

IN THE MATTER OF FACT-FINDING)	
)	
BETWEEN)	
)	
THE COLVILLE EDUCATION ASSOCIATION)	FACT FINDER'S
"THE ASSOCIATION")	FINDINGS
)	
AND)	AND
)	
COLVILLE SCHOOL DISTRICT No115)	RECOMMENDATIONS
"THE DISTRICT")	

Hearing date; May 20, 1977

Hearing site: Ramada Inn
Spokane, Washington

Post hearing briefs: Received June 15, 1977

Factfinder: John H. Abernathy

Appearances:

For the Association
 Ms. Jean Cheshire, UNISERV Consultant
 Mr. Rodger Cantaloube, Washington Ed. Assoc.
 Mr. Ken Bell, UNISERV Consultant

For the School District
 Mr. Lee Kraft, Negotiator
 Mr. Donald Munson, Superintendent
 Mr. John Miller, Asst. Sup.

Background and List of
Issues before the
Factfinder

The Colville School District, located in Colville, Washington is bordered on the North by the Northpart School District, on the East by the Selkirk School District, on the South by Chewelah School District and on the West by Kettle Falls School District. The Colville School District encompasses about 612 square miles about 200 of which are in National Forest or National Refuge Land. The City of Colville (population 4200) is the trade center of Northern Stevens County and is the county seat of Stevens County. About half of all employment in the county is related to the timber industry; the remainder is divided among governmental, agricultural and small business employment.

The Colville School District in April 1977 had an enrollment of 1713 FTE students, which means that under criteria established by the State Superintendent of Public Instruction Colville is classified as a Class II-Large District (1000 to 2000 FTE enrollment). There are forty-six class II-L districts in the state, fourteen of which are in the eastern part of the state. Selkirk, Chewelah and Kettle Falls School Districts are Class II-Medium schools while Northpart is a Class II-small school.

Negotiations between the Association and the School District for a 1976-77 collective bargaining agreement commenced in May 1976. By December 1976 the parties had participated in 17 bargaining sessions. Mediation began on March 8, 1977 and continued through March 30, 1977. The parties were unable to reach agreement during mediation and the dispute was carried to factfinding. At the factfinding hearing the parties agreed on the following list of issues:

1. Maintenance of Standards
2. Picket Line Rights

3. Citizen Advisory Committees
4. Management Rights
5. Staff Protection
6. School Calendar
7. Dismissal of Students (Student Discipline)
8. Teacher Work Load
9. Duration (Term of Agreement)
10. Complete Agreement (Zipper Clause)
11. Association Security (Agency Shop)
12. Emergency Leave
13. Jury Duty/Subpoea Leave
14. Layoff and Recall
15. Preparation Periods
16. Grievance Procedure
17. District Security (No Strike Clause)
18. Insurance Benefits
19. Salary Schedule

In the report that follows, the factfinder will follow the following outline:

1. Title of Issue
2. Proposals and Positions on the issue
 - a) Association's proposal and position and supporting evidence and argument.
 - b) District's proposal and position and supporting evidence and argument.
3. Analysis and Findings - in this section the factfinder will analyze the proposals and supporting data and make findings on each issue.
4. Recommendations - as to what should be included in the collective bargaining agreement between the parties.

ISSUE #1 - MAINTENANCE OF STANDARDS

ASSOCIATION'S PROPOSAL AND POSITION - During negotiations, the Association proposed the following proposal on this issue:

Section 5 - Maintenance of Standards

A. All conditions of employment, including teaching hours, extra compensation for duties outside regular teaching hours, preparation and relief periods, leaves, and general teaching conditions shall be maintained at not less than the highest minimum standards in effect in the district at the time this agreement is signed, provided that such conditions shall be improved for the benefit of teachers as required by the express provisions of this agreement. This agreement shall not be interpreted or applied to deprive teachers of professional advantages heretofore enjoyed unless expressly stated herein.

B. The duties of any teacher or the responsibilities of any position in the bargaining unit will not be substantially altered, increased, or transferred to a person not a member of the bargaining unit without prior negotiation with the Association.

The Association argued that such a provision would protect conditions of employment for members of the bargaining unit.

SCHOOL DISTRICT'S PROPOSAL AND POSITION - The District does not want a "Maintenance of Standards" article in the agreement.

The School District argued that paragraph A would inhibit the Board's inherent statutory responsibility and Management's rights. The phrase "all conditions of employment..." is not defined, is too encompassing and would spawn numerous grievances the District argued. The District also argued that superior protection of "conditions of employment" would be provided by negotiating on specific policies, practices, rules and regulations. Furthermore, the District argued that after the effective date of the agreement all District policies, rules, regulations, procedures, and practices must be in conformity with the agreement.

The District also finds the language of paragraph B unacceptable. The District regards this as a way of preserving bargaining unit for members of the Association and would create tensions within the bargaining unit.

ANALYSIS AND FINDINGS - There was no showing by the Association of why such a proposal was necessary or of what specific problems it was designed to solve. The Association also indicated that it had been willing to drop this issue during mediation.

RECOMMENDATION - The collective bargaining agreement between the parties should not contain a maintenance of standards clause.

