

STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF FACT FINDING BETWEEN:

ARENAC-EASTERN BOARD OF EDUCATION

-and-

ARENAC-EASTERN BUS DRIVERS UNION, MEAO

MERC CASE NO. \_\_\_\_\_

FACT FINDER'S REPORT

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INTRODUCTION

Pursuant to Section 25 of Act 176 of the Public Acts of 1939, as amended, a fact finding hearing was held regarding matters in dispute between the parties. The undersigned, George E. Gullen, Jr. was appointed as fact finder by the Commission and, pursuant to agreement by the parties, the hearing was held on November 4, 1978 in Twining, Michigan at the Public Schools Building.

APPEARANCES

BOARD OF EDUCATION:

Marsha Orr, Michigan Association of School Boards  
R.P. Shinn, Superintendent  
Donald Haas, witness

UNION:

Warren Bailey, Michigan Education Associates Org.  
Gerald Timlick, President of unit  
Mrs. George  
W.S. Philburn  
M. Kay Habitz  
Barbara Papiernick

BACKGROUND

Arenac-Eastern is a school district with an enrollment of approximately 636 students, comprising most of Arenac County, Michigan. The bargaining unit consists of 9 employees, being all full time and part time bus drivers.

The Michigan Education Associates Organization was certified as the collective bargaining representative of the bus drivers on December 2, 1977. The parties engaged in collective bargaining commencing February 7, 1978, and mediation meetings were held on July 21, 1978 and September 14, 1978. A petition for fact finding was filed by the Board of Education on September 20, 1978.

### ISSUES

The issues to be resolved involve:

1. Agency Shop
2. Binding Arbitration
3. Sick Leave
4. Seniority
5. Insurance Benefits
6. Paid Holidays
7. Rates of Pay

### AGENCY SHOP

#### Discussion

The union is seeking inclusion of a provision in the contract requiring each member of the bargaining unit to either join as a member or pay a fee equal to the membership dues.

As previously noted, the bargaining unit is a newly organized one. Of the nine employees, approximately seven are union members. While the board is unwilling to agree to agency shop, the parties have agreed upon a provision for payroll deduction of union dues subject to employee authorization which is not revocable during the term of the contract.

The Agency Shop clause is an appropriate, well-recognized form of union security commonly found in collective bargaining agreements. It is not, however, a union security provision the fact finder can recommend the parties to include in their first labor agreement.

The union employees are operating in a new labor relations environment without any history of collective bargaining between the parties upon

which to properly base an agency shop clause. This is a matter best left to the parties to reach agreement upon.

The bargaining unit is a small one comprised mostly of union members. Total membership is a very real possibility. A form of "membership maintenance" has been agreed upon by the parties. It is also significant that despite a number of years of collective bargaining, the teachers in Arenac-Eastern do not have an agency shop provision in their agreement with the board.

Recommendation:

The fact finder does not recommend inclusion of an agency shop clause in this collective bargaining agreement.

BINDING ARBITRATION

Discussion

The union proposes binding arbitration as the final step in the grievance procedure. The board proposes that the final step be with the school board.

Of the bus driver contracts in the area schools cited by the board, five contracts included binding arbitration, one contract had the final step at the board level and one had no grievance procedure. Binding arbitration is provided for in the contracts of other private and public employers in Arenac County.

The law relating to public employee collective bargaining has as a basis the supposition that there should be no strikes as a part of the settlement process. Therefore, in public employee relations, particularly, there is a need for a final and effective means of objective resolution of disputes and grievances. Binding arbitration has established itself as a reasonable and workable dispute resolution procedure.

Final step being mediation or with the school board are not workable solutions.

Binding arbitration is the overwhelmingly adopted method of grievance resolution in the area and comparable schools and is not unknown in Arenac County. It is an integral part of the process by which both public and private employers and employees are conducting their contract maintenance.

Recommendation:

The fact finder recommends that the collective bargaining agreement include arbitration as the final step of the grievance procedure.

SICK LEAVE

Discussion

The union proposes that the employees receive sick leave allowances of up to 10 days a year, which may be accumulated up to a maximum of 90 days.

The Board's position on sick leave is that the bus drivers should have the same protection as the other classified employees in the school district: 5 days paid leave per year with a maximum accumulation to 45 paid days.

The parties agree that sick leave should be included in the contract with a limit on accumulation. The only issue is over numbers.

In the Board's Exhibit 16 it appears that in the area schools, sick leave days per year to bus drivers range from a low of 5 to a high of 12. The contracts in the same athletic conference as Arenac-Eastern provide for sick leave days ranging from a low of 6 to a high of 9. In both the area schools and athletic conference schools the average number of sick leave days allowed bus drivers is more than 8. The most common allowances by far is 9 days. In consideration of the allowances given in comparable and area school districts the finding must be that the board offer of 5 days per year is insufficient. An agreement for 9 days would be fair.

