

IN THE MATTER OF FACT FINDING

Federal Way School District No. 210
and
Federal Way Education Association

FACT FINDER

Dr. Larry P. Bundy
STATE BOARD FOR COMMUNITY COLLEGE EDUCATION

APPEARANCES

For Federal Way School District No. 210
Dr. Ronald Johnson, Board Negotiator

For Federal Way Education Association
Mr. Edward Brillault, Uniserve Representative

Background of Negotiations Between Federal
Way School District No. 210 and Federal Way Education Association
1976-77 Contractual Agreement

The first negotiation session between the parties regarding the 1976-77 Contractual Agreement May 19, 1976. Ten additional negotiation sessions took place from that time until the impasse situation was declared by the Association on August 5, 1976.

Upon request to PERC (Public Employees Relations Commission) by the Association, for the appointment of a mediator, Mr. Jack Cowen, SPI, was appointed. The first mediation session took place on Friday, August 13, 1976, at 10:00 AM in the Educational Service Center at the Federal Way School District. Eight separate mediation sessions took place from August 13 - August 24, 1976. On August 25, 1976, both parties requested fact finding assistance from PERC. The fact finder was subsequently appointed by PERC at the specific request of both parties.

The fact finding session was scheduled for September 24, 1976, at the SEA-TAC Hilton. Upon completion of the fact finding it was agreed that the fact finder would deliver a formal copy of the findings and recommendations for their review. The parties would have five (5) working days subsequent to receipt of the report for consideration of the report and appropriate action prior to release of the report.

Because the history of the negotiations including proposals and counter proposals is well documented in the excellent briefs provided by both parties, this report will deal only with the remaining unresolved items, the major issues related to each item and a specific recommendation. The fact finder does not pretend that the specific recommendations

presented or combinations of recommendations are all encompassing. However, it is the fact finder's judgement that under current circumstances the recommendations are fair and equitable and achievable by both parties at this time.

REMAINING UNRESOLVED ITEMS

Grievance Procedure
No-Strike Clause
Association Leave
Stipends
Insurance Contributions
Other Leaves

I. GRIEVANCE PROCEDURE

The primary issues at dispute regarding the grievance procedure include:

1. A broad all encompassing definition including all Board policies, rules, regulations and contractual agreements as apposed to a very limited definition pertaining to the negotiated contractual agreement only.
2. The inclusion of binding arbitration within the grievance procedures.
3. Exclusion of specific negotiated items from the grievance procedure.
4. The existence of an "informal" grievance procedure and a separate grievance procedure under Board policy for items outside the negotiated agreement.

Two major overriding concerns surfaced in the discussion of the grievance procedure as it now stands and what it should be in the future.

There presently exists two grievance procedures, one within the negotiated agreement having a very limited definition and one under separate Board policy dealing with issues outside of the contract. It is somewhat confusing as to specifically where to differentiate the areas of application of each procedure. This becomes particularly significant in the consideration of binding arbitration as a final resolution step.

There appears to be much concern expressed on behalf of the Board that binding arbitration erodes their managerial rights, administrative prerogatives and overall ability to manage the school district in an efficient and effective manner. This is not necessarily so, if binding arbitration is limited to the interpretation of and the application of the terms and conditions of contract.

RECOMMENDATIONS:

Therefore, the following recommendations are offered:

1. A grievance be defined as an allegation of a violation or a dispute concerning the interpretation or application of the terms of the negotiated agreement.
2. A grievant be defined as an employee, a group of employees or the Association.
3. Binding arbitration be provided as the terminal point or resolution within the grievance procedure limited to the interpretation and application of the negotiated agreement. Specific exclusions from binding arbitration should include discretionary leaves, responsibilities related to instructional and non-instructional duties and employee facilities.
4. The employee should have the right to request or refuse representation by the Association or other representation at each step of the process.

5. The only grievance procedure should be that procedure set forth in the negotiated agreement as a formal process.
6. Provide language clarification to insure face-to-face discussion of the issue and a 45 day filing period from date of occurrence with the exception of payroll related items which should be from time of first knowledge of occurrence.

II. NO-STRIKE CLAUSE

In light of existing legal interpretations regarding the illegality of public employees to strike, a no-strike clause seems to be of doubtful significance in terms of a necessity for managing the district; however, it does provide an avenue for the Board to seek alleged damages and third party intervention in the event of a strike. This may be of importance in the case where a strike is over an unresolved grievance or economic dispute.

The same considerations apply to the Association and its responsibility to adequately represent eligible employees within the district, particularly in the event of a lock-out.

