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STATE OF WASHINGTON
PUBLIC EMPLOYMENT RELATIONS COMMISSION

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PUBLIC EMPLOYMENT
RELATIONS COMMISSION

IN THE MATTER OF THE BARGAINING IMPASSE
BETWEEN
BELLEVUE EDUCATION ASSOCIATION
AND
BELLEVUE PUBLIC SCHOOLS, DISTRICT NO. 405

REPORT AND RECOMMENDATIONS OF THE FACT FINDER

Before Professor Daniel G. Collins

APPEARANCES:

For Bellevue Education Association

Mr. Larry Lowry
C. Dean Little, Esq.

For Bellevue Public Schools, District No. 405

Dr. Richard Clark
Thomas H. Grimm, Esq.

REPORT OF THE FACT FINDER

This is a Fact Finding proceeding pursuant to Section 13 of the Educational Employment Relations Act. The undersigned was designated as Fact Finder by the Public Employment Relations Commission on October 15, 1976. I met jointly with the parties' negotiating teams, in preliminary session, on September 21, 1976 and thereafter, on September 27th and 28th, held a hearing at the Bellevue Community College, which was attended by each party's full negotiating committee and at which each party was afforded an opportunity to present oral and written evidence, cross-examine witnesses, provide oral argument and otherwise support its respective position. This This Report and its Recommendations are based solely on the evidence adduced and the positions and arguments set forth at the hearing.

A. GENERAL OBSERVATIONS

I am impressed by the mutual respect demonstrated by the parties at the hearing, and by the thoughtful, well-documented positions each presented. Both parties expressed determination to continue to build on the enviable relationship that has long existed between the District and the Association as the representative of the District's certificated personnel. Both parties recognize that the relationship they enjoy, which has provided exceptional educational benefits for the District's pupils and significant professional and economic advantages for the certificated staff, depends ultimately for its well being on the confidence and support of the community they serve.

B. ITEMS IN DISPUTE

This is not a situation in which the parties have come to Fact Finding with little prior bargaining and with "shopping lists" of proposals. The contrary is true --- in intensive face-to-face bargaining the parties, first by themselves, and later with the mediation assistance of Marvin L. Schurke, the Commission's Executive Director, reached tentative agreement on a great many items and made substantial progress towards agreement on a number of others. The items presented to the Fact Finder, therefore, represent matters of considerable importance to the respective parties.

The items before the Fact Finder involve both so-called "economic" and "non-economic" issues. Economic items must, by their nature, be viewed as a "package". However, given the relative importance of all of the outstanding items, I have attempted to consider all of them in terms of their individual justification and as part of an overall settlement.

The order in which the items are discussed below is essentially the order in which they were considered at the hearing.

1. Salaries

(a) Basic Salary Improvement

The Association seeks an 8.2% basic salary improvement, which it breaks down as 4.9% to match the cost-of-living increase during the period from August 1975 to August 1976* and a further 3.3% "real" salary improvement. The District has offered approximately a 5.2% improvement in basic salaries.

Historically, the District's salary schedule has provided for increments based on longevity ---approximately 48.% of the certificated staff are now eligible for such increments with the remaining 51.5% being at the "top of the scale", and training adjustments to reflect academic preparation. This year such longevity and training increases represent, according to the Association's figures and in terms of the total bargaining unit, a 3.25% improvement in basic compensation. The District's figure is 3%. The parties are in dispute as to how this factor should be characterized for bargaining purposes ---- the Association regards it as a continuing, earned entitlement quite apart from any salary improvement which may be negotiated; the District regards longevity and training increases as both a real economic improvement for employees and an added cost to the District. Thus, the District characterizes its offer as in fact an 8.2% increase, i.e., a 5.2% across-the-board basic salary improvement, plus, approximately a 3% improvement attributable to longevity and training increases. On the same basis, the District would view the Association's salary proposal as representing approximately an 11.2% improvement in basic compensation.

The question of characterization of longevity and training increases for purposes of collective bargaining constantly arises whenever an employment situation involves a previously existing incremental salary schedule. Logically there is some merit to each party's view; as a practical matter both views are usually taken into account in collective bargaining.

