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PUBLIC EMPLOYMENT  
RELATIONS COMMISSION

IN THE MATTER OF FACT FINDING

TACOMA ALLIANCE OF EDUCATION

and

THE TACOMA SCHOOL DISTRICT NO. 10

Report and Recommendations  
Pursuant to SB 2500  
(State of Washington)  
Chapter 391-30, passed 1976

FACT FINDER

Dr. Richard B. Peterson, University of Washington

APPEARANCES

For the Alliance

Mr. Frank Valdez, Executive Director, Tacoma Association of Classroom  
Teachers and Representative Agent of the Tacoma  
Alliance of Educators

For the Tacoma School District

Mr. Neil Hanson, Director of Employee Relations

Background of Negotiations Leading  
Up to the Impasse

The Parties' first negotiation session for the 1976-77 contract was held on March 1, 1976. During the next four and one-half months the Parties held thirty-six additional bargaining sessions. The last of these sessions was held on July 14, 1976 in which the District and the Alliance presented their last offers. Neither Party was willing to change its position at that time.

Therefore, it was mutually agreed to request mediation. Mediation sessions were held on July 26-28, 1976, with Jack Cowan, who had been appointed by PERC to serve as mediator in the dispute. The Parties were unable to resolve their differences through mediation and requested fact finding as provided for in the Law. Dr. Richard B. Peterson of the University of Washington was chosen as fact finder for the impasse.

The fact finding hearing was held on August 23, 1976 and continued into the early hours of the following day. At the hearing the Parties informed the fact finder that tentative agreement had been reached on 58 (60) of the items, but that there were still 11 unresolved issues. The fact finder also was told that the Alliance had submitted unfair labor practice charges to PERC on several of the issues because of alleged unwillingness of the District to bargain in good faith over the issue. The hearing was declared closed on August 24, 1976 as neither side wished to submit a post hearing brief.

It was agreed between the Parties and the fact finder that the final report and recommendations would be submitted to the Parties by no later than September 3, 1976 so that they could respond to

its contents prior to the opening of the school year on September 8, 1976.

Discussion and Recommendations  
Regarding Unresolved Issues

Because of shortness of time, it was agreed upon by the Parties and the fact finder that the report would focus upon discussion and recommendations by the fact finder. Therefore, there will be no attempt to present the bargaining history on each issue leading up to the impasse.

This section will consist of the following parts. First, the final proposals or counter-proposals for both Parties will be given. Secondly, there will be a short list of major arguments advanced by each Party at the hearing in support of its position on the issue. Finally, the fact finder will discuss and present recommendations regarding possible resolution of the differences. All of this information is presented on an issue-by-issue basis.

I. Insurance Benefits

District's Last Proposal or Position

Alliance's Last Proposal or Position

4 plans.

5 Plans.

\$35.00 Hospitalization or premium, whichever is less.  
\$15.00 Dental insurance or premium, whichever is less.  
\$48.48 (\$35.00 plus \$13.48) in reality.

Full dental plan for family.  
Full hospitalization (based upon Pierce County Medical Insurance).  
Later willing to consider dollar amount.

Major Arguments

Major Arguments

1. Lack of lid on either dental or hospital plans means likelihood of escalation given rapid increase in health care costs.
2. Administrative costs for handling different dollar amounts.
3. Tacoma School District's contribution already quite generous in comparison to 15 largest school districts in surrounding counties.

1. 28th out of 84 Group Districts on insurance benefits.
2. Low on number of insurance plans contributed to (salary protection).
3. 2 Districts provide fully paid coverage.
4. District has money to pay for premium
5. Fringe benefits tend to be much higher in private sector.

Background and Recommendations of Fact Finder

It is clear that there has been rapid acceleration of health care costs during recent years. The acceleration has been particularly noticable during the past year. The result has been significant jumps in health care premiums. The implications are clear for both parties. The certificated employee and District must pay higher premiums to maintain the level of health care coverage.

The 1975-76 Agreements helped somewhat by providing that an additional \$5.00 of hospitalization premium would be paid by the District effective for the 1976-77 school year or a total contribution of \$30.00. Initially, the Alliance wanted total premium coverage for family dental insurance plus contribution equal to the premium of the Pierce County Medical Plan for hospitalization. Later,

they were willing to consider a dollar amount contribution.