ISSUE #2 PICKET LINE RIGHTS

ASSOCIATION PROPOSAL AND POSITION - The Association proposed this language during negotiations:

SECTION 3 - Picket Line Rights

It shall not be a violation of this agreement nor shall any teacher be disciplined, reprimanded or discriminated against for refusing to cross any lawful picket line in the course of performing their duties.

In their post hearing brief, the Association indicated a willingness to drop their demand for this proposal.

DISTRICT POSITION - The District has consistently rejected this item for inclusion in the bargaining agreement.

FINDING: In view of the Association's offer to drop this issue, the factfinder finds that there is no disputed issue before the factfinder and no recommendation is necessary.

RECOMMENDATION: Not necessary.

ISSUE #3 CITIZEN'S ADVISORY COMMITTEES

ASSOCIATION POSITION - The Association's original position was that the existing Board policy on this subject should be included in the agreement. However, in their post hearing brief the Association dropped their proposal.

DISTRICT POSITION - The appointment of such committees are not matters affecting conditions of employment and are not an appropriate subject for bargaining.

FINDING - Since the Association has dropped their demand, no disputed issue remains and no recommendation is necessary.

RECOMMENDATION: - None necessary.

ISSUE #4 MANAGEMENT RIGHTS

DISTRICT POSITION - The District proposed the following:

All management rights, powers, authority, and functions, whether heretofore or hereafter exercised, shall remain vested exclusively in the District. In matters not covered specifically by language within this agreement, the District management shall have the clear right to make decisions in such areas, and such decisions shall not be subject to the grievance procedure.

The District feels that it must assure its right to manage the District and that everything not specifically covered in the agreement should remain within management's purview exclusively and should not be subject to the grievance procedure.

ASSOCIATION'S POSITION - Delete the phrase "...and such decisions shall not be subject to the grievance procedure" from the District proposal.

FINDINGS: Management rights clauses are commonly found in collective bargaining agreements.

RECOMMENDATION: Add the following phrase at the beginning of the District's proposal:

"Except for those rights, powers, authority and functions specifically covered by language of agreement, all management rights..."

This revised clause should be made a part of the agreement between

the parties.

ISSUE #5 STAFF PROTECTION

ASSOCIATION POSITION: The following language was proposed during the factfinding hearing by the Association;

STAFF PROTECTION

The District shall provide insurance coverage for employees for replacement of any clothing or other personal property damaged or destroyed in the maintenance of order and discipline as provided in R.C.W. 28A.58.425 and other applicable statutes.

DISTRICT POSITION - The District indicated in their post-hearing brief an acceptance of this language.

FINDINGS: The parties have reached tentative agreement on this issue.

RECOMMENDATION: The tentative agreement should be made part of the agreement between the parties.

ISSUE #6 SCHOOL CALENDAR

ASSOCIATION POSITION - The school calendar is a mandatory subject for bargaining and should be negotiated. The hearing officer's decision in the Edmonds School District case agrees with this position

BOARD POSITION - The school calendar for the 1976-77 school year is a moot issue in as much as the school year is over. Also the calendar adopted by the Board was identical to that proposed by the Association.

FINDINGS: The issue of school calendar for 1976-77 school year is moot. There was no calendar proposal for 1977-78 school year. In view of the two year recommended term for this agreement (see issue #9 below), the parties should negotiate the 1977-78 calendar.

RECOMMENDATION: The calendar for the second year of a two-year agreement should be negotiated.

ISSUE #7 STUDENT DISCIPLINE

ASSOCIATION POSITION - During the factfinding hearing, the Association proposed the following:

The primary responsibility for discipline rests with the teacher; however, the District pursuant to RCW 28A.58.101 and other statutes as applicable, will support certificated classroom teachers in their efforts to maintain reasonable student behavior.

DISTRICT POSITION - The School District indicated in their post hearing brief a willingness to accept this language.

FINDING: This is no longer a disputed issue; the parties have reached tentative agreement on the language above.

RECOMMENDATION: The tentative agreement on the above issue be included in the collective bargaining agreement between the parties.

ISSUE #8 Teacher Work Load

There were numerous proposals and counter proposals on this issue during negotiations and mediation. At the present time both parties are working from the following proposal:

TEACHER WORK LOAD

The District shall strive to maintain the following staffing standards:

<u>GRADES</u>	<u>MAXIMUM</u>	<u>OPTIMUM</u>
K-3	34	28
4-6	36	28
7-12*	190 per day	170 per day

*It is understood that special subject teachers (vocational, art, shop, music and P.E.) may have more or less pupil contact per day depending on the nature of the teaching assignment and on safety considerations.

In the event over-maximum student loads appear to be likely during the ensuing school year, the Superintendent, a Board member, the applicable Building Principals, the Association President, and the concerned teachers shall meet to consider alternatives

for dealing with the overload problem.

Determinations relative to teacher work load shall be reserved as a Management Rights matter, and shall not be subject to the Grievance Procedure.

ASSOCIATION POSITION - Delete the words "strive to" in the first sentence and all of the last sentence of the proposal (determinations relative to...").

DISTRICT POSITION - Retain the article as written to maintain flexibility and to exempt from grievance procedure.

FINDINGS: The parties are in agreement on standards and the general method of handling over-load problems. The two items in dispute are flexibility vs rigid approach (the strive to language) and the right of appeal. Flexibility should be maintained within the optimum to maximum levels given. In dealing with alternatives the parties could consider ways of alleviating the problem, if that is not possible, ways of paying teachers extra for having to teach larger than maximum size classes. The Association and the affected teachers participate in the decision making process. They should not also have the right to appeal their decision.