Accepted criteria for salary determination, absent extraordinary circumstances, are comparability with similarly situated employees, increases in the cost-of-living, and ability of the employer to pay. In the present situation the evidence establishes that, in terms of average salary of certificated staff, the District ranks first in the State. The District introduced evidence to the effect that of the state's 82 class I districts, 28, or 34%, exclusive of Seattle where there was a large salary catch-up, have to date ratified collective bargaining settlements with teacher organizations. According to the District's evidence, the average basic salary improvement in those settlements, exclusive of longevity and training increases is 6.55%; the median, 6.42%, and the range of settlements, from 0% to 10%.

** The cost of living increase is measured by the percentage increase in the Bureau of Labor Statistics Consumer Price Index for the Seattle area (the "CPI"). The figure of 4.9% was an early estimate; the actual figure, which is now available is 5.3%. The Association also notes that on the basis of the CPI increase in recent months, a 7.6% increase can reasonably be projected for the current year. Thus, it asserts, its proposed cost-of-living adjustment is a "conservative" figure ---- "on the low side."*

The Association introduced evidence as to settlements in 25 such districts, exclusive of Seattle, showing an average basic salary improvement of 7.3%, and also introduced evidence as to settlements in six of the districts with more than 10,000 students, showing the same 7.3% average basic salary improvement.

The District also introduced evidence showing recent 5% salary increases both for employees of Washington State, and for General Schedule Employees of the Federal Government. However, those are not negotiated increases, and they have been the subject of protests by the employee organizations concerned.

As noted above,the CPI for the Seattle area increased 5.3% during the year ending in August 1976.

Taking all of the aforesaid factors into account, I believe that a 7% basic salary improvement, exclusive of longevity and training increases, would be fair and appropriate, and will so recommend.

(b) Salary Structures

The District has sought a number of changes in the basic salary structure, but, before the Fact Finder, indicated that it would be willing, albeit reluctantly, to retain the present basic structure. The District notes in this connection that the Association expressly agreed in July 1975, that it would, in negotiations for the 1976-77 salary schedule, give "good faith consideration" to changes in salary structure. The District does continue to insist on two changes, however: preplanning for academic programs leading to salary credit, and elimination of the BA +15 and BA +30 training levels, though with "grandfather" protection for present personnel.

The District has a legitimate interest in assuring that academic programs establishing salary credits serve its program requirements. In fact, in my experience, provision for prior course or program approval is not uncommon in teachers' collective bargaining agreements. I will accordingly recommend adoption of the District's proposal with respect to Article XI, Section 1.3, which would require prior program approval for training increases beginning in 1977-78, with approval procedures regarding partially completed programs to be developed by the District this year in consultation with the Association. However, I will also recommend that the provision proposed by the District contain a proviso that program approval "will not be unreasonably withheld." Furthermore, if the District has program approval power, I see no necessarily related need to abolish the BA +15 and BA +30 columns of the salary schedule. I therefore, will not recommend adoption of this portion of the District's proposed Section 1.3.

(c) Activity Pay

At the hearing, the District made a further offer as to activity pay, which appears to meet, if not exceed, the Association's requirements. I therefore recommend adoption of the District's proposal.

(d) Pay for Extended Work

Previously, the District has paid for additional work by certificated staff at various rates depending on the nature of the activity.....i.e., extension of normal activities, 1/184 of actual salary per day; summer school, $6.25 to $14.25 per class hour; curriculum and non-teaching activities, $5.63 per hour; and training activity, $4.38 per hour. The District proposes to pay for all "basic responsibilities" at 1/200 of actual salary per day and for curriculum work and all other activities at $7.50 per hour. The Association seeks pay for all basic extended work at the daily rate of 1/184 of actual salary and for other activities at $7.50 per hour, arguing that 184 is the number of days worked annually and that teachers should logically receive at least their regular rate for what in effect is overtime. However, the Association states that it could accept a 1/200 rate if the District granted the Association's demands for basic salary improvement.

Both parties agree that a $7.50 hourly rate for extended work outside of normal activities is a desirable improvement. As to the rate for normal activities, while there is no overriding logic either to using a 184 base, reflecting annual days worked or a 1/200 base, reflecting days worked plus school holidays, the latter formula is more typically utilized as a matter of general personnel practice. In any event, given the fact that a $7.50 rate represents a very large increase --- from 33% to 71% depending on the activity, and the fact that I have recommended a substantial increase in basic compensation, I will recommend that the 1/200 base be used.