The fact finder figured the percentage increase in premiums under the new rates for the two hospitalization plans that were reported in the exhibits for a family of four persons. The average increase in premiums was 33%. In other words, it would take a 33% increase in premium contribution to maintain the District's share of the total premium payment. Since the District had earlier committed themselves to the \$30.00 premium contribution, a 33% increase would equal \$10.00 or a total of \$40.00 contribution to the hospitalization premium.

The Parties informed the fact finder that the dental insurance premium would remain the same during the next school year.

THEREFORE, it is recommended that the District contribute \$40.00 toward the hospitalization premium of any of the four designated plans and \$15.00 toward the family dental insurance premium, or pay the total premiums, whichever amount is less on the separate plans.

## II. PERSONAL LEAVE

### District's Last Proposal or Position

No position

### Major Arguments

1. Teachers already have up to 3 personal leave days under present Agreement and tentative agreement called Emergency Leave covers some of the specific situations.
2. Tacoma generous - sick leave, bereavement leave (up to 5 days), jury leave pay, professional leave, sabbatical leave (without pay)
3. Cost implications up to 1900 days of absence and substitute costs.

### Alliance's Last Proposal or Position

1 day of Emergency Leave for Personal Leave (specified but no permission required)

### Major Arguments

1. Some personal business not presently covered
2. At least 7 Districts give personal leave
3. 34 of 84 Group I Districts have personal leave.
4. Attorney General's opinion that such a leave is legal.
5. Cost implications not that much.

Background and Recommendation  
of Fact Finder

The District contends that the total leave policy is already quite liberal by providing for paid personal leave, sick leave, bereavement leave, jury leave, sabbatical leave, etc. The Alliance's position is that the present tentative agreement on emergency leave does not cover certain situations that would be allowed under the more liberal wording proposed by the Alliance covering one of the three days of emergency leave.

Furthermore, the District is concerned with the potential cost implications (and effect on classroom continuity) if many or most of the certificated employees were to use that emergency day.

It appears to the fact finder that the leave policy is already quite liberal and that some of the situations advanced by the Alliance are already covered under the present tentative agreement. In addition, the Alliance exhibit showing personal leave provisions in seven other school districts in the State of Washington was not documented sufficiently in some cases to allow direct comparability.

Though no one can know for sure, there is a strong possibility that certificated employees would make greater use of the one day of emergency leave than has been true under the present personal leave language in the Agreements. If this were true, the District would absorb additional costs through payment of substitutes.

THEREFORE, it is recommended that the Alliance delete this part of the emergency leave provision while keeping the tentative agreement on emergency leave.

III. Salary Guides

District's Last Proposal or Position

5.49% salary increase

\$8.90

\$52.00 (7.3%)

no CPI (cost of living adjustment)

5.5% extra pay for extra work

no index ratio

no reclassified positions

September effective date

Remain at 8 hours

Remain two separate schedules

no

no

no

Major Arguments

1. Tacoma classroom teachers paid about 14% more than average salary for teachers in State of Wash. and in top 2 of 3 of 12-13 largest Districts in State
2. Tacoma certificated teachers have stayed up with CPI - thus no need for COL supplement
3. Board's position on other issues spelled out in their Brief.

Alliance's Last Proposal or Position

12.0% salary increase

\$11.39 Summer hourly rate

\$39.00 Substitute rate (will treat under substitute issue)

\$54.00 orientation (12%)

Minimum of 5% cost of living adjustment (reality 5.24%)

12% = extra pay for extra work

index ratio salary schedule

reclassified positions

July 1976 effective date

Per diem on 7½ hours

One salary schedule

15th step for doctorate

.5% increase for 25 years service

.5% per 15 q.h. beyond MA plus 300 or BA plus 345 q.h.

Major Arguments

1. Teachers not paid commensurate with private sector salaries for similar educational background.
2. The arguments relating to 9 month vs. 12 month school year as justifying salary differences are not supportable.
3. Take home pay has deteriorated or at best held its own in past 6-7 years (based on many newspaper articles, etc)
4. District has the available money based on revenue projections, etc.



Background and Recommendation  
of the Fact Finder

There is no question that salary represents one of the most important elements to be included in the Agreements. Understandably, the certificated employees wish to protect themselves against inflation and, at the same time, realize some improvement in their standard of living. On the other hand, the District sees salary increases as a major additional cost in operation of the school system that must be taken from the available revenues.