RECOMMENDATION: The Teacher Work Load Proposal should be included as per above proposal in the agreement.

ISSUE #9 DURATION

Both parties are working from the following proposal:

TERM OF AGREEMENT

This Agreement shall be effective as of the date of ratification by both parties, this being the _____ day of _____, 1977. This Agreement shall remain in full force and effect until _____, 1978.

Negotiations for a successor agreement shall begin no less than sixty days prior to the termination date.

Notwithstanding the effective date, all first-year salary and insurance benefit adjustments as herein provided shall be implemented retroactive to September 1, 1976.

The base salary for the second year beginning September 1, 1977 shall be adjusted in accordance with the percent of change in the "Consumer's Price Index for Urban Households," Seattle, running from August 1976 to August 1977; provided that the percent of change to the base salary shall not exceed ten percent nor fall below 5 percent.

This Agreement may be amended by the mutual consent of both parties.

ASSOCIATION POSITION - Use the May to May percentage changes in the National CPI. Eliminate the ceiling in the second year but add a 5% catch up for wages and full family medical and dental insurance coverage.

DISTRICT POSITION - The proposal as written above with a 7½% lid on the CPI for the second year.

FINDING: There is no hard evidence to support the positions taken by either party.

RECOMMENDATION: Modify the third paragraph as follows:

For the second year beginning September 1, 1977, the monthly cost of insurance benefits and the base salary shall each be adjusted in accordance with the percent of change in the "Consumer's Price Index for Urban Households," Seattle, running from August 1976 to August 1977; provided that the percent of change to the monthly cost of fringe benefits shall not exceed ten percent nor fall below five percent; and provided further that the percent of change to the base salary shall not exceed ten percent nor fall below five percent.

This modified proposal should be made part of the collective bargaining agreement.

ISSUE #10 COMPLETE AGREEMENT
(or Zipper Clause)

The District has proposed the following:

WAIVER AND COMPLETE AGREEMENT

The District and the Association each voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter not specifically referred to or covered in this agreement, even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this agreement. All rights and duties of both parties are specifically expressed in this agreement and such expression is all inclusive. This agreement constitutes the entire agreement between the parties and concludes collective bargaining for its term; subject only to a desire by both parties to mutually agree to amend or supplement at any time.

DISTRICT POSITION - An agreement for a definite term is best served by the inclusion of a zipper clause to make the agreement complete.

ASSOCIATION POSITION - In line three after the words bargain collectively, insert the following phrase:

"...or adopt policies pertaining to wages, hours, terms and conditions of employment..."

FINDING: Zipper clauses are standard clauses. The proposed insertion by the Association does not increase employee protection.

RECOMMENDATION: The District's proposed language become part of the labor agreement.

ISSUE #11 ASSOCIATION SECURITY (Agency Shop)

The Association's latest proposal is as follows:

AGENCY SHOP

All certificated employees shall, as a condition of employment, be a member of the education association and its affiliates or pay an amount equal to the local State and National dues of the Association. The employer shall enforce this provision by deducting from the salary payments

to members of the bargaining unit the dues required of membership in the bargaining representative, or, for nonmembers thereof, a fee equivalent to such dues. This provision safeguards the right of nonassociation of employees based on bonafide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee shall pay an amount of money equivalent to regular dues and fees to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the bargaining representative to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payment has been made. If the employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization.

The School District's latest counterproposal is as follows:

ASSOCIATION SECURITY

The District and Association agree jointly that membership in the Association shall be a voluntary matter, left solely to the choice and decision of the individual employee. Neither the District nor the Association shall attempt to influence any employee in his or her decision through threat, coercion, promise of benefit, discrimination or any other act, illegal under the laws of the state of Washington. The parties agree that violation of this article shall be considered unfair bargaining practices.

ASSOCIATION POSITION - An Agency shop provision should be included in this collective bargaining agreement. Members of the bargaining unit had an opportunity to vote for or against representation by the Association. Having chosen the Association as their exclusive bargaining representative, members of the bargaining unit have a responsibility to pay for services and benefits received. Agency shop provisions are lawful subjects for bargaining under Washington law and the U.S. Supreme Court that such provisions are lawful for public employees.

DISTRICT POSITION - The District has countered with an "open shop" proposal to protect employee rights, to minimize Association control of members and to provide justice to employees who do not want to join the Association.

The District is opposed to the Association's agency shop provision

on the grounds that it puts the District in an enforcement role; that the Association does not need this kind of financial support to carry out its mission; that agency shop clauses are rare in the north-eastern section of the state; that the restrictive nature of agency shop provisions conflict with the wide range of freedom teachers seek in academic freedom proposals; and that the Association could enroll all members of the public voluntarily if it were actually obtaining genuine benefits for its members.

FINDINGS: Discussion of this issue was replete with emotional rhetoric. However, a few facts are clear: first, the law provides that employees have a right to vote for an exclusive bargaining representative, second, if an Association is chosen as an exclusive bargaining representative, that Association must represent all members of the bargaining unit; and finally Agency shop clauses are legal in Washington.

RECOMMENDATION: The Association's proposal be adopted and included in the collective bargaining agreement between the parties.