2. Fringe Benefits: Insurance

The Association seeks to have the District pay the full cost of medical and dental insurance, with a monthly limit per employee of $37 and $15, respectively. The District recognizes that insurance costs have risen, and it is willing to apply funds to increase its health insurance plan contributions within the limit of, and therefore as an offset against its offered 5.2% basis salary improvement.

Last year the District's health plan contributions were at the monthly rate of $26, compared to a State average of $28.84. Similarly, the District's total of insurance contributions ran about $4 below the State average. In this connection the District has not previously made any dental plan contributions.

In terms of existing practices and current settlements in class I districts, the Association's goals in this area are not extravagant. Many districts provide dental plan contributions, and contribution levels for both health and dental plans are not infrequently of the order the Association seeks. The difficulty here, however, is that on the basis of the District's present funding levels, its contributions would have to be doubled to provide a maximum of $37 for the health plan and $15 for a dental plan. While I believe, on the basis of the comparability evidence before me, that there should be a substantial increase in insurance contributions over and above the 7% basic salary improvement I have recommended, I also think that it is unrealistic to believe that bargaining would ever achieve over one year a 100% increase

in such fringe benefits. I will accordingly recommend that the District increase its insurance contributions, prospectively, by $15 per full-time employee per month, effective immediately following agreement between the parties. I will not recommend whether all or a part of such increases should be applied to a dental plan, believing that the parties themselves are in the best position jointly to make that determination. In this connection, I would also note that while the $15 I recommend is in addition to a basic salary improvement of 7%, the parties always have the option of further increasing insurance contributions while reducing the basic salary improvement accordingly.

The Association, as part of its fringe benefit proposals, seeks to have insurance contributions made for certain categories of part-time employees. The District argues that, in addition to the added cost, this proposal presents administrative difficulties. The record before me is not adequate to weigh adequately these arguments. In any event, I believe a $15 fringe benefit increase per full-time employee is warranted by the evidence and, as noted above, the parties would be free to apply such additional funding in accordance with their joint priorities.

3. Sabbatical Leaves

Previously, the District has undertaken to grant sabbatical leaves to a minimum of 1% of its certificated staff annually. In contrast, many other districts specify a maximum, but no minimum percentage for such purposes. The District proposes to establish a ceiling of 1.5% and a floor of .5%. The Association would prefer to maintain the prior practice, but has also made a counter proposal which would accept the 1.5% ceiling, but establish a .75% floor. In this situation, I believe the Association's counter proposal represents a fair compromise, and I will therefore recommend that the parties agree to a maximum sabbatical percentage of 1.5% and a guaranteed minimum percentage of .75%.

4. Staffing

The Association proposes that all per pupil and per building allocations for 1975-76 remain in effect for 1976-77. The District asserts that staffing is not a mandatory bargaining subject, though it is prepared to bargain concerning it. The District contends that its staffing density is too great --- that there has been no decline in staff corresponding to the decline in pupil population, and that correction of this situation is necessary to insure community confidence in District policies. The District proposes that there be a 2% reduction in staff for 1976-77 and a further 2% reduction for 1977-78.

The parties bargaining as to staffing, is complicated by a number of factors. First, intensive negotiations on staffing have taken place over the past several years, during one of which a levy defeat required renegotiations by the parties. In addition, on July 11, 1975, the parties entered into a memorandum of agreement which provided, in part, as follows:

It is agreed that staffing for 1976-77 will be on a per pupil basis with details to be negotiated as part of a good faith effort to establish a new comprehensive staffing policy for the Bellevue School District.

Although specific ratios are not set forth in that Understanding, it must be viewed as representing an agreement to staff for 1976-77 solely on a per pupil basis with certain exceptions specifically set forth. In this connection, it is hardly surprising that the parties agreed in their overall agreement for 1975-76, on staffing for 1976-77, since staffing arrangements for a subsequent year must necessarily be made in the prior year.

The second complicating factor consists of the individual renewal contracts entered into between the District and the certificated staff for 1976-77. Each such contract contains the following statement:

The wages, hours and other terms and conditions of employment shall be as provided in the collective bargaining contract between the Board of Directors of the Bellevue School District and the Bellevue Education Association. Until said agreement is reached, your wages, hours and other terms and conditions of employment will remain as in the 1975-76 school year.

