FINDINGS OF FACT
AND
RECOMMENDATION

BELLEVUE SCHOOL DISTRICT

and

BELLEVUE EDUCATION ASSOCIATION

Representative of the District:

Sayman N. Alston, Jr.
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Bellevue Public Schools
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Representatives of the Association:

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Fact Finder:

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PART I.

INTRODUCTION

This proceeding is a Fact Finding hearing between the Bellevue Public Schools District #405 (hereinafter referred to as the District) and the Bellevue Education Association (hereinafter referred to as the Association).

The parties commenced negotiations for the 1977-78 contract on April 13, 1977, and an impasse was declared on June 22, 1977, after eighteen negotiating sessions. Mediation was ordered by the Public Employment Relations Commission (hereinafter referred to as PERC). It continued through July 16, 1977.

The parties thereafter were unable to agree upon a Fact Finder and pursuant to the procedures of WAC 391-30-714, Dean Joseph A. Sinclitico was designated as Fact Finder (hereinafter referred to in the body of this report in the first person singular). His findings and recommendations are not binding.

The hearing convened at 9:30 a.m. on August 19, 1977, at the Bellevue Community College and was continued on August 20, 1977.

General procedures were discussed and agreed to by the parties at the opening of the hearing. The hearing was closed. Evidentiary rules were not followed, by and large, except to the extent required by due process.

The issues were divided into rough groupings of non-economic and economic. Some mixing of issues was expected and did occur. The parties agreed to adopt as the format for presentation of the issues a letter of July 21, 1977, by the Association to Marvin Schurke, Executive Secretary of PERC.

The proposals of the Association were presented first, followed by the proposals of the District. Full rebuttal time was freely

permitted.

Each party sat as a panel and argument and evidence was adduced in panel form, largely from the briefs of the parties which were exchanged at the beginning of the hearing. (D. Exs. 1(a) through 1(c); A. Exhibit 1) Other testimony was adduced from witnesses.

Members of the Association panel and others in attendance included Mr. Glen Hudson, Association counsel; C.D. Little, Association counsel; Dan Reeder, bargaining team member; Rod Waldbaum, bargaining team member; Carl Blumer, bargaining team member; Doris Cosley, bargaining team member; Henry Howe, bargaining team member; Pete A. Vall-Spinosa, bargaining team member; Jerrie H. Sundquist, Bellevue Executive Board; Jeanne P. McCarty, BEA staff; Dorothy A. Kreuger, BEA staff Executive Board; Bob Peccini, BEA Executive Board.

Members of the District panel included Wayman N. Alston, Jr., Employee Relations Manager; Dan F. Reff, Deputy Superintendent; Paul Sjunnesen, Director of Finance, and Joseph H. Watson, Director of Administration.

The Association offered the minutes of the negotiation sessions and the Fact Finder received the document with the understanding that any reference to the minutes in his Findings and Recommendations would be supported with full citations.

At the conclusion of the hearing, each party presented a closing argument by way of emphasizing selected proposals.

The Fact Finder consented to an Association request that his findings and recommendations would be available to the parties by Friday, August 26, 1977. Because of this time stricture and to avoid any possible misstatement of the positions of the parties,

the argument of the parties on each proposal has been reproduced and is submitted with this report. Arguments or evidence not contained in the briefs but adduced at the hearing have been considered in my Findings and Recommendations. By the same token, I have (thoroughly I hope), considered all of the arguments and evidence contained in the briefs even though they were not covered at the hearing.

PART II

NON-ECONOMIC ISSUES

A -- ASSOCIATION PROPOSALS

1. ARTICLE II

RESPONSIBILITY AND BARGAINING PROCEDURES

PARAGRAPH: MAINTENANCE OF STANDARDS

ARTICLE II - RESPONSIBILITY AND BARGAINING PROCEDURES

The District and the BEA recognize that under this agreement each has a responsibility for the welfare and security of the employees. Agreements reached between authorized negotiators for the BEA and the District shall become effective only when appropriately ratified by the BEA and the Board of Directors of the District.

The parties acknowledge that during the negotiations resulting in this agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any and all subjects or matters not removed by law from the area of collective bargaining and that the understandings and agreements arrived at by the parties after exercise of that right and opportunity are set forth in this agreement.

This agreement shall supersede any rules, regulations, policies, resolutions or practices of the District which shall be contrary to or inconsistent with its terms.

The parties to this Agreement intend to maintain the general teaching conditions at a level not less than what prevailed previously, except as regards those conditions which are expressly improved by the provisions of this Contract.

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 agree to amend or modify at any time.

During the term of this contract, there may be agreement between the parties that this contract needs amendment or modification. In the event that both parties agree that amendment or modification is needed, collective bargaining will commence on said subjects.

In any bargaining between the BEA and the District, neither party shall have any control over the selection of the bargaining representative of the other party. During such bargaining, the parties pledge that representatives selected by each shall have all necessary power to make proposals, consider proposals, and modify positions during the course of bargaining subject only to ultimate ratification by the governing bodies of each party.

Negotiations between the parties on a successor agreement shall begin no later than April 1, ~~1977~~ 1980.

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

1. Article II - Responsibility and Bargaining Procedures

Paragraph - MAINTENANCE OF STANDARDS

A maintenance of standards provision such as that proposed by the Association is common in most labor agreements. It guarantees that specific individual rights will not be lost or denies, if they are not specifically covered in the final agreement of a contract between both parties.

Along with an agency shop, a maintenance of standards clause is an essential ingredient to labor relations stability in Bellevue. Without such a clause, whether or not a specific teaching condition is or is not subject to unilateral change by the District administration is a complicated question of fact and law. With the absence of such a clause, the situation is one of uncertainty; and uncertainty breeds instability.

In the past, standards in Bellevue have been on the rise. The last several years have seen a leveling off. Today the District is facing declining enrollment and an uncertain financial future. This situation requires a maintenance of standards clause if stability is to be insured.

Certificated employees are concerned for maintenance of teaching conditions for two reasons - first and foremost, because they are professional educators concerned for the quality education of children; and, second, because they are employees.

Bargainers are human beings. Hopefully they will have covered everything they meant to cover in the course of negotiating a contract.

However, because they are only human, items may "slip through the crack" and not be covered either in the contract or in discussions between the parties. Prior to the requirement to have written contracts for given durations, Bellevue's certificated employees were assured that their individual rights were protected from unilateral action by the Board because the latter had to negotiate before changing any wages, hours or working conditions.

Now, however, both parties may either wittingly or unwittingly neglect to bring forth an item for bargaining, and the Board may attempt to alter a teacher's individual right without proceeding through the bargaining process. Only the Board has the opportunity to do this.

Employees should not be expected to have their wages, hours and working conditions diminished after their ratification of a contract. They put faith in their bargainers to make sure that their contract at the very least maintained their present status as a professional. It is little wonder, therefore, that Bellevue teachers in a poll this past winter determined that their number one priority would be a maintenance of standards provision.

Contracts between labor and management should enhance labor-management relations, not lead to possible distrust and trouble. If the Board discovered a loophole in the contract and moved for whatever reason they determined at the time to enact a policy that detracted from a teacher's working conditions, the Association may have no alternative but to wait for one, two, or three years - depending on the contract's duration - to attempt to change the Board's action through bargaining. With the State Legislature increasingly taking away bargaining prerogatives from the local level, the difficulties of righting a perceived wrong would be difficult at best; especially the further one got from the Board's action. Clearly, if the Board did this it could mean for a period of time that an employee could have less than they had before their contract was ratified. Naturally, the affected employees will look for culprits. Their Association will be more subject to reprisal than their school board. Without agency shop, this could be disastrous (for the Association) and lead either to the Association being "busted" - a rumored objective of the Board this year - or more militancy by the Association. If a contract settlement leads to this, it has hardly enhanced labor-management relations.

History

There has been very, very little bargaining on this subject. The Board's negotiators have given a flat "No!" to this.

Their chief negotiator has indicated repeatedly that there will be no "maintenance of standards" provision in the contract. The only rationale they have given in bargaining sessions is that it will mean grievances on such frivolous subjects as the color of paint in a classroom. In response to this, the Association has indicated a willingness to limit the scope of a maintenance of standards provision.

Had bargaining occurred on this subject, the Association would have modified its position further. The language from other contracts in this area (See Appendix II) provides examples of what the Association might have been willing to accept on this subject.

POSITION OF THE DISTRICT

ARTICLE II - RESPONSIBILITY AND BARGAINING PROCEDURES

MAINTENANCE OF STANDARDS (New Association Proposal)

The District's objection to having such a provision in the contract, stated quite simply, is that, first, District "policies and practices which affect individual wages, hours and working conditions" are negotiable and therefore should be identified and negotiated if they are of importance to the Association. They (Association) have been able to identify numerous items for negotiations over the years and many are incorporated in our current agreement. We feel that this is the way the process was designed to work.

Secondly, the articles in the agreement must be administered. To do so, the parties must know what is expected of them. A maintenance of standards provision would defy this. The standard to be maintained is known only to the individual association member, to be announced at the time the modification or change occurs and is viewed by the individual as a change that is not to his/her liking.

IDENTIFY AND NEGOTIATE WAGES, HOURS AND WORKING CONDITIONS.

FACT FINDING AND RATIONALE

The proposal of the Association, if literally applied, would have the effect of seriously inhibiting managerial rights which have already been recognized as resting with the Board and the directing of the institution.

The Association is concerned that it may lose some rights that have accrued and which, perhaps, are not specifically covered by contract terms.

The non-inclusion of the clause does not necessarily result in the loss of those rights. If, in fact, some rights have accrued by virtue of a binding past practice or other type of accrual, these rights are not necessarily lost because they are not specifically covered by the contract.

On the other hand, the inclusion of the clause as proposed if read literally may well take away from management future policy and practice powers which are provided for by the contract as presently constituted. If some benefits that the employees feel have accrued by virtue of the exercise of the policy in a given way are locked in, even though it is not created and established in past practice, this takes away the power of management to change that policy and thus, as stated, would be an impairment and a limitation upon powers of management that are elsewhere recognized to be clearly with the District.

RECOMMENDATION

It is my recommendation that the Association proposal be denied and that the current contract language be retained.

2. ARTICLE II

RESPONSIBILITY AND BARGAINING PROCEDURES

Section 2 - Agency Shop

ARTICLE II - RESPONSIBILITY AND BARGAINING PROCEDURES

Section 2. Association Benefits

2.1 ~~1.1~~ Prior to the first pay period of the 1976-77 77-78 school year, and each succeeding school year of this agreement the Association and the District will make the necessary arrangements to have dues and, if any, assessments deductions using forms which are mutually acceptable. (Please Note: If ratification of this Agreement occurs after the above date, mutually acceptable arrangements will be made by both parties to adjust the payments accordingly). ~~The District will remit directly to the BEA all money so deducted, accompanied by a list of employees from whom the deductions have been made. Each employee must sign a form before deduction will be made.~~

The deductions authorized above shall be made in twelve (12) equal amounts from each paycheck, allowing for an adjustment following ratification of this Agreement. Teachers who commence employment after September or terminate employment before August shall have their deductions prorated at one tenth (1/10th) of the total annual amount for each month the teacher is employed. The Board agrees to remit promptly to the Bellevue Education Association all monies so deducted, accompanied by a list, in duplicate, of teachers from whom the deduction has been made.

The Association agrees to reimburse any teacher from whose pay dues or representation fees were deducted, those sums in excess of the total amount due to the Association at that time, provided the Association or its affiliate actually received the excessive amount.

Within ten (10) days of their first contract day, employees represented by the Association who do not currently have deductions for said dues and, if any, assessments may sign and deliver to the District an Assignment of Wages Form, which Form shall authorize deduction of Association membership dues and if any, assessments. Such authorization shall continue in effect from year to year unless a request of revocation is submitted to the District and the BEA, signed by the employee, and received between August 1 and August 31, proceding the designated school year for which revocation is to take effect. Each month during the school year the BEA agrees to provide the District with the names of those employees who have joined the BEA and paid its dues and assessments by means other than through payroll deduction.

In the event that any employee fails to sign and deliver an Assignment of Wages Form as described herein or has not revoked previous dues and, if any, assessment deductions, the District agrees to deduct from the salary of such employee a representative fee in amount equal to Association membership dues and, if any, assessments; provided however, that employees who have joined the BEA and paid by means other than payroll deduction, as verified by the monthly BEA list, shall not be subject to this deduction. Representation fee deductions shall be handled and transmitted by the District in the same fashion as membership deductions as provided for in this Article. The District agrees to remit to the BEA each month a list of employees on behalf of whom representation fee deductions have been made.

ARTICLE II - RESPONSIBILITY AND BARGAINING PROCEDURES

Any employee claiming a bona fide religious objection shall notify the BEA and the Board of such objection in writing within ten (10) days of commencement of employment. Pending determination of any bona fide religious objection, the District agrees to deduct from the salary of the employee claiming such objection an amount equivalent to the BEA dues and, if any, assessments; provided, however, that said monies shall not be transmitted until such time as the Board is notified that a final determination pursuant to the Act has been made. In the event that it is finally determined that the employee does not have a bona fide religious objection, the District agrees promptly to remit to the BEA all monies being held.

In the event that an employee has been determined to have a bona fide religious objection to the payment of a representation fee or agency shop fee, said employee shall pay an amount of money equivalent to regular dues and fees to a designated charitable organization mutually agreed to by the employee and the BEA. Within (10) days of the commencement of employment or determination of bona fide religious objection, whichever occurs later, said employee may sign and deliver to the District an Assignment of Wages Form for Religious Objection which shall authorize the deduction of an amount equal to the dues and, if any, assessments of the BEA and payment in installments as herein provided, including any deductions made but not transmitted to said designated charitable organization. The District agrees to remit to the BEA each month a list of employees on behalf of whom charitable deductions have been made.

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

2. Article II - Responsibility and Bargaining Procedures

Section 2 - AGENCY SHOP

The Association has proposed an agency shop provision for the 1977-78 contract. The inclusion of this item in negotiations received unanimous endorsement by the Association's Representative Council. Prior to this vote, faculty representatives discussed it with their members. (The Faculty Council is established on a ratio of one (1) representative per twenty (20) members.) The Association's proposal contains standard language; it is almost word-for-word similar to that which has been adopted in other districts in this area.

An agency shop is a compromise with union shop in that it does not require union membership but does require a representation fee. The possibility of local districts and associations agreeing on an agency shop was specifically addressed and authorized by the state legislature in the adoption of RCW 41.59. Indeed Congress has recognized that in the absence of a union-security provision "many employees sharing the benefits of what unions are able to accomplish by collective bargaining will refuse to pay their share of the cost." S. Rep. No. 105; 80th Cong., 1st Sess., p. 6, 1 Leg. Hist. L.M.R.A. 412... The amendments [allowing agency shop] were intended to ... "give employers and unions who feel that such agreements promoted stability by eliminating 'free riders' the right to continue such arrangements." As far as the federal law was concerned, all employees should be required to pay their way.

Undoubtedly, the Board will base much of their argument regarding agency shop on the rejection by last year's fact finder of this proposal. However, careful analysis is called for in looking at last year's fact finder's recommendation as it reflects on this year's situation. Quoted below is Dr. Collin's (the 1976 Fact Finder) recommendation:

"My personal belief is that where there are special problems of the kind that were present in the Seattle District, or where, as in the Bellevue District, the overwhelming majority of certificated staff are members of the Association, a very strong case exists for requiring all employees to contribute financially to the organization's legally mandated representational activities. At the same time, the fact finding must take into account the realities of the collective bargaining process, of which it is a part. In this connection, of 26 current class 1 district settlements as to which evidence was presented, only 8 resulted in full agency shop clauses, one a maintenance-of-membership clause, and one other a 'modified' agency shop. Moreover, in two of such bargaining disputes, in the Seattle and Tacoma Districts, fact finders recommended, respectively, agency shop and maintenance membership clauses, which the respective districts resisted. In the Seattle dispute, the settlement arrived at after a strike included a considerably modified union security clause; in Tacoma, the settlement did not provide for union security at all. Under these circumstances, I do not believe that the prospects for settlement by the parties here would be enhanced by recommendation of an agency shop clause. <u>This demand, can, of course, be pursued in bargaining for future contracts.</u>"

The Fact Finder referred to the Seattle School District where he had previously recommended (as fact finder in that contract dispute) an agency shop. Specifically, his Seattle recommendation read as follows:

"Agency shop has recently been declared to be lawful by the Legislature. Of course, the Legislature has merely authorized such clauses and has referred to bargaining the question of whether or not an agency shop clause will be included in a particular agreement. I am sympathetic to the Association's position that since it must fairly represent all employees in the unit in terms of collective bargaining and contract administration, all employees should contribute to the work of the Association. Furthermore, in the context of the Seattle District, the Association (and its predecessor) has long been an effective representative for the employees it serves, and at considerable cost to itself, has played a most constructive role during a difficult period for the District. Therefore, I recommend adoption of the Association's proposal with respect to Article 1, Section C, item 2. However, I also recommend that, for this year, a grace period of sixty days be provided, other than for present Association members, to determine which option to choose under that clause."

The fact finder's mention of the "special problems" and the "difficult period" in Seattle's case refers to the double levy crisis in that district and the subsequent layoff and then recall of personnel. At the time that Dr. Collins wrote his recommendation for Bellevue such a crisis had not occurred in Bellevue. In retrospect, the Association should have argued before the fact finder that it was the BEA's responsible action in spending considerable time and money to help pass a second levy request in 1976 that in a major way averted the kind of crisis which occurred in Seattle. Had the Association anticipated the fact finder's reasoning on an agency shop in Bellevue, it would have presented this evidence to him. Furthermore, at the time Dr. Collins wrote his report, there was no crisis anticipated in Bellevue. SUCH IS NOT THE CASE NOW!