The District's open shop proposal should not be included.

ISSUE #12 EMERGENCY LEAVE

Both parties are working from the following proposal:

EMERGENCY LEAVE

Reasonable emergency leave, up to a limit of two (2) days, _____ of taking the leave may be granted to employees. Such leave will be charged to allowed sick leave days.

An emergency is defined as a situation, not covered by any other leave provision, and is one over which the employee has no control and is one which compels the employee's absence during the work day.

The dispute is over the appropriate words to use to fill the blanks. The Association has proposed "with prior notification to the superintendent" while the District has proposed "as approved by the super-

intendent in advance." Thus, the dispute is over notice vs advance approval.

ASSOCIATION POSITION - In an emergency as defined by the proposed article there may not be time to get approval in advance of the emergency.

DISTRICT POSITION - The language must provide that the taking of such leave is subject to the approval of the Superintendent, based on the definition of emergency contained in the proposal.

FINDINGS: Situations which arise that permit a teacher to secure approval of the Superintendent in advance of the situation could hardly be deemed emergencies. Prior notification to the Superintendent seems sufficient, especially if teachers are made to realize that abuses or misuses of this provision could lead to loss of a day's pay and/or discipline.

RECOMMENDATION: The Association's proposal be adopted into the Emergency Leave provision and this provision be made part of the agreement between the parties.

ISSUE #13 JURY DUTY

During factfinding the Association made the following proposal:

JURY DUTY

A leave of absence with pay shall be authorized by the superintendent for jury duty. Teachers may secure support from the District office in seeking relief from jury duty when it interferes with the teaching assignments. When the continuity of educational services will be affected, the superintendent may exercise the right to seek the release of the teacher from jury duty.

There will be no deduction in pay for jury duty absence on the condition that any fees received for services performed during working hours shall be remitted to the District.

When the teacher is released from jury duty, the tea-

cher shall be required to promptly report to his or her assigned teaching station.

A leave of absence for subpoena purposes shall be with pay.

The School District indicated in their post-hearing brief that this language was acceptable.

FINDING: The parties have reached tentative agreement on this article so it is no longer a disputed issue.

RECOMMENDATION: The tentative agreement reached by the parties on this issue should be made part of the collective agreement between the parties.

ISSUE # 14 LAYOFF AND RECALL
(Reduction in Force)

There has been considerable bargaining on this issue and when the last proposal and counterproposal are considered the parties are in substantial agreement on paragraphs 1, 3 and 4. The parties are in disagreement over composition of the program review committee and the criteria for determining layoff.

ASSOCIATION POSITION - The association's latest proposal follows:

SECTION 2 -- REDUCTION IN FORCE

When the district is unable to maintain its on-going programs because of a lack of funds and after all sources of revenue have been thoroughly explored including local, state, and federal sources, the necessity for staff reduction will be determined by the Board of Directors upon the recommendation of the superintendent. However, prior to the implementation of this policy, advice and counsel will be solicited from appropriate groups and agencies which shall include but not be limited to the Colville Education association, building faculties, and other interested groups.

The following, in the order listed, will be the factors considered in determining the educational program or services to be provided and the certificated employees who will be employed to provide the educational program and services.

Procedure for Determining Education Services and Programs

A RIF Pool -- A RIF pool will be created by those staff whose contracts will be terminated by the procedure listed below. Qualified staff persons in this pool will be assigned positions for which they are qualified prior to the hiring of any additional certified staff.

A. Certified Staff

1. Those with the fewest years of service are to be assigned to the RIF pool first.
2. Those with the fewest years of service within School District #115 are to be assigned to the RIF pool next.

B. Based on the educational program and services committee recommendations the remaining staff will be assigned. In making assignments every reasonable attempt will be made to create vacancies which can be filled by qualified personnel from the RIF pool. Assignment of personnel from the RIF pool will be accomplished by utilizing the following criteria in the order listed:

1. Training and experience.
2. Most total years of experience.
3. Most years within the district.

If after all reassignment and shifting there still exists a vacancy to be filled, the district will hire from outside the district.

C. Board Review and Action -- The Board of Directors shall review the recommendation of the superintendent. If a member of the certificated staff is recommended for non-renewal after the application of the above procedures and the review of the Board of Directors, notice of probable cause for non-renewal of his teaching contract for the following year shall be given to him in the manner provided by law. All certificated employees who receive notice of probable non-renewal of their teaching contracts will be placed in a district employment pool. Those certified employees who receive notice of non-renewal will be hired for any vacancy they qualify for in the district which thereafter occurs. In filling any vacancy, the same criteria specified above shall be used. The term "vacancy" shall be liberally construed and shall include all positions that may become available for any reason. All certificated employees will be retained in the district employment pool until September 15th of the second school year following notice of non-renewal and will be placed on the substitute teachers list for the school year following notice of non-renewal.

District Proposal as follows:

LAYOFF/RECALL

When the District is unable to maintain its ongoing program because of a lack of funds and after all sources of revenue have been thoroughly explored including local, state and federal sources, the necessity for staff reduction will be determined by the Board of Directors upon the recommendation of the Superintendent. Prior to the implementation of this layoff procedure, advice and counsel will be solicited from appropriate groups and agencies which shall include but not be limited to the Colville Education Association, building faculties, and other interested groups.

