

STATE-EMPLOYMENT
RELATIONS BOARD
Nov 15 10 16 AM '95

IN THE MATTER OF FACT-FINDING BETWEEN

**ATHENS CITY SCHOOL DISTRICT
(Employer)
AND
AFSCME LOCAL 1846, OHIO COUNCIL 8
(Union)**

SERB Case No. 95-MED-04-0397

(MODIFIED REPORT)

before

Fact-finder Jack E. McCormick

October 17, 1995

**FOR THE EMPLOYER
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**FOR THE UNION
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Pursuant to the State Employment Relations Board's (SERB) appointment letter of June 20, 1995, Jack E. McCormick of Columbus, Ohio, conducted a mediation/fact-finding beginning at 2:00 p.m. August 17, 1995 at Plains, Ohio in case number 95-MED-04-0397, AFSCME, Ohio Council 8, Local 1846 and Athens City Schools.

Present at the hearing were the following:

For the Employer:

James P. Burnes
Attorney at Law
Bricker & Eckler

James Chirey
Athens City School Board President

Carl Martin
Athens City Superintendent of Schools

Roger Thompson
Assistant Superintendent of
Athens City Schools

Jeremy Yehl
Director, Special Services
Athens City Schools

Shelley Conrath
Principal,
The Plains Elementary School

Ann Shermerhorn
Athens City School Board

Kevin Moxley
Treasurer, Athens City Schools

For the Union:

Robert Turner
Regional Director
Ohio Council 8

Lynda Bolin
President AFSCME,
Local 1846

Linda Barker
Educational Aide
Athens City Schools

Sandy Eberts
Educational Aide
Athens City Schools

Ruth Robertson
Educational Aide
Athens City Schools

Florence Oellerich
Educational Aide
Athens City Schools

Llayna Rogers
Educational Aide
Athens City Schools

At the initiation of the hearing the fact-finder offered to the parties his services in mediation and strongly urged the parties to consider mediation as a solution to their current problems. After deliberations by both parties a mutual decision

was reached not to seek mediation at this time. The parties indicated that there had been two previous unsuccessful mediation sessions.

A brief history of this unit indicates that it is a new bargaining unit, certified by SERB on February 23, 1995. There have been numerous bargaining sessions between the parties prior to the appointment of this fact-finder. The parties have reached a Tentative Agreement on numerous issues which was mutually executed on July 18, 1995. Although the Tentative Agreement is not being incorporated per se in this fact-finding report, it is the express intention of the parties that should this fact-finding report be rejected by either, or both of the parties that it shall not nullify, or in any way affect, the Tentative Agreement of July 18, 1995.

The bargaining unit is made up of Educational Aides who provide general classroom assistance to teachers and may do clerical work, assist in taking children to and from the playground at lunch, serve as crossing guards, and some who work with the developmentally disabled. At the high school level they may work in study halls and computer labs. A detailed job description of the bargaining unit members is attached hereto as fact-finder, Exhibit 1 (Employer's Exhibit R). All of the Educational Aides are certified by the state as Educational Aides, but there are no special degree requirements for this position.

This is an initial contract and therefore no past collective bargaining agreement was considered by the fact-finder.

The parties had previously agreed to a list of issues on which they were requesting fact-finding and those issues are as follows:

1. Should there be an annual bonus for good attendance? If so, what is the appropriate amount?
2. What type of insurance benefits should be provided to employees?
3. Should the employees contribute to the cost of insurance benefits? If so, what is the appropriate contribution level?
4. Should there be a cap on the employer's contribution to the cost of health care benefits? If so, what is the appropriate amount of the cap?
5. Should the contribution level (if any) by the employees be based upon the number of hours an employee works? If so, what is the appropriate formula for determining the level of contribution?
6. Should there be an incentive program that allows certain employees to opt out of the insurance coverage in return for an annual monetary allowance? If so, what is the appropriate amount?
7. What is the appropriate wage rate for an employee covered by the Agreement?

8. Should there be a step system of wages? If so, what is the appropriate number of steps, what are the appropriate amounts of the increments in the steps, and what is the appropriate length of time between steps?
9. What should the duration of the contract be?

SHOULD THERE BE AN ANNUAL BONUS FOR GOOD ATTENDANCE? IF SO, WHAT IS THE APPROPRIATE AMOUNT?