Whether or not staffing criteria constitute a term and condition of employment for purposes of the Educational Employment Relations Act, is problematical. However, given the history of negotiations in the District, including the current bargaining for a 1976-77 Agreement, the certificated staff could reasonably have regarded the foregoing statement as freezing, at least pending a 1976-77 Agreement, both per pupil and per building staffing allocation formulas.

The third complicating factor is that during the course of the current bargaining, the District unilaterally made and implemented staffing decisions, which, at least in the case of elementary specialists departed from prior staffing practices that were set forth in a Fact Sheet promulgated by the District in October 1975.

I believe that as a practical matter, and particularly in view of the events that have transpired during the current bargaining, all of the 1975-76 per pupil and per building allocations should be utilized and promptly reimplemented for 1976-77. I will so recommend. However, I also believe that, provided such reimplementation takes place promptly, such action will represent adequate relief for the current year and that, in this connection, the grievances and unfair practice charges previously filed against the District, should be withdrawn. I will so recommend.

The question of staffing for 1977-78 is, as I have indicated, properly and perhaps necessarily a matter for the parties' 1976-77 Agreement. I believe, on the basis of the evidence before me, including the parties' 1975 Understanding, that such staffing should be on a per pupil basis, and not per building basis, with guidelines to assure flexibility to adjust to changing program needs. I also believe that it is preferable for the parties themselves, rather than

a Fact Finder who must address the multiple issues in this bargaining dispute, to establish appropriate per pupil ratios and attendent guidelines. I am hopeful that once the parties have reached agreement on the other outstanding bargaining issues, including staffing for 1976-77 and resolution of attendent unfair labor practice charges, they will proceed expeditiously to reach a staffing agreement for 1977-78 on the basis of the criteria set forth above. However, in order to assure that the District will have adequate time to make staffing arrangements for 1977-78, I will also recommend that if the parties have not, within 60 days following their agreement on the terms and conditions of employment for certificated staff for 1976-77, reached agreement on staffing for 1977-78, that dispute be submitted to binding arbitration under the authority of Sections 13(6) and 14 of the Educational Employment Relations Act.

5. Grievance Procedure

The parties at the hearing voted their agreement that arbitration would be conducted pursuant to the Voluntary Labor Arbitration Rules of the American Arbitration Association. Their outstanding disagreements as to grievance procedure involve five issues: timeliness of grievances scheduling of grievance hearings, scope of arbitrations, burden of proof in arbitration, and remedial powers of the arbitrator.

The Association proposes that the period for initiating grievances be 60 days; the District seeks 30 days. In my experience, while it is desirable to provide for prompt initiation of grievances, a more important consideration is the totality of time limitations in the grievance and arbitration process, coupled with the determination of both parties to adhere to those limitations.

Although 30-day initiation periods are more common in collective agreements, 60-day periods are acceptable in many situations. Here, the parties have previously had a 60-day limitation and there is no compelling evidence calling for a departure from that norm. I will therefore recommend 60 days. However, it was noted at the hearing that, apparently by oversight, neither party had proposed a time limitation for appealing grievances to arbitration. I recommend that such appeals must be made within 20 days after the grievance meeting provided for in Step 2 (Section 18.43) of the parties' proposed procedures.

The District proposes that all grievance meetings or hearings be held at a mutually acceptable time and place. In fact, the Association's proposal is very close to this. Given the parties' good working relationship, I doubt that the District's proposal would present any problems and if it did, the subject would be appropriate for future contract bargaining. I therefore recommend adoption of the District's proposed Section 18.3.6

The District has agreed to binding grievance arbitration, but would exclude from that process, grievances as to those Articles of the proposed Agreement dealing with Recognition and Jurisdiction, Management Rights, Definitions (which is in dispute), Instructional Materials, Academic Freedom and Professional Involvement. The District does not argue that any contractual rights created by such Articles are not enforceable according to their terms, but rather that enforcement should be sought in an appropriate forum other than arbitration. The Association, in contrast, takes the position that arbitration, as an expert forum created for contract administration, should deal with all contract matters.