RECOMMENDATIONS:

It is recommended that a no-strike clause be included in conjunction with a no-lock-out clause to afford both parties equal access to third party intervention in the event of unresolvable dispute.

III. ASSOCIATION LEAVE

There are two general concerns surrounding the issue of Association leave and one very specific one. The Board is generally concerned about the purpose for which unlimited Association leave could be utilized. At

the same time the Association is rightfully concerned about the ability to adequately conduct necessary business activities in support of the teachers. The specific concern settles around the unresolved issue of "legality" of Association leave and the liability of the Board in the event of a determination of it being unlawful.

RECOMMENDATIONS:

In light of the previous practice in Federal Way School District of granting Association leave at the discretion of the superintendent and in light of the cloudy issue of "legality", it is recommended that twenty (20) days of Association leave be granted at the discretion of the superintendent and that a "hold-harmless" provision be included in the event that a declarative judgement against the Board required the recovery of incidental expenses as a result of granting leave. The Association should reimburse the school district at the actual per diem rate for the individual teacher's release.

IV. SALARIES

General cost of living increase criteria for the Seattle, Tacoma, and Everett area (CPI) indicate an increase in general living costs from 5.5 - 6.5% depending on which month-to-month year is utilized. Therefore, a basic maintenance position would require not less than 5.5% increase on the base salary (not including increments).

It is true that the Federal Way School District has put forth a high level of effort over the past several years to provide an acceptable level of remuneration for the employees. It is also true that the District and the Association have attempted to work cooperatively throughout some very difficult times. Much material and analysis was presented from both parties related to how much money was

available for salary increases. Much of it was inconsistent as to comparable format and conflicting as to conclusions. Even though I have some expertise in this area, it would require a thorough examination of books of record to determine just how much uncommitted monies are available.

However, the amount of monies available does not necessarily determine the priority for expenditure. It is the Board's prerogative and responsibility to make those judgements utilizing the best information and counsel available to them.

RECOMMENDATIONS:

It is with strong emphasis that a recommendation of a minimum of 5.5% increase in base salary is submitted. This recommendation is submitted with the confidence that there are adequate resources to provide that, even though it will be tight as to available funds.

This recommendation is made in conjunction with the recommendation regarding insurance benefits.

V. INSURANCE CONTRIBUTIONS

Medical-dental insurance coverage is a necessity and a real cost item that has been constantly increasing at an increasing rate. The projected cost increase put into effect this month will be approximately 15% for the approved options currently available to Federal Way School District Employees. Therefore, in order for the Board to maintain the previous level of effort with regards to the shared cost of providing medical/dental coverage the District contribution should be increased accordingly.

RECOMMENDATIONS:

It is recommended that in conjunction with a minimum of 5.5% increase in base salary, the District's contribution to medical/dental insurance coverage be increased from \$40 to \$46 per FTE.

VI. STIPENDS

Remunerative increases are typically a function of the task to be performed and the overall increase in economic environmental factors and/or an increase in responsibility or value of the task to be performed.

Accepted in this light, extra-curricular activities should be treated no differently from on-going basic program assignments with respect to remunerative increases. If the Board maintains the right to "assign" extra-curricular activities over and above the basic teaching assignment then it may be concluded that the Board places equal importance on extra-curricular activities as an integral part of the program. If this is true, then extra-curricular remuneration should be tied to the basic salary schedule and the Board maintains the prerogative to determine which positions shall or shall not be added to the schedule.

If the Association maintains that the appointment of individuals to specific extra-curricular assignments must be on a qualified and volunteer basis, then the Board must maintain the right to "contract-out" for those positions for which there does not exist a qualified-willing employee.

RECOMMENDATIONS:

It is recommended that the extra-curricular remuneration (stipends) be tied to the base salary for the 1976-77 school year as an index. It is also recommended that assignments be made on a qualified and willing

basis with the Board maintaining the right to determine which positions will be added to the schedule and having the right to contract-out on the basis of non-availability of qualified-willing employees.

VII. OTHER LEAVES

During the fact finding session the issue of "leaves", being subject to arbitration under the grievance procedure, surfaced. It is recommended that all leaves should be explicitly defined within the scope of the contract. It is also recommended that the decision to grant or disallow a request for discretionary leaves should not be subject to binding arbitration.

DATED OCTOBER 1, 1976

A handwritten signature in cursive script that reads "Dr. Larry Bundy".

DR. LARRY P. BUNDY, FACT FINDER