

STATE OF MICHIGAN

DEPARTMENT OF LABOR

EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF FACT FINDING BETWEEN:

AVONDALE SCHOOL DISTRICT

-and-

AVONDALE EDUCATION ASSOCIATION

CASE NO. D75 C476

**LABOR AND INDUSTRIAL
RELATIONS LIBRARY****Michigan State University**INTRODUCTION

Pursuant to Section 25 of Act 176 of 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. Pursuant to notice the hearing was commenced at 9:30 a.m. in the Wayne Suite, Troy Hilton Inn on October 15, 1975. The undersigned, Mario Chiesa, is the Fact Finder herein.

Avondale School District shall hereafter be referred to as the Board and the Avondale Education Association shall hereafter be referred to as the Association.

APPEARANCESAvondale School District

Dennis Pollard, Attorney

Hobart H. Jenkins, Assistant Superintendent

Donald Cloutier, Business Manager

Avondale Education Association

Harold Strayer, MEA President

Jim Matteson, Executive Director

Eric Pearson, Chief Negotiator

HISTORY

The Avondale School District was formed in 1948 as the result of consolidating four primary school districts.

At present the enrollment, exclusive of adult education, is approximately 3,766 students. There are 180.77 full-time equivalent teachers on staff with one teacher to be hired for special education.

The relationship between the administration and the bargaining unit is relatively stable. Since the enactment of the P.E.R.A., there have been no strikes, two MERC decisions and one grievance arbitration. The present proceeding is the first instance that Fact Finding has been utilized by the parties.

In attempting to resolve their disputes the parties have engaged in extensive negotiations. All areas have been agreed upon with the exception of the salary schedule.

The previous agreement had a duration of three years, terminating in the 1974-75 school year. The first two years provided a wage increase of 4% for each year. The third year provided a salary increase based on the Consumer Price Index for the Detroit Metropolitan Area. The last increase amounted to over 11.9%.

ISSUES

The joint application states that the issue in need of resolution is the 1975-76 salary schedule. The Association has also interjected the demand that the Board pay retirement commencing in the calendar year 1976.

STIPULATION

A stipulation was entered into by the parties which has the effect of narrowing the areas that the Fact Finder may explore. The stipulation appears as Appendix I.

In summary it states:

1. The Fact Finder's report shall not require the Board to levy additional operational millage. The parties also stipulated that the revenue reflected as "local income" in the 1975-76 Budget (Board Exhibit I) is accurate.
2. The Fact Finder's report shall not require the Board to operate under a deficit budget. The parties also state: "The parties advise the Fact Finder that since the budget is a projection of future events, it may become necessary, solely in the event that new information becomes available, for either party to seek adjustments or modifications prior to the Fact Finder's report issuing. Further, the parties agree that the District's unappropriated General Fund Balance as of June 30, 1975, is \$84,004.00."
3. The Fact Finder's report shall not require the School District to sustain a reduction in current programs in order to finance the payment of any resulting salary schedule. The parties further stipulate that Exhibit III, the June 30, 1975, audited financial report, accurately sets forth the financial condition of the District as of that date, including the expenses needed to fund current programs.

Stipulations should be definite and certain, but need not follow any particular form. (Whitley v Chrysler Corp, 373 Mich 469, 130 NW2d 26 (1964)). In the absence of fraud, mistake or unconscionable advantage, a stipulation will be binding on the parties. (Powell v Martone, 322 Mich 441, 33 NW2d 914 (1948)). Judicial and quasi-judicial bodies favor the use of the stipulations because they narrow and define issues. (Dana Corp v Employment Security Commission, 371 Mich 107, 123 NW2d 277 (1963)).

There is nothing in the record indicating that either party has shown that the present stipulation is a product of fraud, mistake or that it will work an unconscionable advantage.

The Fact Finder agrees to be bound by the stipulation.

DISCUSSION - SALARY SCHEDULE

At the time of the hearing the Association proposed a 2.85% increase excluding increments along with employer paid retirement commencing in calendar year 1976. They seek a one-year contract.

The Board proposed a total salary increase equal to its unappropriated General Fund Equity plus any surplus of revenue over expenses as stated in the stipulated budget. The Board is presently paying the increment increases along with the advance degree increases.

The Association has introduced in excess of twenty exhibits. In fact, the Association has done a very complete job of presenting its evidence.

The Association's evidence shows that from 1970-71 to 1974-75 the Board has spent a progressively smaller portion of its budget on instructional expense. In 1970-71 instructional expense amounted to 79.11% of the total budget, while in 1974-75 instructional expense fell to 76.99%. The Association maintains that this evidence rebuts

the Board's claim that the payout of teachers' salaries is the primary cause of a very tight money situation.

