

William H. Dorsey, Jr.

ARBITRATOR

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In the Matter of the Fact Finding between:)

COLUMBIA EDUCATION ASSOCIATION,
BURBANK, WASHINGTON,)

The Association,)

and)

THE BOARD OF DIRECTORS,
COLUMBIA SCHOOL DISTRICT #400,
BURBANK, WASHINGTON,)

The Employer.)

PERC #1701-F-78-82

IMPASSE RE TERMS AND
CONDITIONS OF A CONTRACT
FOR THE 1978-1979
SCHOOL YEAR

RECEIVED-OLYMPIA, WA

OCT 31 1978

**PUBLIC EMPLOYMENT
RELATIONS COMMISSION**

Date and Place of Hearing:

October 9, 1978;
Pasco, Washington.

Representing the Association:

Jim Clark
UniServ Director

Ken Landeis
UniServ Director

Southeast Washington UniServ Council
Kennewick, Washington.

Representing the Employer:

Jerry Gates, Negotiator
Columbia School District #400
Richland, Washington.

Roger Ranta, Superintendent
Columbia School District #400
Burbank, Washington.

FACT FINDER'S REPORT

(Under 41.59.120(3) RCW and WAC 391-30-730)

INTRODUCTION

The Association and the Employer have had a long history of contract negotiations and annual Memoranda of Agreement dating back to 1971. Their latest Agreement, a collective bargaining agreement under the Educational Employment Relations Act of the State of Washington, Chapter 41.59 RCW, was for the period August 1, 1977 through August 31, 1978.

The Association and the Employer engaged in collective bargaining pursuant to RCW 41.59 in the spring and summer of 1978 and having exhausted that process, turned to mediation in PERC case #1611-M-78-631, with Mr. James N. Leibold of PERC's staff as the mediator.

By a letter dated September 11, 1978 addressed to Mr. Marvin L. Schurke, PERC's Executive Director, the parties notified him that they had selected William H. Dorsey as the Fact Finder for this Case #1701-F-78-82.

As previously noted, the Fact Finder held a formal fact finding hearing in Pasco, Washington on October 9, 1978.

ISSUES

The Fact Finder has framed the issue before him for recommendations in this fact finding case as follows:

What changes, if any, for the school year 1978-1979, should be made in the 1977-1978 Agreement between the Columbia Education Association and the Columbia School District #400 (Joint Exhibit V)?

ARGUMENTS OF THE PARTIES

Introduction

While initially it appeared that the following items were also at impasse, during the course of the October 9, 1978 fact finding hearing it became apparent that the parties were in substantial agreement on these matters and that, accordingly, the Fact Finder need make no findings of fact nor recommendations regarding them:

(1) Insurance Benefits

- (a) WEA Blue Cross up to \$93.35 per month per employee, paid by the District.
- (b) Current dental plan up to \$25.45 per month per employee, paid by the District.
- (c) Provided, however, if the State of Washington funds medical/dental insurance for the District's employees during the school year 1978-1979, the Employer's obligations for these premiums will cease.

(2) Effective Date of All 1978-1979 Contract Amendments

- (a) Retroactive to September 1, 1978.
- (b) Provided, however, the payment of retroactive salary due or the reimbursement of individual employees for retroactive benefits shall be made by the Employer as soon as administratively feasible.

It also appears that the following item, and others already "TA'ed" by the parties but unknown to the Fact Finder, have also been agreed upon by the parties:

"Article III, Personnel, Section 10, Extra Duty Pay, and Appendix "D", Extra Duty Pay Schedule.

Accordingly, this leaves only the following issues in dispute between the parties and before the Fact Finder in this case:

- (1) Salary schedule and total dollar improvement.
- (2) An agency shop or a fair representation fee provision.
- (3) Final and binding grievance arbitration (as the last step of the grievance procedure).