A committee composed of the Superintendent and two administrative staff members; two Association representatives selected by the Association; two Board members; two teachers, one from elementary and one from secondary; and two citizens and two secondary students selected by the Board will advise the Board on the programs to be retained based on the needs of the students for quality basic education balanced against available resources.

All educational programs or services in the District which are reduced, modified or eliminated, will be reinstated upon recommendations of the aforementioned committee as funding becomes available.

The following guidelines shall be utilized by the committee and the Board in determining the programs to be retained, modified or eliminated:

- (1) The highest priority shall be the effect upon the student in the classroom, and an attempt shall be made to minimize the consequences of program and service reductions on the student's need for accredited basic education courses of study.
- (2) The Board shall determine the program and services that the school can financially support, using WAC 180-16-165 as a guideline (the minimum approval requirements for purposes of state apportionment).

When it is necessary to layoff teachers after modification of reduction of programs for financial reasons the following procedure shall be followed:

- (1) Those staff members that are currently employed in programs that will be discontinued shall be placed in a RIF pool.
- (2) All staff members currently employed in programs and services to be retained shall be retained unless the individual chooses to transfer else-

where or chooses to retire.

As future vacancies become available in the programs and services offered by the District, employees in the RIF pool shall be recalled utilizing the criteria as follows:

- (1) Training and education applicable to the particular vacancy to be filled including the possession of a valid credential required for the vacant position.
- (2) Years of teaching experience in the District shall be taken into account.
- (3) The recommendation of the principal or supervisor, as applicable, shall be taken into account.

Where factor one (1) is relatively equal between individuals, then factor two (2) shall govern. Where factors one (1) and two (2) are relatively equal then factor three (3) shall govern.

After a modified program is effected, when a vacancy occurs for which any person in the RIF pool qualifies, notification from the Superintendent to such individual will be by certified or registered mail. Such individual will have two calendar days from receipt of the letter to accept the position. If the individual does not respond within two days, he/she shall forfeit eligibility that particular opening. It shall be the obligation of the individual in the RIF pool to keep the Superintendent's office notified as to any changes in permanent address. If an employee does not fulfill this obligation, the District is under no obligation to retain that employee in the RIF pool.

If an individual in the RIF pool fails to accept a position for which he/she is eligible such individual will be removed from the pool.

At the end of the school year in which any modified education program is implemented, certificated employees remaining in the RIF pool shall be offered contracts for available certificated positions in the ensuing year for which they are qualified. In the event that there are insufficient vacant positions to offer contracts to all RIF pool personnel, the pool shall be re-established for one additional year, after which the obligation to offer contracts shall expire.

The District shall utilize RIF pool personnel as substitutes in the areas for which they are qualified.

All benefit to which a teacher was entitled at the time of his/her layoff, including unused accumulated sick leave, will be restored to the teacher upon his/her re-

turn to active employment and such teacher will be placed on the proper step of the salary schedule for the teacher's current position according to the teacher's experience and education.

All terminations for layoff shall be made pursuant to applicable state statutes including probable notice of non-renewal of contract because of economic reasons.

FINDINGS: The Association presented no evidence and hardly any argument in support of their position. The District, on the other hand, presented extensive argument as to why their proposal was more workable. The factfinder is generally persuaded by the District's argument except in the time period for response in case of recall. Two days seems to be too short. Five working days would seem to be more reasonable.

RECOMMENDATION: Change the response time for responding to recall notice from two days to five working days but otherwise incorporate the District's proposal into the bargaining agreement between the parties.

ISSUE #15 PREPARATION PERIODS

The School District offered the following counterproposal on this issue during mediation and the parties are working from this proposal.

PREPARATION PERIODS

All secondary certificated teachers directly involved in classroom instruction shall have the equivalent of one instructional period per regular workday which time shall be used for classroom preparation.

If levy proposition #4 passes at the April 5, 1977 election, then upon the collection of these tax funds in tax year 1978, all certificated elementary teachers directly involved in classroom instruction shall have thirty minutes during the instructional day for classroom preparation.

Teachers during preparation time, shall remain in proximity to their classrooms unless the Building Principal gives them permission to leave the premises.

Preparation time will be interrupted only for the infrequent occasions that are necessary for maintenance

of vital school service.

Preparation periods will be devoted primarily to the instructional program; conferring with parents or students and the maintenance of records.

A teacher, who during his/her preparation time is required to fill in for another teacher who has become ill, shall be paid at the regular substitute rate for this extra teaching time.

ASSOCIATION POSITION - The Association had proposed changes in paragraphs 2 and 3 of this proposal.

Paragraph 3 would be changed to read as follows:

"Teachers during preparation time shall remain in their building unless the building principal or his designee gives them permission to leave the premises."

The Association proposal to change the second paragraph to read as follows:

"The 20 minutes presently used for counseling time be used for prep time and if the levy proposition for elementary music and P.E. passes at the levy elections, then in 1977, all certificated elementary teachers directly involved in classroom instruction shall have thirty minutes during the day for classroom preparation."

DISTRICT POSITION - The School District can accept the proposed language changes in paragraph three. The levy elections referred in paragraph two failed, making this paragraph inapplicable.

FINDING: The failure of the levy elections makes the second paragraph moot and unnecessary. It should be eliminated. The parties are in agreement on the proposed changes in paragraph three and in paragraphs one, four, five and six.