Sick leave accumulation limits in the area and athletic conference schools range from 10 days to 120 days. Six of the contracts allow more than 45 days accumulation; six allow less than 45 days. The 45 day accumulation limit offered by the board is in line with the surrounding school districts and is reasonable.

Recommendation:

The fact finder recommends that the bus drivers be given 9 days paid sick leave a year with accumulation to 45 days.

SENIORITY

Discussion

The union proposes that vacancies on the bus routes be filled on the basis of seniority. The board insists that consideration of relative costs must also be given.

The school board does not maintain a place for parking the buses. The drivers park their school buses at their homes each night. Thus their routes begin from their homes. The bus routes are scheduled around each driver's home as much as possible.

Under the present transportation financing system, the school board is not reimbursed by the state for the cost of the mileage from the driver's home to the start of his or her route. Thus cost is a major consideration when assigning bus routes depending upon the distance between the driver's home and the start of the route.

Seniority is recognized in collective bargaining agreements as a fair basis for choosing between otherwise qualified persons for advancement or bidding on positions.

Each of the bus drivers is trained, tested and certified. There is no question of qualification. Under the circumstances seniority can be the primary factor in filling vacancies on the bus routes. The cost

problem in assigning routes, however, cannot be ignored. Inappropriate use of seniority without consideration of the cost could cause significant budget problems for the school board.

Recommendation:

Seniority should be adopted as the basis for filling vacancies. While the present bus parking system is utilized, however, in cases where cost is prohibitive in any particular case, the vacancy should not be filled on seniority alone.

In any case where a vacancy is not filled by or transfer is denied to the driver with the greatest seniority, the board should, upon request, give a written answer to the employee stating why the cost was prohibitive. Prohibitive cost should be the sole basis for denial. Questions on this point, of course, would be subject to the grievance procedure.

INSURANCE

The union originally proposed that the board provide MEA Accident Insurance in the amount of \$25,000 and MESSA Group Term Life Insurance with Accidental Death and Dismemberment in the amount of \$2,000. The union later raised the coverages to \$50,000 and \$5,000 respectively.

The board's position has been a denial of any insurance benefits as no non-certified staff in the district have such benefits.

The bus drivers are an important, continuing part of the school system. The drivers are paid on an annual basis. They have insurance protection needs which are at least equal to those of other classified personnel. This is particularly so with regards to the proposed accident insurance as the drivers are charged with the substantial responsibility of transporting the school children to and from school.

Of the board's comparison school districts only Oscoda provides similar protection in the form of life insurance. As pointed out in the

union's insurance exhibit, however, five of the seven area comparison school districts provide their bus drivers with more costly health insurance benefits; an item not proposed here.

Provision of insurance protection is a recognized part of bus drivers' employment relationship in the area schools.

The proposal for \$2,000 life insurance with accidental death and dismemberment and \$25,000 accident insurance is a minimal cost item and is not an inappropriate item.

Recommendation:

The \$2,000 life insurance with accidental death and dismemberment and \$25,000 accident insurance proposal should be accepted by the board.

PAID HOLIDAYS

The union has proposed that the bus drivers receive a specified number of paid holidays. The board has declined to include any paid holidays in the contract.

At this time no classified employees receive extra pay for holidays. Of the area schools, four include paid holidays in their bus driver contracts; three school districts besides Arenac-Eastern do not provide paid holidays. Of the districts in the same athletic conference, all of which have collective bargaining agreements covering their bus drivers, one provides for paid holidays; six besides Arenac-Eastern do not.

The bus drivers' salaries are computed on an annual basis. The drivers do not work on holidays and their salaries are not reduced for such time not worked. The bus drivers thus are treated no differently than are the other salaried employees at Arenac-Eastern. Further, other organized bus drivers in the conference have been unable to obtain this kind of benefit in their collective bargaining agreements.

In the circumstances, it would be inappropriate to recommend additional pay for holidays.



Recommendation:

No additional pay for holidays not worked should be provided for in the collective bargaining agreement.

RATE OF PAY

The union has proposed a two-step pay rate increase over the two year period of the contract, which would provide a 10% increase for the 1978-79 school year and a cost-of-living increase for 1979-80 with a 5% increase minimum and 9% increase maximum.

The board has offered a 7% increase in pay for 1978-79 and another 7% increase for 1979-80.

The parties' proposals are reproduced in Appendices A and B.

Considerable argument was made and evidence introduced during the hearing concerning the exact amount of time spent by the bus drivers on the job. While it is the conclusion of the fact finder that much of the material was irrelevant to the issues, some comment is warranted.

The bus drivers are required by the superintendent to maintain daily safety checklists. It is clear that the drivers must (and should) spend time making sure the equipment is in proper condition. Furthermore, time must be spent by the drivers in cleaning the buses. These activities are necessary and proper duties of the drivers as employees. Careful attention to these duties should be encouraged and not minimized by the board.

Similarly, care should be taken not to exaggerate the characterization of the bus drivers' employment status as "part-time". The bus drivers are an important part of the school system and its effective functioning. They perform a significant service and should be fairly compensated and afforded reasonable protection by the school board.