Position and Arguments of the Association

The position of the Association is that the following changes should be made in the pertinent provisions of the 1977-1978 Agreement of the parties (Joint Exhibit V) for the 1978-1979 school year:

(1) Salary Schedule and Total Dollar Improvement:

A new salary schedule (as shown in Attachment One)

with:

- (a) An \$11,300 base;
- (b) A \$21,250 top step;
- (c) A 1.88 ratio between the beginning step and the top step of the salary schedule;
- (d) Experience increments of \$650 in each educational column;
- (e) Three educational columns (B.A., 5th Year/Standard Certificate, and 6th Year/M.A.);
- (f) Quarter-hours credits in excess of degree require-

ments paid at the rate of \$16.00 per quarter hour; and

- (g) All other salary placement criteria are to remain the same as in the 1977-1978 contract.

N.B. The Association calculates that the average salary which would be paid by the Employer for this proposal is \$16,070, and the average salary increase thereunder would be 13.97 percent (based on a 1977-1978 average salary of \$14,100).

- (2) Addition of an Agency Shop or a Fair Representation Fee Provision

- (3) Addition of Final and Binding Grievance Arbitration (as the last step of the grievance procedure).

The Association's argument in support of its position is as follows:

First, there is no question of the financial ability of the Employer to pay the increase in wages requested by the Association.

Second, the wages proposed by the Association for the school year 1978-1979 would make these wages to be paid by the Employer competitive wages, comparable with those being paid for the school year 1978-1979 by similar school districts in the Southeast Washington region. N.B. As shown in Association's Exhibit 12 (see ATTACHMENT THREE) only 32 percent of the teachers in this Southeast Washington Region in the school year 1978-1979 will be covered by a salary schedule with a minimum of \$11,000 or more while 76 percent of the teachers in this region will be covered in 1978-1979 by a salary schedule showing a maximum of \$20,000 or more (at the M.A. or equivalent comparative maximum level).

Third, the wages requested by the Association for the school year 1978-1979 are reasonable and are necessary in order to keep the overall compensation of the teachers and support personnel in line with the ever-increasing cost of living in the Tri-Cities, Washington area.

Fourth and finally, it would be in the best interest of the teachers and support personnel of the District, of the Employer, and of the public, for the Employer to pay the competitive, reasonable and necessary wages proposed by the Association for the school year 1978-1979.

In support of its position that final and binding grievance arbitration should be the last step of the grievance procedure (instead of the current advisory arbitration step found in the 1977-1978 contract) the Association points out (see ATTACHMENT THREE) that during the school year 1978-1979, 90.7 percent of all teachers in the Southeast Washington region will be covered by a binding arbitration provision in their collective bargaining agreements.

In support of its position that an agency shop or fair representation fee provision should be added to the 1978-1979 Agreement of the parties, the Association points out (again, see ATTACHMENT THREE) that during the school year 1978-1979, 70 percent of all teachers in the Southeast Washington region will be covered by collective bargaining agreements which contain such an agency shop provision.

Position and Arguments of the Employer

The position of the Employer is that only the following changes should be made in the pertinent wage provisions of the contract of the parties for the school year 1978-1979:

Salary Schedule and Total Dollar Improvement

- (a) Retention of the 1977-1978 salary schedule (with a 1.64545 ratio between the beginning step and the top step of the salary schedule, experience increments of \$400 in three educational columns plus \$15.00 per quarter hour for quarter hours in excess of the degree requirement);
- (b) A 7.0 percent increase in the base from \$11,000 to \$11,770;
- (c) Corresponding adjustments in each step of the salary schedule; and

(d) A top step of \$19,367.
(See ATTACHMENT TWO.)

N.B. The District calculates that the average salary which would be paid by the Employer under this proposal would be \$15,113 and the average salary increase thereunder would be 7.18 percent (based, again, on a 1977-1978 average salary of \$14,100).

At the October 9, 1978 Fact Finding Hearing, the Employer indicated that an agency shop provision was not acceptable to it, under any circumstances, and argued that there was no need for final and binding grievance arbitration as the last step of the grievance procedure.

The arguments of the Employer in support of its position on these proposed changes in the wage provisions for the 1978-1979 school year were so succinctly stated by its negotiator, Jerry Gates, that the Fact Finder could not improve on them; accordingly, he has chosen to quote these arguments from Mr. Gates' brief for the employer.