The Union's position on this issue is that employees should receive a bonus for good attendance and refer the fact-finder to language contained in the Agreement of Deemed Certified Unit of certain other non-teaching Athens City employees represented by Local 1846, which would grant sick leave bonuses of Two Hundred Dollars where no sick leave was used, One Hundred-Fifty Dollars where one or two days were used, and One Hundred Dollars where the use of three days of sick leave were used. However, neither the Union nor the Employer could provide data as the effectiveness of this incentive on absentee rates in the Deemed Unit. Neither did the Union provide any cost analysis of such a proposal.

Management for its part argued in this issue, as well as several other issues that the fact-finder should not "cobble" this bargaining unit with the Deemed Certified Unit. Further, the Employer emphasized that the Deemed Certified Unit may be distinguished from the Educational Aides in that the former is

under Civil Service and the latter is not. In addition, the Employer asserts there are historical differences between the two units. The fact-finder finds neither of these arguments persuasive.

Inasmuch as this issue related to the "cobbling" of the Deemed Certified Unit with this new bargaining unit arose throughout the fact-finding process, it may be helpful if the fact-finder states his position on that issue at the onset.

It has been duly noted that there was an unsuccessful attempt by Local 1846 to incorporate this new unit within the Deemed Certified Unit under an "Amour-Globe" petition which was denied by the State Employment Relations Board on September 15, 1994. In addition the fact-finder does not believe it is within his province to impose upon the Employer the terms of a collateral bargaining agreement when it involves a separate, independent unit. Accordingly, on this issue and all other issues within the fact-finding report, the fact-finder did not feel obliged to use the Deemed Certified Collective Bargaining Agreement as an imperative. However, that does not mean that the fact-finder may not look at individual positions within that bargaining unit, or for that matter any other unit, whether under a collective bargaining agreement or not, when seeking comparables. In fact, in the fact-finder's mandated "Scope of Duties", at section D(2), the fact-finder is instructed by SERB to take into consideration:

Comparison of unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving considerations to factors peculiar to the area and classification involved;

Accordingly, while the parties may find that many of the recommendations contained in this fact-finding are similar to provisions found in Deemed Certified Collective Bargaining Agreement, that is because the fact-finder has determined that there are comparable positions within the Deemed Certified Unit not because the fact-finder finds the Deemed Certified Collective Bargaining Agreement to be, a categorical imperative.

Returning to the issue of the sick leave bonus, the fact-finder finds that the party making the proposal (the Union) has failed to provide the fact-finder with sufficient empirical evidence that the granting of such bonus does in fact reduce absenteeism, nor have they provided adequate cost analysis. Accordingly, the fact-finder believes that the Employer's position should prevail in this matter and that there is no reason to include a sick leave incentive provision in this the first contract between the parties. Perhaps the party seeking such a provision will present more data indicating its value as an incentive at some future bargaining session. However, absent such evidence, the fact-finder is reluctant to impose this additional financial burden, no matter how small, on this Employer.

WHAT IS THE APPROPRIATE WAGE RATE FOR EMPLOYEES COVERED BY THE AGREEMENT? SHOULD THERE BE A STEP SYSTEM OF WAGE RATES? IF SO, WHAT IS THE APPROPRIATE NUMBER OF STEPS, WHAT ARE THE APPROPRIATE AMOUNTS OF THE INCREMENTS IN THE STEPS, AND WHAT IS THE APPROPRIATE LENGTH OF TIME BETWEEN STEPS?

By agreement of the parties the wage and step issues were combined and discussed in order. The Employer presented a detailed description of both its financial position and its proposed offer.

At the outset the Employer conceded that the Educational Aides in this bargaining unit are "underpaid compared to similar groups". In addition, the Employer recognizes that they have not received raises in the past. However, the Employer indicates it has a restricted ability to fund any raises.

In November, 1994, the Athens City School District was successful in passing a 5.8 mill operating levy with a four-year term. The levy yields approximately \$1,360,970 per year and if not renewed or replaced, will cease generating revenue for the district at the end of the 1999 fiscal year (the 1998-99 school year.) It would have been helpful if the parties had provided a history of levy renewals in this political subdivision. The school district's Treasurer's projections of the district's financial situation are included herein as fact-finder's Exhibit 2, Employer's Exhibit E. ¹

¹. The parties presented to the fact-finder numerous written documents and exhibits, all of which the fact-finder has read and considered. The fact that only certain exhibits or portions of exhibits are being included in this fact-finding report is not an indication that all of both parties' exhibits were not carefully