Since there are so many unresolved issues under Salary Guides, the recommendations and discussion on each point will be presented together.

TIHEREFORE, it is recommended that:

A. There be a salary increase of 7.00%. This recommendation is based upon 5.24% increase in the CPI from May 1975 to May 1976 for the Seattle-Tacoma-Everett area, recognition of the need for some net improvement in real income beyond cost of living increases and a hedge against increases in inflation in future months given Government forecasts, reports on monthly CPI and continued uncertainty regarding inflation. In addition, the recommendation is in line with the recently announced settlement in the Northshore School District.

B. The summer hourly rate increase be 7.00% to maintain consistency with the proposed salary increase figure.

C. The orientation pay be increased to \$52.00 (7.30%) with no limit stated as to the number of days of orientation.

D. There be no separate cost of living supplement. This specific recommendation is based upon the fact that the salary increase recognizes cost of living and that both Parties have



shown that the Tacoma certificated employees have at least held their own with increases in cost of living and for some of the past nine years had some net gain in income after correction for inflation.

E. Extra pay for extra work also be increased at the 7.00% rate to maintain consistency.

F. The index ratio proposed by the Alliance be dropped as well as the request for one salary schedule. The fact finder interprets the Law to allow more than one salary schedule. Furthermore, it is not yet clear whether the administrators will remain part of the TAE given their petition to PERC for separation out of the Bargaining Unit. Until PERC acts, there does not seem to be the need for dealing with the issue.

G. No positions should be reclassified at the present time given the status of the petition before PERC and inability to cost out the results of such reclassification.

H. The effective date of the salary increase be shown in the October 1 payroll in line with previous way salary increases have been handled in the Tacoma School District.

I. The per diem be based upon 8 hours rather than  $7\frac{1}{2}$  as proposed by the Alliance. The fact finder is unable to find sufficient cause for the proposed change.

J. There be no 15th Step added for a doctorate. Comparison of salary schedules of other school districts within the State of Washington showed this was not a common practice.

L. There be no 5% increment for each 15 quarter hours beyond the MA plus 300 or the BA plus 345 salary rates. This does not seem to be a common practice in the State and there is no clear

evidence that the extra college credits would make for more effective teaching in the classroom. Such a move might also have the effect of reducing the financial advantage of those holding the doctorate degree itself since accumulation of 30 or more quarter hours would place that employee at a higher pay rate than the doctorate holder.

M. (Substitute pay is handled in the next section)

#### IV. Substitute Employees

##### District's Last Proposal or Position

Postpone negotiations on subject until MERC has ruled on whether substitutes are in the TAE bargaining unit.

Maintain \$35.15 substitute rate

##### Major Arguments

1. Substitutes not appropriately members of TAE (see exhibit)
2. Question regarding giving expanded rights to substitutes inappropriate for occasional employee.
3. Philosophical position against agency shop for substitute teachers.
4. State law does not require written contracts for substitutes.
5. Salary proposal of Alliance too high in terms of comparison with other districts (average of top 15 = \$31.18)
6. Four of the requested rights already part of 1975-76 contract agreements for substitutes.

##### Alliance's Last Proposal or Position

12 (later 11) contractual rights for substitutes (see Alliance proposal)

Agency shop dues on basis of 1/180 formula for each substitute day.

Written contract.

\$39.00 per day.

##### Major Arguments

1. Substitute teachers have been members of bargaining unit since 1969.
2. They should have rights accorded regularly employed certificated teachers and administrators.
3. Only fair that substitutes share in costs of representing them.
4. Substitute pay proposal is reasonable increase.

Background and Recommendations  
of Fact Finder

The issue of substitute employees is not an easy one to resolve in an educational setting. From the District's side, the substitute is an occasional employee who they believe should not have the same privileges and benefits as regular staff. However, the Alliance has a natural concern since it represents them in contract negotiations on some matters and has done so for some years.

Evidence presented at the hearing showed that substitutes have some rights under the provisions of the 1975-76 Agreements (salary guide and rights clauses). This does not necessarily negate the need for them to enjoy additional rights. However, at the present time there is a petition before PERC regarding whether certificated substitute staff should be included as members of the TACT (TAE) Bargaining Unit. Since there is no indication how quickly PERC will move on the matter, equity considerations would argue that substitute employees should not be deprived of pay increases during the interim period.