RECOMMENDATION: The second paragraph should be eliminated from this proposal and the changes in the third paragraph suggested by the Association should be made. This revised proposal should then be incorporated into the labor agreement between the parties.

ISSUE #16 GRIEVANCE PROCEDURE

ASSOCIATION POSITION - During factfinding the Association made the following proposal on the grievance procedure:

GRIEVANCE PROCEDURE

Section 1 - PURPOSE

The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions regarding problems arising over the meaning and interpretation of this agreement. Both parties agree that proceedings shall be kept as informal and confidential as may be appropriate.

Section 2 - DEFINITIONS

1. A "grievant" shall mean one or more teachers who singularly or jointly allege a violation of this agreement as it concerns their individual or collective interests. The Association shall be the grievant where class grievances are involved.
2. "Class grievances" shall mean grievances involving more than one supervisor and grievances involving the administrator above the building level may be filed by the Association on behalf of the grievant(s) at step two.
3. A "grievance" shall mean a claim by a grievant that is a dispute or disagreement of any kind exists involving interpretation or application of the terms of this agreement.
4. "Days" shall mean teacher employment days, except during the summer vacation when calendar days shall be used.

Section 3 - TIME LIMITS

Failure of the grievant to comply with the time limits set forth herein shall mean default by failing to conform and no further action shall be taken. Failure of the district to comply with the time limits set forth herein shall mean automatic movement to the next step up.

Section 4 - CONTENTS OF GRIEVANCE FILING

During each step where a grievance is reduced to writing, the written statement shall clearly specify:

- a. The specific section(s) of agreement allegedly

violated.

- b. How and when the alleged violation occurred.
- c. The name of the grievant(s) and the proposed remedy being sought for the resolution of the grievance.
- d. The results of the previous step(s), if appropriate, and why the results were unsatisfactory.

SECTION 5 - GRIEVANCE PROCESS

Grievances shall be processed in the following manner:

STEP 1 - Grievant(s) shall discuss it first with the principal. Every effort shall be made to resolve the grievance at this level in an informal manner. In the event the grievant(s) is not satisfied with the disposition of the grievance through informal discussion, it shall be reduced to writing and within twenty (20) days presented to the building principal who in turn, within five days, shall provide the grievant with a written disposition of the grievance.

STEP 2 - In the event that the grievant(s) is not satisfied with the disposition of his grievance at step one, he or she shall within six (6) days refer the matter to the superintendent, who shall be provided by the grievant(s) a copy of a written statement of the grievance and the written disposition of the grievance which occurred at step one. The superintendent shall within six (6) days of the request meet with the individual in an effort to arrive at an equitable solution. If the grievance is not resolved at this step, the superintendent shall provide the grievant(s) with a written disposition of the grievance within five (5) days after this meeting.

STEP 3 - BINDING ARBITRATION

A. If the grievant(s) is not satisfied with the disposition of his/her grievance at Step 2, or if no decision has been rendered within ten (10) days after he has first met with the superintendent, he may within five (5) days after a decision by the superintendent, or fifteen (15) days after he has first met with the superintendent, whichever is sooner, request in writing that the Association submit his grievance to arbitration. If the Association determines that the grievance involves

the interpretation, meaning or application of any of the provisions of this agreement, it may by written notice to the superintendent, within fifteen (15) days after receipt of the request from the aggrieved submit the grievance to binding arbitration. If any questions arise to arbitrability, such question will first be ruled upon by the arbitrator selected to hear the dispute.

- B. Within ten (10) days after such written notice of submission to arbitration, the superintendent and the Association will attempt to agree upon a mutually acceptable arbitrator and to obtain a commitment from such arbitrator to serve. If the parties are unable to agree upon an arbitrator or to obtain a commitment from such arbitrator to serve within the ten-day period, a request for a list of arbitrators may be made to the American Arbitration Association by either party. The parties will be bound by the expedited rules and procedures of the American Arbitration Association.
- C. Neither party shall be permitted to assert in the arbitration proceedings any evidence which was not submitted to the other party before the completion of the Step 2 proceedings.
- D. The arbitrator selected will confer with the representatives of the superintendent and the Association and hold hearings promptly and will issue his decision not later than twenty days from the date of the close of the hearings or, if oral hearings have been waived, then from the date the final statements and proofs are submitted to him. The arbitrator's decision will be in writing and will set forth his findings of fact, reasonings and conclusions on the issues submitted. The arbitrator will be without power of authority to make any decision which required the commission of an act prohibited by law or which is violative of the terms of this agreement. The decision of the arbitrator will be submitted to the Board and the Association and will be final and binding upon the parties.
- E. The costs for the services of the arbitrator, including per diem expenses, if any, and his travel and subsistence expenses and the cost of any hearing room, will be borne equally by the Board and the Association. All other costs will be borne by the party incurring them.

SECTION 6 - INDIVIDUAL RIGHTS

- A. Nothing herein contained shall be construed as limiting the right of any employee having a complaint to discuss the matter by way of administrative channels.
- B. No reprisals of any kind will be taken by the District or the Association against any grievant(s) for exercising rights that are specifically reserved herein for the grievant(s) benefit.
- C. A grievant may be accompanied at all stages of the grievance procedure by a representative of his or her own choosing. If the representative is not an Association representative, the Association may have a representative in attendance and make its views known.