On pages 1-2 of his brief, Mr. Gates argued:

"Columbia School District No. 400, Walla Walla County, lies roughly in the northeastern apex of the confluence of the Snake and Columbia rivers; the population is generally clustered around the community of Burbank which is bisected by Highway 12. The population of the school community is mainly rural with agriculture as a major industry; Boise-Cascade has a large paper mill down river and Columbia Foods maintains a large packing plant. Additionally, the Columbia School District is experiencing a growth impact of the Tri-Cities, a metropolitan area judged by the Tri-City Herald to be the fourth-largest population center in the State of Washington, with a nearly unlimited future of agricultural and industrial growth.

"The Columbia School District has one elementary, one junior high and one high school -- all on a single campus. Student enrollment has been increasing rapidly as the following student enrollment statistics show:

"1978-79	861	14.8%
1977-78	750	24.2%
1976-77	603	17.8%
1975-76	502	9.2%
1974-75	456	

"The Columbia School District thus is essentially a rural community facing the problem of an encroaching suburbia and a rapidly increasing student population which demands that the District continue to provide the community and children with qualified teachers.

"SALARY SCHEDULE

"The District is opposed to any changes in the structure of the existing salary schedule. The District believes that the salary schedule reflects and meets the specific needs of its community and children.

"1. The Salary Schedule Must Attract Qualified Teachers.

"As a satellite District competing with the Tri-Cities, the District must provide a salary schedule that meets the most basic need of any District -- attracting qualified teachers. The District must continue to maintain a beginning salary that it feels will make the District competitive with the Districts of the Tri-Cities. The District has consequently offered a 7% increase on last year's schedule bringing the base to \$11,770.

"2. The Schedule Must Off-Set Living Out of District.

"Because of the rapid growth of the Burbank area -- growth attributable to the over-all economic expansion of the area -- the District has a severe shortage in adequate housing. This housing shortage necessitates employees traveling from outside the District -- a financial burden that prospective employees weigh in determining whether or not to teach for the District. The District currently has five teachers living within the community."
[N.B. The parties agreed tht there are approximately 42.5 F.T.E. teachers in the bargaining unit.]

"3. Starting Salaries for Teachers are Low in Comparison with Other Occupations.

"Believing that beginning teachers salaries have traditionally been low -- a perennial argument of the Association when it suits its purpose -- the District has placed an additional emphasis on starting salaries. Beginning teachers have certification requirements that require additional expense of no small amount.

"4. A High Base Increases All Steps of the Schedule.

"The Association argues that the 'high' base takes money away from employees placed lower on the salary schedule; yet a comparison of the Columbia schedule with pay schedules of comparable sized Districts in the area shows that an employee in the Columbia School District fares very well. In fact, the base generates competitive pay rates throughout the pay schedule.

"5. Total Dollars for Certificated Salaries Are Fixed By a State-Mandated Funding Formula.

"The total number of dollars offered by the District for certificated salary increases exceeds the dollars provided through the State's basic education funding formula. The District has added 'local' money in order to bring the dollars for salaries for all certificated staff beyond the State recognized average certificated salary for the Columbia School District for 1978-79." [N.B. See District's Exhibits 1-7.]

Likewise, Mr. Gates' arguments in support of the District's opposition to an agency shop provision and to a binding arbitration provision were so well stated that the Fact Finder deems it important here to quote them in full, as follows:

"The District is opposed to the inclusion of a compulsory agency shop in the Collective Bargaining Agreement for the reasons set below. The District believes that an Association right to dues deductions irrevocable for one year provides all the so-called 'union security' appropriate and necessary under the circumstances.

"1. A Recommendation of Agency Shop is Inconsistent with Legislative Intent.

"The Washington State Legislature, in enacting RCW 41.59.100, authorized 'union security provisions including an agency shop' if the parties agree to it. Clearly, the Legislature left the option to the parties. Now the Association seeks to have the Fact Finder, in effect, amend the statute to require agency shop, all contrary to the apparent intent of the Legislature. Thus in light of the statute and the subjective, sensitive nature of the agency shop issue, the Fact Finder should not recommend agency shop but rather should leave the issue to the agreement or disagreement of the parties, as the Legislature intended.

"2. The Association Cannot Demonstrate a Need for Fees from Non-Members.

"The Association presumably claims that it needs fees from non-members. This claim, however, has not been demonstrated in any way to the District.