The 1977 legislature enacted several important laws which will have a debilitating effect on the Bellevue School District. The full ramifications of the budget, the levy lid, and the basic education bills are not known at this time. What is known is that the legislature intends to equalize school districts in this state and that will mean a leveling off of the programs offered by Bellevue in order to achieve the state's idea of what a school district should look like. In Bellevue's case, this could mean disaster as Bellevue exceeds the rest of the state in terms of staff training and experience, class size in relation to number of students, and quality and quantity of course offerings. We may very well soon experience the kinds of "special problems" and go through the "difficult period" to which Dr. Collins referred in addressing Seattle's situation.

As stated, the Bellevue School District is in a period of enrollment decline (which coincidentally brings about Association membership decline because fewer teachers are needed) and uncertainty in financing and direction brought about by legislative action. These factors, actions, and events cause anxiety - and even suffering - on the part of certificated employees.

Although the Bellevue Education Association is not the cause of such a situation, employee frustration may easily be visited on the employee organization by cessation of membership.

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At a time when stability in labor-management affairs is called for, the denial of agency shop could very well enhance instability.

Collective bargaining is here to stay. If labor and management would come to the table with less reluctance and distrust and more in the spirit of mutual respect that makes collective bargaining work, the problems of strikes and their alternatives would dwindle in significance. Strikes can arise from the inability of a union to maintain effective control over the employees in the bargaining unit or as a need of the union to develop solidarity through strife. An indespensable element in the collective bargaining process - a process that should produce peaceful settlements that both sides can live with - is the capacity of the organization to exercise its responsibilities with a meaningful sense of security.

Furthermore, the intent of collective bargaining is the maintenance of labor peace through the resolution of differences between bodies with equal powers. Refusing to provide for the collection of representation fees from all members of the bargaining unit enables the School District to use revenues derived from special levies and from state and federal sources while denying the Association the right to derive revenues from all members of its constituency. This refusal prevents the development of cordial and harmonious labor relations between the Bellevue Education Association and the Bellevue School District by placing sanctions upon Association revenues through the exercise of unequal power. Therefore, for nonmembers of the Association to bear a fair share of representation costs borne by the bargaining unit on their behalf, a representation fee from each nonmember is necessary for the Association

to maintain its bargaining powers.[1]

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Another point that the last fact finder made in his recommendations on agency shop is that many of the school districts had not agreed to this provision. However, subsequent to his report, many of the associations in this area settled on a contract for 1976-77. And now, Bellevue is the only association of the major districts in this area not to have either an agency shop or a maintenance of membership provision in the contract (see Appendix II).

There are undoubtedly many reasons why other districts have agency shop. Labor peace certainly is an overriding one. Another is clearly the issue of fair representation. All members of the bargaining unit share in the fruits of bargaining, thus, they have a responsibility to pay for representation.

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It should be noted that the Association has experienced its first full year under the provisions of RCW 41.59. The fair representation requirements of this law require the association to represent all members of the bargaining unit. In addition, the association is obligated to process legitimate grievances on behalf of nonmembers. (And it should be noted that an agency shop provision enhances the filing of legitimate grievances; certainly a need during a time when stability is needed in labor-management relations.) Hence, nonmembers of the bargaining unit have an obligation to pay their fair share. The representation of all members of the bargaining unit involves considerable expense to the association and, therefore, it is only fair that all of those who enjoy the benefits of representation share equally in the cost of representation.

It is frequently stated that the purpose of an agency fee provision is to eliminate the "free rider." During the past school year, approximately $5,000 was spent by the BEA in processing grievances of nonmembers. Perhaps, had the BEA

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1. Between the winter of 1976 and the summer of 1977, the Association has expended at least $100,000 for the purpose of bargaining. This includes staff time, legal aid, supplies, copywork, mailings, and other items directly connected to bargaining. Prorated this means that approximately $7,000 was spent on behalf of the nonmembers' share in the cost of bargaining.

had more experience with a collective bargaining law it would have pursued the inclusion of an agency shop provision last year with more vigor.

History

As with most items in dispute, very little bargaining has occurred on this subject. During the only real discussion on agency shop, the Board bargainers reasoned that so many other districts had agreed to this provision because it was "all they had to give." This, we believe, is not the major reason it was included in the contracts of other districts. But, if it were, certainly the same could be said for the present Bellevue situation.

Another reason the Board bargainers gave for denying agency shop is that ninety (90) plus percent of the teaching staff belongs to the Association. The District may indeed introduce in their brief a BEA Bulletin showing the membership figures on a building-by-building basis. This argument, one should note, was spoken to by last year's fact finder. Indeed, he gave it as a reason to justify an agency shop for Bellevue. Denying agency shop because of high membership begs the question that if the BEA were a less effective organization and therefore only say fifty (50) percent belonged, would this mean we should then have an agency shop?

Since there has been very little discussion on this subject, perhaps we should look to the arguments used last year by the Board in denying the agency shop. Undoubtedly the District will incorporate many of these arguments again in this year's brief. Many of these arguments have either been addressed above or answered in subsequent occurrences elsewhere in the state:

1. Last year the District's brief mentioned the BEA's large membership as a reason for indicating that agency shop was not needed by Bellevue. They also stated that agency shop would lead, believe it or not, to tension and instability between labor and management. Both of these arguments have been addressed above.

2. The District argued last year that a reason for denying agency shop is that substitute teachers might be forced to join. The simple rebuttal to this is that this has not proved to be a problem elsewhere.

3. The District used a considerable amount of space last year on the legality of agency shop and the problems which RCW 41.59 could cause in relation to it. These anticipated legal problems have not developed in the multitude of districts who now have had agency shop for a year.

4. The District seemed particularly concerned that alternatives to agency shop, such as maintenance of membership, would not be legal. Again since many Districts did agree to a so called alternative and there have been no legal questions raised about them, this objection should be rejected.

5. Another of the District's objections to an agency shop was the political issue and the fact that members would be forced to contribute to candidates not to their liking. This matter has been addressed by the U.S. Supreme Court, which recently ruled that agency shop was constitutional but that no person should be forced to contribute to political funds. Therefore, the BEA would agree to similar language as that recently adopted by Shoreline; language that, in effect, prohibits individuals from being forced to make political contributions if they are under an agency shop provisio

6. In last year's brief the Board dealt at some length on the issue of "right to work"; in other words, no one should be forced to belong to an organization as a condition of employment. It is ironical that the Board talks out of both sides of its mouth on this issue. While stating that no employee should be forced to join an organization, they are themselves participants in a closed shop - the Washington State School Directors Association (WSSDA). All of them are forced to be members of WSSDA. Futhermore, it should be noted that there are a number of conditions of employment which have been forced on teachers before and after they have been employed; conditions which may not be to their liking. Finally, the "right to work" opposition suggested by the Board at the bargaining table runs counter to the policy of the State of Washington. State law in 41.59 specifically allows and makes legal agency shop. The law was passed to enhance the balance of power between boards and associations. To advocate "right to work" tends to weaken associations and thus, tends to promote an unequal balance of power in favor of boards. The logical end result of "right to work" is to negate good labor relations between the parties and hamper the intent of RCW 41.59 toward labor peace and a stabilization of labor relations between the parties.

Finally, it should be noted that while the Board says No!" to teachers on the agency shop question, it then turns around and provides union shop to two other major employee organizations in the District (custodians and bus drivers) and compounds this by acquiescing as stated above to participation in WSSDA - a closed shop operation to which tax revenues are used for the membership fee of each Board member.

The BEA is currently a strong organization which attempts to fairly represent every certificated employee. Last year the BEA did not push the issue of agency shop to the "nth" degree in the final settlement. However, the situation has changed in Bellevue and this item is now regarded as a must for the 1977-78 contract. The future of the BEA and labor relations stability in Bellevue is at stake.

POSITION OF THE DISTRICT

ARTICLE II - RESPONSIBILITY AND BARGAINING PROCEDURES

Section 2 - AGENCY SHOP (New Association Proposal)

The District realizes that an agency shop agreement as provided by the Association would increase the organizational security of the Bellevue Education Association. The District believes that the problems of the agency shop as permitted under Section 11 of Chapter 288, Laws of 1975, 1st Ex. Session, far outweigh any conceivable advantages to either party and, therefore, we reject the inclusion of such an item in the contract. The reasons for our rejection are discussed in detail below:

1. Employee organizations are presently voluntary associations, hence as a matter of principle, employers in general and public employees in particular may refuse to compel their employees to affilitate with them or pay money to them.

2. Under statutes such as the National Labor Relations Act and the Educational Employment Relations Act cited above, employee representatives are empowered to seek certification and whether they are certified, or merely lawfully recognized as representatives of a majority of the employees, are given by the statute the status of exclusive representatives. Given this status, which the employee representative voluntarily undertakes, it is required by law to represent all employees in the bargaining unit without regard to membership in that representative. The problem of "free riders" is thus the price the employee representative pays for its privilege of exclusivity. Therefore, no matter how sympathetic anyone may feel with an employee representative confronted with "free riders" in any specific set of circumstances, as a matter of principle, "free riders" do not entitle the employee representative to an agency shop or any other form of union security. The employee representative has already been compensated for undertaking the duty to represent all employees in the bargaining unit by being granted the status of exclusive representative.

3. The BEA, as the recognized bargaining unit, has assumed the "right" to represent all certificated employees of the Bellevue School District not excluded under the terms of Article I, Section 1 of the agreement. This "right" was one that they sought and have proposed language to strengthen during these negotiations. The BEA has the right to expect each unit member to pay a share of the cost, but it does not have the right to demand that such be the case.

FACT FINDING AND RATIONALE

This item was on the table last year. My eminent colleague, Professor Collins, did not recommend that it be a subject of inclusion in the 1976-77 contract. The reasons are as follows:

1. He did not feel that further negotiations for the inclusion of this proposal would help in the resolution of the impasse, but might seriously affect the ultimate conclusion of an agreement.

2. While Professor Collins favored such a provision generally, he did not feel that de facto it was a very important requirement to the stability of the Association because Association membership was very strong -- its membership consisted of approximately ninety per cent of the entire certificated teaching force.

3. Professor Collins did not deem it advisable to recommend the adoption of such a proposal because there was no strong evidence of acceptability of such a provision by comparable school districts throughout the State.

Present Conditions

A. I believe strongly that inclusion of such a clause in this year's contract would be very helpful in resolving the impasse, particularly if the Association would relinquish its insistence on a "maintenance of standards clause" which I have already recommended strongly that it should be dropped because it cannot be justified.

B. There is no evidence that the District has a strong aversion to the inclusion of the clause. In fact, this year in other negotiations, it has agreed to the inclusion of this limited security provision in two other collective bargaining agreements negotiated by the District.

C. The overall major concern, as I see it from the hearing, on the part of the District, lies in the economic area, particularly the economic problems, that it will encounter as a result of recent legislation which has placed a ceiling on future levies, changed the fiscal year and lastly, reduced the amount of outside resources that the District could count on from the State. This item is a no-cost item to the District. Therefore, its non-inclusion would have to be justified on some other grounds.

D. While it has not been demonstrated by specific and direct evidence that there is an ever increasing statewide acceptance of such a provision, nonetheless it is my general "impression" that the trend is toward inclusion more and more of such a provision, approaching the acceptability that now exists in the private sector.

E. Professor Collins postulated that the Association is presently strong. However, there is a very definite indication that the total certificated force upon which this percentage is predicated seems to be on the decline simply because of attritions brought about by declining enrollment in the schools. Therefore, a ninety per cent membership is in terms of total available resources to the Association, not as strong as it mighthave appeared last year.

There are two additional reasons which would seem to require a review of what is the general strength of the Association:

1) The cost of representation is, like most other services, increasing daily and it is foreseeable that these increased costs cannot be met if the overall membership declines because of attrition in student enrollment.

The increased cost and decreased membership could conceivably be compensated by increased dues. At some point, such increases will be counter-productive. As dues increase, teachers will be inclined to withdraw their membership and support from the Association for financial reasons.

2) The cost of representation is demonstrably increasing daily because of the increased quantitative requirements of representation. A good example of this, of course, is the past negotiations for this forthcoming contract year. Negotiations tend to become much more complex, extensive and timeconsuming as some of the issues become more difficult. Certainly, recent legislative action, as previously alluded to, has caused considerable difficulty in attempting to resolve economic issues particularly.

F. There is no question of the legality of such a provision. For many years the Management and Labor Relations Act, while it has not made it mandatory that such a security provision be instituted, it certainly has recognized that it is a legitimate type of security. I predicate this opinion on the fact that the courts have been very studious in providing guarantees of freedom of religion and freedom of association in the event that it is adopted. If there were legislative disapproval or aversion to such a principle, I'm sure that this type of security arrangement would certainly have been specifically prohibited.

Modified Agency Shop - For and Against. Traditionally the basic arguments for and against the modified agency shop proposal have not centered on the degree of acceptability or the relative strength of the bargaining unit, but on other grounds.

Against - The employer has argued that to agree to such a provision would enhance the financial ability of the Association (union) and thus strengthen an adversary so as to make it more virulent in its bargaining power. The employer has, at times, shielded the real motive by asserting that it must protect the freedom of choice of those who do not choose to associate in the organization or who do not approve of the principle or have an objection on religious grounds, were they to support such an organization.

For - The traditional argument of those who favor a modified agency shop is as follows: All who benefit from representation should bear their fair share of the cost. An association has no choice, by law, not to represent all employees, but must provide "fair representation". Hence, even though an employee has the right to full choice of association, he or she should not escape the responsibility of paying for benefits ~~with~~ which the Association is being compelled to confer. Without at least a modified agency shop, the nonparticipating have a full choice, but the Association does not.

It is my opinion that employers are generally nonpersuasive in this particular area.

A. The Association is not an enemy from whom we should withhold as many spears as possible. I like to think that the Association and the employer are partners in a common goal. The overall health of the institution can only be as good as its parts.

More accurately, the employer is not contributing monetarily and thus providing more spears since it will be the present, nonparticipating employees, who will make the actual contribution.

The employer, more accurately stated, is inhibiting the Association from what I consider is a fair avenue of needed revenue. The policy of an employer in this regard seems somewhat anomalous. The employer assumes the role of representing employees (the non-participating).

RECOMMENDATIONS

I recommend the adoption of a modified agency shop as proposed subject to the following changes.

A. I find some lack of clarity in the first paragraph. I offer no remedy, to do so might upset the established practice under that provision.

B. In the fourth line, the third word from the left. I believe the word should be "representation" rather than "representative".

C. In the last paragraph, at the end of the first sentence, I would include the provision "or as provided for by the act", to insure that in the event that the parties do not agree on the designation of a charity, the impasse will be resolved as prescribed by "the act". -- Parenthetically I might add that "the act" should be fully cited, but this is stooping to pick up pins.

D. I wish to make it emphatically clear that while I fully agree with Professor Collins that a modified agency shop is a desirable approach generally, there may be conditions which either do not warrant such a provision or that climactic conditions may exist where a strong insistence on its inclusion might well disturb the balance of agreement on other major aspects of negotiations. I find none of these conditions present in this case.

3 & 4 ARTICLE II

RESPONSIBILITY AND BARGAINING PROCEDURES

Section 3.1 - Released Time for BEA President

Section 3.2 - Released Time for Association Members

ARTICLE II - RESPONSIBILITY AND BARGAINING PROCEDURES

Section 3. Released Time

3.1 Released Time for BEA President

The president of the BEA shall be released full time for the school year for which s/he is elected, without loss of salary, stipend, or fringe benefits, subject to reimbursement to the District.

The employee who has been released from duty to serve as BEA President shall resume duties with the District at the conclusion of the term of office. Upon return, the employee shall be placed in the position s/he held prior to the released time period. The employee shall receive an increment if eligible and not already at the maximum in the salary lane. The District agrees to maintain accumulated sick leave, retirement, salary, and seniority rights of the employee during the period of released time as if the employee had remained in the normal assignment.

3.2 Released Time for Association Members

The purpose of RCW 41.59 is to prescribe certain rights and obligations of the educational employees of the school districts of the State of Washington, and to establish procedures governing the relationship between such employees and their employers which are designed to meet the special requirements and needs of public employment in education.

In order to accomplish the purpose of RCW 41.59, up to 100 days leave with pay per school year shall be provided to the Association upon Association request. Employees representing the Association shall be able to utilize the 100 days for the purpose of improving the relations between the District and the Association. When a substitute is required of a teacher, the Association shall reimburse the District for the cost of the substitute only.

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

3. Article II - Responsibility and Bargaining Procedures

Section 3.1 - RELEASED TIME FOR PRESIDENT

The Bellevue Education Association is proposing that the President of the BEA shall be released full time for the school year for which s/he is elected without loss of salary, stipend, or fringe benefits subject to reimbursement to the District by the Association. Furthermore, the Association believes it is essential that the provisions for this released time be clearly defined in the contract between the Bellevue Public Schools and the Bellevue Education Association. The lack of certainty regarding the release of the President has served as a hindrance to the President as s/he has worked to represent members of the Association in matters pertaining to wages, hours, and working conditions. A clearly defined statement in the contract and subsequent released time for the President is necessary if the President is to devote full energies to the Association and be responsible as its bargaining agent. This clearly has an impact on the conditions of employment for Association members because the members must have fair representation on all matters of bargaining with the District. A classroom assignment would severely restrict the ability of the Association leadership to properly prepare for, as well as fairly represent, Association members in bargaining. The implementation of the terms of the contract would require constant attention. Members would be at an unfair position in bargaining if their elected leaders were unable to relate members' concerns about wages, hours, and working conditions in a well-prepared and timely manner to the District. Fair bargaining would result in better working relationships between the employees and the District, obviously leading to better morale, productivity and creativity of the staff.