THEREFORE, it is recommended that further negotiations regarding certificated substitute employees be deferred until such time as PERC rules on the issue. However, it is recommended that such substitute employees receive a 7.00% pay increase to maintain a percentage relationship with regular certificated staff.

V. Staff Development

District's Last Proposal or Position

Principally, continuation of Staff Development language in 1975-76 Agreements with exception of establishing Staff Development Committee (2 representatives from Association President list of 5 chosen by Superintendent) Adding human relations to list of activities

Alliance's Last Proposal or Position

Detailed language on Staff Development (See District Exhibit V6)  
Staff Development Council (6 representatives appointed by Association)

Major Arguments

1. Staff development falls outside scope of bargaining under RCW 41.59.
2. Would set up super-committee or overlapping committee that duplicates present work being done
3. District already involves staff in such activities.
4. Cost and time commitment implications.

Major Arguments

1. Staff development important to certificated staff and they have educational qualifications to influence improvements in education program.
2. Alliance proposals deal with charge of Council, its accountability and procedures, etc.
3. Proposal recognizes fiscal constraints.
4. No limitation on Administrative appointments to Council.
5. Does not negate opportunity for public input.

Background and Recommendations of Fact Finder

Little doubt exists that the quality and availability of inservice and other educational programs are important both to the District and the Alliance certificated staff. With declining employment of new teachers and the net reduction of staff in many school districts, increased emphasis must be placed upon insuring maintenance and improvement of present staff for the common good of the District, its staff and the community.

The certificated staff have a legitimate concern for what happens in staff development and the necessary educational back-

ground to provide meaningful input. On the other hand, it is important that such efforts do not take a disproportionate amount of time of the District and the staff itself so as to reduce the ability of both groups to meet their obligations to the students and the community.

THEREFORE, it is recommended that the Parties continue the language from the 1975-76 Agreements while adding human relations to the list of activities. Furthermore, it is recommended that a Staff Development Committee be created with a suggested representation of 3 from the District, 2 from the Alliance and the possibility of 1 or 2 community members. The Committee would serve as an advisory body to the Superintendent of Schools on matters related to staff development.

In order for the Committee to be successful, the Parties may wish to consider using problem-solving techniques as better means of reaching the overall goals for staff development rather than an adversary approach.

VI. Work Load

District's Last Proposal or Position

Alliances Last Proposal or Position

Board policy only with some impact as 1975-76 contract provision.

Board Policy plus contract language.

Only A (4) and (5) subject to arbitration.

No class to have more than 30 students.

Entire policy subject to grievance and arbitration.

16.0 = Kindergarten ratio (per session)

20.0 = Kindergarten ratio (per session)

16.2 = Grades 1-6 (per building)

22.0 = Grades 1-3 (building)

14.5 = Secondary (District)

23.0 = Grades 4-6 (building)

Determined 2nd Friday and completed by 3rd Friday of School Year.

24.0 = Secondary (District)

board can approve classes over 30 students.

Inclusion of aides where certain number of students exceeded in individual classroom (see Exhibit).

Any change in policy requires mutual agreement.

Inclusion of voc-tech classes and handi-capped and learning specialists.

Major Arguments

Major Arguments

- 1. District already has best staffing formula of 15 largest districts.
- 2. Cost of lowering ratios as well as inflexibility.
- 3. Inclusion of voc-tech and handi-capped teachers provided under WAC (outside the unit).
- 4. Work load (staffing) should not require mutual consent to change policy.
- 5. Ratios should not be subject to arbitration.
- 6. Assigning aides not justified, feasible, etc.

- 1. There needs to be contractual obligation on work load to assure that policy is enforced.
- 2. Smaller class size results in better learning for all students on a variety of dimensions.
- 3. Maximum of 30 necessary at secondary level to protect individual teachers from very large classes.
- 4. Work loads are an allowable subject for negotiations in more sophisticated states.
- 5. 11 other school districts in the State of Washington have reached agreement on class sizes for 1976-77 School Year.

Background and Recommendation of Fact Finder

Work load is an important issue for both Parties. The number of students one teaches, or is responsible for, determines the amount of work to be done and the amount of individual attention that can be given to students. On the other hand, the work load ratio has direct impact upon the cost of education. The smaller the number of students per teacher, the greater the cost of supplying that education. This point is particularly evident when one addresses the education of handicapped students.