"The claim is also inconsistent with the fact that the Association presently funnels substantial membership dues proceeds to affiliated organizations wholly outside the realm of District-Association relations and instead into the realm of political lobbying activities. If the Association wishes to devote more money to local matters, it should keep its dues at the local level.

"Additionally, the Association could raise more revenue by so assessing its members, the very persons who run and shape the organization.

"3. Non-Members Do Not Enjoy a 'Free Ride.'

"Unions frequently assert that without union security provisions some employees enjoy a 'free ride.' The District strongly disagrees.

"Simply put, it is the Association, through its supporters, that chooses to be the bargaining agent. The Association is not chosen by the EERA or non-members. Thus non-members have not asked for a 'ride.'

"At the same time, employees who do not join the Association thereby actually 'lose out' in the sense of having no say in the management and policies of the Association. The 'ride,' then, is obviously limited and non-members subject themselves to the wishes and whims of the bargaining representative.

"4. The Association Should Justify the Financial Support of Its Constituents.

"In the District's view, a non-agency shop is healthy and constructive in encouraging responsible, democratic Association leadership.

"A non-agency shop leads a union to endeavor to reflect the views of a majority of its constituents, rather than a ruling sliver group. At its best, a non-agency shop encourages a union to work on behalf of all types of constituents. In contrast, an agency shop lessens the incentive for responsible, fair and democratic unionism.

"5. Agency Shop is Inconsistent with Merit Principles.

"The Association surely subscribes to the goal of excellence in education and merit principles in employment. Yet agency shop could well have the effect of discouraging some excellent applicants from applying to the District and cause some outstanding current employees to leave the District. Such a result conflicts with a merit system and would be injurious to the educational process. Additionally, the Association has yet to show that agency shop would somehow improve the quality of education in the Columbia School District.

"6. Agency Shop Forces Non-Members to Subsidize WEA and NEA Political Goals.

"A particularly objectionable feature of agency shop derives from the fact that a significant portion of the fees would be utilized to support WEA and NEA political and lobbying activities. The WEA has been shown to be the single largest spender for legislative lobbying in Washington. The NEA similarly uses its dues revenues for political purposes.

"It seems self-evident to the District that agency shop fees for such activities -- being unrelated to the local bargaining relationships -- are unwarranted.

"BINDING ARBITRATION

"The District firmly opposes replacing advisory arbitration with binding arbitration in the grievance procedure.

"1. The Association Has Shown No Need for Binding Arbitration.

"Over the years that advisory arbitration has been a part of the contract, the Association has never requested that that step of the grievance procedure be implemented. Consequently, the Association cannot show harm or abuse deriving from the advisory arbitration step of the grievance procedure. If no harm has occurred, no need exists.

"2. Presumably the Association argues that binding arbitration -- by its very nature -- is a better, final step to resolve disputes of a serious nature. The strength of this argument is weakened by the fact that controlling laws and administrative codes in the State of Washington quite specifically determine the rights, procedures and remedies for assignment and transfer; certificated employee evaluation and probation; student discipline; non-renewal of provisional employees; termination of services or failure to re-employ a teacher on the supplementary salary schedules; non-renewal or discharge matters. Consequently, the need for binding arbitration as a means of resolving a dispute becomes a duplication of existing statutory hearing procedures or would subject legally required and allowed management prerogatives to binding arbitration.

"3. The Association Has Offered Nothing in Return for Binding Arbitration.

"The District's main obligation is to the educational well-being of the children of the Columbia School District. The District has yearly requested the Association show what instructional benefit would be derived from including binding arbitration in the grievance procedure. As of this date, the Association has remained silent." (Employer's Brief, pages 4-6.)

In essence, then, what the Employer has argued is as follows:

First, while there is no question of the financial ability of the District to pay the increased wages for 1978-1979 requested by the Association, nevertheless sound fiscal management policies would dictate that the Employer not incur these increases in wage costs for 1978-1979 proposed by the Association but instead that they limit the wage increases to those proposed by the Employer.

Second, the wages proposed by the Employer for the 1978-1979 school year would make the wages to be paid by the Employer competitive wages comparable with those being paid for the 1978-1979 school year by similar school districts in the Southeastern region of the State of Washington.