History

As with most items in dispute, there has been very little discussion of President's released time in bargaining. In their impact statement the District contended that they saw no need for this proposal to be in the contract and that the District would be paying the salary of an Association President who could be conducting a strike.

In regard to the need for being in the contract, it should be pointed out that during this past year, an agreement independent of the contract served as the basis for the President's released time. The untenable position in which this placed the President serves as adequate reason for having the agreement clearly spelled out in the contract. The District played games in wording of the agreement until there was finally assurance to the President that he was provided adequate protection in the agreement.

The problem is not so much as to whether or not the District will grant the released time, but that they don't want it in the contract. They have said they will grant the leave. If they are willing to grant the leave, why not have it in the contract like Edmonds, Kent, Lake Washington, North Shore, Renton, Seattle and Shoreline do? It is certainly of enough importance to be specifically spoken to, in concise terms, in the body of the contract.

The only reason the Association agreed to such a procedure last year was due to the lack of clarity regarding the legality of the President's released time. However, now the legality is no longer a question as a result of Case No. DR-76-03, Enumclaw, (See Appendix III) where the PERC ruled in favor of the released time for the President of the Association.

Furthermore the District stated in the impact statement that they don't want to pay the President's salary. It should be emphasized that the salary

of the Association President is paid totally by the Association and for the District to present this argument is ridiculous.

The responsibility of the President of the Association in representing the certificated employees of the District does not merit the added concern of struggling to obtain released time each year. It is essential that this proposal be a regular part of the Association contract.

RATIONALE AND BACKGROUND

4. Article II - Responsibility and Bargaining Procedures

Section 3.2 - RELEASED TIME FOR ASSOCIATION MEMBERS

The Association is proposing that, in accordance with RCW 41.59, up to 100 days leave with pay per school year shall be provided to the Association upon request. Employees representing the Association shall be able to utilize the 100 days for the purpose of improving the relations between the District and the Association. When a substitute is required for a teacher, the Association shall reimburse the District for the cost of the substitute only.

The Association has been willing to sign an agreement similar to one signed last year, independent of the contract, that would be on the same basis as this year's proposal. However, the District has rejected any consideration of the proposal stating that they don't wish to pay for it and that it would be illegal.

In regard to the cost, even if a substitute were required for the entire 100 days, the cost would only be $3800, an insignificant amount in a budget of $43,000,000. Surely the benefits, which would include better working relationships between the employees and the District, would be well worth such a small investment. The improved relationships would provide dividends to the District in increased morale, productivity, and creativity, highly prized characteristics for any school district.

The District's concern regarding legality is spoken to in the matter of Arbitration between Edmonds Education Association and Edmonds School District (AAA Case No. 75 39 0079 76) where it was determined that paid leave provision is not a per se violation of collective bargaining laws (see Appendix IV). Further substantiation for legality is found in an Attorney General's opinion where it was stated,

> "It is legally conceivable, however, that an employee could, for example, be granted what is sometimes referred to as 'released time' in order to attend to his or her duties in connection with the activities of a local employee organization or union and still be considered as providing services to the school district." (AGO 1975 No. 10, p.8)

It should also be noted that the U.S. Department of Labor, Bureau of Labor Statistics, reported in Bulletin 1920 (1976) that provisions granting employees who were union representatives time off with pay to conduct union business were fairly common, appearing in seventy-five (75) percent of the agreements studied. This same Bulletin further states that the largest number of contracts provided time without loss of pay or benefits for union representatives, generally stewards, to investigate prepare, and process employee grievances. Provisions for paid time for negotiations and for union conventions or training were included in one-third of the agreements providing paid time off.

History

As with most items in dispute, there has been very little discussion of this item in bargaining. On one occasion , however, the District cited Case No. DR-76-03 in the matter of the Petition of the Enumclaw Education Association for a Declaratory Ruling (see Appendix III). The District contends that, on the basis of this ruling, it would be illegal to grant the Association's proposal. The PERC declared unlawful a bargaining proposal calling for a teachers' association to have the option of using 20 days for association business.

It should be pointed out that the Enumclaw ruling was unique in certain respects. This was confirmed in the Edmonds arbitration ruling previously cited and in the PERC ruling in Enumclaw where the Commission stated the following concern:

> "Under the terms of the Association's proposal, none of the released time need be spent meeting or conferring with the employer or its representatives. It may be spent on any Association business, including organizing the employees of some other school district."

The Enumclaw proposal permitted teachers to spend 20 days on "any Association business."

The Bellevue Education Association's proposal is much more restrictive and limits paid leave to the "purpose of improving the relations between the District and the Association." The Association sees no problem in terms of the legality of this proposal as it pertains to the Collective Bargaining Laws of the State.

The Association proposal is requesting released time for Association members because in addition to being needed as a basis for improving employer-employee relations, it is common in the contracts of the private sector and legal in the contracts of the public education sector.

POSITION OF THE DISTRICT

ARTICLE II - RESPONSIBILITY AND BARGAINING PROCEDURES

RELEASE TIME FOR BEA PRESIDENT (New Association Proposal)

The District and the Association took this very same proposal to fact finding a year ago along with release time for Association members (to be spoken to separately). At that time, the District made two arguments that are still applicable. They were (1) that the proposal was doubtful legally and (2) that it was unnecessary. The question of its legality has been clarified (Exhibit #1), but the necessity of having such a provision in our agreement still remains to be explained.

The past presidents have been released under the District's general leave of absence policies. The terms and condition of the leave have been set by the Board, but they have always been geared to satisfying the expressed problems of the president in carrying out his/her duties.

The Association's language would permit the Association president to conduct job actions against the District while on leave. The current agreement contains a no strike clause but the Association wishes to have it removed so they can take concerted action for their own protection against, among other things, unfair bargaining.

Since bargaining is not limited as far as time is concerned and may extend into the next school year, the Association and its president could very easily accuse the District of bad faith negotiations and call for a strike. The District would be paying and guaranteeing a position to the strike leader.

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1. IT'S NECESSARY FOR THE DISTRICT TO PROTECT ITSELF PRIOR TO THE CONCLUSION OF NEGOTIATIONS.

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2. IT IS NOT NECESSARY FOR THE ASSOCIATION WHEN NEGOTIATIONS HAVE BEEN CONCLUDED.

ARTICLE II - RESPONSIBILITY AND BARGAINING PROCEDURES

RELEASE TIME FOR ASSOCIATION MEMBERS (New Association Proposal)

Since April, the Association has requested X number days with pay per school year for Association business. That number became 100 during the mediation process. The purpose was stated as follows: For improving the relations between the District and the Association. The Enumclaw Declaratory Decision on this issue (Exhibit #1) is clear on the legality of the District entering into such an agreement.

In their impact statements (7/21/77), the Association has switched from "release time" to "leave." The number of days is the same and they are to be "provided to the Association upon Association request." The days will be used as the Association sees fit and; furthermore, it does not stipulate that any of the days will be spent in conference with the District. A violation of RCW 41.59.140 (1) (b), we feel.

The District, through professional involvement provisions and our meet and confer section, is complying with the intent of the law broadly described and outlined in the Association's last proposal.

The Association (individuals) can express to their leadership any concerns that they may have regarding the relations between the District and the Association. The leadership in turn can meet with the District monthly (or more frequently) per the contract to discuss the individual's concern. In depth discussion can be arranged on any topic.

THE DISTRICT DOES NOT WISH TO PAY FOR THE SERVICE OFFERED BY THE ASSOCIATION UNDER A LEAVE PROVISION.

AS RELEASE TIME FOR ASSOCIATION BUSINESS, THIS PROPOSAL VIOLATES THE LAW.

FACT FINDING AND RATIONALE

PRESIDENT'S RELEASE TIME

This proposal essentially consists in providing release time for the BEA president with guaranteed reinstatement to his former position on return with fringe benefits during the leave and all accrued benefits as if he had actually taught during that year.

As a result of the hearing, it was my finding that the major objection to such an arrangement on the part of the district consisted in the possible anomaly that the District would be in the position of approving release time solely to find that the president of the Association might be engaged in an illegal activity as a striker. Because I believe that the striking is illegal with or without such a provision in the contract, the assumption of the District that the approval of release time may result in this anomaly is highly improbable. One has to proceed on the assumption that the Association and its members will proceed in a legal manner. If one begins to conjecture that illegal acts may follow during the contract period, then almost any aspect of the contractual arrangement may be attacked and be denied on that assumption. For example, why provide for a statutory or contractual grievance procedure if one assumes that some illegal act or some improper act either on the part of the district or on the part of the employee may be involved, and therefore be sheltered by some procedure which, presumably, would take care of the disposition of the issue?

I find no other serious objection to the principle of providing for a contractual, assured contractual leave of absence and accrued benefits during such a period.

Lastly, it is worthy of note that in the past the parties have, in practice, generally followed the release time principle

for the president in accordance with what is provided for in this change. The inclusion of the provision would simply tend to make declaratory and contractually binding what has been accepted as a proper procedure.

RECOMMENDATION

I recommend that the proposal of the Association be adopted, subject to a possible cosmetic adjustment in the language proposed. It should be made clear that the "reimbursement" is by the Bellevue Education Association. The present contract language simply provides for "reimbursement", but does not state by whom.

MEMBERS RELEASE TIME

The Association's proposal would, in essence, provide for a hundred days of released time as of right without any notice or any other qualifying condition. To be sure, it does provide for reimbursement on the part of the Association for any cost of substituting staff.

I find that the Association is not most arduous about this change in contractual conditions, if the guaranteed release time for its president were to be provided for in the contract. Since this has already been recommended, if the district adopts proposal #3, proposal #4 becomes evanescent.

In the event that this is a persistent item of impasse, I offer the following recommendation: The Association's proposal is much too broad and could, to some extent, impair the educational process. There are several school districts, not a majority to be sure, that do make provisions for release time on the part of other than the president of the Association. A review of other school districts that have made a provision in this area limit it by a qualification that the paramount need of the instructional time of the specific teacher must not be impaired in the event that released time is granted. This is extremely important because I do think that ~~while~~ it should be recognized that employees ~~be~~ are members of the Association, and must of necessity face the requirement of some compelling Association activity.

Nevertheless, those that make provisions for engaging in Association or union activity ~~always~~ must provide some sort of limitation of a similar nature, i.e., that the operational goals are not impaired by virtue of this released time.

There is another serious question and problem with the proposal, as I see it, and that is that no adequate notice is required to those that are responsible for the general planning of the operation.

Lastly, it should be kept in mind that the district certainly has made provision for this need, at least in the area where some serious problem has arisen that requires representatives of the Association to confer with the superintendent. In this regard, I refer you to Article IV, management rights and responsibility, last paragraph. Provision is made there for the release time and substitute teaching, and substitute personnel, in the event that during the school year there is some problem to be discussed between the superintendent and the members of the teacher's association. It should be pointed out that this is a very narrow area and does not resolve the concern that is suggested by the proposal, namely, that there may be Association activities which compel individual members to participate, but which does not necessarily involve concerted action with the school district. It is for this area that the Association would like to make some provision of guaranteed release time.

I certainly recognize the need for such release time. A provision which would eliminate some of the objectional aspects of the proposal certainly might be desirable, and perhaps could be adopted in the future, but not at this time.

RECOMMENDATION

I recommend that the proposal as submitted should not be

adopted. At the same time, I recommend that the concept which reflects some concern in terms of providing some release time for members of the Association other than the president should be recognized and perhaps a negotiated provision along the lines that I have suggested be adopted in the future.

ARTICLE V

NO STRIKE PROVISION

ARTICLE V - NO-STRIKE PROVISION

~~While this Agreement is in effect, the Bellevue Education Association will not call, condone, advocate, or participate in any strike, slowdown, sick-out, or other work stoppage by members of the bargaining unit covered by this Agreement. In the event of any such action by a member or members of the bargaining unit, and upon demand by the District, the BEA shall notify the participating individuals that they are in violation of this Agreement and shall make all reasonable efforts to terminate the violation. While this Agreement is in effect, the District will not engage in any lockout as the result of actions by any BEA member. During the term of this Agreement, no employee shall refuse, except for reasons of personal physical safety, to cross a picket line established by any labor or employee organization when such refusal would cause said employee to be absent from his/her normal work assignment.~~

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

5. Article V - No-Strike Provision

The Association is proposing that the 1977-78 contract not contain a "no-strike" provision.

The right of a labor organization to strike or to honor strikes by other labor organizations provides inherent pressure upon management both to bargain fairly and to adhere to the terms of an employee-employer contract as well as to provide employees a means to guarantee terms and conditions of work not adverse to their health, welfare and safety occasioned by actions taken by management or by other labor bargaining groups. Therefore, it is a necessary contractual guarantee for the certificated employees of the bargaining unit to be able to take concerted action for their own protection in the event of an adverse situation affecting the terms and conditions of their employment is brought about by unfair bargaining on behalf of the Bellevue School Board, by Bellevue School District management's violation of terms of the Contract between the Association ar Bellevue School Board, or by strikes by other labor organizations against the Bellevue School Board.

The Association recognizes its responsibilities as a bargaining unit, however, and will agree to restore 1976-77 language on this subject for the 1977-78 agreement between the Association and Bellevue School Board, provided that the Board will agree to an Agency Shop Provision (see previous section) which will enable the Association to effectively police the members of its bargaining unit.

History

As with almost all of the other items in dispute, there has been very little bargaining on this subject. On only one occasion has it been discussed, and at that time the Board's bargainers rejected the Association's contention that it will be very difficult to control certain members and nonmembers alike from crossing another employee organization's picket line. However, with agency shop, the BEA contends such control is very much enhanced. The possibility for a strike by another unit is very real this year, and, therefore, the BEA's concern for not agreeing to a no-strike

POSITION OF THE DISTRICT

ARTICLE V - NO STRIKE (Presently in the Agreement)

The District wishes to retain the no strike, no lockout provision of the current agreement. We believe that the no strike clause is an accepted management demand -- "an appropriate quid pro quo for an employer's undertakings" to quote Professor Daniel Collins.

The District feels that the community should have the assurance from all of its employees that they will not participate in a work stoppage or job action.

THE NO STRIKE PROVISION IS AN APPROPRIATE QUID PRO QUO.

FACT FINDING AND RATIONALE

Surely this proposal must have been made tongue in cheek. It's extremely difficult for me to imagine that it could have been done in any other frame.

The proposal, if accepted, would in essence eliminate a no strike agreement. The inference to be drawn from this by anyone following such an action would be to infer that strikes were agreed to as a means of settling disputes between the parties.

It should be emphasized, and I'm sure that the Association is well aware of it, that strikes on the part of the Association are deemed to be contra bonos mores, i.e., are against the law and public policy of this state, and I might venture to say the overwhelming majority of other jurisdictions throughout the country.

I make no reference to the fact that the Association suggests that adoption of the modified agency shop security provision would eliminate this problem, and that the Association would withdraw its proposal in the event that there would be favorable consideration in adopting the agency shop provision. The significance of this is to suggest the emphasis the Association places upon the value and need of an agency shop provision. It does not lend itself to great logic. Obviously, there's no relation between the agency shop and the no strike clause, certainly no real correlation between the two provisions.

RECOMMENDATION

I recommend that of all the proposals, this should be the one that should be least considered for inclusion in resolving the impasse.

6. ARTICLE VIII

TERMS AND CONDITIONS OF EMPLOYMENT

Section 2 - VOLUNTARY EXCHANGE

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 2. Voluntary Transfer, Exchanges, and Changes of Assignment

A request may be initiated by a certificated employee for transfer to a different building in accordance with either of the two provisions which follows:

2.1 Voluntary Transfer to Vacant Position

After a vacancy has been announced in the Staff Bulletin, an employee qualified for the position may seek a transfer to that position by submitting a written request to the Personnel Office with a copy to the employee's current supervisor.

In the event an employee who has submitted a written request for transfer to a position is not selected for the position, the employee will be notified that (1) the position has been filled and (2) upon request, s/he will be given an explanation of why s/he did not receive the sought-for position.

2.2 Voluntary Exchange

During the first week in February, the Personnel Office shall distribute to all certificated employees a request for information concerning employee plans for the ensuing year. The format of the request shall provide for each certificated employee opportunity to request transfer from his/her present building.

The Personnel Office shall develop a list of such requests for distribution to all building principals by 15 February and will be available to certificated staff upon request. The list shall include the name of each staff member desiring exchange, present school and grade level/subject assignment, and grade level preferred.

The list will serve as a basis for implementing exchanges of staff between buildings, such exchanges to be made in accordance with the following procedures:

2.21 The announcement of persons seeking voluntary transfer through this exchange program shall be for a period from 15 February to 15 March.

2.22 The Personnel Office shall assist staff in making initial contact with the principals of the receiving schools. The Personnel Office shall have final approval/notification authority and responsibility.

2.23 Exchanges may occur between any two staff members so long as fellow staff members directly affected by such exchange are authentically involved in the final decision by the receiving principals.

2.24 Exchanges as defined by this process shall be limited to two persons exchanging buildings, and shall not involve more than two persons in any action. Exchange must take place independent of vacancies and shall have no effect on the number of vacancies to be filled in either building.

2.25 The final date for recommending an exchange decision will be 1 April.

2.26 The staff member transferred to a new building by means of this exchange program shall not be protected from subsequent transfer as specified in Article VIII, Section 3, of this agreement.

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

6. Article VIII - Terms and Conditions of Employment

Section 2 - VOLUNTARY EXCHANGE

Over the past several years, the Bellevue School District has been faced with an imminent decline of students and thus a decreasing need for new teachers. Until recently, teachers were able to use the lists of new job openings as a means to transfer from their present school by applying for a new job opening. Now, however, that process is nearly impossible.