As for the wage scale proposals, the organized bus driver wages in other school districts in Arenac-Eastern's athletic conference range from \$2,150 to \$3,005 a year for roughly the same number of hours worked, with an average of approximately \$2,600. The comparable figure at Arenac-Eastern is pay rate at the 41-50 mile step, at which the board proposes a salary of \$2,478.

Of the other area schools, the wages for comparable bus driver duties range from \$2,286 to \$2,806, with an average of approximately \$2,629 as compared to the school board's proposed \$2,478.

In light of the wages being paid by the other conference schools and by comparable school districts, the board offer is too low. Further, its exhibits show its proposal as not keeping pace with the rise in cost-of-living.

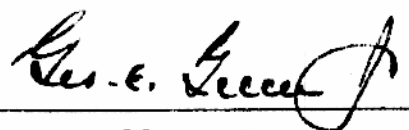
After careful consideration of all of the above, the fact finder finds that a wage rate increase in excess of 7% would be fair and equitable.

Accordingly, the fact finder recommends an 8% increase in the pay scale for each year of the contract. The cost-of-living formula proposed by the union with a cap of 9% and a minimum of 5% for the second year of the contract is not recommended. The amount of increase in cost-of-living in the second year is a risk the employees should not be required to assume. Instead, a flat 8% increase in wages in the second year would be fair and reasonable.

Recommendation:

The pay rates recommended are set out in Appendix C.

Dated: 11-20-78

  
George E. Gullen, Jr.

APPENDIX A

UNION WAGE PROPOSAL  
10% MILEAGE STEP INCREASE  
1978-1979

Regular Trips - 2 runs per day

61-70 miles - \$2,798  
51-60 miles - 2,659  
41-50 miles - 2,548  
0-40 miles - 2,357

Skill Center  
Skill Center Substitute  
Local Substitute

- \$25.66 per day  
- 25.66 per day  
- 6.78 per run

Kindergarten - 1 run per day

61 - 70 miles - \$1,539  
51 - 60 miles - 1,481  
41 - 50 miles - 1,412  
0 - 40 miles - 1,346

UNION WAGE PROPOSAL  
5-9% COLA MILEAGE STEP INCREASE  
1979-1980

Regular Trips - 2 runs per day

61 - 70 miles - \$2,938 - \$3,050  
51 - 60 miles - 2,792 - 2,898  
41 - 50 miles - 2,675 - 2,777  
0 - 40 miles - 2,475 - 2,569

Skill Center  
Skill Center Substitute  
Local Substitute

- \$26.94 - \$27.97 per day  
- 26.94 - 27.97 per day  
- 7.12 - 7.39 per day

Kindergarten - 1 run per day

61 - 70 miles - \$1,616 - \$1,678  
51 - 60 miles - 1,555 - 1,614  
41 - 50 miles - 1,483 - 1,539  
0 - 40 miles - 1,413 - 1,467

APPENDIX B

BOARD WAGE PROPOSAL  
7% MILEAGE STEP INCREASE  
1978-1979

Regular Trips - 2 runs per day

61-70 miles - \$2,722  
51-60 miles - 2,586  
41-50 miles - 2,478  
0-40 miles - 2,293

Skill Center - \$24.96 per day  
Skill Center Substitute - 24.96 per day  
Local Substitute - 6.59 per run

Kindergarten - 1 run per day

61-70 miles - \$1,497  
51-60 miles - 1,440  
41-50 miles - 1,374  
0-40 miles - 1,310

BOARD WAGE PROPOSAL  
7% MILEAGE STEP INCREASE  
1979-1980

Regular Trips - 2 runs per day

61-70 miles - \$2,913  
51-60 miles - 2,767  
41-50 miles - 2,651  
0-40 miles - 2,454

Skill Center - \$26.71 per day  
Skill Center Substitute - 26.71 per day  
Local Substitute - 7.05 per run

Kindergarten - 1 run per day

61-70 miles - \$1,602  
51-60 miles - 1,541  
41-50 miles - 1,470  
0-40 miles - 1,402

APPENDIX C

FACT FINDER'S RECOMMENDED  
8% WAGE INCREASE  
1978-1979; 1979-1980

Regular Trips - 2 runs per day

	<u>1978-79</u>	<u>1979-80</u>
61-70 miles	\$2,748	\$2,968
51-60 miles	2,610	2,819
41-50 miles	2,501	2,701
0-40 miles	2,314	2,499

Kindergarten - 1 run per day

	<u>1978-79</u>	<u>1979-80</u>
61-70 miles	\$1,511	\$1,632
51-60 miles	1,454	1,570
41-50 miles	1,387	1,498
0-40 miles	1,322	1,428

	<u>1978-79</u>	<u>1979-80</u>
Skill Center -	\$25.20 per day	\$27.22 per day
Skill Center Substitute -	\$25.20 per day	\$27.22 per day
Local Substitute	\$ 6.65 per run	\$ 7.18 per run

(And longevity rates as agreed to by the parties).