result of subcontracting. Senior employees, especially, should have the assurance that their jobs will not be taken away.

POSTION OF THE BOARD

Union Shop

The Board grants that a union shop clause is legal but that it is an issue to be negotiated by the parties. The law does not state that either party has to agree to the union shop. The School District is a tax supported institution, a public institution, and as much should impose no restrictions on those who work for the School District. The Board will not require employees to join any organization.

Wages

The Board submitted at the Hearing a wage schedule for custodial personnel which it had proposed in August 1968. (See Exhibit No. 1.)

The Board also proposed an hourly rate of \$3.50 for bus drivers.

In the past, the two shift leaders had received an additional \$300 per year as compensation for additional supervisory responsibilities.

The Board expressed willingness to pay this \$300 if such functions were preformed but could make no guarantee that the functions would be required.

Arbitration

The Board of Education believes that arbitration by a third party should not be the final step in the grievance procedure. The administration of the public school system is an enterprise of public nature and responsibility and the Board cannot relinquish its decision-making authority in interpreting the Agreement. If a grievance has not been satisfactorily settled, either party shall have the right to submit the grievance to the Board. The Board thus sits as a final authority and can interpret the acts of its administrators in carrying out the Agreement. The Board is free to rule against the administrator if it feels the latter has violated the Agreement. The Board thus keeps the power which the people have given it.

Fringe Benefits

Sick Leave--Ten days of sick leave per year, cumulative to 40 days for all salaried employees.

Insurance--The Board will pay an employee \$8.80 per month toward an MEA insurance policy.

Holidays--The six normal holidays of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day are proposed. If any of these holidays fall within the workweek of the employee then the employee is to be paid one day's pay. If he is required to work on the holiday, he is to receive regular pay in addition to holiday pay.

Funeral Leave--No proposal.

Clothing--No proposal.

Vacations--One to nine years--two weeks; and ten years--three weeks.

Subcontracting

As the employer the Board is required to operate the school system efficiently. In those work areas in which the Board does not have the proper equipment the Board should have the right to subcontract for the benefit of the District. This makes for good and profitable operations. Taxpayers' funds should not be used for unnecessary work. If subcontracting is cheaper, then the funds saved could be used for educational purposes. The subcontracting clause is not a job security clause. The right to subcontract is a right which the Board cannot relinquish at the bargaining table.

RECOMMENDATIONS

Union Shop

The union shop or any modification thereof is not recommended at this time. The Union has just recently established itself in this collective bargaining situation. It has not had the opportunity to stabilize its position

either with the bargaining unit or with the employer. 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 to validate its position with the employees whom it represents then the situation should be reassessed.

Wages

The Fact Finder recommends that the latest wage schedule as proposed by the Board for custodial personnel and bus drivers be adopted and put into operation. This schedule allows for a median hourly increase of approximately 14% for the custodians, a 10% increase in basic hourly rates for the shift leaders and a 5% increase for the maintenance engineer. This increase would be a lower percentage for the shift leaders if the additional \$300 per year for extra responsibilities were to be discontinued. The results of the change of the pay system for the bus drivers apparently cannot be accurately predicted at this time. After a year's experience with the time basis of pay the parties may wish to reexamine this schedule.

Arbitration

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 School District has already proposed that a grievance procedure involving

several steps be incorporated in the Agreement. It is a good procedure except for the final step. 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 School District 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. 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.

Fringe Benefits

Sick Leave--The Fact Finder recommends that regular employees shall accrue paid sick leave benefits up to a total of 10 days per year, cumulative to a total of 40 days.

Insurance--The recommendation is that the employer pay \$8.80 a month toward the MEA insurance program.

Holidays--It is recommended that the following days be recognized as holidays: New Year's Day; Memorial Day; Independence Day; Thanksgiving Day; and Christmas Day. When any of the above mentioned holidays occur on an employee's regularly scheduled workday, he shall receive the straight time pay he would have received on such a day had it not been a holiday. If an employee is required to work on a holiday he receives regular pay in addition to holiday pay.

Funeral Leave--The recommendation is that an employee will be allowed three days off with pay in the event of a death of husband, wife, parent, brother, sister, child, or parent-in-law.

Clothing--No recommendation.

Vacations--The following vacation period is recommended: one week of vacation after one year of service; two weeks after two years of service; three weeks after ten years of service.

Subcontracting

The Fact Finder does not recommend at this time any alteration in the subcontracting clause as contained in the proposed Agreement. No problem has as yet arisen over this matter. The Board has stated that it might subcontract only in those work areas in which the proper equipment is not at hand. If the Board does subcontract any work it would do well, of course, to be sensitive as to the effect on the jobs of its regular employees.

If there is a serious possibility of any of the senior employees losing their jobs because of subcontracting the parties should reexamine this issue at the next contract period.

October 26, 1968

Date

Robert S. Bowers

Robert S. Bowers, Fact Finder

Exhibit No. 1

PROPOSED HOURLY INCREASES - CUSTODIAL PERSONNEL

<u>CUSTODIAN</u>	<u>PRESENT BASE HOURLY RATE</u>	<u>PROPOSED HOURLY INCREASE</u>	<u>PROPOSED HOURLY RATE</u>
Castle, Victor	\$ 1.92 (\$4000)	\$.43	\$ 2.35 (\$4888)
Crawley, William	1.92 (\$4000)	.43	2.35 "
Coy, Russell	1.92 (\$4000)	.43	2.35 "
Zelner, Lloyd	1.92 (\$4000)	.43	2.35 "
Skacel, John	1.97 (\$4100)	.38	2.35 "
McDonald, Charles	2.01 (\$4200)	.34	2.35 "
Pellow, Robert	2.01 (\$4200)	.34	2.35 "
Stanczyk, Chester	2.01 (\$4200)	.34	2.35 "
Deuel, Russell	2.06 (\$4300)	.29	2.35 "
Hoover, Waldo	2.06 (\$4300)	.29	2.35 "
Curtis, James	2.11 (\$4400)	.24	2.35 "
Kempton, Edward	2.11 (\$4400)	.24	2.35 "
Macaluso, Leonard	2.16 (\$4500)	.19	2.35 "
Rank, Clinton	2.21 (\$4600)	.14	2.35 "
Spivey, Robert	2.21 (\$4600)	.14	2.35 "
Wilds, Garver	2.21 (\$4600)	.14	2.35 "
Wilder, James	2.35 (\$4900)	.06	2.41 (\$5012)
Hosner, Clifford	2.50 (\$5200)	.06	2.56 (\$5324)
<u>SHIFT LEADERS</u>			
Criffield, Lloyd	2.50 (\$5200)	.25	2.75 (\$5720)
Taylor, Ellwood	2.50 (\$5200)	.25	2.75 "
<u>MAINTENANCE ENGINEER</u>			
Edwards, Robert	3.14 (\$6550)	.16	3.30 (\$6864)
<u>Proposed 1968-69 Total Cost:</u>		<u>\$ 106,848 (11% increase over 1967-68 budget)</u>	
Proposed 7¢ per hour inc. 69-70		\$ 109,895	
Proposed 8¢ per hour inc. 70-71		\$ 113,400	