In fact, the District admitted recently that only "about 15" teachers were able to transfer this past year out of a total staff of over 1200! They say that "approximately 25" asked for a transfer. Two points should be considered. One is that with a staff this large, why couldn't the wishes of the other ten be accommodated and second, what would the number of those seeking a transfer be if there were a regular separate system to follow for transfer requests?

The Association contends that based on discussion with individuals this past year alone (discussions initiated by members to the President, Executive Board Members, Building Representatives, and Executive Director), the number who desire a transfer far surpasses the District's figure of 25.

History

Unlike many of the other items in dispute, this issue has been bargained extensively through the spring.

The Association initially proposed a transfer policy and then revised it after discussions with the District. At one point the District seemed to agree verbally with this revised language, but were unwilling to sign because they alleged that it had to be coupled with their proposed Temporary Assignment Policy. In fact, at one point the BEA Spokesperson quoted the District bargainer's very

words into the policy being discussed. Even then the District refused to agree!

The District contends that the BEA proposal takes decision-making powers away from the building principal. This is not true, as a reading will show. The Association only desires that teachers who are affected by such a transfer be authentically involved prior to the principal's final decision. It is an established practice in the Bellevue School District that candidates for a building teaching position be somehow/someway interviewed by teachers with whom they might be working with should they get the job. Voluntary transfers should also involve some authentic participation.

Teachers should be able to move laterally in this profession in a manner which is above political whims or desires of certain individuals, and through a procedure which is relatively easy to see and follow. This is what the Association's proposal will enable and facilitate.

POSITION OF THE DISTRICT

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 2 - VOLUNTARY TRANSFER, EXCHANGES AND CHANGE OF ASSIGNMENT

The voluntary exchange proposal has merit. The District cannot argue with the fact that a voluntary exchange provision might afford an opportunity to a teacher to move laterally and expand his/her teaching horizons. Declining enrollment will indeed curtail the traditional avenue of transfer. The concept has been accepted by the District and numerous counterproposals were made during negotiations.

The process proposed, which keeps the principals on the outside looking in, is what we cannot accept. The exchanges would occur between any two staff members so long as fellow staff members directly affected by such exchange are authentically involved in the final decision by the receiving principals.

The principal gets to make the final decision after two teachers have arranged an exchange among themselves, and he/she involves the members of the staff authentically.

THE PRINCIPAL WHO MUST HAVE EVALUATION RESPONSIBILITY MUST HAVE DECISION-MAKING AUTHORITY IN ANY EXCHANGE PROGRAM.

FACT FINDING AND RATIONALE

This particular proposal, in essence, provides for a method of voluntary transition if two certificated teachers have discovered a mutual ground for effecting an exchange from their respective buildings to the other building, and perhaps even a teaching assignment.

I'm happy to say that I found in the course of the hearing the parties seemed to be very much closer on this issue than had at least appeared on the surface prior to the hearing.

The Association accepted the principle, accepted the concept that any such exchange would require the approval of the two principals involved in the exchange.

The district, however, seemed to require that this approval and participation by the principal would involve approving not only the receiving of the individual teacher, but also approving the release of the teacher that was supposed to be exchanged. I find that if the releasing aspect of the principal's approval is eliminated, that the parties are probably in virtual agreement in this proposal.

It should be pointed out that the district recognized the value of providing some freedom of exchange in building assignments and perhaps instructional assignment. It should, however, be stated that implicit and underlying such an exchange, both parties recognized that such exchange should not in any way impair the quality of the instruction that would follow or result from the exchange.

I pointed out to the Association that there is a very serious

gap in its proposal in that it did not specify that the exchange was subject to the requirement that any new reassignment resulting from the transition must, as a first principle, require that the people being exchanged be qualified for the position to which they will transfer. I feel, however, that this requirement, perhaps, would be met in any event if the two principals involved were to approve the exchange.

Lastly, it should be noted that the operation of this clause may, perhaps, provide future problems if the number of exchanges became inordinately great in number. I say this because it is possible that an individual exchange, when taken individually, does not have serious consequences, in fact may be very beneficial. If these exchanges become inordinately great in number, there may be a very bad collective effect upon the instructional process. Once again, if approval of the principals is involved, and it should be, this would eliminate any possible disruption by wholesale transition.

RECOMMENDATION

I believe that it is salutary from both the district's and the Association's point of view that the proposal be adopted provided, however, that the language of the proposal is modified to cover two suggested areas. First that the provision be declaratory of what seems to have been understood in any event, that the receiving principal must have the final authority in approving the exchange (at least the receiving aspect of the transaction); and secondly, that it be made abundantly clear that no exchange would be permitted unless both parties are qualified to assume the assignment in the new building to which they are being transferred.

7. ARTICLE VIII

TERMS AND CONDITIONS OF EMPLOYMENT

Section 9.1 - STAFFING FOR 1978-79

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 9. Staffing

9.1 Staffing for 1978-79

Commencing December 1, 1977, staffing shall become a subject for special negotiations to correct problems and to determine the staffing allocation for the 1978-79 school year.

This special negotiations shall commence each subsequent December 1 for the length of this contract.

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

7. Article VIII - Terms and Conditions of Employment

Section 9.1 - STAFFING FOR 1978-79

The Association has proposed that there be special negotiations on the subject of staffing for 1978-79 school year and that these negotiations commence on December 1, 1977. The District, on the other hand, demands to continue the staffing ratios for 1977-78 into the 1978-79 school year. Interestingly, though, they have agreed to the concept of a special bargaining session on this matter next winter, subject to a predetermined cut off date.

The BEA and the Bellevue School District agreed in the summer of 1976 to a staffing formula which was new and considerably different from the one which we had used in previous years. The staffing formula was to be for the '77-'78 school year and was to be in the 1976-77 contract in order for the District to staff for the ensuing school year in the spring of '77.

History

As with most other items there has been little bargaining on this issue.

The staffing formula utilized prior to next year (1977-78) was one which in practice used student populations at the buildings for determining the number of buildling staff and thus the number of district staff. Now the formula calls for the entire district student population, with all the variations in building sizes not withstanding, to be used for determining the total number of staff and then the individual building's staff. One important consequence has been the tremendous amount of time given by building staffs this spring in attempting to understand the ramifications of the new formula on their building for the '77-'78 school year. Even after all this effort has taken place, there still remains considerable confusion or, at best, strong concern as to what the local building impact may be. Therefore, we are entering a new school year without a clear picture of what a new staffing

formula, albeit adopted in the summer of 1976, will mean to individual buildings, class sizes of individual teachers, and special assignments.

One result of implementing this new formula is the unilateral reduction by the District of the specialists' programs at the elementary level. The district has said the specialist programs may be carried out by a classroom teacher. The integrity of the specialist programs is obviously minimal or non-existent in the mind of the District. The teachers feel quite strongly the other way but are forced by this new staffing formula to sacrifice building level specialists who carry out these programs in order to maintain building level class sizes at a relatively modest size.

The state legislature and S.P.I.'s office have also muddied the issue of staffing by passing new legislation and subsequently interpreting that legislation. This interpretation is still going on and leaves very real questions about the validity of the new staffing formula.

The Association and the District need time to formulate valid opinion on this new staffing formula. An important means to do so is to see what the first several months of the '77-'78 school year bring.

Now the District wishes to continue this untried formula for the '78-'79 school year in the '77-'78 contract. As stated above, however, they have even agreed to commence bargaining in the fall of '77 but any discussions must conclude by February 1, 1978. This indicates that they also recognize the possibilities of problems developing with the new staffing formula. Nevertheless, in light of District actions or inactions of this past spring's negotiations, the BEA has little reason to suppose any good faith discussions might occur. Indeed, if the spring's tactics on the part of the District are any indication, the District would simply stall any significant discussions by loading them with verbage or not meeting at all for long periods of time. Then when February 1, 1978 occurs, they would feel

free to proceed with their own plans on the grounds that we couldn't offer any constructive criticism or valid proposals worthy of consideration.

The teachers are extremely wary and rightfully so, of agreeing to a staffing proposal which in effect is untried. They must have facts to formulate ideas and they cannot then have a time limit imposed on any discussion of their well-founded concerns.

POSITION OF THE DISTRICT

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 9 - STAFFING

The staffing provisions of the current agreement were the subject of many hours of negotiations and fact finding last year. As a matter of fact, the District had tried for several years to bargain an agreement on staffing.

The problem with the Association's proposal is not that bargaining should take place on the newly implemented staffing procedures, but that there is no finality to the bargaining proposed by the Association. The negotiating is supposed to correct problems. However, without finality and based on our past experience of negotiating with the BEA, the special negotiations would coincide with the regular negotiations (assuming we have a one (1) year agreement) and we would not be able to plan our staffing ratios in the spring. Staffing ratios must be established realistically by 1 April 1977 in order to comply with continuing contract law and our own agreement. It also permits us to make the involuntary transfers less painful. The exchange program proposed by the Association is affected by staffing ratios. They proposed a strict timeline for the exchanges program. This program could not work with staffing ratios in a state of flux.

The District agrees that there may be some problems with the new staffing procedures unforeseen by both sides. We have proposed to look at those "problems" with the BEA and to negotiate them through 30 January 1978. For unresolved issues, the 1977-78 staffing ratios would prevail.

We have experienced protracted negotiations on this issue before. Too many plans are centered around our staffing ratios for us to let it drag on and on. Both sides need to know as soon as feasilby possible.

While the District continues to believe that reopening negotiations on staffing with an agreed upon closure date is the ideal solution, we recognize that the staffing provisions of the 1976-77 contract have not been fully tested. We are also very concerned about our financial ability to maintain the present staffing level. Therefore, an alternative to our position which we would be willing to consider would be leaving the new contract with no language concerning staffing other than an agreement to begin negotiations in December, 1977 concerning staffing in 1978-79. This would leave the District and the Association both in a position of needing to work cooperatively to achieve a new position concerning staffing. The District would feel pressure because of the need to plan for 1978-79 and the Association would feel pressure because staff members want to know their status for the coming year.

STAFFING NEGOTIATIONS NEED FINALITY FOR ALL CONCERNED.

FACT FINDING AND RATIONALE

The 1976 - 77 contract made provisions for a new staffing policy to take effect with the 1977 term.

The general thrust of the new policy is to provide specific student-faculty ratios in each area (subject and not buildings) and that the level of staffing would be on a district-wide basis rather than a student per building basis, i.e. staffing per building was previously determined by applying a student-faculty ratio to the enrollment in a given building.

The parties have had no experience with this new approach which will obtain for the first time with the ensuing academic year (1977 - 78). Both the Association and the District recognize the difficulties that may be encountered when the plan becomes operative, e.g. the teachers feel that the specialists program will be adversely affected as the District conceives the institution of the plan.

Suffice it to say that the parties had agreed that the staffing terms of the contract for 1978-79 would be the same as provided for in the previous contract year. Thus, since the plan has not been in effect prior to the negotiations for the 1977 - 78 (this academic year), the policy for 1978 - 79 remains unchanged.

The Association reflecting its concern that it is locked into a plan for 1978 - 79 without the possibility of a change which might become evident during the 1977 experience, offers the following:

1) The plan be in effect for 1978 - 79 as presently provided for the current year (1977 - 78).

2) The parties agree to negotiate beginning with December 1,

1977 changes in the plan.

3) That these negotiations continue throughout the term of this year's contract (1977).

4) That the plan will continue for 1978 - 79 in toto subject to modifications that might be agreed to as a result of the term of this contract. Stated otherwise, if negotiations do not result in an agreed to change, the plan will continue as in 1977 - 78.

The District heartily agrees with 1, 2 and 4, but disagrees with 3, i.e. it would terminate contractual negotiations by February 1, 1978. Thereafter, the District would not be contractually obligated to negotiate further changes in the 1978 - 79 plan. Also the District suggests a third alternative which will be discussed later.

The reason for this position is: a) it must decide what staffing perameters are involved by the spring of 1978 for the ensuing year; b) it might cause some trauma in changes in assignment and exchanges* (discussed hereafter as a separate issue).

The foregoing may be gleaned from reading the position of the parties in their briefs. I have simply restated it here for the purpose of emphasizing where the kernel of the difference lies.

The hearing did not shed further facts or change the position of the parties but it did become evident that this aspect of the collective bargaining agreement is very vitally related to another

*Note: This is not a real problem since the requirement of a two-year building assignment following a transfer is waived by the approval on voluntary exchanges.

issue, namely the term of the forthcoming contract.

In analyzing this problem, one should observe that the parties may always negotiate a change in the terms of the collective bargaining agreement. Why, then, is it necessary to provide contractually for possible changes in a term of the contract? The answer lies in the fact that if no such specific provision is included, either party may categorically and absolutely refuse to negotiate a change. On the other hand, a promise to negotiate imposes the duty to negotiate in good faith and either side cannot be capricious or arbitrary in refusing to negotiate.

This highlights the importance of including a contractual provision.

The District's concern should be analyzed to determine if, in fact, there is a serious problem of planning if negotiations are extended beyond February 1st. It is my opinion that this is not a real problem.

At the outset, the District proposes an alternative, i.e. that there be no basic staffing level carry-over to 1978 - 79 by the terms of the 1977 contract, that the parties should renegotiate de novo the entire policy and not simply attempt to modify an agreed to policy in the event negotiations failed. If this proposal were adopted, the District would not deem it necessary to have a cutoff date, indeed it could not insist on one.

The suggestion that the parties might provide for negotiations de novo for the academic year 1978 - 79, I feel is recidivistic. In any event, the District's position is somewhat incongruous. If it has to start de novo, it would not provide any parameters for

planning on February 1st, unless this presupposes that it could unilaterally determine the staffing level and policy without agreement by the Association, which it has heretofore established as a desirable principle. Yet, when considering the Association's proposal, it finds the need to know the level on February 1st, 1978, thus reasoning that possible negotiations to affect desirable changes should be truncated on February 1st, 1978.

In any event, a closer scrutiny of the Association's proposal does, in fact, provide a degree of certainty, which the District deems not necessary.

Under the proposal, negotiations would begin on December 1, 1977. If changes are agreed to by the parties by February 1, 1978, then these changes will be known and are available for planning as required by the District. Thus, at this time, the District has before it a basis for planning. Thereafter, the District is duty bound to continue negotiations for the balance of the term. It need not, however, agree to any further changes if these changes adversely affect its previous planning unless it wishes to. Refusal to accept further revisions after February 1, 1978, will not result in bad faith bargaining and will not constitute capricious and arbitrary dealing.

It cannot be emphasized enough that the District's planning is not seriously jeopardized because in any event on February 1, 1978 it will have a basis from which to plan. It might well find that continuing negotiations beyond February 1, 1978 could result in material advantages if it revised the plan it has effected, both from an operational and financial point of view. The point I make

here is that it is an unfair assumption to postulate that further negotiations will necessarily be deleterious to its position and its previous planning. It should be noted that the Association under its proposal must equally bargain in good faith about changes that the District proposes. Thus, extending the duty to bargain beyond February 1, 1978 and for the entire term, may be equally advantageous to the District.

RECOMMENDATION

I recommend that the Association's proposal be adopted.

8. ARTICLE VIII

TERMS AND CONDITIONS OF EMPLOYMENT

Section 9.205 - WORKING CONDITIONS FOR THOSE ASSIGNED TO MORE THAN TWO BUILDINGS

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 9. Staffing

9.205 Staffing ratios for 1977-78 may necessitate the assignment of itinerary specialists to more than two buildings; the number of pupils in each assigned building will be taken into account. In consideration of this, no itinerant specialist shall be required to attend more than one (1) building faculty meeting per week or more than two (2) evening school-related meetings per semester. Said specialists shall not be required to have the responsibility for more than two (2) school programs per year which are scheduled outside the regular instructional day. (Examples of these programs would include but not be limited to special chorus or ensemble groups, intramural events, and art exhibits.)

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

8. Article VIII - Terms and Conditions of Employment

Section 9.205 - WORKING CONDITIONS FOR THOSE ASSIGNED TO MORE THAN TWO BUILDINGS

Traditionally, itinerant specialists in the Bellevue School District have been assigned and limited to two buildings. As of the 1976-77 contract, the staffing ratios have been altered in such a way that for the first time, individuals can and have been assigned to two, three or more buildings.

Working conditions, due to the additional assignments will naturally give additional work loads. There will be:

1. An additional work station to stock and re-stock with materials,
2. an additional year-end inventory to file,
3. additional building-staff meetings to attend,
4. an additional adjustment to a building's ongoing program, philosophy and schedule,
5. additional travel time to reach additional assignments,
6. additional meetings with parents (PTSA meetings and conferences)
7. additional programs and exhibitions to plan and present.

At the Elementary level, it is particularly important that specialists not only know individual student's needs, but also recognize the individual and joint goals of principals and staffs. In order to improve their programs, much of the specialist's "free" time is spent in one-to-one contact with staff members to discover their individual differences and needs.

Since each specialist has, in the past, been committed to all faculty meetings, specialist programs, evaluation and other projects in each assigned building, the Association feels that limitations must now be placed on each specialist's workload in order to achieve equality with other certificated employees. While the present contract does call for "reasonable time for traveling" (Art. IX, Sec.I) and the Evaluation Section does limit goal-setting to two, as the District uses as their reasons for not

accepting the Association proposal, it is quite obvious that in view of all the various areas for which they are responsible, these provisions are simply not adequate.

A typical example is a description of one P.E. specialist and his/her working conditions:

1. Demonstrations after school to demonstrate to the public what the students do in classes. This would be done for each of three schools.

2. The school's PTSA programs often expect the specialists' attendance and participation. These PTSA functions (such as fund-raising carnivals, spaghetti dinners, breakfasts, etc.) and meetings are always held outside of the eight hour school day. Again, these are done at each school.

3. Expected attendance at 3 faculty meetings representing 3 schools, and a duty to be aware of the substance of the discussions at all meetings.

