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STATE OF MICHIGAN

DEPARTMENT OF LABOR EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF FACT FINDING BETWEEN:

EAST LANSING EDUCATION ASSOCIATION,

Petitioner,

and

Reference: MERC No. L96-1012

EAST LANSING PUBLIC SCHOOLS BOARD OF EDUCATION,

Respondent.

REPORT AND RECOMMENDATION OF THE FACT FINDER

The Michigan Employment Relations Commission appointed the undersigned as its fact finder and agent on March 19, 1997, to conduct a hearing pursuant to Section 25 of Act 176 of Public Acts of 1939, as amended, and the commissions regulations, and to issue a report with recommendations with respect to the matters in disagreement between these parties. Several Pre-Trial telephone conversations were held with the parties to establish a hearing date. The hearing was scheduled and held on Friday, May 30, 1997, from approximately 10:00 a.m. until approximately 12:30 p.m. at the conference room of the East Lansing School Board Offices. At the conclusion of the hearing, the issue presented to the fact finder originally, remained with this fact finder for his recommendations. The parties agreed to file post hearing briefs, which were received by this fact finder.

Fact Finder and agent: David L. Poindexter, appointed under the procedures of the Michigan Employment Relations Commission. Representing the parties:

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## INTRODUCTION

The East Lansing Public Schools Board of Education, Respondent (herein after referred to as Board) and The Ingham County Education Association, (herein after referred to as Union), entered into an agreement that was effective July 1, 1994 and had a termination date of June 30, 1997. However, the contract also had a wage reopening clause, Article XXXI for the 1996-1997 school year. The petition for fact finding indicated that there was one mediation meeting held between the parties on January 16, 1997 for approximately two hours. The petition for fact finding was received by the State of Michigan, Bureau of Employment Relations, Detroit Office on February 14, 1997 at 11:05 a.m. The petition listed one issue that remained unresolved by the parties during their negotiation and mediation process. This issue is the salary structure or increase.

Extensive evidence was presented to this fact finder in an attempt by each party to establish a basis for evaluation of the economic proposals at impasse in this contractual dispute. Each party presented financial and comparability information to assist this fact finders conclusion and recommendations. The fact finders role in this process is to bring an external perspective to these complex financial and comparative processes, so that each party and its respective contingency can have some confidence in the good faith positions of the opposing party. Therefore, this fact finder was very liberal at the hearing at what was allowed in to evidence and what was will be used while writing this report and recommendation. The parties have taken opposing positions on the way board funds should be used. Board has taken the position that budgets are planning attempts, which must be administered flexibly as daily conditions occur and there must be a reserve for emergency conditions. Union position specified that such budgets are a matter of differing priorities into which employees want continuing input as they are being determined.

While the parties may not agree with the fact finders conclusion, they may be assured that such conclusions and recommendations appeared to him to be the reasonable positions from which employment dispute may be resolved. To reach these conclusions and recommendations it was necessary for this fact finder to determine what is comparable to the factual situation of the Board and this Union. Therefore, this fact finder will set out his definition of comparability in the following paragraphs.

Webster's New Collegiate Dictionary provides the following definition. Comparative is "1: One that compares with another esp. on equal footing; compare is 1: To represent as similar", "2: To examine the character of qualities of esp. in order to discover resemblances or differences; "and comparison is "1: The act or process of comparing; representing of one thing or person as similar to or like another; or an examination of two or more items to establish similarities or dissimilarities".

The Board and the Union agreed in Pre-Hearing discussions that the K-12 school districts in Ingham County and Clinton County were comparable with the East Lansing Public School System. The Union further argues that K-12 school districts with similar student enrollment are also comparable within the meaning of comparability. The Union states that districts with similar student enrollments face the same questions of how to deliver services to the students. They have a similar number of students to whom they are to provide services, divide into appropriate classes and develop an educational program. The Union argues that comparing East Lansing to districts with similar student enrollments will give insight into what the district should be able to do with its resources.

After reviewing the proposed comparatives of each party, this fact finder believes that the K-12 school districts in Ingham and Clinton Counties are comparable due to geographical location and the fact that the parties have agreed that these are comparable. This fact finder also agrees with the Union's presentation of K-12 school districts that have similar student enrollment as comparable.

When making comparisons it is also necessary to look internally that is compare this unit of employees with other units of employees that have already settled their financial package. For example, the Teamsters and the ELESPPA received a total package settlement of 1.9 percent and the administrators and the principals and other supervisory personnel received a 1.6 percent increase in the salary schedule.

#### ABILITY TO PAY

As is frequently the case in the fact finding situation, both parties are arguing the ability to pay issue. The employer indicates that it does not have the ability to pay the request of the union and the union argues that the employer would have the ability to pay would it not be for the employers use of discretion in their budget process. The Union argues that there is a difference in not having the ability to pay and choosing not to pay. The Employer argues that they do not have the ability to pay and that the ability to pay is a definable and tangible point and not merely a matter of manipulating expenditure patterns to increase the teachers salaries. Although this fact finder agrees with the employers concepts of ability to pay, this fact finder believes from the information given that the employer has the ability to pay a greater amount than the employer offers, but doesn't have the ability to pay the amount that is acceptable to the Union. However, it seems that the parties are not as far apart as first glance would indicate. The Union gives the relative position of its members with regard to the increase or decrease on pages 10 and 11 of its brief. For example, the Union states "at the BA minimum level, East Lansing salary ranked first in the area in 1986-1987. In 1994-95 it fell to fifth and rebounded to fourth in 1995-96. It will fall to fifth again under the boards proposal but would return to fourth with the associations proposal."

Therefore, it seems that under either parties proposal the relative ranking of the teachers would be the same or close to the same ie 4th versus 5th. This seems to hold true with regard to each level cited by the Union on page 10 and 11 of its briefs.

Considering the relative position of the East Lansing teachers within the Ingham County School Districts and within those districts that are of the same size. It is this Fact Finders opinion that a wage increase similar to that given to the Administrators, Principals and other Supervisory Personnel is appropriate. Therefore, this Fact Finder would recommend a 1.6 percent increase in the salary schedule of the Union.

#### CONCLUDING STATEMENT

The conclusions reached in establishing this opinion and the recommendation contained in this report were extracted from consideration of all evidence, testimony and argument presented so comprehensively by the representatives of both parties, even if every reference was not included herein. Presumably, this Fact Finder was chosen by the parties because of his Labor Relations experience as an impartial party and understands the negotiation process and various strategies and tactics. The recommendation contained herein is a fragile combination of a variety of factors that have been balanced in this Fact Finders opinion. After weighing all facts, this recommendation is not reached in isolation of other facts, but must be considered fully by the parties as a package to provide comprehensive resolution to the existing impasse. The recommendation is intended in its entirety to provide a basis for the final resolution of this contractual dispute.

This report and this final comment have been created in the hope that the cooperative mutual atmosphere necessary for resolution of this impasse will exist in final deliberations and reduce the potential for future tensions.

Respectfully submitted:

Date: 7/29/77

  
David L. Poindexter