Evidence introduced by the Association concerning the years 1970-71 to 1974-75 shows that even though it has never ranked number one in salary when compared with the other 27 districts in Oakland County, it nevertheless ranked at least eighth on the BA scale and at least fourth on the MA scale. The exhibit appears as such:

1970-71 to 1974-75 <u>FIVE YEAR EARNINGS</u>		
<u>STEPS</u>	<u>BA</u>	<u>MA</u>
1, 2, 3, 4, 5	2	1
2, 3, 4, 5, 6	4	1
3, 4, 5, 6, 7	5	1
4, 5, 6, 7, 8	5	2
5, 6, 7, 8, 9	6	2
6, 7, 8, 9, 10	5	3
7, 8, 9, 10, 11	7	4
8, 9, 10 - max.	7	4
9, 10 - max.	8	4
10 - max.	8	4
All - max.	6	2

Notwithstanding the lack of evidence concerning comparative SEV's, SEV/Member and Dollar/Member, the exhibit shows that Avondale compares extremely well with the other 27 districts. In the BA scale Avondale has been in the upper 30%, while in the MA scale it ranked in the upper 15%.

The Association also states that the Board has consistently budgeted for higher expenditures than actual realized. In 1973-74 the actual expenditures were \$7,442.00 less than the budgeted amount, while in 1974-75 actual expenditures were \$57,237.00 less than the budgeted amount. It is assumed that this evidence was introduced to persuade the Fact Finder that the Board will have more money than the stipulated budget shows.

The evidence also shows a continuous rise in the C.P.I. with a comparable loss of purchasing power. The Association further shows that the Board has realized a steady increase in SEV/Student, rising from \$12,849.00 in 1970 to \$20,063.00 in 1974.

Evidence was introduced showing that administrators and various organized employees have received substantial salary increases for 1975-76. The Association contends that the Board's apparent willingness to increase salaries should be extended to it. The Association further contends that the Board's actions will mean that the anticipated reduction in State aid will have to be absorbed by the teachers and only the teachers.

The Board has also introduced many exhibits. The Board shows its historical ranking in the county regarding the MA maximum for the past eight years. The comparison includes 28 districts and shows that in 1966-67 Avondale ranked 25th, while in 1974-75 they ranked first.

The Board also exhibited the following:

AVONDALE SCHOOL DISTRICT
LOCAL ABILITY TO SUPPORT EDUCATION (BASED UPON SEV)
AND
LOCAL EFFORT TO SUPPORT EDUCATION (BASED UPON VOTED MILLAGE)

	<u>SEV/CHILD</u>	<u>RANK</u>	<u>TOTAL MILLAGE</u>	<u>RANK</u>
1971-72	13,583	24	37.73**	5
1972-73	16,115	20	37.73**	5
1973-74	17,113	21	37.53**	3
1974-75	20,063	20	37.53**	3
1975-76	22,207*	20	37.53**	3***

* Based upon a projected enrollment of 3,799.92

** 7 Mills Debt Retirement

*** Projected - Oakland County Intermediate School District Figures

The above exhibit shows that Avondale has made excellent progress in salary advancements even when faced with an extremely low rank of SEV/Child and while being the third highest taxed district in a county of 28 districts.

The Board has also introduced a five-year budget analysis which appears as follows:

AVONDALE SCHOOL DISTRICT
SEPTEMBER 29, 1975
5-YEAR COMPARISON OF BUDGETED TO ACTUAL ACTIVITY FOR ALL
GENERAL FUND ACCOUNTS

	<u>Budget</u>	<u>Actual</u>	<u>Amount of Variation From Budget</u>	<u>% Variation From Budget</u>
1974-75				
Revenue	\$4,572,329	\$4,584,528	+12,199	+ .27
Expense	4,819,658	4,762,421	-57,237	- 1.19
1973-74				
Revenue	\$4,137,697	\$4,233,227	+95,530	+ 2.31
Expense	4,205,855	4,198,413	- 7,442	- .18
1972-73				
Revenue	\$3,840,793	\$3,885,665	+44,872	+ 1.17
Expense	3,904,451	3,869,880	-34,571	- .90
1971-72				
Revenue	\$3,645,213	\$3,628,407	-16,806	- .46
Expense	3,668,790	3,574,023	-94,767	- 2.58
1970-71				
Revenue	\$3,298,488	\$3,237,635	-60,853	- 1.84
Expense	3,396,339	3,289,994	-106,345	- 3.13

This exhibit shows that the Board has done an excellent job in budgeting. For instance, in 1974-75 the Board overestimated its expenses by only 1.19% while it underestimated its revenues by .27%. The Board cannot be accused of bad business practices.