4. Planning time for instruction will be increased outside the eight-hour day because of increased responsibilities that can only occur during the eight-hour school day.

5. Responsibility for getting and receiving communications with three faculties instead of two, and three principals instead of two.

6. Responsibility for three P.E. equipment rooms instead of two, and the task of distributing and inventorying three sets of school equipment.

7. Some specialists will have three intramural events or track meets instead of two.

8. Organization and transfer of equipment between three buildings.

9. Possible Outdoor Education Camp for three schools instead of two, which involves planning organization and days and evenings donated to that school. The other schools not involved are deprived of the specialist's services during that camp time.

All of the above reasons means less time for lesson planning, for pupil contact time, thus the quality of the lessons will be diminished.

Because of these additional assignments the quality programs that the Bellevue School District has been so proud of for so many years appear to be diminishing if not disappearing altogether.

The above list applies to most specialists. This is why the Association feels that the provisions made in our present contract are not sufficient.

Another District rebuttal for the BEA proposal is that the work limits the Association is suggesting are not assured to employees in ONE building. The Association feels that this is not an accurate statement, and if indeed, they can show that it is, it will certainly be an area where the Association will make corrections in next year's contract.

While the Association has listed many inequities in the specialist's workload, they are only asking for two changes.

1. A limitation of faculty meetings per week, and
2. A limitation of programs held before and after the instructional school day.

The Association feels that this is a fair request in exchange for the specialist's many extra duties.

Incidentally, this issue clearly involves a large number of employees that will be faced with more arduous tasks this year, 1977-78. Without agency shop, the Association cannot afford to have such a large group of employees upset about their difficult and newly-imposed working conditions. This is one reason why the Association feels the strong need for agency shop.

History

There were four references made to this proposal during bargaining. 1) On May 18, 1977, the District stated they could never agree to a proposal that uses the word "workload" as it was far too general. The BEA wrote a new proposal with two specific limitations. 2) On June 20, 1977, after having given the District the new proposal and explanation for the needs of this proposal, the District responded with "If you want a response tonight, we would say Art. 9, which deals with work day, would probably cover that." (p. 10 of BEA minutes) This Article deals with considerations for transportation, as explained earlier in the rationale. 3) On June 22, 1977, (Attachment #1, p. 2) there is an Association request for a counter-proposal. The District never did make a written response. Verbally, the District said, "BEA's proposal on working conditions for specialists.. 9.205. We can't

accept that." 4) On June 29, 1977 (p. 5 of BEA minutes), our last session, the BEA again asked for a written counter-proposal. None was received.

Finally, in the impact statement, there is a statement from the District that says there is no protection for teachers in one building, and, therefore, they do not wish to add protection for specialists. The BEA is at a loss to understand the District's argument, especially since no example is provided to support it.

POSITION OF THE DISTRICT

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 9.205 WORKING CONDITIONS FOR THOSE ASSIGNED TO MORE THAN TWO BUILDINGS (New Association Proposal)

Itinerant specialists may be assigned to more than two buildings as a result of the new staffing ratios negotiated last year. This is true. Before last year, they were assigned by building (half-time in) two (2) buildings only. But with declining enrollment an ever-present fact of life, this practice became a luxury we could no longer afford. We negotiated long and hard with the BEA and after going to fact finding we (District and BEA) agreed that specialists should be assigned by pupil not by building (like all other certificated staff members).

What problems does this possibly present for the specialists? The District suspects that the following are the areas of the greatest concern:

(a) Planning/Preparation Time

(b) Multiple Evaluations

(c) Travel Time Between Assignments

To speak to the issue of planning/preparation time and travel time between assignments, the District proposed additional language to the work day (Article IX) second paragraph. Multiple evaluations have been resolved through separate negotiations on the evaluation procedures.

The Association proposal to deal with more than two building assignments provides the specialists with work limits not assured to staff members in one building. The District cannot agree to such restrictions.

We feel that the key concerns have been spoken to by our proposal and any

other concerns could be addressed during our proposed staffing negotiations.

SPECIALISTS' CONCERNS ARE COVERED BY THE DISTRICT'S PROPOSALS AND CURRENT LANGUAGE FOR WORK DAY.

FACT FINDING AND RATIONALE

Simply stated, the District proposes that those who are appointed to more than two buildings, particularly specialists, should have some limitation upon their ancillary duties which will become more arduous as a result of the new staffing policy.

The proposal of the Association has merit. The District recognizes that the new staffing policy will entail possible abnormal ancillary duties and duties generated by the multiple building assignment. In fact, to date it has recognized this in the area of need for travel time and limitation on evaluation process. There are concerns as to adequate planning time for specialists particularly. This, of course, has been already recommended. Some recommended changes in this area would eliminate any problems of this type since specialists will be provided planning time as other members of the teaching staff. Nevertheless, there are conceivably still residual aspects that may adversely affect those in the category of specialist. To the extent that they are normally paid for these activities if increased, they would be compensated.

There are, however, some areas where they will not be compensated for these extra duties which will be multiplied by virtue of the new staffing policy. For example, the ensemble requirement (I am not sure if there is extra compensation for this, but it is this type of mandatory extracurricular duty that is ~~encouraged~~ envisaged) for some teaching in the music area may be multiplied beyond what would normally be expected because of the multiple building assignments. It should be noted that the Association does not address itself to that particular problem and yet it was raised during the

hearing.

I feel it is somewhat premature to try to formulate some specific limitations in this particular area of possibly more arduous duties. This is evident from the fact that some areas are not even covered by the proposal and which may, nevertheless, develop after some experience in this new staffing plan. I think that the District, in good faith, will try to minimize any distortions in duties that may result from this new staffing policy. At least it has given every evidence of planning to do so already.

I therefore feel that there has not been sufficient experience to formulate any kind of a written agreed-to policy or limitation in this area and therefore this proposal should be deferred until a better and more comprehensive type of term can be adopted.

I might suggest, as an alternative, if the parties wish to include some sort of recognition of this problem at this time, that whatever provision is made be of a very, very generic nature. I suggest to the parties that continuing negotiation, if adopted in the staffing clause, might cover this. I think the greatest fault of the proposal of the Association is that it is too specific and it may well by its specificity preclude adjustment in some other injurious effects resulting from the new staffing policy.

RECOMMENDATION

The proposal should not be adopted.

a) It is premature.

b) It is too narrow in scope.

9 & 10 ARTICLE VIII

TERMS AND CONDITIONS OF EMPLOYMENT

Section 10 - PLANNING TIME

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 10. Planning Time

Each teacher and specialist will plan and prepare daily for instruction. It is recognized that a considerable portion of a teacher's work week will be required for planning and preparing daily lessons, in discussing and developing materials and methods for individual and group instruction, and in contributing to better articulated instructional plans for students.

Schools will develop schedules which provide for planning time consistent with practices in effect during the ~~1975-76~~ 1976-77 school year, provided that all teachers and specialists shall have at least (5) planning and preparation periods within each normal ~~work~~ instructional week. The daily elementary schedule shall be established to provide dismissal of students for one-half day during each five-day work week. Kindergarten classroom teachers will alternate planning times between a.m. and p.m.

Efforts will be made to restrict interruptions of these planning periods. Teachers and specialists will not be required, assigned, or voluntarily requested to substitute for other teachers or specialists during their preparation period.

When these schedules require modifications of school schedules in effect prior to this agreement, such modification must be approved by the Area Superintendent prior to implementation. The Area Superintendent may not approve any modification to a school's schedule which reduces a student's ~~weekly~~ yearly instructional time. Teachers will use these periods to work individually or in groups.

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

9 & 10. Article VIII - Terms and Conditions of Employment

Section 10 - PLANNING TIME

The Association proposal is seeking guarantees for elementary teachers to have some uninterrupted periods of time to devote to long-term planning and curriculum development.

The Washington State Board of Education's goals include the statement:

1. The process of education should:
   (1) respect the uniqueness of each learner;
   (2) provide increasing opportunities for individual self-direction and decision making;
   (3) provide learning experiences matched to each student's readiness to learn the way he learns best.

The Bellevue School Board incorporates this goal in its policy of individualization of instruction. Therefore, the terms and conditions of employment of the certificated staff of the Bellevue Public Schools include doing what is necessary to accomplish the goals of individualized learning.

Past practice of the District has supported those conditions being sought in the Association proposal. (See Appendix V, Memorandum of Agreement, 16 May 1972.) Under the provisions of this memorandum, the District authorized four elementary schools to operate a pilot program which would provide 1/2 day each week for planning purposes for elementary teachers.

Both junior and senior high school teachers have planning or preparation periods during the instructional day (with students in attendance). While it is recognized that elementary teachers are not able to "schedule" these periods, they also recognize the imperative need for having uninterrupted periods of time, weekly, to fulfill those same planning needs met daily at other levels. Such improved working conditions for elementary teachers will undoubtedly enhance teacher morale.

Elementary teachers are in continuous contact with students during the entire school day while students are in attendance. This leaves no time during the

instructional day for elementary teachers to plan. Their planning must be done before students arrive in the morning, or after they leave in the afternoon. If they are unable to plan in the morning or afternoon, planning must be done during their own personal time or hastily done when possible. The task of teaching, and of learning is of much greater importance than to leave to chance planning.

Many demands are made on elementary teachers during the hour in the morning before students arrive and the one/half hour they have after the children leave. Faculty meetings are held. There are inservice and guidance team meetings. Teachers often must confer with specialists with respect to special needs of students in their classes. In addition to these, teachers are also performing many of the following kinds of tasks:

- preparing learning activities
- answering/making phone calls
- reading/answering correspondence
- parent, student, teacher conferences
- ordering materials
- evaluating student work
- previewing films
- practicing with new materials or equipment

All of these tasks/functions are critical to the daily maintenance of the classroom. None will criticize these as being unnecessary tasks. Both morning and afternoon times before and after children arrive are at the mercy of the above-mentioned, legitimate needs. But what about uninterrupted time for the teacher to devote to planning? It oftentimes is seriously eroded by these and other time demands.

Our proposal seeks to provide the means for long-range planning which elementary teachers consider imperative. Four hours each week seems to be a minimal amount for so important a task. An elementary teacher is the curriculum developer and implementer in Bellevue. Our proposal seeks to further allow the elementary

teacher to operate in that mode. What our proposal seeks to invest into the learning environment is:

- program coordination within the building with other schools
- long-range curriculum development through individual, team or building-wide bases
- greater utilization of specialists
- diagnosing learning needs for individuals
- short-range and long-range planning
- the potential for building-wide or individual in-service
- time for research and reading of professional journals
- evaluation of what we do in our classrooms
- an opportunity to enter into dialogue with peers in either our own building, buildings in the District or perhaps in another district - to talk to, listen and in general be able to share ideas with other teachers about instructional matters crucial to us all.

If teachers are to think through current practices and problems, define areas for investigation, and follow by researching and solving problems, they must have adequate time for their endeavor. The introduction of more flexible building organization, individualization, and team-teaching demands more planning time. Planning time would also be an important morale factor as elementary teachers are the only major group not now having a planning period.

Elementary teachers in Bellevue do not see the need in isolation either. Elementary principals from Bellevue in their "Top Five Program Improvements 1971 - 1972" listed teacher planning time and pupil free time second in priority to reduction of classloads. The principals said they should "establish time during the instructional day when teachers can get together to plan and evaluate instruction." The Washington Elementary School Principal's Association has expressed their concern by passing a resolution at their 1968 convention which requested elementary planning time during the instructional day. (See Appendix VI - Final Report from the Elementary Planning Time Project.) Among all the professional organizations serving education in Washington, the Washington Education Association (WEA) is

largest representing over 40,000 educators. At their representative assembly in 1969 they resolved:

> "That the Washington Education Association go on record as favoring planning periods for elementary teachers and that the Association of Classroom Teachers and the WEA immediately undertake a program of educating all parties in the state concerned with education about the necessity of and methods of implementing planning periods for elementary teachers."
>
> "To the extent that schools continue to free the teachers to use his full in-school time for professional activities, teacher affectiveness will continue to increase; students will receive greater dividends on their tax dollars."

Planning is universally recognized as being essential to the educative process. Elementary teachers are required to teach many different subject areas, all of which are continually increasing in level of sophistication. More planning time for teachers is required. A guaranteed planning period would provide an opportunity for activities which would increase the effectiveness of the teacher and provide a greater richness of experience for students.

Another problem relating to planning time is incorporated in the Association proposal. Junior and senior high school teachers already have planning periods provided during the instructional day. The problem lies in maintaining those periods for planning.

Oftentimes teachers who are free during their planning periods are considered fair game as substitutes for other teachers. This is unacceptable. It is imperative that teachers be guaranteed regular periods for planning on a daily basis, if the quality of instruction is to remain at its presently high standard.

A common practice in the past has been to have a "free" teacher (on his/her planning period) be required to substitute for another teacher who was the track coach or baseball coach. In order to free the coach of their teaching responsibilities and allow them to coach, another teacher has been required to take the

coach's teaching responsibilities. This is an unwise, unfair and unprofessional practice which must not continue.

History

As with other items in dispute little discussion has taken place on planning time. On the few instances when it was discussed, their response has been a simple rejection. There is reasonably strong direction coming from elementary principals from both the local and state level on behalf of the need for such planning periods. Past practice has created the potential for such planning periods. (See Appendix V, Memorandum of Agreement 16, May 1972.)

Had bargaining taken place on this important need of elementary teachers, alternatives to our original proposal could have been discussed (see Appendix II). With the unwillingness of the District to move beyond rejection of our proposal, we are left with that as the Association's final position.

POSITION OF THE DISTRICT

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 10 - PLANNING TIME

The current agreement provides at least five (5) planning and preparation periods within each normal work week. (The normal work week consists of five (5) eight (8) hour days, with starting and ending times determined by the employee and his/her principal or supervisor, based on the program and the schedule.)

The contract calls for some planning time during the instructional week but not all. The other planning/preparation time occurs during the work week.

The distinction between instructional week and normal work week is what causes the problem. By law, we must provide a fixed amount of teacher/student contact time. This is the instruction week and the time that the Association wants planning time to be extracted from.

The District is opposed to reducing the contact time as proposed by the Association (one-half day during each five-day work week) because:

1) Planning time is being provided both before and after students arrive (within the work day).

2) Planning time can be provided when specialists take over a class.

PLANNING TIME IS PROVIDED DURING THE NORMAL WORK WEEK.

FACT FINDING AND RATIONALE

The gist of the Association's proposal is that elementary school teachers be guaranteed uninterrupted planning and preparation time. Specifically, the proposal encompasses the following:

1) Specialists should also have the same planning and preparation time as other teachers.
2) Language of the second paragraph, first sentence, should be amended by changing the reference to "work week" to "instructional week".
3) Elementary students only be released for a half day for each five-day work week so as to provide that half day for planning time on the part of the teachers.
   [It is not too clear how this instructional time lost by curtailing the full five day instructional week to four and one-half days would be accomplished and still retain the same level of total instructional time.]
4) Kindergarten teachers would alternate their planning time between A.M. and P.M.
5) Teachers would not be assigned to substitute duty if that period has been scheduled for planning time. At the outset, there is no reason why specialists should be excluded from this requirement. If planning time is deemed desirable, in general, no reason has been advanced why this group of teachers would not also benefit from such preparation. In view of the fact that specialists may be adversely affected more than others by the new staffing policy, it becomes even

more important that they, as well as others, have the time to plan under the new instructional assignments.

The balance of the Association's proposal seeks to insure that de facto (it has it de jure) preparation time.

It was evident at the hearing that other assigned duties, for example substitute assignments, etc., are making inroads in what is already guaranteed in the contract -- "All teachers shall have at least five planning and preparation periods in each normal work week," and that "efforts will be made to restrict interruptions of these planning and preparation periods."

The remedy is not to add more language (instructional versus work week, etc.) but rather to insist that the provisions of the contract are carried out by insisting on it even to the point of filing a grievance.

From the hearing, it seems that the District is meeting its obligation to provide uninterrupted preparation time by scheduling that time (one-half hour) both before and after the students arrive for instruction. It seems that in practice this does not in fact provide the unfettered time thus assuring what is promised by the contract.

To the extent that other necessary activities inhibit the use of this time for preparation, there is as previously stated a remedy under the grievance procedure. It should be noted that some of the stated interruptions in fact do constitute preparation time, for example, previewing films. This is not an isolated activity. There are many that I view as preparation activities. Perhaps the problem lies in what are preparation activities.

RECOMMENDATIONS

I recommend that the Association's proposals be rejected in part and adopted in part.

1) I recommend that specialists receive the same five preparation and planning periods as other teachers.
2) I recommend inclusion of the Association proposal to the third paragraph, Section 10, which should assure that the substitution duties not be assigned to teachers during their planning and preparation periods.
3) To the extent that no significant administrative problems result, I recommend that kindergarten classroom teachers alternate planning times between A.M. and P.M.

11. ARTICLE VIII

TERMS AND CONDITIONS OF EMPLOYMENT

Section 13A - JUST CAUSE

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 13A. Just Cause

No employee shall be disciplined without just cause. It is expressly understood that the Employer will follow a policy of progressive discipline. Any disciplinary action taken against an employee shall be appropriate to the behaviour which precipitates said action.

The specific grounds forming the basis for disciplinary action will be made available to the employee and the association in writing.

No disciplinary notices more than one (1) year old shall be applied toward future disciplinary actions unless the same offense was committed during the one (1) year period of time.

If an employee receives a disciplinary notice and if such employee goes for one (1) year without further discipline, the notice will be removed from the employee's personnel file.

An employee shall be entitled to have present a representative of the Association during any disciplinary action. When a request for such representation is made, no action shall be taken with respect to the employee until such representative of the Association is present. Further, in the event a disciplinary action is to be taken, the employee shall be advised of the right to representation under this provision of the Agreement prior to the action being taken.