SECTION 7 - RELEASED TIME

Should official hearings of any grievance require that a teacher or an Association representative be released from his regular assignment, he/she shall be released without loss of pay or benefits providing there is no interruption in the instructional day.

SECTION 8 - GRIEVANCE FORM

An appropriate grievance form for instigating and processing a grievance shall be developed by mutual agreement of the parties within forty-five (45) days after ratification of the agreement. The District shall provide these forms at no cost to the employees.

DISTRICT POSITION - The School District accepted the Association's language proposed above for Sections 1, 3, 4, 6, 7, 8. The remaining issues in dispute concerns Sections 2 and 5.

In Section 2, the District is insisting on their definition of grievance which reads as follows:

Grievance - A grievance is a claim by an employee that the District has violated an express provision of this agreement except in case of adverse change of contract where the procedures of applicable statutory law shall apply in lieu of the grievance procedure.

In Section 5, Step 1, the Board wants to change "twenty days" to "ten days". In Section 5, Step 3, the District can accept binding arbitration if this article is expanded to include the District

proposal on "Management Grievances" as follows:

Management grievances, should they occur, will be presented directly by the Superintendent to the President of the Association within ten days of the occurrence prompting the grievance, or within ten days of the date upon which the Superintendent became aware of the situation causing the grievance. The President of the Association shall provide a written answer within five days.

FINDINGS: The major point of disagreement is over the definition. Neither definition proposed fits the rest of the grievance procedure. No viable reason was given for changing days from twenty to ten. Some contracts provide as much as sixty days. The Management Grievance proposal is unusual but should not prevent the grievance procedure from operating.

RECOMMENDATION: The following changes should be made in the grievance procedure proposed by the Association and reproduced above and this modified grievance procedure should become part of the collective agreement.

Grievance. A claim by a teacher, group of teachers, the Association or the School District that there has been a violation or unjust application of the terms and conditions of this agreement. Adverse changes of contract shall not be considered a grievance under this contract.

The management grievance proposal by the School District should be included as part of Section 5, Step 3.

ISSUE #17 DISTRICT SECURITY
(No-Strike, No Lockout Clause)

ASSOCIATION POSITION - The Association proposed the following language during mediation:

NO STRIKE -- NO LOCKOUT

The parties agree that during the term of this Agreement there shall be no strike by the employees or the Association, and there shall be no lockout by the District except that both parties reserve full rights of strike or lockout when both parties mutually agree to reopen this Agreement for negotiations and both parties reserve full

rights of strike or lockout at the expiration of this agreement.

DISTRICT POSITION - as follows:

DISTRICT SECURITY

The District and the Association agree that the public interest requires the efficient and uninterrupted performance of educational services, and to this end pledge their best effort to avoid or eliminate any conduct contrary to this objective. The Association agrees that during the life of this agreement they will not cause, encourage, participate in any slowdown or picketing of any kind against the District, or participate in any slowdown or other interruption of or interference with the normal school routine.

Violation of this section by the Association shall be cause for the District to terminate this agreement by the giving of written notice to this effect to the President of the Association, in addition to whatever remedies may be available to the District at law or in equity.

FINDINGS: Clauses of this type are common in labor agreements. In view of the above recommendations on Term of Agreement, the Association proposal seems more appropriate.

RECOMMENDATION: The Association proposal be made part of the final agreement.

ISSUE #18 INSURANCE BENEFITS

The School District is currently contributing \$20 per month per employee for medical insurance coverage. The District's medical insurance carrier currently assesses \$31.24 per employee per month for employee only medical coverage.

ASSOCIATION POSITION - The Association proposed \$65 per month for each certified employee per month provided that the total dollar amount could be utilized at the employee's option for medical, dental salary or long-term disability insurance plans.

DISTRICT POSITION - The District has offered a \$10 per month in-

crease for District approved insurance programs.

ANALYSIS - Both parties offered evidence on ability-to-pay, comparability, cost of insurance, etc. After careful analysis of the data submitted the following recommendations seem the most reasonable.

RECOMMENDATION: For the first year of the agreement the District will provide employee only medical insurance and employee only dental insurance in District approved insurance programs. For the second year of the contract the District will absorb cost increases necessary to maintain this basic coverage and improve coverage at District expense to the dollar amount made necessary by applying a cost of living (CPI) adjustment to the per month cost of the first year coverage (see Term of Agreement above).

ISSUE #19 SALARY

The present salary schedule of the District provides a base salary of \$8250 and top salary of \$14,025 with a Masters increment of 5% of the base. There is no dispute over the basic format of the salary schedule -- the number of columns and steps will remain the same as will the salary ratios or index and the Masters increment.

ASSOCIATION POSITION - The Association is seeking a \$9185 base salary and a maximum salary of \$15,660. The Association submitted evidence to support this position. The Association argued that the District had the ability to pay this 11.33% increase in base salary, that the District ranked in the lower quartile of all Class II Districts and Class II-L Districts, and that the settlements in comparable districts both in size and geographical area had been larger than the Board's proposal.

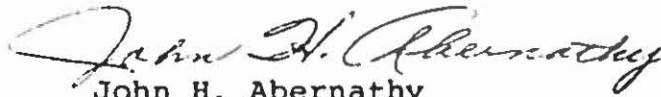
DISTRICT POSITION - The District had proposed a 6% increase in base salaries which would provide a new schedule with a base of \$8745 and a top salary of \$14,910. The District argued that the cost of living, ability to pay, comparability, the pattern of settlements and the salary history of the District supported their

position.