Because of the existence of the stipulation, the most important exhibit is joint Exhibit 1. This exhibit is the 1975-76 Budget. It appears as such:

AVONDALE SCHOOL DISTRICT
1975-76 BUDGET

REVENUES

Local Sources (1)		\$2,681,864
State Sources (2)	\$2,155,852	
Less Anticipated State Aid Reduction (3)	<u>41,850</u>	2,114,002
Federal Sources (4)		81,748
Other School Districts		<u>49,000</u>
TOTAL REVENUES		\$4,926,614

EXPENDITURES

Instruction excluding basic teacher salaries	\$ 777,184	
Teacher salaries for present staff (5)	2,910,734	
Provision for added Spec. Ed. Teacher	12,000	
Contingency for possible class size adjustments	<u>9,600</u>	
TOTAL INSTRUCTION		\$3,709,518
Administration		193,568
Health		1,300
Transportation		179,231
Operation of Plant		462,823
Maintenance of Plant		116,509
Fixed Charges		225,891
Capital Outlay		23,531
Community Services		<u>45,281</u>
TOTAL EXPENDITURES		<u>\$4,957,652</u>

- Note 1: Local Revenue includes current tax levies of 30.53 mills on State Equalized Valuation of \$84,375,018.
- Note 2: State Revenue includes membership aid computed on 3,766 pupils using the new State Aid formula included in HB 4814 which since has become law.
- Note 3: The Association does not agree that this deduction should be reflected.
- Note 4: Based upon 1974-75 sources of Federal Income.
- Note 5: These monies reflect current payments to staff, which are based on an extension of the 1974-75 Contract with each teacher advanced on the salary schedule for increment or step increases and advance degree adjustments (track changes).

The parties have agreed with the accuracy of each figure on the 1975-76 budget, with the exception of the \$41,850.00 held in reserve for the anticipated reduction in State aid. The association believes that the reserve figure should not appear on the budget because it is pure speculation.

This Fact Finder does not allow the introduction of post-hearing evidence unless the parties agree to such a procedure. In this case the parties did have such an agreement.

The Board took legitimate advantage of this agreement supplying the Fact Finder with a continuous up-date of State aid information. This information was simultaneously sent to the Association and ample time was allowed for rebuttal.

Initially the Board introduced an exhibit showing the total amount of money available for teacher salary increases up and above that provided by the increment increases and advance degree adjustments. It appears as such:

AVONDALE SCHOOL DISTRICT

1975-76 Balanced Budget Fully Utilizing
June 30, 1975 Fund Balance

Unappropriated Fund Balance - June 30, 1975	\$ 84,004
Total 1975-76 Revenues per Stipulated Budget, Exhibit 1	<u>4,926,614</u>
Total Resources Available for 1975-76 Operations	\$5,010,618
Total Expenditures per Stipulated Budget, Exhibit 1	4,957,652
Balance Available for Teacher Salary Raise and other Expenditures, prior to Adjustments	52,966
Add Net Adjustment per Employer's Exhibit E	<u>12,296</u>
	\$ <u><u>65,262</u></u>

In the above exhibit the \$12,296 item represents the amount of money available for teacher salary increases, as of October 15, 1975, as a result of an unusually high enrollment in the newly instituted adult education high school completion program. The exhibit indicated that there was approximately \$65,000.00 available for teacher salary increases.

On October 24, 1975 the Board, via its closing statement, showed that the proposed State-aid decrease would be 1.8% based upon each district's local revenues. The Board contends this would reduce the amount of State aid by \$81,647.00. The additional evidence also showed that the actual reported enrollment was 3,787 down from the 3,798.92, the figure used in the initial evidence. This represents a loss of 11.92 students or \$13,299.74 from "State sources." Hence, the money available for teacher salary increases as of October 24, 1975 appears as such:

Total Revenues	\$4,873,518
Plus Unappropriated Fund Balance	84,004
	<u>\$4,957,522</u>
Plus Exhibit E monies	12,296
	<u>\$4,969,818</u>
Minus Expenditures	4,957,652
	<u>\$ 12,166</u>
	(available for teacher salary increases)

On November 5, 1975 the Board supplied the Fact Finder with a copy of the actual executive order. The order would reduce the State aid by .8% or about \$65,308.00. This reduction was less than the \$81,647.00 contemplated on October 24, 1975. Hence, the money available for teacher salary increases is \$28,505.00. The calculations appear as such:

Total Revenues	\$4,889,857
Plus Unappropriated Fund Balance	84,004
	<u>\$4,973,861</u>
Plus Exhibit E monies	12,296
	<u>\$4,986,157</u>
Minus Expenditures	4,957,652
	<u>\$ 28,505</u>

(available for teacher salary increases)

RESOLUTION

The stipulation alters the character of much of the evidence. Evidence that would generally be material and relevant has suffered a decrease in importance. However, as previously stated the stipulation is legitimate and precise. Further, it reflects the stable labor relations that the present parties enjoy. Few employers and employees would be able to agree on such a controlling set of parameters. The realistic attitudes exhibited by both parties is noteworthy.