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

11. Article VIII - Terms and Conditions of Employment

Section 13A - JUST CAUSE

The Association's proposal on just cause provides that an employee may not be disciplined except for just cause, and that any discipline shall be appropriate. It covers discipline short of nonrenewal or discharge, which is governed by statute. Such discipline itself has occurred in the past without major problems. However, the procedural aspects of disciplinary action have been handled on an ad hoc basis:

Is an employee entitled to a written statement of the reasons for the disciplinary action?

How long will disciplinary material remain in an employee's personnel file?

What is the effect of past disciplinary actions?

Does the employee have a right to the presence of a BEA representative during the disciplinary process?

Therefore, the major purpose of this proposal is to set forth a procedure.

Written notice of reasons is required to assure that thorough consideration is given to the disciplinary action prior to the time it is actually taken, and to prevent hasty, rash action with after-the-fact rationalization. Written reasons assure that the "why" of the action is clearly communicated, to the benefit of both employer and employee. Written reasons allow the employee fair opportunity to refute false charges or explain mitigating circumstances.

The presence of a BEA representative during disciplinary action is probably required as a matter of law. However, the issue is not as yet settled in this state. The BEA will litigate such right if necessary. The issue is more easily settled by contract. We can think of no reasonable basis for the District's objecting to the presence of a BEA representative whose presence is requested by the employee.

Provisions such as the Association's proposal are found in virtually all labor contracts. The Bureau of National Affairs' survey indicates that 83 percent of all contracts have a provision that allows descipline only after just or sufficient cause

has been shown. Indeed, Bellevue is the ONLY major district in this area not to have a just cause for discipline provision in their contract. (See Appendix II).

This matter was not pushed by the Association in the bargaining which occurred on the first contract. This was due partly to the unfamiliarity of the bargainers with standard contract language and partly due to an unperceived need because of past professional attitudes shown by the school district administrators toward their employees. However, events of this past year have proved the necessity of having the procedures for discipline outlined in the contract. For the first time, the Association has received numerous complaints of unfair treatment by administrators. The heavy-handed management which the District's central office administration is now encouraging has undoubtedly caused this sudden increase in reports of unfair disciplinary action. Furthermore, and unfortunately, the discipline has been unequal and inconsistent from one building to the next.

Clearly, a just cause provision for discipline is now needed for Bellevue's contract. The District, by virtue of its position, decides questions of discipline of employees. Such a provision is needed to protect employees against arbitrary or unjust penalties by the administration. The question is not whether or not the administration has such a right, but whether or not the administrative action was based on just cause. Fair and impartial treatment of all employees is essential to a good disciplinary system. Although such a provision places the burden on the employer, it also assists the employer by creating a mechanism for consistent application of employer policy for all his administrators and employees. Therefore, just cause guides employers so that penalties imposed are the same for all infractions of a like nature and degree of seriousness.

Just cause convinces employees that discipline is fairly and impartially administered Equity in administration of discipline reduces conflict and improves morale. Just cause does not encroach upon the administrator's prerogative to discipline. It insures fair and impartial application where necessary.

It is said to be axiomatic that the degree of the penalty should be in keeping with the seriousness of the offense. Just cause helps maintain that axiom. It is only fundamental fairness in our society that one be given the opportunity to be heard prior to the imposition of a penalty. Often the administration becomes lax or slipshod in its practices, and, when something occurs, a scapegoat is found. Just cause serves to keep the administration vigilant and also keeps employees from careless habits.

History

Like most of the items in dispute, very little bargaining has occurred on this subject. The Association is still unclear as to the reasons why the District is opposed to this section. We can only suppose that perhaps the District is concerned that an arbitrator might rule that disciplinary action taken by an administrator against an employee was unfair. There is some justification for the District believing this might happen. This makes the Association's desire for a just cause provision that much stronger. We must have such a provision if we are to have a complete contract for the certificated staff.

Had the District been willing to bargain this item, the Association would have been willing to compromise its position. At one point, the District did offer the following as a counterproposal:

> "Disciplinary action is appropriate only when there has been an identifiable offense. It will be taken only for cause, will be fair and timely, and will be consistent with applicable law and school district policy." (See Notebook II, Minutes, May 25, 1977, page 3.)

This could have provided the basis for reaching an agreement on language somewhere in between the positions of both parties. Incredibly, however, the Board's chief negotiator later expressed surprise that he offered this language and then later he flatly denied that he did. That left the Association holding to language somewhat close to its original proposal. However, the language that one finds in the contract of other associations in this area (see Appendix II) or in the contract of another employee organization in this district (see Appendix II) could provide the basis for settlement on this issue.

POSITION OF THE DISTRICT

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 13 A - JUST CAUSE (New Association Proposal)

The District is quite certain that the just cause proposal of the BEA is not a standard clause as they profess. It goes far beyond what can be found in a few contracts in the area.

It purports to deal with the very basic premise "no employee shall be disciplined without just cause." What does this mean? They say it means that no employee shall have his/her wages, hours and/or working conditions diminished by disciplinary action that is without merit.

The District feels that those three (3) components are covered by the present agreement and enforced by the grievance procedure. We cannot discipline an employee by (1) reducing wages, (2) reducing hours (thereby reducing wages), or (3) reducing working conditions.

So what is the BEA really talking about? We feel that the thrust of their proposal is twofold: (1) the personnel files, and (2) verbal reprimands.

1. Their proposal for the removal of notices from the files and that no disciplinary notices more than one (1) year old can be applied toward future discipline flies in the face of their progressive discipline statement. The opportunity for the offense for which a disciplinary notice was put in the file may occur cyclically, i.e., each spring.

The District believes that the number of employees who will have such notices placed into their files will be miniscule. However, we feel that the originator of such a notice should say yeah or nay to its removal, and we so proposed.

2. Verbal reprimands often cannot wait for the proper audience to assemble. As a matter of good human relations, they should be in private.

Just cause can and does exist in the District by virtue of its need to exist. The language proposed does not enhance, expand or increase what is.

The law provides each teacher with the protection needed in the area of probation, suspension, nonrenewal and discharge. The contract allays their other concerns.

Personnel files are a separate section of the contract.

JUST CAUSE ALREADY EXISTS IN LAW AND IN THE AGREEMENT.

FACT FINDING AND RATIONALE

As the Association has pointed out, just cause provisions are found in the vast majority of all labor contracts. Ten school districts in the greater Seattle area contain such a provision. (See Appendix 2 of the Association's brief)

The concern expressed by the Association at the hearing centered on the absence of uniformity in the disciplinary process of the District. While it is true that the Association proposal would provide some procedural consistency in disciplinary matters, it does not establish a formula to determine the disciplinary sanction. The term "just cause" evades definition; few labor observers have been bold enough to attempt definition. The District stated at the hearing that "just cause" does exist in the District as the criterion. I see no difficulty, then, in declaring that to be the norm.

I also believe that the Association's proposal regarding personnel files is meritorious. This is a common provision in other Districts in the Seattle area. Such a provision provides incentive to the individual to correct his conduct. Further, the procedure should be automatic and not as the District contends subject to the approval of the originator of the notice. Such an approval process would leave open the possibility of arbitrary or capricious action.

Finally, I do have some difficulty with the last paragraph of the Association's proposal. While representation should be available for formal disciplinary action, I do not believe it is essential in all instances. Several other districts so provide. Nor do I view what I term as the "Miranda proviso" necessary. It can safely be assumed that certificated employees are professionals

and are aware of any desired representation by the Association. Further, in some instances, such a requirement could pose a substantial delaying factor.

One additional matter requires mention. While the Association made it clear to me at the hearing that the proposal will not affect the statutory disciplinary procedures in the areas of suspension, discharge and non-renewal, I feel that this fact should be incorporated in the contract including it as the final paragraph of the proposal. Most of the other districts containing the "just cause" section have such a provision.

RECOMMENDATION

I recommend that the Association's proposal be adopted with the following modifications:

1) That Association representation be provided as a matter of right only if requested and it involves more than a mere verbal warning.

2) An employee need not be advised of any right to Association representation.

3) A clause limiting the application of the section to matters short of suspension, discharge and non-renewal, be included, to avoid any possible misunderstanding.

12. ARTICLE VIII

TERMS AND CONDITIONS OF EMPLOYMENT

SECTION 15 - RETIREMENT

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 15. Retirement

~~Certificated employees who reach the age of 65 by 1 July are automatically retired during that year. Under this Agreement, an employee is retired at the end of the school year in which s/he reaches her/his 65th birthday.~~

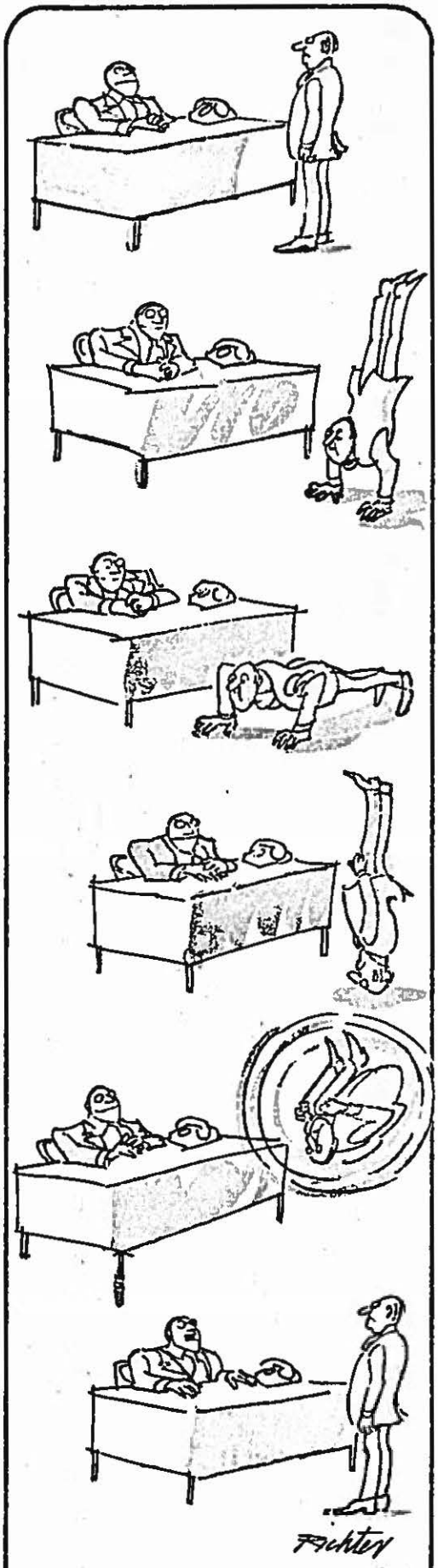
There shall be no mandatory retirement age for a certificated employee in the Bellevue School District. Certificated persons employed by the Bellevue School District may remain employed as long as they are judged competent by their immediate supervisor.

POSITION OF THE ASSOCIATION

12. Article VIII - Terms and Conditions of Employment

Section 15 - RETIREMENT

The Bellevue Education Association proposes that there shall be no mandatory retirement age for certificated employees in the Bellevue School District. The Association contends that the only ethical and legal reason justified in requiring a person to relinquish their job, other than the commission of a felony or gross misdemeanor, is that they have been proven to be incompetent to the degree that they are not conforming to established minimum standards. To require that a person automatically give up their job on the basis of their age, without consideration to the performance ability of that individual, is clearly discriminating against that individual on the basis of age. Congressman Claude Pepper of Florida states, "Ageism is as odious as racism and sexism." He and Congressman Paul Findley of Illinois have introduced a bill in the House of Representatives, co-sponsored by 160 other congressmen from both parties, which would eliminate entirely the Federal retirement age of 70. Comparable bills are in the Senate. Congressman Pepper has pointed out that, "Mandatory retirement arbitrarily severs productive persons from their livelihoods, squanders their talent, scars their health, strains an already overburdened Social Security system and drives many elderly persons into



'I'm sorry, Blakely, but you know perfectly well there can be no exceptions to our policy of mandatory retirement'

poverty and despair." (Time, August 8, 1977)

Countless individuals have demonstrated their on-the-job effectiveness beyond the age of 65 in a diversity of roles. For example, who wants the responsibility of informing George Burns, 81, Margaret Mead, 75, Leopold Stowkowski, 95, that because of their age they are no longer needed. The Association believes that in those cases, as in education, if a person is competent in his/her performance, they should not be mandatorily retired.

It should be pointed out that most people in our Association, who are fully qualified for retirement benefits, prefer to retire at age 65 or the qualifying age. The important thing is that retirement be a matter of choice and that people be allowed to remain if they are competent.

History

As with most items in dispute, a minimal amount of bargaining has been done on this proposal with the District simply stating that they prefer mandatory retirement.

POSITION OF THE DISTRICT

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 15 - RETIREMENT

The Association has proposed that retirement be at the choice of the individual, with no age limit, and that the only basis for mandatory retirement would be the demonstrated or proven incompetency of the individual. In essence, the Association's proposal would remove the retirement section from the agreement.

The 1976-77 agreement contains a provision that the certificated employee who reaches the age of 65 by 1 July is to be automatically retired at the end of the school year of that contract year. The 1976-77 language was proposed by the Association as a way of solving problems experienced with a previously negotiated policy which allowed for exceptions to mandatory retirement at age 65.

It is difficult to argue against a proposal which on the surface appears to be a humane response to the few who would elect to continue service beyond age 65; however, the District maintains that mandatory retirement at 65 is fair and equitable, and that the reasons for the 1976-77 provision continue to apply.

The retirement program in this state is such that very few persons would have reason to continue teaching to age 65. Several have, however, over the years; and in most cases not because they were financially unable to retire but because of their personal desire to continue a life pattern long established. In the case of such a person who also is unable to competently perform the regular duties and responsibilities of his/her position, the District believes

it would be terribly demeaning to force retirement by imposing probation and proving cause for nonrenewal of contract for reason of incompetency.

The Association and the District have acknowledged in their agreement that provisions contained are subject to nullification by laws to the contrary. Until or unless legislation rescinds a mandatory retirement at 65 policy, the District maintains that the present language should continue.

IN CONJUNCTION WITH EXISTING RETIREMENT LAWS, THE CURRENT PROVISION IS FAIR AND EQUITABLE.

FACT FINDING AND RATIONALE

This is a particularly emotional issue. Congressional revision of the Federal retirement age is pending. The position of the State of Washington is unclear. In light of this uncertainty, I feel that a "wait and see" approach is appropriate in order to reflect upon and evaluate any statutory action.

One very troublesome area is found in the implementation of the competency determination. Just how this determination is to be made is unresolved. Deferral to the pending Congressional action could provide some guidance.

RECOMMENDATION

I believe it is unwise to act on the Association's proposal at this time because of uncertainty in the law.

13. ARTICLE VIII

TERMS AND CONDITIONS OF EMPLOYMENT

Section 16 - SENIORITY STATUS OF CERTIFICATED STAFF

&

Section 17 - PROGRAM, SERVICE, AND STAFF ADJUSTMENT CONSISTENT WITH ASSURED FINANCIAL RESOURCES

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 16. Seniority Status of Certificated Employees

16.1 A certificated employee's "seniority status" shall consist of such certificated employee's relative seniority within an appropriate seniority class as compared with the seniority of other members of such class for purposes of position placement in cases where position placement is governed by seniority.

16.2 Seniority Classes Shall Include:

16.21 A class consisting of the District's elementary teachers teaching kindergarten through grade 6;

16.22 A class consisting of the District's secondary teachers teaching grade 7 through grade 12;

16.23 Classes consisting of regularly certificated employees performing special services within the District such as ~~administrators, supervisors of instruction~~ such as counselors, librarians, reading specialists, music specialists, and other specialties for which there are specific certification and/or training requirements or requirements established by external regulations or requirements established by unique characteristics of a position.

16.3 A certificated employee's appropriate seniority class shall be that class in which s/he is functioning or was functioning at the time her/his seniority is determined. In addition, by written request made to the Personnel Office, a certificated employee's seniority class shall include any other seniority class in which s/he is qualified, by reason of holding the requisite certificate or certificates, to perform the services performed by such class.

In no instance shall an administrator hold a position of seniority which is competative with any of those classes listed in 16.21, 16.22, and 16.23.

16.4 A certificated employee's seniority status within her/his appropriate seniority class or classes shall be determined by her/his total number of years in education as established by application of rules used in crediting experience on the salary schedule, with the person having the larger number of such years having the higher seniority status and the person having the smaller number of such years having the lower seniority status. In the case of two (2) persons having an equal number of such years, seniority status shall be determined by the number of hours of academic credit beyond the B.A. degree which are recognized by the District for purposes of placement on the salary schedule, with the person having the greater number of such hours having the higher seniority status and the person having the smaller number of such hours having the lower seniority status.

In the case of two persons having an equal number of such years and such hours of academic credit beyond the B.A. degree, the tie shall be broken by a lottery as follows:

Slips of paper bearing the month and number for each day of the year (for example, January 1, June 19, February 29, etc.) shall be placed in a container and drawn one by one by an impartial third person. The order of the drawing of each date will be recorded. A tie between persons will be broken by comparing the month and day of the birthdate of each person to the order of lottery dates as drawn, and the person with the birthdate equivalent to the lottery date drawn later in time shall have the lower seniority status.

16.5 The BEA will have such opportunity to view personnel records as is required to permit monitoring of the implementation of this section.

Section 17. Program, Service, and Staff Adjustments Consistent with Assured Financial Resources

The Board of Directors has the responsibility of establishing educational programs, services, and staffing in accordance with the District's educational policies and goals and consistent with assured financial resources.