Historical exhibits presented at the hearing show that recent

Board policies on work load have generally been effective in reducing the number of large classes (30 or more students) in the Tacoma Public Schools. However, problems still exist in the view of the Alliance.

THEREFORE, the following recommendations are presented:

A. That the Board policy regarding work loads continue to be included in the 1976-77 Agreements.

B. Include a clause such as the following - "No regular class shall have more than 30 students unless recommended by the principal and his or her staff and approved by the Superintendent. However, the District will endeavor to have no more than 30 students in any regular class."

C. Continuation of teacher-student ratios from 1975-76 Agreements for Kindergarten and elementary school as stated in the Agreements.

D. Secondary school teacher-student ratio of 24.5 be continued. However, the District will endeavor to have lower rates at the Junior High than the Senior High level. This would respond to greater needs for smaller classes at Junior High level than Senior High level.

E. The ratios be subject to the grievance arbitration procedures. However, the teacher-student ratios would not hold where the District does not have the normal revenue available to it. It appears that the ratios in the present Agreements are themselves subject to these procedures even though no language is given in the clause regarding grievances and arbitration.

F. The ratios stated above not include Learning Specialists at this time, but that the suggested ratios be continued from the



1975-76 Agreements. This would mean including #6 from the present Agreements.

G. The continuation of #3, #4, and #5 from the Staffing Clause in the 1975-76 Agreements.

H. The Alliance language regarding use of aides be deleted.

VII. Miscellaneous Provisions

District's Last Proposal or Position

Alliance's Last Proposal or Position

Delete no-strike, non jeopardy and maintenance of standards clauses.

Delete no-strike clause.

Maintain non-jeopardy and maintenance of standards clause.

Major Arguments

Major Arguments

- 1. Non-jeopardy would be covered through inclusion of non-discriminatory language and right of certified staff Assoc. to file unfair labor practice under Washington's collective bargaining law.
- 2. Maintenance of standards language too restrictive on Board rights.
- 3. Board willing to drop no-strike clause in exchange.

- 1. Present management rights clause too restrictive.
- 2. Need to protect rights of Association members from discriminatory treatment because of Association membership.
- 3. Need to insure that Board position will not change without input by Association (mutual consent).

Background and Recommendations of Fact Finder

The principal issues between the District and Alliance relate to non-jeopardy and maintenance of standards language proposed by the Alliance. The Parties have already had tentative agreement on the issues of reopening by mutual consent, the superceding clause and printing responsibility and expense being handled by the District.

THEREFORE, it is recommended that the non-jeopardy language be

deleted since it appears to be covered quite well in the tentative agreement on Equitable Treatment.

Furthermore, it is recommended that the Alliance's proposed language on maintenance of standards (#4) be deleted since it appears to be quite restrictive on rules and regulations not part of the Agreements. In addition, past practice is commonly used in arbitration where the intent of the Parties is not clear from reading the language of the Agreement itself. Therefore, past practice or precedence need not be stated explicitly.

Finally, it is recommended that the new agreement be effective from July 1, 1976 through June 30, 1977.

As an aside, the Parties may wish to add "or non-membership" to the tentative agreement on Equitable Treatment. Such a change would not appear to hurt either the District or the Alliance and would recognize the rights of non-members against alleged discriminatory treatment.

#### IX. Just Cause

##### District's Last Proposal or Position

##### Alliance's Last Proposal or Position

Delete any language on just cause in Agreements.

Just cause basis for judging possible disciplinary action including arbitration.

Progressive discipline.

Complaints must be called to attention of teacher.

Written notice to Association.

Association representation right at time of discipline.

##### Major Arguments

##### Major Arguments

1. Negates rights of Board to terminate provisional employee according to HB 1364.

1. Just cause is a constitutional right.

- . Would require written notices of disciplinary action to Association.
- ) Would require Association representative during any disciplinary action.
- ) Cost and time considerations in implementing.
- 2. New Law (HB 1364) reduces rights of certificated staff.
- 3. Just cause language is common in collective bargaining agreements.
- 4. Six districts in Washington have negotiated just cause language into 1976-77 Agreements.