Third, the wages proposed by the Employer for the school year 1978-1979 would make the average wage to be paid by the Employer under its salary schedule at \$15,113 which, while below the 1978-79 apportionment per student unit of the State Superintendent of Public Instruction (District's Exhibit 4) would still require the District to exceed the money made available from the State of Washington by state apportionment for certificated salaries for 1978-1979 by \$153,175.85 (and this would not include the additional costs of extra-curricular salaries, extra duties, nor for insurance benefits).

Fourth, the wages proposed by the Employer for the school year 1978-1979 are reasonable and would keep the overall compensation of the teachers and support personnel in line with the ever-increasing cost of living in the Tri-Cities, Washington area.

Fifth, it would be in the best interests of the teachers and support personnel of the District, of the Employer, and of the public, for the Employer to pay the competitive, reasonable and necessary wages proposed by it for the 1978-1979 school year.

FACT FINDER'S DISCUSSION

Introduction

There is some question in the mind of the Fact Finder whether the Superintendent of the School District has even heard the various proposals of the Association made by it in an attempt to negotiate modifications of the 1977-1978 salary schedule, for the 1978-1979 school year, and in order to cover the very real problems of a great

number of teachers in the District who are not at the beginning step of the salary schedule. Certainly it appears that the Superintendent has been unwilling to even consider any of these proposals acceptable.

Instead, he has insisted that the Employer's proposal of a 7.0 percent increase on the base, with no change in the structure of the salary schedule, would be the only proposal acceptable to the District.

The Percentage Increase to the Base Question

As noted, the Employer has proposed a 7.0 percent increase at the base or entering salary step. Obviously, such a percentage increase itself is not unreasonable. The difficulty with such a proposal here is it would increase the base from \$11,000 to \$11,770 and, based on WEA Salary Reports to October 5, 1978, would give the District the highest starting salary in the State of Washington, except for Snoqualmie Valley (which would only be \$21 a year higher at \$11,791) while the ratio between the District's minimum and maximum steps (of 1.64545) would rank in the bottom five of 40 school districts (including Class I, Class II-L, Class II-M, and Class II-S districts) shown on Association's Exhibit 1 (ATTACHMENT FOUR).

Association's Exhibit 1 (ATTACHMENT FOUR) also shows that in 1978-1979 there will be 40 districts (including the Columbia School District) which will have base salaries of \$11,000 or higher in the State of Washington, but that 23 of these districts (not counting the Columbia School District) will have improved both their starting salary and their salary schedule ratio at the same time.

These uncontroverted facts concerning these 40 school districts in the State of Washington (including Columbia School District) have convinced the Fact Finder that a starting salary of \$11,770, as proposed by the Employer for the 1978-79 school year, without some

adjustment in the ratio between its minimum and maximum salaries on the starting schedule would be unreasonable and unfair to a great number of the teachers in the Columbia School District. N.B. The Fact Finder does not dispute the right of the Board of Directors of the Columbia School District No. 400 to decide that they wish to pay a high base salary in order to attract competent teachers as their enrollment increases. Likewise, the Fact Finder does not dispute the right of the Board of Directors of the Columbia School District No. 400 to choose to have a top salary step which is below the maximum salary paid by many other school districts in the State of Washington. The Fact Finder is simply pointing out that the actual factual conditions in the District should be taken into consideration when judging the reasonableness of beginning salaries, maximum salaries, and average salaries paid in the school district. Here, the beginning teachers obviously are quite well compensated, on a comparative basis, but the teachers in the middle, and to a certain extent at the top of the salary schedule, are somewhat undercompensated, on a comparative basis. The Fact Finder notes that this situation would continue in the 1978-1979 school year under the Employer's salary proposal.