In the event that the assured financial resources of the District are known to be inadequate to permit the District to maintain its program and services at the same levels for the next ensuing term, the Board, having made such a determination, shall direct the administration to develop a plan consisting of programs and services which is consistent with assured financial resources.

The purpose of this Section is to establish the procedures and criteria to be followed in developing and implementing the above plan in the event of significant revenue loss. Any determination by the Board that certificated staff of the District should be reduced for the next ensuing school term for reason of financial necessity shall be made pursuant to the provisions of this Section. Reduction in certificated force may include both termination from employment and reassignment and may also include decreasing duties and compensation of retained employees. This Section, however, shall not preclude the Board from reducing certificated staff for other significant reasons; but, in the event reduction is necessary, Subsections 17.4 and 17.6 of this Section shall be followed.

Mandatory retirement, and approved resignations and leaves, will be taken into account before action to reduce employees according to provisions of this Section is taken. State law and due process shall be adhered to in cases of staff reduction or adverse affect of contract. The following procedures are to be utilized to accomplish the required adjustments.

17.1 Definitions

17.11 For purposes of this Section, the following definition of terms shall be applicable.

17.111 "Current term" means the school and/or contract term when the selection of a person for involuntary termination/adverse affect of contract is made by the District.

17.112 "Next ensuing term" means school and/or contract term after the current term.

17.113 "Following term" means the school and/or contract term after the next ensuing term.

17.114 "Employee on leave of absence status" means an employee of the District who is not currently performing duties in relation to the District but who has a specified relationship to the District.

17.115 "Full employment status" means an employee of the District now performing services and receiving compensation therefore in the normal course of District affairs.

17.116 "~~Nonadministrative~~ Certificated employee positions" are all positions on the teachers' salary schedule at the time of implementation of this Section

17.117 "Administrative positions" are all positions not on the teachers' salary schedule at the time of implementation of this Section.

17.118 "Section" means this Article VIII, Section 17, Program, Service, and Staff Adjustments Consistent with Assured Financial Resources.

17.2 Program, Service, and Staff Adjustments

17.21 Program, service, and staff adjustments that are required to implement this Section shall be accomplished by adjusting, reducing, or if necessary, eliminating program and services. Procedures for implementing this Section shall include:

17.211 Prior to invoking this Section, the Superintendent will provide the Bellevue Education Association (BEA) with a written notice defining and explaining the significance of the loss and why the Section has to be initiated.

17.212 Upon timely request from the BEA, the District will provide access to all the data, including work sheets, upon which the administration and the Board rely in determining that the financial resources of the District will not be adequate to maintain its program and services at substantially the same levels for the next ensuing term. Such requests will be granted at a reasonable time prior to Board action at a meeting involving representatives from both parties.

17.22 The effect upon the students in the classroom is of utmost importance; therefore, programs, services, and staff positions should be retained in a manner which minimizes the consequences of the reduction upon students.

17.23 In making budget reductions, highest priority will be placed on maintaining programs and services in those areas which relate to the instruction, health, and safety of students.

17.24 The District will maintain cash reserves and cash balances at necessary levels consistent with sound financial practices as evidenced in previous years.

17.25 In making such reductions, state and federal statutes, Washington Industrial Safety and Health Acts requirements, Washington Administrative Code provisions, Health Department requirements, and federal and state affirmative action requirments will be complied with.

17.26 When revenues are categorical and depend upon actual expenditures rather than budget amounts, every effort will be made to maintain these programs to the limit of this categorical support.

17.27 Every effort will be made to comply with state apportionment requirements and minimum state accreditation requirements.

17.28 When it is determined that such financial resources are not reasonably assured for the next ensuing term, the Board of Directors shall adopt a reduced program consistent with Subsections 17.22 through 17.27 and, as far as practicable, in the following priority of reduction:

(1) Nonstaffing costs:

(1.1) Extended and supplemental contracts, released time, and paid leaves of absence.

(1.2) Nonsalary items such as books, supplies, equipment, and contractual services.

(2) Noninstructional support services such as maintenance, custodial operations, and nonfunded transportation costs.

(3) Area and central certificated instructional support services.

(4) Instructional programs (includes building instructional support staffing.)

(5) Categorically funded programs.

17.29 Prior to adoption of a reduced program plan, representatives of the District will discuss such plan with representatives of the BEA. Such discussion will be conducted within reasonable time limitations and will be conducted with the goal of reaching mutual understanding which might result in a common plan. Following these discussions, the Board will adopt a plan for program, service, and staff adjustments which may be necessary.

17.3 Staff Retention and Adjustment

17.31 In the event that it is necessary to reduce the number of certificated employees, the following procedures will be strictly adhered to:

17.311 All certificated employees who reach the age of 65 by 1 July shall be automatically retired at the close of the current contract term without exception.

17.312 The Personnel Office will notify all certificated personnel of the eligibility standards for state teachers' retirement.

17.313 The District's affirmative action program and goals will supersede seniority provisions as set forth in Subsection 17.44.

17.314 Based on the plan adopted in Subsection 17.28, the District will determine the number of employees who will be retained for the next ensuing term, taking into consideration approved resignations and retirements.

17.4 Certificated Staff Reduction

17.41 In the event it is necessary to reduce the number of certificated employees for any reason identified in this Section, those certificated employees who will be retained to implement the District's reduced or modified plan and those certificated employees who will be involuntarily terminated from employment or whose contract will be adversely affected will be identified by using the criteria and procedures specified in this Subsection 17.4.

17.42 The following job categories and specialties are established to insure the qualifications of personnel assigned to retained positions, to allow for the least disruption of the ongoing program, and to cause the least deviation from the present assignment of personnel:

17.421 ~~Nonadministrative~~ Certificated Employee positions - general:

Class A - All K-6 positions except those specified as Classes C, D, E, F, H, and L.

Class B - All 7-12 positions except those specified as Classes C, D, E, G, I, J, K, and L.

17.422 ~~Nonadministrative~~ Certificated Employee positions -- specialists"

Class C - K-12 communication disorder specialist

Class D - K-12 psychologist

Class E - K-12 counselor

Class F - K-6 special education

Class G - 7-12 special education

Class H - K-6 librarian

Class I - 7-12 librarian

Class J - 9-12 vocational education (to be subdivided by specific areas qualified for by certification)

Class K - 10-12 traffic safety

Class L - Those persons not certificated in Class A through K above

~~17.423 Administrative positions -- one seniority class for each salary level.~~

17.423 ~~17.424~~ The foregoing position-seniority classes are inclusive and shall not be added to, subtracted from, or in any way changed without the written agreement of the District and the Association.

17.43 A person shall be placed in each position-seniority class as identified in Subsection 17.42 for which s/he is qualified.

17.431 A person shall be qualified for placement in each position-seniority class by having the requisite teacher's certificate, ~~administrator's certificate~~, or other certificate required by the State Board of Education ~~or, in case of administrators, by having at least one (1) year of experience in that class by the end of the current contract term.~~

17.432 ~~No administrator will be considered for retention in a position-seniority-class for which s/he has not been contracted for at least one (1) year by the end of the current contract year except that secondary principals shall be qualified to become assistant principals. No administrator shall be considered for retention in a position-seniority class of a higher rank than the position held by such employee at the time of implementation of these procedures. The District's salary structure as of the time of the implementation of these procedures shall determine whether a position is "of higher rank" than the position currently held by the employee.~~

17.433 A person may qualify for more than one class.

17.44 If the contracts for all persons in a specific position-seniority class cannot be renewed, selection of which individuals in the class are to be involuntarily terminated shall be made in order of seniority status of each individual in the class (see Subsection 17.45 below). Those with the lowest seniority status shall be selected first; provided that, for purposes of affirmative action commitments, a person designated as a racial minority, ~~or women in administration~~, pursuant to the District's affirmative action program, shall be exempt from selection for involuntary termination ~~or demotion~~.

17.45 Selection of specific individuals for involuntary terminatic or adverse affect of contract shall be made pursuant to the seniority provisions of Article VIII, Section 16 of this Agreement. A single lottery shall be conducted promptly after the first time it is determined that a staff reduction is necessary, and the results of that lottery shall govern for a period of at least three (3) years.

17.46 All certificated persons who are not recommended for retention in accordance with these procedures shall be terminated from employment and placed in a recall pool for up to two (2) school terms (the next ensuing and following school terms as defined above) with the right of recall to employment by the District as specified in Subsection 17.6.

17.5 Program Reinstatement

17.51 If, after taking action to reduce programs, services, or number of positions, sufficient additional revenue becomes available to the District making restorations possible, procedures detailed in Subsection 17.6 will be followed.

17.52 Prior to adoption of a restoration plan, representatives of the District will discuss such plan with representatives of the BEA. Such discussions will be conducted within reasonable time limitations and will be conducted with the goal of reaching mutual understanding which might result in a common plan. Following these discussions, the Board will adopt a plan for program, service, and staff restoration which may be necessary.

17.6 Selection of Persons for Recall

17.61 Persons eligible for recall shall be referred to collectively as the "recall pool."

17.62 The recall pool personnel will be given the opportunity to fill open positions within the categories or specialties identified in Subsection 17.42 for which they are qualified under Subsection 17.43. If more than one such employee is qualified for an open position, the criteria set forth in Subsections 17.44 and 17.45 as modified by 17.65, shall be applied to determine who shall be offered such position.

17.63 Each person in the recall pool shall be deemed an employee of the District on leave of absence status, with right to reemployment when a position for which s/he qualifies becomes available as specified in the following subsections.

17.64 In the event that the District needs to hire certificated employees for job positions for the next ensuing term, or the following term, the District shall hire certificated persons exclusively from the recall pool as specified in the following subsections; provided, however, if there is no qualified person in the recall pool, the District may hire a person from without the pool.

17.65 Persons shall be selected for recall to employment from the recall pool pursuant to Article VIII, Section 16 of this agreement and as supplemented by the provisions of this Subsection 17.65.

17.651 The appropriate position-seniority classes for purpose of selection for recall to employment shall be the position-seniority classes specified in Subsection 17.42.

17.652 When a vacancy in a position occurs, selection of which individual in the appropriate position-seniority class is to be recalled to employment shall be made in order of seniority status of each individual in the class, those with the highest seniority status being selected first. Provided, however, at each time the District makes a reduction in its certificated staff, the number of persons terminated from employment (subject, of course, to recall rights) shall be determined. Ten percent of this number, rounded to the nearest whole integer, shall be designated the "Class B recall number," and five percent of this number, similarly rounded, shall be designated the "general recall number." The District, in its discretion, may select the "Class B recall number" of persons from the recall pool for Class B positions (see Subsection 4.21) and the "general recall number" of persons for all other positions, on a basis other than seniority status, subject to the following restrictions on such discretionary selections:

17.6521 Such discretionary selections shall be made by the Personnel Office and not by the building administrators.

17.6522 Such discretionary selections shall be utilized in situations similar to the following:

17.65221 To fill a position which involves services which are in more than one subject area, speciality, or discipline, or

17.65222 To fill a demonstrably unique position, or

17.65223 To prevent disruption of established assignments after the beginning of a school term which would be clearly unsettling to students, or

17.65224 To hire a person from outside the recall pool in the event no one in the appropriate class in the pool is qualified for the position.

17.6523 When two or more persons are equally qualified for a vacant position, such discretionary selection will be limited to the person with the highest seniority status. In the event of a tie in seniority status, the tie will be broken in accordance with Subsection 17.45 of this agreement. A person shall be deemed qualified for a position if s/he has fifteen (15) college credits, a minor, one (1) year's experience, or the equivalent in the judgment of the Personnel Office in the subject or service area to be performed in the position.

17.6524 The District shall not intentionally utilize its discretion to create particular positions in order to select individuals with lower seniority status than other available persons thus circumventing seniority status as a primary criterion of recall selection.

17.6525 The District shall provide the BEA, upon making such discretionary selection, with the name of the person selected and a written statement of reasons for the selection.

17.653 Upon selection of a person for recall as set forth in Subsection 17.652 above, the District shall notify the individual of the selection by certified or registered mail. The individual will have eight (8) calendar days from posting of such notification to accept employment in the position. Persons in the recall pool shall be responsible for maintaining their current mailing addresses and telephone numbers with the District. The District shall also immediately notify the BEA of the selection.

17.654 In the event that the District, exercising due diligence, is unable to notify the person selected for recall within eight (8) calendar days of the date of selection, or in the event that the person declines employment in the position, then the District shall select the person next in order for recall and notify her/him of the selection as set forth above. A person who fails to notify the District of intent to accept the position offered within the eight (8) calendar days above shall have no right to placement in the position.

17.655 So long as persons remain in the recall pool in the appropriate position-seniority class, the District shall not hire persons from outside the pool.

17.656 If a person who held a contract for full-time employment which was nonrenewed is recalled to part-time employment, s/he shall nevertheless remain in the recall pool until such time as s/he is given a full-time employment contract or until her/his recall rights expire.

17.657 A person in the recall pool shall be placed in additional position-seniority classes if at any time s/he obtains the requisite qualifications for placement in such classes which are specified in the Subsection 17.656 above and makes written application for such placement. Upon placement in an additional class, the person shall receive a seniority status in that class which is lower than all persons placed in the class at the time of involuntary termination. As among themselves, persons placed in a class after involuntary termination because they obtain additional qualifications hereafter shall receive seniority status in order of application for placement; the one applying first shall have the higher seniority status. The provisions of the Subsection 17.657 shall apply notwithstanding Article VIII, Section 16 of this agreement.

17.658 If a person in the recall pool fails to accept a position for which s/he is eligible pursuant to the foregoing subsections, such individual will nevertheless remain in the recall pool without loss of status; provided, however, that no person shall remain in the pool for more than two (2) school terms. At any time a person may request that her/his name not be called for a period of up to one (1) year. Thus, holding a person's name in abeyance in the pool does not subject that person to loss of status in the recall pool.

17.659 The District shall employ persons in the recall pool as substitute educators prior to the employment of any other person as a substitute educator; provided, however, that no penalty may be assessed against the District in the event a pool employee is not offered such position through an unintentional error or omission of a District employee.

17.7 Assignment

17.71 Effective immediately with the action of the Board of Directors to reduce staff and services in accordance with these procedures, all certificated personnel retained or recalled as employees for the next ensuing term shall be unassigned with regard to work location and specific job assignment in accordance with normal reassignment and transfer policies.

~~17.711 Determination of the work location(s) of each certificated employee will be made by the Personnel Office, which shall not be bound to compliance with assignment, reassignment, and transfer policies in effect at the time of implementation of these procedures.~~

~~17.712 Assignments of specific job responsibilities will be made by the certificated employee's immediate supervisor.~~

~~17.713 In making decisions to change work locations or to change assignments of certificated employees, the administrators responsible for such decisions will give consideration to each of the following:~~

~~17.7131 The best interest of the District will be of major concern.~~

~~17.7132 Good cause, which shall relate to the instructional programs(s) or programs(s) affected, will be evident.~~

~~17.7133 Employees affected will not be assigned to positions for which they are not qualified by experience and/or preparation.~~

17.711 ~~17.714~~ If, upon being notified of a change in work location or assignment, the employee believes such change to be a material one, s/he may request that reasons for the change be given in writing and may file a grievance pursuant to the District's grievance policy.

~~17.715 After October 1 of the next ensuing term, normal assignment policies will be applicable.~~

17.72 Annual evaluation of the employee assigned outside her/his major area shall bear the notation that the assignment upon which s/he being evaluated is made pursuant to this section.

17.8 Special Leaves

17.81 Each person who does not receive a notice of intent to involuntary terminate her/his contract and who has at least one (1) year of experience in the District may apply for a one (1) year special leave of absence without pay. The Board will approve leave for an applicant if the granting of such leave would eliminate the necessity for the involuntary termination of another certificated employee or if the person requesting such leave can be replaced by a qualified person in the recall pool.

17.811 A person may request a leave of absence for the next ensuing term at any time prior to 1 October of the next ensuing term.

17.812 Certificated employees taking a one (1) year leave of absence shall be responsible for providing the Superintendent, or their designee, with their mailing address and any changes thereof during their leave period.

17.813 A person taking the leave herein provided shall be an employee on leave of absence status during the next ensuing term. At the end of the next ensuing term, unless involuntary termination is again necessary as specified above, the District shall be obligated to employ the person.

17.8131 On full employment status in a position and on a time basis equivalent to that held by other employees similarly contracted and situated.

17.8132 On contractual terms identical to those held by other employees similarly situated who took no leave of absence; provided, however, that no experience credit shall be given for compensation purposes for the year the employee was on leave.

17.814 If it is again necessary to involuntarily terminate the contracts of certificated employees for reasons other than unsatisfactory performance during the next ensuing term for the following term, the District shall make no distinction in making termination selections between the employees on full employment status and employees on leave of absence status. In particular, a person will not lose seniority status by taking leave of absence pursuant to this Section.

17.815 No person on leave of absence pursuant to this Section shall be replaced by a person on a one (1) year nonrenewable contract unless there is no one in the recall pool qualified to take her/his position.

17.9 Open Decision on Selection

17.91 The District shall make all decisions for selection of persons for involuntary termination or adverse affect on contract or recall according to state law. The District shall keep the Association fully apprised and informed throughout the selection process. The BEA shall have access to all information allowed by state and federal law which is required to monitor the selection process to insure compliance with the provisions set forth herein.

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

13. Article VIII - Terms and Conditions of Employment

Section 16 - SENIORITY STATUS OF CERTIFICATED STAFF
&
Section 17 - PROGRAM, SERVICE, AND STAFF ADJUSTMENT CONSISTENT WITH ASSURED FINANCIAL RESOURCES

The contract between the Bellevue School District and the Bellevue Education Association spells out the rights and obligations for the teachers in the District. The contract should not provide for the job protection of members of another bargaining unit - the administrators. The Association proposal on this matter simply eliminates the opportunity for members of one bargaining unit - the administrators - to bump members of another bargaining unit - the teachers - out of a job should the District be forced to lay off personnel in an economic crisis.