Background and Recommendations  
of Fact Finder

Both the District and the Alliance are concerned with the issue of just cause. It appears to the fact finder that the District is fearful that such language would replace or emasculate the intent of HB 1364. On the other hand, the Alliance sees this language as necessary to protect the rights of certificated staff against arbitrary and capricious treatment as it applies to normal discipline and discharge actions by the District as opposed to the issue of teacher competency. Furthermore, the Alliance appears to believe that the grievance process is less time consuming and expensive than requiring the employee to appeal through the courts or similar avenue.

"Just cause" is found in many contracts both in the private and public sectors. Even where it is not explicitly stated, arbitrators use the principle as the basis for determining the appropriateness and justification for employer action. Progressive discipline also is commonly found in collective bargaining agreements as a means of identifying beforehand the possible actions an employer might take (predictability).

THEREFORE, it is recommended that a just cause provision be included in the 1976-77 Agreements, but that it be clear that "just

cause" apply to discipline and discharge of employees for infractions of rules, etc. rather than with matters focusing upon teacher competency. The latter matters seem to be within the provisions of HB 1364 and should be handled through the process so defined in that legislation.

Second, it is recommended that the language regarding progressive discipline be included in the 1976-77 Agreements.

Third, any complaints should be called to the attention of the certificated employee since the first step of progressive discipline is an oral warning. Such action lets the employee know of the problem in hopes that it will be corrected. From the District's position it is important since the consistent following of such a procedure strengthens their position at an arbitration hearing, should the case go that far.

Finally, it is recommended that the Alliance language relating to written notification to the Association and right of representation by the Association be deleted at this time. The latter language would seem to be difficult to implement given the large number of school buildings in the District and the need, in some cases, to have the Association representative in the specific school relieved from his or her duties to be present at the meeting. However, it is important that the Alliance be aware of the disciplinary action taken against one of its members. Perhaps the Parties may be able to develop an informal mechanism. This recommendation assumes that the District and Alliance will evidence good faith in handling these matters. If not, then a formalized notification and representation system will become likely in future Agreements.

## X. Committees

### District's Last Proposal or Position

Delete proposed language of Alliance.

### Alliance's Last Proposal or Position

Serving on committees not mandatory.

No disciplinary action can be taken for such refusal.

Meetings confined to work days.

Purpose and goals defined.

Committees informed of available money (predetermined expenditures.)

Committees have decision making power.

### Major Arguments

- . Proposal too confining in terms of scheduling of meetings, completely voluntary nature, pre-determining purpose and goals.
- . Decision-making power of committees reduces management direction and control.

### Major Arguments

1. Association hears many complaints regarding frustrations of serving on committees with District (supported by testimony at Hearing)
2. Proposal of Alliance would improve functioning of committees.
3. Certificated staff have educational qualifications to provide meaningful input.

## Background and Recommendations of Fact Finder

Some of my earlier remarks relative to Staff Development apply here as well. There is little doubt that teachers and administrators can provide a worthwhile input given their level of education and experience. Their role in committees can be very constructive if that committee has developed clear goals and developed mechanisms for effective consideration of alternatives.

Unfortunately, the experience many have on committees has often not measured up to our expectations of what could be accomplished. There are a host of reasons for discontent with committees and I shall not address each of them here. The more difficult challenge

is to create an effective and meaningful role for such committees within the District while giving District management the valuable input and yet the right to manage.

It is doubtful that the potential proliferation of committees and task forces is the best way to go at this time. And yet, it is important that teachers serve on committees and that the meetings be allowed some flexibility in scheduling. To confine all meetings to the regular school day might have the effect of reducing efforts or dismemberment of such committees since the District would be hesitant to absorb the costs of operation and staffing of replacements.

THEREFORE, it is recommended that the Alliance proposal on Committees be deleted from further consideration at this time.

#### XI. Association Security

##### District's Last Proposal or Position

Delete proposed language.

##### Major Arguments

1. Compulsory membership against Board's philosophical principles.
2. Employee should have right to pay or not pay dues to the Association.
3. Agency shop is permissive subject under SB 2500.
4. District already provides payroll deduction for Association dues for those staff members who choose affiliation (and payroll deduction).
5. Board against firing a teacher for non-affiliation (as opposed to ability and qualifications)
6. Agency shop has little precedence in State and no precedence in local area.

##### Alliance's Last Proposal or Position

Agency shop agreement.