ANALYSIS - The data does not support either the Association request or the Board's proposal, particularly when the change in dates for calculating CPI adjustments is taken into consideration. Much of the data and analysis submitted by the Association is a criticism of the budgeting techniques and financial management employed by the District, and, as such, partially deals with the setting of educational priorities within the District. Teacher input during the budget process seems to the factfinder a better forum for discussing educational priorities. The factfinder's task is to study the positions of the parties, and the data submitted, and then make recommendations that will provide a reasonable basis for settlement.

RECOMMENDATION: The factfinder recommends that the salary schedule for the first year of the agreement should have a base of \$8828 and a top step of \$15,052. The CPI adjustment referred to in the term of agreement issue above should determine the base salary adjustment for the second year of the contract.

Respectively submitted on this the 20th day of July
by:



John H. Abernathy

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SUMMARY OF RECOMMENDATIONS

ISSUE #1 - MAINTENANCE OF STANDARDS

RECOMMENDATION - The collective bargaining agreement between the parties should not contain a maintenance of standards clause.

ISSUE # 2 - PICKET LINE RIGHTS

RECOMMENDATION - Not necessary.

ISSUE #3- CITIZEN'S ADVISORY COMMITTEES

RECOMMENDATION - None necessary.

ISSUE #4 - MANAGEMENT RIGHTS

RECOMMENDATION - Add the following phrase at the beginning of the District's proposal:

"Except for those rights, powers, authority and functions specifically covered by language of agreement, all management rights..."

This revised clause should be made a part of the agreement between the parties.

ISSUE #5 STAFF PROTECTION

RECOMMENDATION - The tentative agreement should be made part of the agreement between parties.

ISSUE #6 SCHOOL CALENDAR

RECOMMENDATION - The calendar for the second year of a two-year agreement should be negotiated.

ISSUE #7 STUDENT DISCIPLINE

RECOMMENDATION - The tentative agreement on the above issue be included in the collective bargaining agreement between the parties.

ISSUE #8 TEACHER WORK LOAD

RECOMMENDATION - The Teacher Work Load Proposal should be included as per above proposal in the agreement.

ISSUE #9 DURATION

RECOMMENDATION - Modify the third paragraph as follows:

For the second year beginning September 1, 1977, the monthly cost of insurance benefits and the base salary shall each be adjusted in accordance with the percent of change in the "Consumer's Price Index for Urban Households," Seattle, running from August 1976 to August 1977; provided that the percent of change to the monthly cost of fringe benefits shall not exceed ten percent nor fall below five percent; and provided further that the percent of change to the base salary shall not exceed ten percent nor fall below five percent.

This modified proposal should be made part of the collective bargaining agreement.

ISSUE #10 COMPLETE AGREEMENT (Zipper Clause)

RECOMMENDATION - The District's proposed language become part of the labor agreement.

ISSUE #11 ASSOCIATION SECURITY (Agency Shop)

RECOMMENDATION - The Association's proposal be adopted and included in the collective bargaining agreement between the parties.

ISSUE #12 EMERGENCY LEAVE

RECOMMENDATIONS - The Association's proposal be adopted into the Emergency Leave provision and this provision be made part of the agreement between the parties.

ISSUE #13 JURY DUTY

RECOMMENDATION - The tentative agreement reached by the parties on this issue should be made part of the collective agreement between the parties.

ISSUE #14 LAYOFF AND RECALL (Reduction in Force)

RECOMMENDATION - Change the response time for responding to recall notice from two days to five working days but otherwise incorporate the District's proposal into the bargaining agreement between the parties.

ISSUE #15 PREPARATION PERIODS

RECOMMENDATIONS - The second paragraph should be eliminated from this proposal and the changes in the third paragraph suggested by the Association should be made. This revised proposal should then be incorporated into the labor agreement between the parties.

ISSUE #16 GRIEVANCE PROCEDURE

RECOMMENDATION - The following changes should be made in the grievance procedure proposed by the Association and reproduced above and this modified grievance procedure should become part of the collective agreement.

Grievance. A claim by a teacher, group of teachers, the Association or the School District that there has been a violation or unjust application of the terms and conditions of this agreement. Adverse changes of con-

tract shall not be considered a grievance under this contract.

The management grievance proposal by the School District should be included as part of Section 5, Step 3.

ISSUE #17 DISTRICT SECURITY (No-Strike, No lockout Clause)

RECOMMENDATIONS - The Association proposal be made part of the final agreement.

ISSUE #18 INSURANCE BENEFITS

RECOMMENDATION - For the first year of the agreement the District will provide employee only medical insurance and employee only dental insurance in District approved insurance programs. For the second year of the contract the District will absorb cost increases necessary to maintain this basic coverage and improve coverage at District expense to the dollar amount made necessary by applying a cost of living (CPI) adjustment to the per month cost of the first year coverage (see Term of Agreement above).

ISSUE #19 SALARY

RECOMMENDATION - The factfinder recommends that the salary schedule for the first year of the agreement should have a base of \$8828 and top step of \$15,052. The CIP adjustment referred to in the term of agreement issue above should determine the base salary adjustment for the second year of the contract.