The District has not heretofore had binding arbitration, and I can appreciate its desire to proceed cautiously in implementing such a new adjudicatory mechanism. However, binding grievance arbitration is now well established in educational labor relations, and widespread experience with that process dispels many of the District's reservations. In addition, some theoretical observations, butressed by my own experience, seem in order. In the first place, a contract, by definition, constitutes a totality of rights and obligations. Whatever the forum provided for contract interpretation and application, whether it be an arbitrator or court, that forum will find it extremely difficult to discharge its responsibilities in particular cases unless it can refer to the entire contract. For example, Recognition and Management Rights clauses are constantly referred to in arbitration by one or the other party. Secondly, to my knowledge, arbitrators have addressed and handled reasonably well questions that are as difficult as any that I could envision arising under the Academic Freedom provisions of Article XII of the proposed agreement.

Thirdly, most of Article XII, and Article XIII, dealing with Professional Involvement, are concerned with essentially procedural matters which should pose no special difficulty for an arbitrator, or risks for the District. Fourthly, while Article XI, dealing with Instructional Materials Policy, does involve matters of educational policy and expertise, that Article, as already agreed to, expressly vests in the Districts' Board of Directors final decision - making authority as to all such matters. However, absent more information than is contained in the record of this proceeding, I would not recommend that the arbitrator be empowered to hear and determine any grievance for which the legislature has expressly provided another method of review. For all of these reasons I recommend that the Association's proposed Section 18.4.4 be adopted, with the single exception I have noted.

The Association in its propsed Section 18.4.4.2 would establish special rules regarding burden of proof in arbitration. I know of no precedent for those rules in arbitration as it is commonly practiced under collective bargaining agreements. Moreover, I believe that it is widely recognized that the acceptance and success of the grievance arbitration process is attributable, in part, to the delegation to the arbitrator of broad procedural powers, including the power to deal with such matters as burden of proof in particular cases. I therefore will recommend that the Association's proposed Section 18.4.4.2 not be adopted.

The Association seeks, in its proposed Section 18.4.4.1 expressly to provide the Arbitrator with power "to order equitable relief and monetary damages." Under Federal and most State Law applicable to arbitration, the arbitrator has such powers as a matter of law unless they are expressly excluded. Normally, I would see no need then, to set forth such powers expressly. However, since questions concerning arbitrators' powers have arisen under some state public employment bargaining laws, and since I believe that the parties here must intend the arbitrator to have such powers, I see no reason why they should not be provided for in the Agreement. Accordingly, I recommend adoption of the Association's proposed Section 18.4.4.1.

6. Agency Shop

The Association seeks a full agency shop as permitted by Section 11 of the Educational Employment Relations Act. The District opposes that demand, on the ground that employees should be free to choose whether or not to support the Association financially, and, that, in any event, there is no evidence that the Association has been impeded in its representation of certificated staff because of lack of a union security provision.

My personal belief is that where there are special problems of the kind that were present in the Seattle District, or where, as in the Bellevue District, the overwhelming majority of certificated staff are members of the Association, a very strong case exists for requiring all employees to contribute financially to the organization's legally mandated representational activities. At the same time, the fact finding must take into account the realities of the collective bargaining process, of which it is a part. In this connection, of 26 current class I district settlements as to which evidence was presented, only 8 resulted in full agency shop clauses, one a maintenance-of-membership clause, and one other a "modified" agency shop. Moreover, in two of such bargaining disputes, in the Seattle and Tacoma Districts, fact finders recommended, respectively, agency shop and maintenance membership clauses, which the respective districts resisted. In the Seattle dispute, the settlement arrived at after a strike included a considerably modified union security clause; in Tacoma, the settlement did not provide for union security at all. Under these circumstances, I do not believe that the prospects for settlement by the parties here would be enhanced by recommendation of an agency shop clause. This demand, can, of course, be pursued in bargaining for future contracts.

7. Released Time and Professional Leave

The Association seeks 100 days of paid released time annually for professional activities and conferences designated by it and approved by the teacher's immediate supervisors, and where necessary, the District's Board of Directors. In addition, the Association seeks professional leave for a duly elected Association official, with continuation of salary and other benefits, for which the Association will reimburse the District, and against any liability for which the Association's will defend, indemnify and hold harmless the District. The District is opposed to both proposals, believing that prior released time and professional

leave arrangements applicable to all certificated personnel have served, among others, the legitimate needs of the Association.