One of the inhibiting factors in the Employer's financial picture is the receipt of Tax Exemption Funds. Ohio Revised Code section 3317.022 was enacted to address the financial hardship imposed upon school districts, such as Athens, as a result of the presence of large amounts of tax exempt properties within the districts' boundaries. Pursuant to this statute each school's district for which the tax exempt value of the district equals or exceeds twenty-five percent (25%) of the potential value of the district may receive additional revenue from the state, but only if there are unallocated state basic aid funds available. Due to the presence of Ohio University within the boundaries, Athens School District qualifies for these funds. However, this is problematic in that there is no certainty that the district will receive any funds in this school year, and if it does, there is no way to know how much it will receive. Athens School District has received these Tax Exemption funds only two of the four years they were to be available, 1993-94, and 1994-95. No tax exemption funds were provided to the district in 1991-92, or in 1992-93 school years.

The Board has roughly calculated that it could receive \$700,000 in Tax Exemption money each of the next three years. The tax exemption funds are an unreliable source of revenue and this appears to be an undisputed fact. The Board has taken the position that if it receives at least \$500,000 in Tax Exemption funds it

reviewed, but rather a reflection of the fact-finder's effort to keep this report from being too voluminous.

will increase its salary offer to the Educational Aides. The Employer proposes to do this through a "lump sum" payment. Along those lines the Employer has made a proposal for three years of salary increases, plus a contingent lump sum payment, which are detailed in fact-finder's Exhibits 3 and 4, Employer's Exhibits J and N respectively.

Among other exhibits presented by the Employer was included a comparison of private day care services wages, attached hereto as fact-finder's Exhibit 5, Employer's Exhibit O. The Employer emphasizes that even its modest proposal for wage increases would put these Educational Aides significantly above the wage levels within the private sector.

In addition, the Employer presented its Exhibit P, fact-finder's Exhibit 6, showing wage increases in surrounding school districts, and asserts that its wage increase (with the lump sum payment included) exceeds that given in these other districts.

The Employer vehemently opposes using the Deemed Certified Unit as a comparable. However, concedes that the Prime Time Helper is the "most comparable" or as close as the fact-finder will find when looking for a comparable in the Athens City School District. As part of its presentation, the Employer presented its Exhibit S, the fact-finder's Exhibit 7, containing the job description of a Prime Time Helper with the starting salary redacted. The fact-finder notes that the starting salary for a Prime Time Helper was initially \$6.32 per hour. The current pay scale for a Prime Time Helper is as follows:

<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 10</u>	<u>Step 15</u>	<u>Step 20</u>
\$6.75	\$7.25	\$7.75	\$8.25	\$8.75	\$8.80	\$8.85	\$8.90

One of the school board members conceded that the job duties and responsibilities of an Educational Aide when compared to a Prime Time Helper do not support the discrepancy between the Prime Time Helper's starting salary and that of an Educational Aide as it presently exists, i.e. \$6.75 per hour and \$5.27 per hour respectively. This Board member was entirely sympathetic to the inequity, but stated that she didn't believe the Board had sufficient resources to correct the problem beyond that which is being proposed by the Employer. Indeed it appeared to be the consensus of the Employer that this bargaining unit does merit "substantial" wage increases. However, the Employer asserts that due to its projected deficits for 1996 and 1997 and the uncertainty of Tax Exempt funds being received, it cannot provide wage and benefit increases beyond that which it is proposing.

The Union for its part believes that the Prime Time Helper in the Deemed Unit is a comparable that should be considered by the fact-finder. In addition the Union was vehement in its opposition to any lump sum payment by the Employer. In its presentation, among other exhibits, it presented a wage survey of Educational Aide positions in Southeastern Ohio school districts indicating that among the eleven districts surveyed, Athens was the fourth largest in number of students, but ranked eleventh in the hourly rate of pay (See fact-finder Exhibit 8). In the meantime, in the wage

survey of other bench mark positions (See fact-finder Exhibit 9), the Athens School Superintendent ranked fifth; its custodians, secretaries, and bus drivers ranked third; and its cooks ranked first at \$10.65 per hour!

The Union presented other documents and made additional arguments regarding the alleged inequity in the existing pay scale of the Educational Aides, however, the fact-finder will not belabor this point since there appears to be agreement between the parties that the Educational Aides merit a "substantial" increase in wages and benefits.

The next issue to be examined is what should that substantial increase be and what can this Employer afford? The Union asks the fact-finder to consider the School Board Treasurer's Report of August 25, 1995, specifically at pages 4, 7, and Exhibit F therein, an "Analytic Review-Revenue 1991 through 1995." It is the Union's position that the Treasurer's report which takes the most conservative approach is still more sanguine than that presented by the Employer. The Union notes the 1993-95 revenue increase of 18% and the total adjusted revenue increase of 13%. It is the Union's position that the school board has consistently underestimated tax revenues and overstated expenditures. The Union asserts that even without the receipt of the Tax Exempt funds the Board's projected surplus in fiscal year 1996 is \$563,818.

Furthermore, the Union emphasizes that there is no reason to believe that as in past years the Athens City School District will not in fact receive Tax Exempt Funds. However, it strongly opposes

a lump sum payment to the bargaining unit contingent upon the receipt of Tax Exempt Funds for the reasons that lump sum payments prove to be illusory because the recipients tend to act profligately.

The Board for its part, argues that the cumulative cost of the Union's proposal when compared to its projected deficits, see fact-finder's Exhibit 10, Employer's Exhibit G, make the Union's proposal simply not affordable.

The fact-finder is bound by law and SERB guidelines to ensure that there are funds available for any monetary recommendations impacting on the Employer. The fact-finder has very carefully reviewed all the parties' documents and oral arguments regarding the availability of funds.

The parties have agreed that the cost analysis of their respective proposals are correct. That is, that the "Cost Comparisons-Salary and Step" set forth in fact-finder's Exhibit 4, are correct. However, it should be noted that both parties have erroneously included five and possibly six employees of the forty-four members of the bargaining unit who are funded from sources other than the General Fund. Therefore, the cost analyses on salaries and benefits of both parties are slightly overstated.

Nevertheless, the fact-finder finds that there is sufficient evidence that at least in year one of this contract there are sufficient funds available for the Employer to fund the Union's wage and benefit proposals. Indeed, the Union's wage proposal would only increase the Employer's projected expenditures by 0.65%,

including the five or six employees who are not funded from the General Fund.

The question as to whether the Employer can afford the cumulative effect of this raise in the out years is more problematic. However, at least as to this initial raise, the fact-finder is reasonably confident that such funds are available. The fact-finder was struck by the contrast between the gloomy picture presented by the Board at this fact-finding and the Board's Treasurer's report of August 25, 1995. The fact-finder was also struck by the fact that this political subdivision has enjoyed an 18% increase in revenue from local sources over the past two years. Granted, this came at a time when tangible personal property taxes increased 19% and a recent telecommunications decision which will adversely affect tangible personal property tax. However, real estate tax revenue has increased 17% over the same period and total adjusted revenue has increased 13%. It must be recognized that a good portion of that revenue increase comes from the fact that there was an operating levy of 5.8 mill passed by the residents of Athens City School District in November, 1994. Nevertheless, assuming that the voters will renew this levy and that all other things remain equal, it appears that the Athens City School District has more than enough funds available to support the raise and benefits recommended herein in the first year of the contract.

The fact-finder turned to the conclusion at page eleven of the Treasurer's report looking for the dire predictions for the future that had been presented by the Board's representative at the fact-

finding. However, nowhere in his conclusion does the Treasurer warn his Board of the impending doom that the Employer characterized at the fact-finding on October 17, 1995. Indeed, the Treasurer's FY 96 plans do not mention anywhere proposals to deal with three projected deficits beginning in FY 97 and totalling 2.6 million in FY 99. In fact, he devotes the largest section of his conclusion to his plans to clean-up the filing system in the central office. It occurs to this fact-finder that if there is a catastrophe looming on the horizon for this school district that the Treasurer would have been sounding the alarm bells so that the Board could take preemptive measures to avoid the impending train wreck.

Accordingly, even though the fact-finder cannot guarantee that there are funds available for the raises and benefits proposed after the first year of this contract, it is not sufficiently persuaded by the party with the burden of persuasion that such funds are not now available. The Union, however, must be aware that should the Tax Exempt Funds not be received and should the deficits projected in the Employer's Exhibit H, attached hereto as fact-finders's Exhibit 11, become a reality, then it may be faced with "give backs" or lay-offs during future bargaining sessions whether they be reopeners or contract renewals.

Having determined that there are sufficient funds available to fund at least an initial raise in pay and benefits, the next question is how much should the increase be?

It has already been stipulated by the parties that the members of this bargaining unit are entitled to "substantial" pay

increases. With that stipulation the question is how that increase should be determined. There are several alternatives in determining employees' level of compensation, one of which is the pay-equity theory. It has sometimes been asked why a Pediatric-Registered Nurse who is often faced with life and death situations should be paid a mere fraction of the salary received by a major league pitcher who, for nine months out of the year, works every fourth day and is sometimes successful barely 50% of the time. The corollary is that it is difficult to justify the fact that Educational Aides with the job duties described herein should make less than half the hourly rate than that of a school bus driver. This is not to take away from the necessary skills brought to the pitching mound by a ballplayer, or the bus driver to his or her tasks. The answer, of course, is that the professional ballplayer and the registered nurse compete and bargain in a broad public and private market place where, at least theoretically, they offer their services and accept compensation based on what their particular market place can bear. As this explanation does not satisfy the fact-finder's registered nurse-spouse, it undoubtedly does not satisfy the Educational Aides herein. Suffice to say the fact-finder does not want to venture into the murky swamp of pay-equity again and would prefer to find some logical comparables.

In this case there appears to be at least two rational comparables that can be made. The first is that presented by the Union and which is undisputed by the Employer indicating that Educational Aides in the Athens City School District make

substantially less than their counterparts in ten other similar districts. Secondly, the fact-finder believes that it is not inappropriate to look at the Prime Time Helper position already within the Athens City School District. It is recognized that the Employer does not, for the purposes of this fact-finding, agree to such a comparable. However, it is undisputed that Educational Aides herein have responsibilities and perform duties that are at least as great as those of a Prime Time Helper. Once again the fact-finder emphasizes that he is using the Prime Time Helper as a comparable not because they are part of a Deemed Certified Unit represented by this Union, but rather because of the relative similarity between their positions. The fact-finder would feel compelled to look at the Prime Time Helpers even if they were not a part of a Deemed Unit or, in fact, part of any bargaining unit. The fact-finder has read and reread the job descriptions of the respective positions and has paid careful attention to the testimony of both a Board member and the bargaining unit, both of whom support the proposition that Educational Aides probably have more responsibilities in that they may have independent duties to assist teachers and special education teachers and are far more than just custodial care givers. It is noted that in the job description attached hereto, that special education aides do such things as engaging in supplemental instruction activities, assist in managing the classroom and in modifying student behavior. As the fact-finder would not denigrate the responsibilities of a school bus driver, he likewise would not denigrate those of Prime Time

Helpers, however, Educational Aides perform a more vital function in the classroom and, more than likely, make the hiring of additional teachers unnecessary. This assistance is rendered to one of the most important constituencies in the Athens City School District, i.e., children, especially disabled children. This Board and the taxpayers of the district must recognize that to ensure the continued dedication of these individuals they must provide them with at least a living wage. Furthermore, it is in the public interest that all persons of the bargaining unit are able to maintain high morale so they may perform these important tasks. Additionally, the fact-finder furthers feels justified in his recommendations in that it falls within the fact-finder's Scope of Duties, paragraph D(3).

WAGE RECOMMENDATION

It is hereby recommended that effective September 1, 1995, that the pay of Educational Aides within the Athens City School District be as follows:

<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 10</u>	<u>Step 15</u>	<u>Step 20</u>
\$6.75	\$7.25	\$7.75	\$8.25	\$8.75	\$8.80	\$8.85	\$8.90

It is further recommended that because of the uncertainty of future funding for this school district beyond school year 1995-96, that on the anniversary date of this contract that the issue of wages as to the bargaining unit be reopened for negotiations, such negotiations to be subject to the statutory provisions and rules and regulations of State Employment Relations Board.

WHAT TYPE OF INSURANCE BENEFITS SHOULD BE PROVIDED EMPLOYEES?
SHOULD THE EMPLOYEES CONTRIBUTE TO THE COST OF INSURANCE BENEFITS?
IF SO, WHAT IS THE APPROPRIATE CONTRIBUTION LEVEL? SHOULD THERE
BE A CAP ON THE EMPLOYER'S CONTRIBUTION TO THE COST OF HEALTH CARE
BENEFITS? IF SO, WHAT IS THE APPROPRIATE AMOUNT OF THE CAP?
SHOULD THE CONTRIBUTION LEVEL (IF ANY) BY THE EMPLOYEES BE BASED
UPON THE NUMBER OF HOURS AN EMPLOYEE WORKS? IF SO, WHAT IS THE
APPROPRIATE FORMULA FOR DETERMINING THE LEVEL OF CONTRIBUTION.
SHOULD THERE BE A INCENTIVE PROGRAM THAT ALLOWS CERTAIN EMPLOYEES
TO OPT OUT OF THE INSURANCE COVERAGE IN RETURN FOR AN ANNUAL
MONETARY ALLOWANCE? IF SO, WHAT IS THE APPROPRIATE AMOUNT.

The parties agreed at the fact-finding that the above stated issues regarding insurance benefits should be considered as a whole. The Union's position in this matter is that the Educational Aides should receive health insurance benefits identical to those received by members of the Deemed Certified Unit. The Board argues that because the Deemed Certified Unit is not comparable, the health insurance benefits should be unique to this unit and its proposal uses a combination of that provided to the deemed employees and the Athens City teachers or, in the alternative the Board asks that Educational Aides receive the same insurance benefits provided to the Prime Time Helpers in the Deemed Certified Unit.

It should be noted that the Prime Time Program is the only program covered by a collective bargaining agreement with this

Employer that, by law can receive no funding from the district's general fund. It's sole source of income is from revenues received from the fees it charges to parents for child care.

As a result of this limited funding, the Union agreed in its Agreement with the Deemed Certified Unit that no insurance benefits would be provided to the Prime Time Helpers in that unit. However, the parties did agree to a provision in the collective bargaining agreement contained in Article XXIV, Section 9, of that Agreement that provides for the employees of the Prime Time Program to receive a bonus equal to the amount of unencumbered funds in the program in excess of Ten Thousand Dollars each year. That section also provides for an insurance reopener in the event it becomes legal to fund the program with general fund monies. When Section 9 is read in context with the rest of that Agreement, it is clear that the parties intended for this arrangement to be a singular exception that was based solely on the funding source for that particular program. It is also clear that the parties intended to incorporate a mechanism into that Agreement which would allow Prime Time employees to receive insurance benefits in the event it became legal to fund the program with general fund monies, when they included the provision in Section 9(c) in the Article.

Now the Union proposes to provide the same insurance benefits to the Educational Aides which is comparable to the benefits received by ninety-four of the one hundred members of the Deemed Certified Unit (the Prime Time Helpers being the exceptions). The Union points out that these are the same benefits provided to the

administrative staff of the district, including the Director of the Prime Time Program. It also points out that through it's benefit survey of eleven southeastern Ohio districts these are the same benefits that are provided to Educational Aides in seven of those eleven districts.

The Employer argues that because the Deemed Certified Unit is not comparable, that health insurance benefits should be unique to this unit, and the Employer's proposals suggest using a combination of that program provided to deemed employees and to Athens City teachers or, in the alternative, asks that the same provision provided to Prime Time Helpers, i.e., the contingent bonus, apply to the Educational Aides.

The fact-finder is now faced with three choices on this issue and none of them are particularly attractive. The first option is to recommend that the Educational Aides receive the same insurance benefit package received by the Deemed Certified Unit employees (excepting the Prime Time Helpers). The second is to recommend the Employer's first proposal, that is outlined in Attachment 1A herein. The third proposal, which is also suggested by the Employer, is to provide the same unique insurance benefit package provided to Prime Time Helpers, as set forth above.

Each of these proposals have their individual drawbacks. First, to give the Educational Aides the same insurance package as the Deemed Certified employees would not be consistent with the reasoning in the rest of this report, i.e., that the Deemed Certified members are not a compelling comparable unless they are

Prime Time Helpers. Secondly, such a generous benefit package coupled with the large wage increases recommended by the fact-finder herein could be excessively burdensome on this Employer. The logical option would be to follow the reasoning in the remainder of this report and simply have Educational Aides receive the same insurance package received by Prime Time Helpers. While this would be consistent with the reasoning in the wage recommendations herein, it is not compelling since, in the area of insurance benefits, Prime Time Helpers in the Deemed Certified Unit are treated uniquely only because of their funding source. The third, and least unattractive option, is to adopt the Employer's original proposal using a combination of the Educational Aides and Deemed Certified Unit members insurance package. This becomes even less unattractive if this provision of the new contract is made a part of the wage-benefit reopener which is recommended within this report. This reopener would allow time for the Employer's funding status to become clearer and will perhaps present the parties with an opportunity to straighten out this hodge-podge of insurance benefits being provided to the employees of the Athens City School District. The fact-finder feels constrained to modify his original position on the Employee opt-out recommendation inasmuch as it was not agreed to by the parties as an issue subject to the post-hearing briefs.

RECOMMENDATION

The Employer's insurance proposal attached hereto as Exhibit 1A be made a part of the Agreement between the parties, provided either party may reopen the Agreement for negotiations on wages and insurance benefits to be effective in the second year of this Agreement.

WHAT SHOULD THE DURATION OF THE CONTRACT BE?

This issue is simpler, but no less thorny than the previous issues discussed. The Union is requesting a two-year contract duration, while Management argues for a three-year contract. The Union position is that the two-year contract will allow it to enter into new contract negotiations with this unit at the same time that the new contract for the Deemed Certified Unit would be negotiated. Again the fact-finder having indicated that he was not going to be governed by the provisions contained within the Deemed Certified Unit, it would intellectually dishonest to use that as a rationale when considering the matter surrounding contract duration. The fact-finder is not unmindful of the fact that this will necessitate the parties entering into negotiations with two very similar bargaining units one year apart, and may in fact result in some "whip-saw" effect on the negotiators. However, the fact-finder does not believe that is sufficient rationale alone to justify a two-year contract. The fact-finder believes this to be a close question

and normally would lean towards a two-year contract in a case where, as here, it is a first time contract so that the parties may have some opportunity to "iron out" problems that always arise in a new contract. However, there is some basis for making this a three-year contract. First, while the uncertainty of funding beyond the first year would seem to argue for a two-year contract, the fact-finder has recommended a wage reopener at the end of the first year and therefore that problem is moot. Secondly, and most importantly, a three-year contract will track the existing 5.8 mill levy which is a significant source of funding for this Employer.

RECOMMENDATION

It is hereby recommended that the agreement between the parties shall be effective as of September 1, 1995 and shall continue in force and effect until 11:59 p.m., August 31, 1998.

SUMMARY

The parties hereto entered into mediation/fact-finding at 2:00 p.m. on Tuesday, October 17, 1995, which was concluded at 9:15 p.m., October 17, 1995. This is an initial contract between the Athens City School Board and AFSCME Local 1846, and Ohio Council 8, surrounding approximately forty-four Educational Aides. The bargaining unit members work various schedules, thirty-nine members work five days a week, twenty-nine members work twenty-five hours or more a week; twenty members work seven hours a day, fifteen

members work three and one-half and seven hours a day, and nine unit members work three and one-half or less hours a day.

The Employer is a city school district located in Southeastern Ohio which receives funding from local and state sources amounting to approximately to 16.2 million in fiscal year 1995.

The parties agreed prior to the fact-finding that there were nine categories of issues to be decided by the fact-finder and following an attempt to mediate between the parties, a fact-finding was held on each of those categories.

LIST OF ISSUES - RECOMMENDATIONS

1. Should there be an annual bonus for good attendance? If so, what is the appropriate amount?

Recommendation: There is insufficient evidence to justify this agreement containing an annual bonus for good attendance.

2. What type of insurance benefits should be provided to the employees?

Recommendation: The employees of this bargaining unit should receive the insurance benefits proposed by the Employer as more fully set out in Attachement 1A herein.

3. Should employees contribute to the cost of insurance benefits? If so, what is the appropriate contribution level?

Recommendation: See above.

4. Should there be a cap on the Employer's contribution to the cost of health care benefits? If so, what is the appropriate amount of the cap?

Recommendation: See above.

5. Should the contribution level (if any) by the employees be based on the number of hours an employee works? If so, what is the appropriate formula for determining the appropriate contribution?

Recommendation: See above.

6. Should there be an incentive program to allow certain employees to opt out of the insurance program coverage in return for an annual monetary allowance? If so, what is the appropriate amount?

Recommendation: Members of the bargaining unit should not be permitted to opt out of insurance coverage in return for an annual monetary allowance.

7. What is the appropriate wage rate for employees covered by the agreement?

Recommendation: Employees of the bargaining unit should receive the same wages and step increases currently given to certain Prime Time Helpers employed by the Athens City School District with the same step advancement as set forth in Article XXV, section 3, of the collective bargaining agreement between Athens City School District Board of Education and the American Federation of State, County and Municipal Employees, Ohio Council 8, Local 1846, dated September 1, 1994.

8. Should there be a step system wage rates? If so, what is the appropriate number of steps? What is the appropriate amounts of the increments in the steps, and what is the appropriate length of time between these steps?

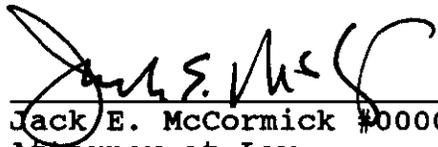
Recommendation: See above.