On the other hand, while the Association's starting salary proposal of \$11,300 for the 1978-1979 school year would not only be reasonable, in and of itself, but on a comparative basis with both the Southeast Washington regional school districts which have reported 1978-1979 settlements and on a statewide basis, nevertheless the maximum salary of \$21,250 proposed by the Association for the 1978-1979 school year would certainly be out of line with respect to those school districts in Southeast Washington which have reported settlements for 1978-1979. Accordingly, the Fact Finder is of the

opinion that a new salary schedule for the 1978-1979 school year, with a starting salary of \$11,330, a 3.0 percent increase at the starting step as well as at the first step of each column (with the same three educational requirement columns) of 6, 15, and 15 experience steps respectively, found in the 1977-1978 salary schedule), a top step of \$20,225, and equal experience increments of \$525 might well be appropriate, and, at least such a salary schedule must be tested for inherent reasonableness, comparable competitiveness with other school districts (both in the Southeastern Washington region and throughout the state), and the extent of the additional cost burden to be placed on the Employer using the October 4, 1978 "Scattergram" supplied by the Employer at the fact finding hearing on October 9, 1978 in Employer's Exhibit 6 (See ATTACHMENT FIVE). N.B. This salary schedule presumes that the quarter-hour credits in excess of degree requirements will continue to be paid at the rate of \$15 per quarter hour presently contained in the 1977-1978 contract and not at the \$16.00 per quarter-hour payment proposed by the Association.

Attached hereto as ATTACHMENTS SIX and SEVEN, respectively, are:

- (1) The 1978-1979 Salary Schedule proposed by the Fact Finder; and
- (2) The estimated cost to the District of this 1978-1979 Salary Schedule proposed by the Fact Finder, based upon the District's own Scattergram for October 4, 1978 (See ATTACHMENT FIVE).

Based on these two attachments, the Fact Finder expressly notes:

(1) The ratio in the 1978-1979 salary schedule proposed by the Fact Finder is 1.785 as opposed to the 1.64545 in the District's proposal and the 1.88 in the Association's proposal (or approximately in between the two proposed ratios).

(2) The average salary for 1978-1979 under the salary schedule proposed by the Fact Finder (including the payment of additional

educational increments) is \$15,227 as opposed to the October 9, 1978 estimated average salary figure of \$15,113 proposed by the District and the \$16,070 average salary proposed by the Association for 1978-1979 (according to its calculations). N.B. This average salary figure of \$15,227 proposed by the Fact Finder is only \$114 higher than the District's own figure of \$15,113 and is actually \$108 below the Association's estimated \$15,535 average salary from the District's proposal.

(3) The total cost of the 1978-1979 salary schedule proposed by the Fact Finder (based on the October 4, 1978 "Scattergram" of the District; Employer's Exhibit 6) is \$647,157, as opposed to the \$642,287 estimated cost of the District's proposed 1978-1979 salary schedule (see ATTACHMENT FIVE) or only \$4,870 more per year than the costs estimated by the District itself. N.B. This \$4,870 additional cost per year is certainly within the financial ability of the District to pay.

(4) Above all, (a) this proposed \$11,330 starting salary for 1978-1979 would still place the District second in starting salaries among all of the school districts in the Southeast Washington region (see ATTACHMENT THREE) and eighth among the 40 statewide school districts listed in ATTACHMENT FOUR; (b) the proposed \$20,225 top step salary for 1978-1979 would then place the District eighth in maximum salaries among all the school districts in the Southeast Washington region (see again ATTACHMENT THREE) and yet nineteenth among the 40 statewide school districts listed in ATTACHMENT FOUR; and (c) the proposed ratio of the starting salary and maximum salary (of 1.785) would rank the District 22nd among the 40 statewide school districts (which is much more competitive than in the bottom five of these 40 districts, as proposed by the Employer).

The Association's Agency Shop Proposal

The Supreme Court of the State of Washington in 1977 decided that the "agency shop" authorization in 41.59.100 RCW was constitutional. Accordingly, in spite of the basic philosophical differences of the Employer with such a provision, it could, legally, agree to such a provision in its 1978-1979 contract with the Association. The question is would such a fair representation fee provision be reasonable, under all of the facts and circumstances of this case. The Fact Finder is of the opinion that it would be.

First, the Association is small because the entire bargaining unit is small (only 42.5 F.T.E.'s, as the parties agree). This places a tremendous financial burden on the members of the Association who, without a fair representation fee provision, are required by law to represent and to bargain collectively for all 42.5 teachers (whether an individual teacher is in the Association or not) and to represent all 42.5 teachers in the grievance procedure (again, whether or not an individual teacher is in the Association):

Second, the pupil population of the District is growing, as the District admits. Soon the teacher population must also grow. To allow newcomers to benefit from all of the efforts of the Association without having any financial obligation to contribute to it in any form would certainly be unfair.