At present the teachers are receiving additional income by reason of increment and advance degree increases. These costs were incorporated in the stipulated budget and are reflected as additional expenditures.

The Board is willing to divert its entire unappropriated net fund equity towards teacher salary improvement. This is not a meaningless proposal. There is a certain amount of tangible risk in operating under a budget that approaches \$5,000,000.00 without an unappropriated net fund equity.

However, the Association has not presented an inflated or unreasonable demand. The 2.85% increase (exclusive of increments) that the Association desires is extremely reasonable in light of the increased cost of living.

The Fact Finder would be less than truthful if he concluded that one or both of the parties were being unreasonable. Both parties have shown genuine reasonableness and concern.

The problem concerns itself with the anticipated reduction in State aid. The reduction is more reality than fiction, but the severity of the reduction is still extremely questionable. The evidence introduced by the Board shows that the amount of the reduction has yet to be finalized and as of this date is still speculative.

After analyzing the evidence and being mindful of the controlling stipulation, the Fact Finder makes the following recommendation:

The Association shall receive an additional increase in salary equal to a total expenditure of \$28,505.00. Additionally, if the State-aid reduction proves to be less than the latest figure in evidence (.8% or \$65,308.00), the amount of increased revenue realized from a smaller reduction shall be applied to teacher salary increases, but the total increase realized shall not exceed 2.85%, exclusive of increment or advance degree increases. If they materialize the increases should be instituted immediately upon the receipt of finalized figures and be retroactive.

The above recommendation is unusual, but the Fact Finder is presented with an unusual set of circumstances.

The recommendation will apply all presently available monies to teacher salary increases. Based on the stipulated budget this would amount to a one percent increase in total salary expenditure exclusive of the increment and advance degree increases which are presently being paid by the Board. If the State-aid reduction is less than anticipated, then the additional income should be applied to teacher salary increases until the teachers realize a total increase of 2.85% exclusive of increment or advance salary adjustments.

The financial situation forces the Fact Finder to recommend that the proposed retirement benefit sought by the Association be denied.

CONCLUSION

The parties should not wait for the final State-aid figures before settling this dispute. Quite the contrary, the Fact Finder feels that the above recommendation should serve as the basis of a quick settlement.

The parties can be assured that the Fact Finder carefully examined the evidence and arguments before rendering this recommendation.


MARIO CHIESA

November 28, 1975

STIPULATION

The Avondale School District and the Avondale Education Association having previously stipulated certain conditions in the joint petition for fact finding, as set forth therein, and having been requested by the Fact Finder to quantify the parameters of that stipulation and having met and reviewed the information contained in the attached exhibits and find the same to be true and accurate as of September 26, 1975, do hereby stipulate that the exhibits may be received in evidence by the Fact Finder and shall be relied upon as being true and accurate for purposes of the parties' previous stipulations in the joint petition for fact finding. The stipulations and exhibits that relate thereto are as follows:

1. Stipulated Limitation: The Fact Finder's report shall not require the Board to levy additional operational millage.

The parties stipulate that the current millage rate is 30.53 mills and that the revenue resulting from the 1975 levy of that millage (1975-76 school year) upon the property within the District is accurately reflected as "local income" in the 1975-76 budget, Exhibit I.

2. Stipulated Limitation: The Fact Finder's report shall not require the Board to operate under a deficit budget.

The parties stipulate that, except as to one item which is appropriately noted in a footnote in the document, the attached Exhibit I is a fair and accurate projection of revenues and expenditures for the District for the 1975-76 school year, based upon information ascertainable as of September 26, 1975. The parties advise the Fact Finder that since the budget is a projection of future events, it may become necessary, solely in the event that new information becomes available, for either party to seek adjustments or modifications prior to the Fact Finder's report issuing. Further, the parties agree that the District's unappropriated General Fund Balance as of June 30, 1975, is \$84,004.00.

3. Stipulated Limitation: The Fact Finder's report shall not require the School District to sustain a reduction in current programs in order to finance the payment of any resulting salary schedule.

The parties stipulate that Exhibit II, a so-called scatter-gram, is an accurate listing of the District's teaching staff spread at the various increment and track levels. The parties further stipulate that Exhibit III, the June 30, 1975 audited financial report, accurately sets forth the financial condition of the District as of that date, including the expenses needed to fund current programs.

AVONDALE SCHOOL DISTRICT

By Hobart H. Jenkins
HOBART H. JENKINS,
Assistant Superintendent

AVONDALE EDUCATION ASSOCIATION

By James A. Matteson
JAMES A. MATTESON,
Executive Director

Dated: