

STATE EMPLOYMENT
RELATIONS BOARD
JUN 25 10 04 AM '00

Factfinding Report and Recommendations

in the matter of factfinding between:

Cincinnati Board of Education

and

The Cincinnati Federation of Teachers Local 1520

(SERB Case No: 99-MED-10-1068)

MARCUS HART SANDVER, Ph.D.
Factfinder

Hearing Date: January 6 & 7, 2000

Recommendations Issued: January 21, 2000

Representing the Employer:
Mr. Mark J. Stepaniak
Attorney at Law
Taft, Stettinius & Hollister
Cincinnati, Ohio

Representing the Union:
Mr. Donald J. Mooney Jr.
Attorney at Law
Benesch, Friedlander, Coplan and Aronoff
Cincinnati, Ohio

1. Introduction

This case grows out of a dispute between the Cincinnati Board of Education (the Board) and the Cincinnati Federation of Teachers (the Union) concerning the negotiation of a successor agreement. The parties met several times beginning in the late fall of 1999 but were not able to resolve the dispute. Through mutual agreement of the parties, Marcus Hart Sandver was chosen as the factfinder to the dispute. Through mutual agreement of the parties, January 6 and 7, 2000 were chosen as the dates for the hearing.

II. The Hearing

1. Attendees and Exhibits

The hearing was convened by the factfinder at 9:00 a.m. on January 6, 2000 in the first floor conference room of the Cincinnati Board of Education. In attendance at the hearing for the Board were:

- | | | |
|-----|------------------------|-------------------------------|
| 1. | John Concannon | General Counsel |
| 2. | Mark Stepaniak | Attorney - Chief Spokesperson |
| 3. | Kathleen Ware | Associate Superintendent |
| 4. | Rosa Blackwell | Deputy Superintendent |
| 5. | Marvin Koenig | Principal - Walnut Hills H.S. |
| 6. | Robert Townsend | Director Human Resources |
| 7. | Patrick McNeely | Principal Quebec Heights E.S. |
| 8. | Theresa Frazier Norris | Manager - Mathematics |
| 9. | Jan Leslie | Director - Public Affairs |
| 10. | Steven Adamowski | Superintendent |

In attendance for the Union were:

- | | | |
|----|----------------------|---------------------|
| 1. | Edward Jaspers | Teacher |
| 2. | Sue Taylor | Teacher |
| 3. | Patricia Hicks | School Psychologist |
| 4. | Linda Johnson-Cowles | Teacher - Librarian |
| 5. | Tom Mooney | President - CFT |
| 6. | Don Mooney | Attorney for CFT |

7. Rick Beck Teacher

The parties were asked to submit exhibits into the record. The following were introduced as

Board exhibits:

1. Board Exhibit #1 Pre-Hearing Brief
2. Board Exhibit #2 Team-based schooling in Cincinnati: The second year. Dated September 1999
3. Board Exhibit #3 Teacher Evaluation System field test 1999-2000. Dated September 23, 1999
4. Board Exhibit #4 Caseload Reduction Data. Dated 1-5-00
5. Board Exhibit #5 Non-personnel Controllable Funds as Determined by ILT. 1-6-00
6. Board Exhibit #6 Proposed/current General Fund. FY 1999/2000
7. Board Exhibit #7 5 year plan. June 30, 2000 through 2004
8. Board Exhibit #8 Average Teacher Salary per ODE. 1-3-00
9. Board Exhibit #9 Estimated Cost of CFT Proposals. 1-7-00
10. Board Exhibit #10 Survey of Sick Leave Conversion Policies. 1-3-00
11. Board Exhibit #11 Cincinnati Board of Education's Response to Cincinnati Federation of Teachers' Supplemental Brief Received. 1-7-00

The following were marked as CFT Exhibits:

1. CFT Exhibit #1 Cincinnati Federation of Teachers, "There's no substitute for quality public schools." No date.
2. CFT Exhibit #1A Pre-Hearing Brief.
3. CFT Exhibit #2 "Doing What Works." November 1999
4. CFT Exhibit #3 Cincinnati Public Schools. School Assistance and Redesign Plan. 6-21-99

5. CFT Exhibit #4 Supplemental Brief of Cincinnati Federation of Teachers for Factfinding. 1-6-00
6. CFT Exhibit #5 Community Relations. Charter Schools Policy. Adopted 3-22-99
7. CFT Exhibit #6 Surplussed Teachers Under Contract and not Assigned to a teaching position. 12-13-00
8. CFT Exhibit #7 Cincinnati's Peer Assistance and Evaluation Program 1985-98 Results. No Date
9. CFT Exhibit #8 Teacher Evaluation Results in Cincinnati Public Schools. 1997-98 No Date
10. CFT Exhibit #9 National Recognition for Raising Professional Teaching Standards in Cincinnati. No Date
11. CFT Exhibit #10 Letters in Support of Peer Assistance and Evaluation Program. Various authors. Various dates.
12. CFT Exhibit #11 What Matters Most Teaching for America's Future. September 1996
13. CFT Exhibit #12 Promising Practices: New Ways to Improve Teacher Quality. September 1998
14. CFT Exhibit #13 Learning the Ropes. No Date
15. CFT Exhibit #14 Working Together for Public Service. No Date
16. CFT Exhibit #15 Position Description. Primary Level Leader/Intermediate Level Leader. Developed 6-4-90
17. CFT Exhibit #16 Tentative Agreement Regarding 1999-2000 Budget Reductions. 6-3-99
18. CFT Exhibit #17 Fallon Research. No date.
19. CFT Exhibit #18 High School Restructuring - Committee Report. 12-8-99
20. CFT Exhibit #19 Long Term Substitutes in Cincinnati Public Schools. November 1999

21. CFT Exhibit #20 "Desperate Schools Create Teachers," The Kentucky Post. 12-3-99 p. 1
22. CFT Exhibit #21 "No. 1 Problem is Finding Employees," Cincinnati Post. 1-4-00. p. 1A
23. CFT Exhibit #22 Fallon Research. No Date
24. CFT Exhibit #23 Tentative Agreement Regarding Case Coordinators'. No Date
25. CFT Exhibit #24 "Annual Pay Raise Keeps Hovering Around 4 Percent." Knight-Ridder News Service. Fall 1999
26. CFT Exhibit #25 Increases in Hamilton County Teacher Salaries. 1996-2000
27. CFT Exhibit #26 Increases in Ohio Large City Teacher Salaries. 1996-2000
28. CFT Exhibit #27 "A Bidding War for Teachers Spreads from Coast to Coast," New York Times, 1-7-00
29. CFT Exhibit #28 Salary Comparisons of Hamilton County School Districts for Salaries in Effect. November 1999
30. CFT Exhibit #29 Salary Freeze will Hurt Recruiting as Schools Compete with other Occupations. 3-17-99
31. CFT Exhibit #30 Survey and Analysis of Teacher Salary Trends. 1998
32. CFT Exhibit #31 Survey and Analysis of Teacher Salary Trends. 1998
33. CFT Exhibit #32 Impact of Salary Steps. No Date
34. CFT Exhibit #33 Economic Proposals. No Date
35. CFT Exhibit #34 VESA 1997-98
36. CFT Exhibit #35 Tentative Agreement between the Cincinnati Federation of Teachers and the Cincinnati Board of Education. No Date
37. CFT Exhibit #36 Equal Employment Opportunity and Affirmative Action Policy. Revised. 8-24-92
38. CFT Exhibit #37 Largest Ohio School Districts Sick Leave Accumulation in Effect

December 1999

- 39. CFT Exhibit #38 Hamilton County School Districts Sick Leave Accumulation in Effect November 1999
- 40. CFT Exhibit #39 Teacher Evaluation, Compensation and Accountability. Revised September 1999
- 41. CFT Exhibit #40 CPS Among Ohio's Top Urban Districts, The Post, 1-7-00

2. Opening Statements

1. CFT Opening

In his opening, Mr. Mooney pointed out to the factfinder that there has been a collective bargaining relationship between the CBE and the CFT since 1977 in Cincinnati. Although there were strikes in the District in 1977 and 1979, Mr. Mooney emphasized that during the 1990's the relationship between the parties had been generally cooperative. In 1997, however, the relationship soured somewhat and the parties resolved their negotiations after factfinding. In 2000 the parties once more find it necessary to invoke factfinding to resolve their collective negotiations.

Mr. Mooney stated the position of the CFT that the union was committed to educational improvement in the CPS and cited the establishment of ILT's in the schools as an attempt to initiate educational reform. Mr. Mooney stated the CFT position, however, that the union would oppose the disintegration of the district into 77 disparate units, each having its own rules regarding the workday, transfer and prep-time.

2. CBE Opening

In his opening statement Mr. Stepaniak stated the Board position that the district must continue to push forward with educational reform that has already began. Mr.

Stepaniak stated his view that the Board's proposals are within the context of unsatisfactory results in educating Cincinnati's school age children over the past few years.

Mr. Adamowski continued the opening statement. In his remarks, Mr. Adamowski observed that in the past the Cincinnati schools had been highly bureaucratic and that the activities at the individual schools had been largely constrained by control of the central office. Mr. Adamowski stated his view that the Cincinnati schools were facing an educational crisis and that dramatic steps need to be taken to return more control over educational activities to the schools themselves.

III. The Issues

1. Issue One. Section 110. Recognition.

1. CFT Position

The CFT position on this issue is two fold

(1) The CFT proposes the creation of a new job title "School Educational Technologist" to be added to the bargaining unit. In addition, the CFT proposal would specifically mention "teacher-librarian," "occupational therapist" and "physical therapist" as included within the bargaining unit.

(2) The CFT proposal would delete paragraph 2 of section 110.1 and would substitute a paragraph which would prohibit the contracting out of bargaining unit work by March 1, 2000. Disputes over contracting out would be submitted to arbitration to commence on May 1, 2000.

B. CBE Position

The CBE position on this issue is to propose the status quo; no changes to

the current agreement.

C. Discussion

I don't see the need for the changes the CFT is proposing. There is no compelling need to create the new job title as far as I can see. The present language in 110.1 clearly provides for arbitration of issues involving contracting out of certain duties.

D. Recommendation

No change to section 110 are recommended.

2. Issue Two. Duration Section 100

A. CBE Position

The CBE position on this issue is to propose a 2½ year agreement expiring on 6/30/02. The district feels that an agreement that expires at the end of the fiscal year would enable the district to plan more accurately for expenditures that occur on a fiscal year rather than on a calendar year basis.

B. CFT Position

The CFT position on this issue is to propose a 3 year agreement expiring on December 31, 2002.

C. Discussion

No justification, other than convenience to the Board, was cited in the CBE presentation on this issue. Most labor agreements in the public sector in Ohio are three year agreements; most expire on December 31. I see no reason to charge the duration on the timing of the agreement in this case.

D. Recommendation

The contract shall be in effect for 3 years expiring on December 31, 2002.

3. Issue 3. Section 130. Member Employment.

A. CFT Position

The CFT position on this issue section 130.1 (g) is that if a member of the CFT should become a full-time officer or employee of the state or national affiliates of the CFT that the CBE would continue to pay that person's salary and benefits subject to reimbursement by the CFT. The representative of the CFT stated that this would be an extension of the current practice of paying local officials of the CFT.

B. CBE Position

The CBE opposes the addition of this proposed language to section 130.

C. Discussion

If the CBE is willing to pay the salaries and benefits (subject to reimbursement) of the local CFT officers why would it refuse to extend this policy to employees of the CFT's state and national organizations? The person's in question would be "on the books" of the CBE and the CFT stands ready to make full reimbursement of costs to the district.

D. The CFT proposal on this issue is recommended.

4. Issue Four. Section 145. Team Based Schools.

A. CBE Position

The CBE position on the revision of §145 of the agreement involves 3 basic ideas. The first concerns the categorization of schools to become team based. The CBE position is that the ILT in all schools (even those categorized as "achieving") should have the

option of moving to the teams based concept. Secondly, the CBE proposal would allow the majority of the members of a team (with the approval of the principal) to remove a member from a team. Thirdly, the CBE proposal provides that all schools; not just those that are team based, be funded on a per pupil basis and that each school's ILT should have discretion over which specialist positions to fund.

B. CFT Position

The CFT proposes changing section 145 of the current agreement but differs from the CBE proposal in seven ways. First, the CFT proposal in 145.1 would retain the LSDMC. Second, the CFT proposal would continue the annual evaluation of team based schools. Third, the CFT proposal would require an annual application process, along with a 2/3 vote of the faculty and approval of the LSDMC before any additional schools could voluntarily become team based. Fourth, the CFT proposal would restrict the ability of a team to remove team members from a team and would give the principal this power if justified for incompetence and/or unprofessional behavior. Fifth, the CFT would continue to provide for annual training in the team concept at team based schools at the option of the ILT. Sixth, the CFT proposal would be to maintain current contract language in paragraph 9 of §145 which would require allocations for specialists, librarians and support services. Finally, the CFT proposal would maintain the language in paragraph 10 of §145 of the current contract regarding staffing.

C. Discussion

There was a good deal of discussion of the issues regarding team based schools at the hearing. The recommendations I make below are based on several concepts that I have developed based on my thinking and experience with the team based concept. First, the

decision to adapt the team based concept should be one that is well thought out and widely accepted by the teachers involved. Second, the teams should be self governing, but the rights of individuals within the team should be protected. Thirdly, the teams should have broad control over curriculum and staffing, yet minimum standards should be set for non-team based schools within the district. Finally, the teams should have a meaningful role in the determination of the budget.

D. Recommendations

1. Section 145.1

The reference to the LSDMC should remain. The CFT proposal for the 2/3 vote of the faculty, and the support of the LSDMC in applying for team school status is recommended. The annual evaluation of the team based schools is recommended.

2. Removal of team members §145.5(c)

The CBE proposal in 145.5(c) is not recommended. The present process for removal of teachers from a teaching position or from a team is to be maintained.

3. Training - 145.8

The CBE proposal here is recommended. This gives more flexibility to the ILT in determining what type of training is needed in team based schools.

4. Specialists in Team Based Schools. Section 145.9

A compromise is suggested between the CFT proposal and the CBE proposal. It is recommended that current contract language govern the deployment of specialists in non-team based schools (CFT proposal). For team based schools, the ILT shall

(CBE proposal).

5. Budget Issues. Section 145.10

The CBE proposal giving control over the budget to the ILT is recommended. The only change I would make to the CBE position on this issue is to recommend a role for the LSDMC in the budget process.

6. Issue 5. Instructional Leadership Teams. Section 150

A. CBE position

The CBE position on this issue is to amend section 150 in three general ways. First, the CBE position would be to remove references to "operations" from the role of the ILT. Second, the CBE position would be to increase teacher membership in the ILT to 60% teachers representatives and would not require the building representative to be a member of the ILT. Thirdly, the CBE proposal would delete contractual references to quorums and minutes in the required operations of the ILT.

B. CFT Position

The CFT position on this issue is to maintain current contract language with the exception of removing sections of 160 which are out of date.

C. Discussion

Teams need to have freedom to operate and the ILT is the effective "leader of teams" at a school. There are also important procedural and operational controls that need to be in place to prevent the ILT from "steamrolling" over the interests of teachers and students in a particular school.

D. Recommendations

The CFT proposals regarding section 16 are recommended. I feel that the ILT's have a legitimate role to play in "operational" as well as instructional decisions at a school.

The Building Representative is an elective official of the teacher and has a legitimate role to play in the ILT as an official elected spokesperson for the CFT. The CFT proposal that certain recommendations of the ILT be voted on by the teachers is recommended. The CFT proposal for a quorum, an agenda, and minutes of the ILT meetings is recommended. The CFT proposal for retention of the LSDMC is also recommended.

6. Issue Six. Residency Section 160.

The parties resolved this issue at the hearing.

7. Issue Seven. Professional Development. Section 170.

1. CBE Proposal

The CBE proposal would change the language of section 170 in five ways. First, the CBE proposal would change the role of consulting and lead teachers. Secondly, the CBE proposal would distribute professional development funds on a school by school basis based on a per pupil distribution formula. Third, the CBE proposal would expand the EIP (educational initiatives panel) to include parent and community members appointed by the Board. Fourth, the CBE proposal would eliminate the Budget Commission. Fifth, the CBE proposal would allow for the payment of graduate interns within a pay range of between 25 percent and 50 percent of what a beginning certificated teacher would be paid.

B. CFT Proposal

The CFT proposal on this issue is to maintain current contract language

with the exception that the CFT proposal would amend Section 170.5 to require that graduate student interns be paid no less than 50 percent of the salary paid to beginning teachers.

C. Discussion

Professional development and budget issues are critical to the performance of any organization that employs persons with professional credentials. There was little explanation or justification given by the CBE for the sweeping changes proposal in the EIP's, the funding for professional development, and the elimination of the budget commission. Likewise, there was little justification given by the CFT in its proposal to require that the CBE pay graduate interns a minimum wage equal to 50 percent of a beginning teachers' salary. I would recommend no changes to section 170.

D. Recommendation

No changes be made to this section.

8. Issue Eight. Charter. Schools. Section 190.

(A) CFT Position

The CFT position on this issue is to propose the addition of a new section 190 to the agreement dealing with the issue of charter schools. The CFT proposal would require approval of 2/3 of the teachers and approval of the ILT and the LSDMC before a school could be converted to a charter school. In addition, the CFT proposes an appendix E which would detail how certain sections of the collective agreement would apply to charter schools and which wouldn't.

B. CBE Position

The CBE position on this issue is that section 190 should not be added to

the collective agreement and that existing sections of the labor agreement adequately protect the rights of teachers who are in schools that may be converted to charter schools in the future.

C. Discussion

The debate between the parties concerning the conversion of traditional schools to charter schools was a lively and interesting one. The conclusion I drew from the exchange was that the CBE wanted the option, to be exercised in a limited number of cases, to convert a traditional school to a charter school if it was determined by the CBE to be in the best interests of the students. The CFT was mostly concerned about protecting the interests of teachers in the school (or schools) that had been converted. I think that the interests of both parties are best served by not adopting section 190.

D. Recommendation

That this section (190) not be added to the collective bargaining agreement.

9. Issue 9. Teacher Certificates and Contracts. Section 200.

A. CBE Position

The CBE position on this issue involves three proposed changes to section 200. The first would recognize the fact that in 1998 a new statute enacted by the state legislature now changes the nomenclature of "teacher certificates" to "licenses." Secondly, the CBE proposal would allow the non-renewal of "surplussed" teachers after one year. Thirdly, the CBE proposal would allow the ILT to determine the length of the working day to include more than seven hours.

B. CFT Proposal

The CFT proposal on this issue is to maintain current contract language.

C. Discussion

The CBE proposal in this section of the agreement sacrifices critical rights of "surplussed" teachers for continuing employment in the District. It seems to me that the parties have deliberated and negotiated in many past collective bargaining sessions over many years to craft the language found in section 200. From a management perspective I can see why the CBE would propose the changes they would like to make in section 200. From a labor point of view I could see why the CFT would oppose these changes. From a neutral point of view, governed by ORC 4117.14, I can see no good reason why the existing agreement should be changed as the CBE proposes. The only exception is that I can see a reason why the team "teaching certificate" should be changed to "license."

D. Recommendation

No change is recommended to this section with the exception that references to "teaching certificate" be changed to "license."

10. Issue 10. Section 210. Evaluations.

A. CBE Position

The CBE proposal would change section 210 in three ways. First, the CBE proposal would change the frequency with which teachers are evaluated and would also change the role of the consulting teacher in the process. The second change the CBE is proposing is to change the role of the lead teacher to one of a "teacher coach." Third, the CBE proposal would freeze the pay schedule for lead teachers at present levels.

B. CFT Proposal

The CFT proposal is to maintain status quo regarding teacher evaluations until the new Teacher Evaluation System (TES) can be adequately field tested. The CFT proposal would increase the term for consulting teachers from 2 years to 3 years and would increase the stipend for consulting teachers \$1000 to \$4000 per year.

C. Discussion

It does seem a bit odd to me that the CBE wants to recognize and institutionalize in the collective agreement an experimental evaluation program that has not even been fully pilot tested. I think the CFT is right to urge that the new T.E.S. be fully field tested and adopted by the Board before reference is made to it in the collective bargaining agreement. In my opinion, the CBE is right that under 4117.08 evaluation is an appropriate subject for bargaining. The Board and the Teachers have embarked on an ambitious program of teacher evaluation and I wish them every success in its implementation. Unfortunately, I can not recommend the sweeping changes the CBE is proposing over the legitimate objections of the teachers. An evaluation program that has been codified in the collective agreement for the past 15 years can not be so substantially changed without lengthy and careful negotiations between the parties. Under the guidelines of 4117.14 I do not feel justified in recommending the changes proposed by the CBE in section 200.

D. Recommendations

No changes be made in this section.

11. Issue 11. Teaching Assignments. Section 220.

A. CBE Position

The CBE position on this issue to propose three major changes to section 220 of the collective agreement. The first change would be to be the ILT at each school determine the length of the work day. The second proposal change would be to delete references to preparation time in the agreement and to substitute instead a provision that would allow the ILT's to determine preparation time. The final change would be to delete references to a monthly calendar developed by the Board.

B. CFT Position

The CFT position on this issue is to maintain the status quo on this section with the exception that the teachers would add language to section 220.8(A)(4) such that school open houses would not conflict with scheduled CFT meetings.

C. Discussion

There was a good deal of discussion about this issue. As with its proposals on teacher evaluations and filing of vacancies the CBE is proposing sweeping changes in the "modus operandi" of the Cincinnati Public Schools. The teacher's generally oppose these sweeping changes and view the CBE proposals as a retreat from teachers rights gained over the past 20 plus years of collective bargaining. Both sides have good reasons for their positions on these issues involving section 220. I feel that such broad and profound changes, such as changing the length of the work day and changing how preparation time is determined should be accomplished through the bargaining process not through the dispute resolution process. Absent compelling need on the part of the Board justified through either an ability to pay argument or a

service delivery to the public argument it is difficult for me to justify these sweeping changes as a factfinder.

D. Recommendation

No changes to be made in this section.

12. Issue 12. Teacher Absences. Section 230.

A. CBE Position

The CBE is proposing two changes to section 230. The first would be to change 230.15(g) such that a teacher returning from disability retirement would be classified as a long term substitute for one year if not picked up by a school at the time he/she returns from disability. The second proposed change would be to rewrite 230.18 such that release time to attend Federation conventions would be granted at the discretion of the superintendent.

B. CFT Position

The CFT position is to maintain status quo.

C. Discussion

The CBE proposal on this issue is in conformity with its position on the filling of vacancies and transfers. I did not recommend that these changes be made to the agreement, and I do not recommend the proposed change be made to section 250.15(g). Very little discussion was given at the hearing to the CBE proposed changes to 250.18. I see nothing to justify the proposed change.

D. Recommendation

No changes be made to section 250.

14. Issue 13. Teaching Conditions. Section 240.

A. CBE Position

The CBE position on this issue is to delete references to instructional supplies, faculty facilities and snow removal from section 240. In addition, the CBE proposal would change section 240.10 such that the ILT would determine how library fines are to be spent.

B. CFT Position

The CFT position on this issue is to maintain status quo.

C. Discussion

In reading over 240.3, 240.4, 240.6 and 240.11(e), it seems to me that the ILT already plays a central role in determining teaching conditions at the schools. I honestly don't see what deleting these sections of the agreement would accomplish. On the other hand, maintaining these sections in the agreement codifies the Board's commitment to maintaining facilities and supplies in such a manner that is consistent with the best delivery of educational services to the students. Library fines are collected by the library staff. It seems to me that the fines should be used by the library staff to support the library.

D. Recommendation

No changes are to be made to section 240.

14. Issue 16. Grievance Procedure. Section 300.

A. CBE Position

The CBE is proposing two substantive changes to section 300. The first change would be to limit grievances to the current contract and would strike reference to the previous contract. The second change would be to strike out 240.2(h)(3) which provides that

there will be no arbitration during the summer months unless both the CBE and the CFT agree otherwise.

B. CFT Position

The CFT position on this topic is to maintain status quo.

C. Discussion

I am often called upon to arbitrate grievances that may be 6 or 8 months "old." In several instances the contract that was in effect when the grievance was filed was the previous (not the current) agreement. It doesn't make sense to me to limit the scope of the grievance procedure to the current contract only. The CFT representative had a good reason for why there aren't arbitrations in the summer; the CFT doesn't have field staff in the summer. In addition, the parties report that they often encounter difficulties in contracting witnesses in the summer.

D. Recommendation

No changes be made to this section.

15. Issue 14. Voluntary Transfers. Section 250.

A. CBE Position

The CBE position on this issue is to give the ILT's in the schools more latitude in determining who they would choose to fill vacancies in the schools. In addition, the CBE proposal would not grant seniority preference to "surplussed" teachers in filling vacancies.

B. CFT Position

The CFT position on this issue is to maintain the status quo on all provisions of section 250 with the exception of adding a new section 250.8 which would obligate

the District to negotiate the effects of high school reorganization on teacher placements and other terms and conditions of employment.

C. Discussion

The proposal of the CBE on this issue is so bold as to border on revolutionary. The CBE proposal would wipe out a procedure for transfer that the CFT representative cited as being in the labor agreement since 1980. Maybe revolutionary change is necessary in the transfer procedure, but I didn't hear anything at the hearing that would justify the massive changes in section 250 that the Board is proposing. I don't see how or why the Board wants to wipe out 20 years of past practice in one negotiation. The CFT proposal to add 250.8 is unnecessary as far as I can tell; the effects of any management action on the employment and placement of unionized employees covered by a collective agreement is always a mandatory subject of bargaining.

D. Recommendations

No change be made to this section.

16. Issue 15. Reduction in Force. Section 270.

A. CBE Proposal

The CBE proposal would be to RIF teachers in order of seniority within the TES evaluation system of teacher categories. The CBE proposal would delete references to preferences for reemploying RIF teachers before outside applicants are considered.

B. CFT Proposal

The CFT proposal is to maintain status quo.

C. Discussion

The CBE position on this issue is consistent with its proposals to amend many other sections of the collective bargaining agreement. The CBE proposal would streamline the RIF procedures and would probably streamline the procedure for filling vacancies.

Unfortunately, the contractual rights of the teachers are being by-passed by this streamlining.

The RIF procedures in section 270 of this agreement are similar to many others I have seen in other teacher contracts over the years. I see no compelling reason to change longstanding RIF procedures.

D. Recommendation

No change be made to this section.

17. Issue 17. Pupils. Section 400.

A. CBE Proposal

The CBE position on this issue is that the local school behavior plan should be developed and revised annually by the ILT. The CBE proposal would delete reference to a 2/3 faculty vote necessary to finalize the plan.

B. CFT Proposal

The CFT proposal is to maintain status quo.

C. Discussion

There wasn't much debate on this issue at the hearing. It seems to me, however, that if the ILT agenda is announced in advance and if minutes are kept that teachers in a building should be pretty well informed about what the ILT is doing. The prospects for teacher participation in the development of the discipline plan seem to me to be well protected. I really

don't see why a 2/3 vote is necessary given the above considerations.

D. Recommendation

Reference to a 2/3 faculty vote are to be deleted from section 400.1(d) of the agreement.

18. Issue 18. Staffing. Section 500.

A. CBE Position

The CBE proposal on this issue would be to delete all of the language in the existing section 500 and to substitute a table of caseload for teachers at different grade levels.

B. CFT Position

The CFT position on this issue is to adapt a class size limit table similar to the one proposed by the CBE. The CFT proposal would retain much of the language of the existing section 500 regarding overload payment and enforcement of the class size limits by the Teacher Allocation Committee.

C. Discussion

The CBE proposal puts a great deal of responsibility for enforcing the class size limits on the ILT at each school. The CFT proposal provides for "overtime" compensation for teachers assigned to teach in classes larger than those indicated in the class size tables. I think the CFT proposal is the better of the two because it provides some protection (and compensation) for teachers who for some reason or another find themselves assigned to teach a larger than anticipated class. I realize that the CBE proposal recognizes the professional status of, and endows self governance to the teachers. This is justified and no doubt appreciated by the teachers. The problem comes when professionals disagree or even act inequitably towards each

which may happen. The CFT proposal maintains a little more structure and enforcement to the staffing issue than the CBE proposal.

D. Recommendation

The CFT proposal on this issue (section 500) is recommended.

19. Issue 19. Educational Support Personnel. Section 605.

A. CBE Position

The CBE position on this issue is to delete reference to the assignment committee in 605.1(a) and to delete the dated language in section (c). Further, the CBE proposal would give the ILT discretion in determining additional compensation (if any) for the school social worker beyond the 191 day school year.

B. CFT Position

The CFT proposal on this issue is to maintain status quo with the exception that reference is made in 605.1(a) that full-time educational support personnel positions should be filled in conformity with section 250 of the agreement.

C. Discussion

The CBE proposal would delete reference to the assignment committee, but doesn't specify what would take its place. It isn't clear to me from the CBE proposal what role the ILT would play in case load determinations or in the determination of staffing needs for E.S.P. I do understand the proposal for letting the ILT make the determination for additional compensation for school social workers and agree with the concept.

D. Recommendation

No change be made to section 605.1, 605.2 or 605.3. The CBE proposal

for changing 605.4 is recommended.

20. Issue 20. Special Teachers. Section 610.

A. CBE Position

The CBE proposal on this topic encompasses a number changes to section 610. First, the CBE proposal would eliminate the requirement for a school librarian at every school. Second, the CBE proposal deletes reference to the 2/3 vote of the faculty for the SDO plans. The CBE proposal would eliminate 610.2(C). The CBE proposal would eliminate the procedure for choosing a case coordinator. The CBE proposal would delete the language in 610.3 and would empower the ILT to make these determinations. The CBE proposal would delete the language in the contract which pertains to pre-school teachers. The CBE proposal would delete section 610.7(a) and would delete 610.7(f) and (h).

B. CFT Position

The CFT proposal on this issue would be to maintain the status quo in section 610 with the exception that the CFT proposal would create a new position, School Educational Technologist. The CFT proposal would give preference to lead and career teachers in filling vacancies for summer school.

C. Discussion

There was not enough discussion about the pros and cons of each of the changes proposed by the parties to section 610 to make an intelligent recommendation on any of them. The two things both parties agreed to at the hearing was to accept the CBE's proposal on 610.2 and to eliminate 610.6. These changes I will recommend.

D. Recommendation

The CBE proposal for 610.2 is recommended. The parties agree to delete the language of 610.6. No other changes to this section are recommended.

21. Issue 21. Substitutes. Section 620.

A. CBE Position

The CBE position on this issue is to eliminate all the language in section 620 and to insert a sentence which gives the ILT the right to recruit substitutes and to negotiate with them a rate of pay.

B. CFT Position

The CFT position on this issue is to maintain status quo.

C. Discussion

The CBE proposal would delete 6½ pages of contractual procedures dealing with all manner of issues involving substitute teachers. I do not think any factfinder in the State of Ohio could justify a recommendation that would almost completely wipe out the contractual rights of such a large component of the CFT's membership. There was no justification, financial, administrative or operational given at the hearing for these proposed changes to section 620.

D. Recommendation

No changes be made to this section.

22. Issue 22. S.L.D. Tutors. Section 630.

A. CBE Position

The CBE proposal on this issue is to eliminate the 45 minute preparation

time for SLD tutors and to eliminate the section 250 protections for surplussed SLD tutors.

B. CFT Position

The CFT position on this issue is to maintain status quo with the exception of raising SLD tutors' pay to 100% parity with other District teachers (currently SLD tutors are paid 6/7 of what other District teachers are paid).

C. Discussion

Neither side of the debate was able to provide much justification for their proposed changes. The one fact that both sides seemed to agree with was that the cost of the CFT proposal to pay SLD tutors 100% of what other teachers are paid would cost \$850,000. I don't see what the District would gain from this expenditure. Thus, I will not recommend any changes in this section.

D. Recommendation

No change be made to this section.

23. Issue 23. Salaries and Benefits. Section 700.

A. CFT Position

The CFT proposal on this issue involves a number of changes to section 700. These can be summarized as follows:

1. 4% wage raise effective 1-1-00, 1-1-01 and 1-1-02.
2. Add a 27th year step @ \$2200.
3. NBPTS Certification increase to \$2500.
4. Career Teachers increase to \$1250.
5. Raise schedule E salaries 4 percent per year.

6. Maintain training increments.
7. Establish a voluntary separation incentive.
8. Maintain all pay plan options.
9. Maintain current emergency school closing language.
10. Reopen negotiations regarding benefits. Maintain status quo until 12-31-00.
11. Maintain medical reimbursement bank.
12. Maintain sick leave conversion.
13. Maintain day care benefits.
14. Increase school year by 2 paid days per year District wide. To move toward year round schools.

B. CBE Position

The CBE position on this issue may be summarized as follows:

1. Either a 2% increase in salary expenditures (including steps and degrees) or a COLA increase, whichever is greater. Effective 7-1-00.
2. Revise incentive compensation system.
3. Eliminate monthly pay option.
4. Emergency school closing days are to be made up to equal 181 days of instruction.
5. Health care and reimbursement bank be referred to a study committee.
6. Reduce sick leave conversion.
7. Option to delete day care benefit if necessary.

C. Discussion

As might be expected there was a good deal of discussion about the

subject of salaries at the hearing. Exhibits were introduced by both sides. The CBE produced an excellent exhibit (Board Exhibit #9) costing out the CFT salary proposals. The CFT produced extensive data about teachers' earnings in other districts in Ohio. Unfortunately, there was little, if any, comparability data that relates to such issues such as salary step, career or lead teachers, NBPTS certification and so on.

After looking over all the salary data provided I come to the following conclusions: (1) The Cincinnati teachers are, on average, the highest paid teachers of any large municipal district in Ohio, (2) Cincinnati teachers are the second highest paid teachers in Hamilton County, (3) Statewide, and for Hamilton County, teachers salaries are averaging about a 3 percent increase per year, (4) the Cincinnati school district will face serious financial shortfalls if the district does not pass a levy in the near future.

With these facts in mind I am recommending a 2% increase effective 1-1-00 a 3 percent raise effective 1-1-01 and a 3 percent raise effective 1-1-02. These across the board raises should help the CBE keep control of cases while at the same time allow the teachers to maintain their standing as one of the best paid group of educators in Ohio. I have recommended status quo on all other financial issues.

D. Recommendation

- A 2 percent raise effective January 1, 2000
- A 3 percent raise effective January 1, 2001
- A 3 percent raise effective January 1, 2002

All other economic items in section 700 are to remain at status quo. Reopen negotiations over medical insurance should commence immediately and should conclude no later than December

31, 2000. I will retain jurisdiction over these negotiations as factfinder until concluded or until impasse is reached.

24. Issue 24. School Budgets. Section 180.

A. CFT Position

The CFT position on this issue is that first the Budget Commission recommend enrollment guidelines to the schools in making budget projections and second that CAFS reimbursements be returned to the schools which generated them with a 20% overhead tax to be retained by the C.B.E.

B. CBE Position

The CBE position on this issue is to eliminate reference to the Budget Commission in section 180 and retain all CAFS reimbursements centrally to be distributed as part of the total per pupil annual budget allocation district wide.

C. Discussion

The CFT did not demonstrate a need for the changes they propose in section 180. I see no reason to recommend any changes.

D. Recommendation

No changes be made to this section.

25. Issue 25. Lead Teachers Supplemental Salary. (Career-in-teaching program agreement)

A. CFT Position

The CFT position on this issue is that lead teachers should receive a raise of 20% for their designation as Career Teachers.

B. CBE Position

The CBE position on this issue is to oppose the increase. CBE financial estimates place the cost of this proposal at \$852,000.

C. Discussion

The CFT produced no data to justify their proposal. Without supporting documentation I have nothing upon which to base a recommendation under ORC 4117.14.

D. Recommendation

No changes be made to this section.

26. Issue 26. Career in Teaching Program Facilitator. (Career in Teaching Program agreement)

A. CFT Position

The CFT proposes a designated facilitator to implement and coordinate the Career-in-Teaching Program.

B. CBE Position

The CBE position on this issue is to oppose the program facilitator position. The CBE proposed to take responsibility for the management of the Career in Teaching program through the District's Office of Human Resources.

C. Discussion

The CBE estimate produced at the factfinding hearing determined that the creation of the facilitator position would cost \$252,562 over the life of the agreement. I don't see any data or documentation produced by the CFT that could justify this expenditure.

D. Recommendation

This proposal not be adopted.

27. Issue 27. Term of the Plan. (Career in Teaching Program Agreement)

A. CFT Position

The CFT proposes that reference to the termination of the Career in Teaching Program be deleted.

B. CBE Position

The CBE position is to retain the termination language.

C. Discussion

The term of the plan is coterminous with the collective bargaining agreement. I see no reason to make this program permanent. If the Career in Teaching Program meets the needs of the CBE and the CFT it will continue. If not, the parties will change it or end it.

D. Recommendation

No change be made to this section.

28. Issue 28. Schedules and Appendices. Appendix A Schedule D.

A. CFT Position

Maintain Appendix A Schedule D.

B. CBE Position

Place all employees on a 191 day schedule.

C. Discussion

There was virtually no discussion of this issue at the hearing. It is difficult

to make a recommendation for a change in Appendix A Schedule D without anything to justify it.

D. Recommendation

No change be made in this section.

IV. Certification

This factfinding report and recommendation is based upon evidence and testimony presented to me at a factfinding hearing conducted on January 6 and 7, 2000. It is the intention of this report that all items tentatively agreed to by the parties in negotiations shall also be part of this report.



MARCUS HART SANDVER, Ph.D.

Factfinder

Dublin, Ohio

January 21, 2000