9. What should the duration of the contract be?

Recommendation: The contract should commence on September 1, 1995, and terminate at 11:59 p.m., August 31, 1998, provided, either party may reopen the agreement for negotiations

on wages and benefits to be effective in the second year of this Agreement by giving the other party notice at least sixty days in advance of August 31, 1996. Any wage and/or benefit changes agreed upon by the parties will go into effect on September 1, 1996, unless the parties agree otherwise. The statutory dispute settlement procedures set forth in Chapter 4117 of the Ohio Revised Code shall be in effect for this reopener, including the right to strike on or after September 1, 1996 if a settlement is not reached.

The fact-finder herein finds that the Employer does have available funds to provide the monetary recommendations contained herein.



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November 14, 1995
Columbus, Ohio

1. Medical - Hospitalization -

a) The Board shall provide Blue Cross/Blue Shield Physician and Hospitalization insurance coverage (or equivalent benefits from another carrier) for each member. The Board shall pay 100% of the cost of the policy for single coverage and 90% of the cost for family coverage. Employees who work less than thirty-five (35) hours per week shall receive a pro-rated amount based upon hours worked.

b) Pro-ration. Presently, insurance benefits are provided to educational aides on a pro-rated basis based upon the number of hours a day a unit member works. The Board's proposal includes continuation of this practice for all insurance benefits. Premium payments are to be pro-rated based on a 7 hour day. In other words, educational aides who work 7 hours a day pay nothing for single coverage and 10% of the monthly premium for family coverage. On the other hand, an employee who works six (6) hours a day would receive 6/7ths of these benefits. Thus, the 6 hour employee would pay 1/7 of the monthly premium for single insurance or would pay 10% plus an additional 1/7th of the monthly premium for family insurance. Whether specifically stated or not under each item of insurance, it is the intent of the Board that pro-ration shall continue as it has to this point.

2. Major Medical Insurance. The Board shall continue to make available to all bargaining unit employees major medical insurance coverage of at least Two Hundred Fifty Thousand Dollars coverage (\$250,000) and shall pay the total cost of single and family coverage for all participating bargaining unit members.

3. Prescription drug insurance. The Board shall continue to make available to all bargaining unit employees, Blue Cross/Blue Shield prescription drug insurance and shall pay the total cost of both single and family coverage for all employees who work thirty five hours per week (7 hours per day, 5 days per week). Employees who work less than thirty-five (35) hours per week shall receive a pro-rated amount based upon hours worked.

- a) pro-rated based on 7 hours per day
- b) Single - Board pays 100%
- c) family - Board pays 40%

4. Dental Insurance. The Board shall make available to all bargaining unit employees dental insurance coverage and shall pay the total cost of both single and family coverage for all employees who work thirty five hours per week (7 hours per day, 5 days per week). Employees who work less than thirty-five (35) hours per week shall receive a pro-rated amount based upon hours worked. The dental insurance shall meet or exceed the specifications set forth below:

Services

- Class I - Preventative and Diagnostic
- Class II - Basic Restorative
- Class III - Major Restorative
- Class IV - Orthodontia

Maximum benefit each calendar year for Class I, II, and III services - \$1,000. Lifetime Maximum for Orthodontic Services, per person - \$750. Individual deductible - \$25.00. Family Deductible - \$75.00.

Percentages (if reasonable and customary) or scheduled amounts payable for covered dental expenses:

- Class I - 100%
- Class II - 80%
- Class III - 60%
- Class IV - 60%

Dependent children are covered until the age of 23 or the age of 25 if a full time student.

- a) pro-rated based on 7 hours per day
- b) single or family - Board pays 100% for all unit members who work 7 hours a day, five days a week.

5. Life Insurance. The Board shall purchase a five thousand dollars (\$5,000) Term Life Insurance for each bargaining unit member who desires such.

- a) Board pays full cost of \$5,000 life insurance

6. Vision Insurance.

- a) This is presently not provided to aides and is not offered by the Board.

7. Rate Increase Cap.
 - a) July 1, 1995 - June 30, 1996 - Cap at current Board rates.
 - b) July 1, 1996 - June 30, 1997 - The Board of Education shall pay up to the first ten percent (10%) increase in premium over the premium paid for the preceding year (July 1, 1995 - June 30, 1996). Unit members shall pay any increase in premium over the 10% cap.
 - c) July 1, 1997 - June 30, 1998 - The Board of Education shall pay up to the first ten percent (10%) increase in premium over the premium paid for the preceding year (July 1, 1996 - June 30, 1997). Unit members shall pay any increase in premium over the 10% cap.
8. If any individual is a member of more than one bargaining unit, the following will apply:
 - a) the individual must choose and designate which bargaining unit insurance benefit is selected
 - b) insurance benefits are not additive