Third, an agency shop provision with a grandfather clause (exempting those employees who were already on the payroll as of September 1, 1977 and who were not then members of the Association from ever becoming members of the Association or ever having to pay their "fair share") would be reasonable.

The Association's Final and Binding Grievance Arbitration Proposal

The Superintendent of the District, by his own detailed state-

ment at the fact finding hearing on October 9, 1978 concerning a grievance filed in the 1977-1978 school year and how he personally handled it, has demonstrated conclusively to the Fact Finder that only a grievance procedure in the contract with final and binding arbitration by a third-party, impartial arbitrator as the final step, would ever afford any protection to a teacher in the district who felt that his or her contract rights had been violated and who would try to raise the question in the grievance procedure. Accordingly, the Fact Finder has no choice but to recommend that final and binding grievance arbitration be part of the 1978-1979 contract of the parties.

FACT FINDER'S WRITTEN FINDINGS OF FACT

Pursuant to the express requirements of 41.59.120(3) RCW, as amended, and WAC 391-30-730, the Fact Finder hereby makes the following written Findings of Fact:

First, the salary schedule for 1978-1979 proposed by the Fact Finder, above (see ATTACHMENT SIX), retroactive to September 1, 1978, would result in:

(A) Competitive wages being paid by the Employer in 1978-1979 comparable to those being paid in the 1978-1979 school year by similar school districts in the Southeast Washington region and in the State of Washington;

(B) Reasonable wages being paid by the Employer for the 1978-1979 school year; and

(C) Wages being paid by the Employer during the 1978-1979 school year which would keep the teachers' salaries in line with the continuing increase in the cost of living in the Tri-Cities, Washington area.

Second, under all of the facts and circumstances of this case, an agency shop provision (with a grandfather clause covering employees

on the payroll as of September 1, 1977 who were not then members of the Association) would be reasonable and should be included in any 1978-1979 contract of the parties.

Third, an amendment to the grievance procedure found in the 1977-1978 Agreement of the parties (Joint Exhibit V) to provide final and binding arbitration by an impartial arbitrator as the last and final step of the grievance procedure would, also, under all of the facts and circumstances of this case, be reasonable and the only way teachers in the bargaining unit could be protected if they ever felt their contract rights had been violated and if they ever saw fit to raise a question about them.

Fourth, any increase in cost to the Employer by the inclusion in any 1978-1979 contract of the parties of the salary schedule proposed by the Fact Finder (see ATTACHMENT SIX, above) is well within the financial ability of the District to pay.

Fifth, it would be in the best interests of the teachers and support personnel of the District, of the Employer, and of the public for the Employer to pay the above-described competitive, reasonable and necessary wages proposed by the Fact Finder for the 1978-1979 school year and for the contract of the parties for 1978-1979 to contain both an agency shop provision and a grievance procedure with final and binding third party arbitration as the last and final step thereof.

FACT FINDER'S RECOMMENDATIONS FOR RESOLUTION OF THIS DISPUTE

Again pursuant to the express provisions of 41.59.120(3), RCW, as amended, and WAC 391-30-730, the Fact Finder hereby makes the following recommendations for resolution of this dispute:


First, a salary schedule for 1978-1979 as proposed by the Fact Finder (see ATTACHMENT SIX).

Second, an agency shop provision in any 1978-1979 contract of the parties (with a grandfather clause covering employees on the payroll as of September 1, 1977 who were not then members of the Association).

Third, an amendment to the grievance procedure of the 1977-1978 Agreement of the parties (Joint Exhibit V) to provide as the last and final step of the grievance procedure, final and binding arbitration by an impartial arbitrator.

Fourth, except as otherwise expressly recommended above, the 1977-1978 Agreement of the parties (Joint Exhibit V) should remain as presently worded, subject, of course, to the amendments already previously agreed upon by the parties.

DATED at PORTLAND, OREGON, this 27th day of October, 1978.


WILLIAM H. DORSEY
FACT FINDER

WHD:jf