Released time and professional leave for organizational activities related to the works of a school district are not uncommon in collective bargaining agreements and, in normal circumstances, I would recommend such provisions within reasonable limits. Here, however, several additional factors are present. First, it appears to be undisputed that the District's prior practices with respect to released time and professional leave have adequately accommodated the Association's needs. Secondly, as to professional leave, the school year is already well under way, and leaves for the current year are already determined and implemented. Thirdly, serious legal questions have been raised concerning the items the Association proposes, which questions will probably be answered definitively by the courts this year. Under the circumstances I will recommend continuation of the District's prior released time and professional leave policies, but I will not recommend adoption of the Association's proposed Section 1.8 and Article X, Section 16. These items may, of course, be raised in bargaining for future contracts.

8. No Strike - No Lockout Clause

The District seeks a no-strike clause, which it wishes to be effective through 1977-78; The Association prefers that the Agreement not contain a no-strike clause, but it has stated that it is prepared to negotiate such a clause if the District accepts its proposals for salary improvement and agency shop.

It is generally accepted that the respective parties are entitled to protection against strikes and lockouts for the duration of their substantive Agreement. I will recommend that the parties' adopt the District's proposed Article V, the wording of which I understand was suggested by Mediator Schurke.

9. Duration of Agreement

The Association seeks an one-year contract for the period September 1, 1976 to August 31, 1977. The District too, is interested essentially in a one-year contract, but it proposes that the contract be effective as of August 1, 1976 and that the contract's staffing, sabbatical leave and no-strike provisions be effective through 1977-78. The District also is prepared to extend the life of the recognition clause through 1977-78 and guarantee retroactively, if necessary, for any 1977-78 salary agreement.

I have recommended earlier in this Report that the District's insurance contributions be increased prospectively.

Since by law the District's fiscal year will soon extend from September 1 to August 31, it would seem appropriate for any contract to be coextensive with that period. I will, therefore, recommend that the parties' 1976-77 Agreement to be effective for the period beginning September 1, 1976 and ending August 31, 1977.

By their nature, sabbatical leave provisions create in a current year vested rights and obligations which are to be performed in the next. Collective agreements typically do not, for that reason, treat such provisions as an exception to a duration clause.

As I have indicated earlier in this Report, I believe a no-strike clause is an appropriate quid pro quo for an employer's substantive undertakings. There is no special logic, however, to continuing the effectiveness of such a clause beyond the period of the substantive contract. Furthermore, the legal effectiveness of a recognition clause would be questionable absent an otherwise continuing collective bargaining agreement. For these reasons, I will not recommend adoption of the District's proposals regarding effectiveness beyond August 31, 1977 of the recognition and no-strike obligations of the parties' 1976-77 Agreement, or any concomittant obligation by the District as to retroactivety of a salary settlement for the next fiscal year.

10. Definitions

Each party has submitted a list of defined terms for inclusion in a separate Article VII of the Agreement. The District has submitted seven definitional statements, the Association seventeen, five of which coincide with District statements.

It is certainly desirable to define contract terminology where there is any possible ambiguity in meaning. However, three of the Association's proposed definitions would merely track statutory language, and there is no apparent reason why these need to be set forth in the Agreement. Moreover, it appears that at least in the case of one such term, "certificated employee", the statutory definition is broader than the usage in the context of the Agreement. Similarly, as sometimes used in the Agreement, the term "Superintendent" appears of necessity to be broader than the Association's proposed definition. I doubt, though, whether such differences have any practical significance for interpretation of the Agreement. Terms such as "administrative staff", "policies", "administrative directive", and "established practice" may pose some future practical definitional problems,but it is difficult for me now to foresee the exact nature of those problems, or to understand how what appear to be rather generalized definitions proposed by the parties will resolve any such problems. In any event, if as it appears, these terms have a well understood meaning in the District, it should be relatively simple to prove that meaning in the event it becomes relevant. I do not mean to suggest that these proposed definitions might not serve some purpose, but rather that on the basis of the evidence before me, it is not at all clear whether there is any urgency as to agreeing to them, and what if any problems would be obviated by such agreement. For those reasons, and because I do not believe a settlement by the parties is dependent on such definitional agreements. I will not make any recommendations as to proposed District and Association Articles VII.