##### Major Arguments

1. Agency shop is an item for bargaining under SB 2500.
2. District provides union security for other employee units.
3. Association must represent all certificated staff - therefore, they should all pay costs.
4. Protects rights of those who are opposed to membership on religious grounds, etc.
5. 72% membership level at present in Alliance



Background and Recommendations  
of Fact Finder

Finally, we come to the question of association security. Both the District and the Alliance have expressed their strong feelings regarding this matter. Testimony by two of the Board members at the hearing clearly showed that they were opposed to the agency shop on philosophical grounds. It was their stance that it would be wrong for any certificated employee to be required to join and remain a member of the Alliance as a condition of employment. This position has not been uncommon in the past, and we find evidence of it today as well.

On the other hand, the Alliance has presented strong arguments why an agency shop provision should be included in the new Agreements. First, the new collective bargaining law in the State allows for the agency shop provision if there is mutual agreement between the parties. Second, the Alliance already represents approximately 72% of the employees covered by the Bargaining Unit. Third, the Alliance feels that everyone should share in the costs of employee representation since the Alliance is required to represent members and non-members alike. Finally, the agency shop makes provision for those employees who because of religious convictions are unable to join the Alliance by allowing them to contribute to a charity.

Much thought has been given this matter before arriving at my recommendation. I feel strongly that the recommendation provides a fair and equitable means of facing this issue and will enhance the likelihood of settlement on the contract.

TIHEREFORE, it is recommended that the District and the Alliance negotiate a maintenance of membership clause to be included in the



1976-77 Agreements. Such a clause would require that present members of the Association (as of the end of the 1975-76 Agreements or June 30, 1976) continue to retain their membership during the period covered by the new Agreements between the Board and TAE. It also is recommended that the District make available to the Alliance the names and addresses of new certificated employees in the District covered by the Alliance so that they can be contacted regarding their desire to become members of the Association (if this is not already provided).

The maintenance of membership clause responds to the needs and convictions of both the District and the Alliance. It does not require that an employee join the Association if it is against his or her will, but it does provide a stability for the Association in terms of ability to represent the certificated employees covered by the Agreements.

#### Closing Points

The fact finder did not respond to the questions regarding scope of bargaining since they are properly within the jurisdiction of the Public Employment Relations Commission.

I would be glad to meet with the Parties to respond to or clarify any questions regarding the fact finding report if that is jointly desired.

Sincerely,

September 2, 1976  
Date

Richard B. Peterson  
(Dr.) Richard B. Peterson

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VIII. Layoff and Recall

Current developments in public education emphasize the importance of both the District and the Alliance to have some common understandings relative to policy and procedure for layoff and recall. Fortunately, it has not been necessary to layoff teachers in the Tacoma School District, but experiences in other districts within the State of Washington evidence some of the trauma connected with levy failures and declining enrollment.

It is important that the Board have a clear policy on layoff and recall so that if it should happen in the future that staff must be reduced, that the certified staff knows where they stand in terms of criteria and procedures. However, it is also necessary that the policy be part of the contract so that the certificated staff has the right to grieve in such cases where they believe that the criteria and procedures were not followed.

THEREFORE, it is recommended that the Board proposal relating to criteria for staff reduction be accepted with a couple of exceptions. (The Parties are in general agreement with the criteria based upon testimony at the hearing.) The first exception would be to entitle the clause as Layoff and Recall. The second exception would be to include the Alliance's language relating to choice by lot as a seniority tie breaker. The fact finder considered the possibility of using performance as the criterion here, but felt that it was not totally satisfactory since the certificated staff affected would likely be in different schools with some variance in standards given the fact of different supervisors (e.g., principals).

Second, it is recommended that certificated staff have right of second refusal before they are removed from the employment pool. This protects against the possibility that the first assignment would be far removed from the competency and background of the affected staff member.

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Third, it is recommended that the Alliance delete their item #7 at this time until it becomes clearer as to what categories of certificated staff retain membership in the Alliance.

Fourth, it is recommended that the Alliance delete mention of the percentage drop in revenue and reference to 30 day prior notification. The fact finder understands the Alliance's concern but such wording would result in considerable inflexibility for the District in implementing reduction in force in the future attributable to declining enrollment. In place of the 30 day notification, it is recommended that language be included to state "Notification of need for lay-off and recall of certificated staff covered by the Alliance shall be given to the Alliance as soon as possible prior to implementation"--or similar language.

Finally, it is recommended that the Layoff and Recall policy be included as part of the 1976-77 Agreements.