C. ABILITY TO PAY

The District placed in evidence considerable financial and budgetary data, as well as testimony in explanation thereof. The District's position is that it can pay the cost of its proposals within the present budget, provided it obtains a 2% reduction in staffing for 1976-77. My recommendations, however, are in excess of the District offer --- I recommend a 7% basic salary improvement, the District has offered a 5.2%. Moreover, I recommend a prospective increase in insurance contributions, which I estimate to represent a further .7% increase, while the District had proposed to credit any increased contributions against its basic salary offer. Furthermore, I recommend no staffing reduction for 1976-77.

There are other increased benefits, and attendent costs, in the total package as recommended or already agreed to, e.g., pay for added responsibilities, increased activity and extended duty. These would add approximately a further .5%, making a total recommended package of approximately 8.2%, exclusive of longevity and training increases which represent this year 3.2% (the District has used a figure of 3%). Thus, in the District's view, the total recommended package would be in the vicinity of 11.2%. However, the District took into account such additional costs in making its ability-to-pay estimates. Thus, the real difference between the package I recommend and the District's offer, taking into account that the District offer was conditioned on a 2% staffing reduction, is approximately 1 million dollars.

The District, addressing the cost of the Association's proposal, has never stated that it does not have the financial ability to pay for that proposal, which is considerably more expensive than that which I recommend. What the District has said is that to pay the cost of the Association's proposal, the District would have to make hard, and in its view, undesirable reductions in budgeted expenditures in other areas. At the same time the District has said that it is desirous of providing, within its means, fair and reasonable terms and conditions of employment for its certificated staff.

I believe, on the basis of the cost-of-living figures and the voluminous comparability data in evidence, that the package I recommend is fair and reasonable and will serve the interests of both staff and the District's educational programs. I believe, too, that such a settlement should be recognized as a priority to be implemented by budget reallocations to the extent necessary.

D. RECOMMENDATIONS

For the foregoing reasons, I recommend as follows:

1(a). Basic salaries be increased 7% without change in the present salary structure.

1(b). The District's proposal for prior program approval for salary credit be accepted, but that its proposal for elimination of the BA + 15 and BA + 30 columns of the salary schedule be rejected.

1(c). The District's proposal with respect to activity pay be accepted.

1(d). The District's proposal with respect to pay for extended work be accepted.

2. The District's insurance contributions be increased, as of the date on which agreement is reached, by $15 per month per full-time employee.

3. The District provide sabbatical leaves for not more than 1.5% and not less than .75% of the certificated staff.

4(a). The District provide staffing for 1976-77 on the same basis at 1975-76, except that the District shall be deemed to have satisfied all of its contractual obligations in this respect, by readjusting staffing to conform to this requirement promptly upon agreement of the parties, and provided that the Association and/or affected employees shall withdraw any grievances and/or unfair labor practice charges filed in connection with the District's previous staffing for 1976-77.

4(b). The parties proceed to negotiate promptly, after their agreement on terms and conditions of employment for 1976-77, an agreement on staffing for 1977-78, on a per pupil and not on a per building basis, with guidelines to assure flexibility to adjust to changing program needs, provided that if an agreement is not reached in those negotiations within 60 days, the parties shall submit the matter to binding arbitration.

5(a). The time limitation for submission of a grievance be 60 days.

5(b). The time limitation for appealing a grievance to arbitration be 20 days from the date of the Step 2 meeting.

5(c). Grievance meetings and hearings be held at mutually acceptable times and places.

5(d). The jurisdiction of Arbitrator extend to all contract grievances, except grievances as to which another method of review is expressly provided by law.

5(e). The agreement contain no rules regarding the burden of proof in arbitration.

5(f). The agreement provide for the Arbitrator's power to order equitable relief and monetary damages.

6. The Agreement not provide for an agency shop.

7(a). The Association's proposals with respect to paid released time and professional leave not be accepted.

7(b). The District undertake to continue its present policies with respect to paid released time and professional leave.

8. The Agreement contain a "no-strike ---- no lockout" clause in the form set forth in the District's proposed Article V.

9. The parties' Agreement be for the period beginning September 1, 1976 and ending August 31, 1977.

I make no recommendation concerning the parties' dispute as to definition of contract terms.

Dated: October 7, 1976

Daniel G. Collins, Fact Finder