Since the above rationale sounds logical, why did the Association agree to the language in the present contract which permits "bumping." The answer is very simple. Until last summer, administrators were represented by the Association. However, they then opted - after considerable District pressure - to leave the Association. Therefore, the Association feels no further obligation to protect administrators in the teachers' contract. Indeed, because there is no longer a collegial relationship between administrators and teachers and with the apparent increased emphasis on heavy-handed management, teachers are especially anxious to eliminate the possibility of having administrators take over jobs formerly held by teachers. Administrators made a conscious move to leave teaching when they entered administration. Administrators should not expect to have the double protection of their own agreement with the Board and the one which exists between teachers and the Board.

The Association is also aware of the disaster which could befall it should teachers be RIFed due to an economic crisis only to be replaced by an administrator.

This happened in Seattle after their double levy failure. Affected teachers looked to their association as the culprit. An interesting phenomenon was the spectacle of teachers, when recalled to teaching, walking across the street to the Seattle Teachers Association and cancelling their membership. The reason often given was that the STA had not bargained a provision that prevented administrators from taking over teaching positions. The STA lost a large number of members due to this. Absent an agency shop provision, this is the kind of thing that can, and obviously does, happen.

Last year, teachers permitted administrators to be protected in their contract in RIF situations. Provisions which enable this to happen are clearly permissive rather than mandatory subjects of bargaining. Now the teachers are proposing to eliminate this protection from their contract. Should we be able to reach agreement on other subjects and should the Board persist in demanding inclusion of this item in the contract, the Association will have to file a complaint as provided by WAC 391-30-554.

History

Like most items presently in dispute, very little discussion has taken place on this matter. The District has simply indicated that, should we succeed in getting this proposal adopted, they will simply "over RIF" teachers and then hire RIFed administrators to take their place. The Association - with some legal opinion justification - believes that the District will not be able to do this, given the proposed language in the seniority provision. Regardless, if the Board attempted to do this, the Association would feel obliged to file suit in what would undoubtedly be a lengthy and costly case.

POSITION OF THE DISTRICT

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 16 - SENIORITY STATUS OF CERTIFICATED EMPLOYEES

Section 17 - PROGRAM, SERVICE, AND STAFF ADJUSTMENTS CONSISTENT WITH ASSURED FINANCIAL RESOURCES

The Association has proposed that previously negotiated provisions of Sections 16 (Seniority Status of Certificated Employees) and 17 (Program, Service, and Staff Adjustments Consistent with Assured Financial Resources) of Article VIII be modified to exclude any reference to certificated administrators. The Association's argument appears to be based upon two considerations: a) that it is not mandatory that the collective bargaining agreement contain provisions relating to the terms and conditions of employment of administrators; and, b) that the language contained in these two Sections protects administrators to the disadvantage of teachers.

With respect to the status of the existing language as pertaining to a mandatory versus permissive subject for bargaining, it should be noted that the comprehensive bargaining agreement in effect during the 1976-77 year contains several subjects which the District contends are "permissive" subjects for bargaining. That these <u>were</u> bargained and so appear in the agreement is fact; and, the District has not insisted on the withdrawal or modification of any of these items unless the provisions <u>have caused unexpected problems</u> for one or both of the parties to the agreement. The District does insist that the seniority and staff adjustment provisions (i.e., Sections 16 and 17) remain as in the bargaining agreement currently in effect. Section 17 has never been fully implemented, and Section 16 has been applied only in the determinations of building certificated employees for transfer purposes. To the extent that each has been applied

to planning or in implementation, it has worked as intended and as designed.

The District has legal and policy obligations to the employment status of all certificated staff members, whether or not they are members of the Association. In a program, service and staff reduction sequence, the reassignment of a certificated administrator to a subordinate position, as defined and regulated by statute, may result in that person being represented by the Association. Such action might indeed have bearing on the status of persons already represented by the Association. In order to accommodate both circumstances, the District believes it essential that the existing provisions of Sections 16 and 17 remain.

The 1976-77 collective bargaining agreement contains three sections which speak to terms and conditions for all certificated employees, that is, including administrators. One section, that pertaining to evaluation, has been modified through bargaining to be in accordance with new legislation. A part of that legislation established special provisions pertaining to the performance criteria and procedures for the evaluation of administrators, so it was appropriate to delete from the contract any reference to administrative evaluation.

Such is not the case with either of the sections dealing with seniority and staff adjustments. To the contrary, retaining the language of these two sections is essential to the integrity of the procedures and to the protection of all certificated staff.

THAT WHICH WAS A PROPER SUBJECT FOR BARGAINING IN 1976-77 IS SURELY SO IN 1977-78 IF OTHER CIRCUMSTANCES REMAIN THE SAME.

THE ABSENCE OF ANY EVIDENCE WHICH WOULD INDICATE THAT THE AGREEMENT IS NOT WORKING NEGATES NEED FOR CHANGE.

TO ASSURE PROPER PROTECTION OF ALL CERTIFICATED EMPLOYEES, THE LANGUAGE OF SECTIONS 16 AND 17, ARTICLE VIII, MUST REMAIN.

FACT FINDING AND RATIONALE

The present difficulty has resulted from the severance of the administrators from the bargaining unit. The Association argues that in light of this fact, it is anomalous for administrators to accrue seniority rights under the contract.

I agree. The Association need not protect administrators. In fact, the retention of these provisions operate to jeopardize seriously the seniority rights of the certificated teachers and to undermine the effective representation of the unit by the Association.

It should be noted, however, that the parties have not addressed themselves to a very serious problem.

While it is possible to eliminate accruing seniority and rights of bumping pursuant to the prospective aspects of the contract, the parties should be made aware of the fact that these supervisors have in the past accrued seniority. What is the effect of this accrued seniority in the past? It could well be that individuals who have accrued seniority in the past, whether as supervisors or certificated employees, nevertheless have achieved a vested interest to that extent. I do not feel that eliminating the supervisors from the seniority provision at the present time presents any problems, other than the one that has been alluded to.

It should be further noted that the proposal of the Association includes the deletion of several paragraphs that deal with the question of the right and policy of the District concerning assignment.

There was no discussion of this aspect of the proposal at

the hearing and while it is true that the Association indicated that it might not discuss all aspects of their various proposals, nevertheless I feel that this aspect of the proposal is undesirable. In any event, the fact that it was not emphasized at the hearing suggests to me that possibly the Association has lost interest in this aspect of the proposed change.

RECOMMENDATION

I recommend that the Association's proposals eliminating the seniority rights of certificated administrators be adopted.

I also recommend that the proposed deletions mentioned in Section 17 by the Association not be adopted and that the existing language remain effective.

14 & 15 ARTICLE VIII

TERMS AND CONDITIONS OF EMPLOYMENT

Section 23.1 - FACULTY SECRETARIES

Section 23.3 - HIRING AND EVALUATION OF AUXILIARY PERSONNEL

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 23. Auxiliary Personnel

Auxiliary personnel employed by the District shall perform nonprofessional duties that would otherwise be requested or required of teachers. In addition, the District may employ auxiliary personnel to provide supporting services to certificated employees.

23.1 Each faculty shall have at least one secretary assigned solely to the certificated staff for assistance in carrying out teachers' programs.

23.2 ~~23.1~~ Auxiliary personnel shall be hired in addition to certificated employees and work under their supervision.

23.3 Staffs shall be directly involved in the hiring and evaluation of auxiliary personnel assigned to their school or department.

23.4 ~~23.2~~ Auxiliary personnel may work alone with students, but responsibility and accountability for their instructional activities shall rest with the certificated employees who supervise their work, since certificated employees have responsibility and accountability for all groups of students enrolled in instructional programs offered by the Bellevue Public Schools.

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

14. Article VIII - Terms and Conditions of Employment

Section 23.1 - FACULTY SECRETARIES

The Association is proposing that each faculty shall have at least one full-time secretary assigned solely to the certificated staff for assisting teachers in the educational program. The need for such assistance has been long recognized by certificated employees in the District and a number of schools have had faculty secretaries. The problem is that the funding for these positions has either come from the building budget or the F.T.E. staffing allocation. The principal of the building may arbitrarily decide that the staff doesn't need a faculty secretary and cut off the source of funding. As a result, some schools have faculty secretaries and others do not. Obviously this creates inequitable working conditions for those employees without the services of a faculty secretary. Traditionally the District has provided a secretary for the principals, the assistant principals, and the counselors. Now the Association is asking that a clearly defined provision be made in the contract for those who are really the prime movers in the dynamics of education, the faculties. The Association is proposing that this position become a part of the basic building allocation within the District.

The importance of this proposal from an educational standpoint should not be taken lightly. The record in schools that have had faculty secretaries shows that they play a vital role in freeing the teacher from many of the clerical and stenographic tasks, allowing the teacher to devote greater attention to students and the curriculum.

The Association considers this item to be an important need that the District is capable of providing.

History

There has been very little discussion with the District on this item. The

District in their impact statement says the District does not wish to increase staff. As in the case of the majority of unresolved proposals, the District has never taken time to listen to the Association's rationale for the need of this proposal, nor have they given a valid rationale for their rejection of the proposal.

RATIONALE AND BACKGROUND

15. Article VIII - Terms and Conditions of Employment

Section 23.3 - HIRING AND EVALUATION OF AUXILIARY PERSONNEL

The Association is proposing that certificated personnel - including teachers - be given the contractual obligation and right of full supervision over those auxiliary personnel assigned to them.

State law requires that only certificated employees are accountable for what goes on in the classroom. Auxiliary personnel may or may not be certificated. Regardless, they cannot be legally held responsible for what goes on in the classroom. They are to be supervised by a certificated person who in most cases is a duly recognized classroom teacher.

The District has indicated their willingness to agree to language which permits teachers to be involved "as appropriate" in the hiring process of auxiliary personnel; however, not in the evaluation of these same people. How can teachers be held accountable for what goes on in their classroom if they have no control over the behavior of those they are required to supervise. And yet, teachers are held accountable for their classroom through an evaluation procedure. Building administrators have clear supervisory obligations and rights when it comes to teachers. It is ironic that the Board denies these same obligations and rights to the teachers who are required to supervise certain employees under their jurisdiction. It is further ironical that the evaluation procedure agreed to between the two parties provides for the involvement of teachers in the evaluation of other teachers. Why is this not permitted when it comes to auxiliary personnel?

History

Unlike other items, there has been some discussion on this one. The District's

last proposal reads as follows:

> "Certificated employees will be involved, as appropriate, in the selection of auxiliary personnel."

The Association's objections to this are the words "as appropriate" and the lack of involvement by teachers who supervise auxiliary personnel in the evaluation of these same people.

The Association covered the evaluation aspect of this matter in the basic position set forth above, but regarding "as appropriate," the Association has yet to learn what "appropriate" means. This is the kind of language that leads to grievances because of its lack of clarity.

POSITION OF THE DISTRICT

ARTICLE VIII - TERMS AND CONDITIONS OF EMPLOYMENT

Section 23 - AUXILIARY PERSONNEL

The District feels that both of the Association's proposals regarding auxiliary personnel are encroaching on management prerogatives: (1) to determine staff positions and (2) to evaluate staff.

The District feels very strongly about the Association members appropriate involvement in the selection of auxiliary personnel with whom they must work; but, how many and who shall be retained (evaluation) is not appropriate. In fact, to do it would be an abdication of its management rights.

The duties that must be performed by teachers who do not have a full-time secretary assigned are taken into consideration by the District. They reflect in the District's program which is again a District prerogative.

We are willing to continue involving teachers in the process for filling vacancies, as appropriate.

THE SIZE OF THE AUXILIARY STAFF AND THEIR WORTH IS A DISTRICT DECISION.

FACT FINDING AND RATIONALE

FACULTY SECRETARIES

The Association proposes that a faculty secretary position become a part of the basic building allocation for the District.

That faculty secretaries would provide a very beneficial service to the certificated staff and the District is unquestioned. They are not, however, essential.

Much evidence was adduced by the District at the hearing concerning declining enrollment and general budgetary restrictions. In light of these factors, I perceive the addition of faculty secretaries to be a matter of relatively low priority.

RECOMMENDATION

I recommend that the Association proposal not be adopted.

EVALUATION OF AUXILIARY PERSONNEL

The District concedes that the certificated staff should be involved in the selection of auxiliary personnel. Unresolved, however, is the nature of the Association's involvement and whether the Association should play any role in the evaluation of such personnel.

At the hearing, the District stated that the Association should be given "appropriate involvement" in the hiring process. The Association has some difficulty with this language, and seeks to gain provision assuring "authentic" Association involvement. I sensed at the hearing that the parties' real hangup is with semantics and not with the concept of teacher involvement.

More difficult is the question of Association participation in the evaluation process. The District opposes any such involvement as an abdication of its management rights.

I disagree. What the Association proposes is participation, and not control, of the evaluation process. The final decision of retention or non-retention will remain with the District. The certificated staff is in a particularly advantageous position to assist the District in reaching an informed decision. In many instances, certificated staff supervise the auxiliary personnel. Because of this relationship, I feel that staff participation in the evaluation process of auxiliary personnel is essential.

RECOMMENDATION

I recommend that the Association's proposals be adopted. The certificated staff should be directly involved in the hiring and evaluation of auxiliary personnel. Final decision-making power in these areas, however, remains in the District.

19. Article X - Wages and Benefits

- Subsection 2.I: Assignment to and Removal from Positions on Activity Salary Schedule

ARTICLE X - WAGES AND BENEFITS

Section 2. Activity Assignments and Salary Schedules

In addition to teaching and supervision, each certificated employee is subject to assignment by the principal to responsibility for a portion of the miscellaneous services and activities of the school.

The direction of and participation in the various extracurricular activities of the school are considered as much a part of the teacher's normal load as actual classroom teaching.

Certain activity assignments carry additional compensation. Pay rate for these assignments will be as specified on the current activity salary schedule. Miscellaneous duties associated with student body activities will be paid at a rate determined by the individual school's student body government. Such pay will be processed through normal payroll procedures and the district will bill the student body associations for such payments.

2.1 Assignment to and Removal from Positions on Activity Salary Schedule

Supplemental contracts for activity positions will be approved by the Board based on recommendations by the building principal. Supplemental contracts are for one year only. No person contracted for such a position should assume that the assignment will continue for more than one year.

An employee will be notified in writing not more than twenty (20) calendar days after the end of the ~~school~~ year appropriate activity season whether s/he is to be recommended by her/his principal for the same activity for following year. This notification will include a statement of the reasons for the decision.

Should an employee, by her/his behavior, provide just cause for immediate removal from duties identified on the activity salary schedule, the principal may suspend the employee with pay from the performance of her/his activity position pending a decision on her/his discharge from the position by the Board. Upon her/his request, the employee is entitled to a hearing with the Board prior to the final decision.

2.2 Evaluation of Performance of Employees in Positions on Activity Schedule

All employees who perform duties for which they are compensated according to the activity pay schedule shall have their performance evaluated annually in writing. Such an evaluation is an on-going process and, should the evaluation reveal deficiencies in the employee's performance, an additional written statement will be provided which: shall set out such deficiencies with specificity, shall include suggestions for their correction, and shall specify a reasonable length of time in which the employee shall have the opportunity to demonstrate improved performance. Such reasonable period of time shall not mandate that the employee on the activity pay schedule must be assigned the activity for the following year.

2.3 Guidelines

The following are guidelines only and are not intended to be restrictive but principals are urged to follow them in recommending assignments wherever it is practicable.

2.31 Special assignments for which additional compensation is given should be limited to two (2) such activities per year.

2.32 An employee should not carry on two (2) special assignment activities at the same time.

2.33 An employee should not coach and handle intramural activities at the same time.

2.34 Coaches should not serve as head coach for more than two (2) major sports in any given year.

2.35 Special assignments to the following activities which extend throughout the school year should preclude any other special assignment for which additional remuneration is made:

2.351 Band and Orchestra
2.352 Chorus and Glee Club
2.353 Dramatics
2.354 Debate

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

19. Article X - Wages and Benefits

Section 2.1 - ASSIGNMENT TO AND REMOVAL FROM POSITIONS ON ACTIVITY SALARY SCHEDULE

The Association proposal seeks the means by which coaches may have some kind of knowledge, within a reasonable time after their coaching duties have been concluded, as to whether or not they will be recommended as a coach for the next season.

In the past, coaches have been evaluated as a coach for their sport and as a classroom teacher at the same time during the spring.

The Association contends that this practice does not serve the best interests of continuity in coaching preparation for the ensuing season. It further contends this practice is a poor management technique and has a negative impact on coaching morale.

A football coach may be finished in October with all coaching duties but not know, until the next season is practically under way, if he's the coach for that season. This leaves no time for preparation for the season. If the coach is not rehired, he has no opportunity to seek other coaching opportunities for that season.

No problem exists for coaches of spring sports as their classroom teaching and coaching evaluation may coincide within a reasonable time after the season concludes.

Having coaches hang in limbo, not knowing if they'll be the coach next year is certainly an unfair practice to that coach. But more importantly coaches normally devote much time and effort in preparing for forthcoming seasons. In the case of fall sports, coaches spend 3 months coaching their sport and about 8 months waiting to know if they'll be rehired the next year.

That 8 months could and would have been more profitably spent had the coach known his/her status. Coaching clinics, workshops, summer classes could have been planned and incorporated into the coach's preparation for the next year's season.

What the proposal seeks is a tacit acknowledgement that s/he can proceed with his/her preparation (within 20 days after the sport season ends) for next year.

History

Unlike most other items in dispute, there has been a moderate amount of discussion in bargaining on this matter. The District argues that it would be "difficult to manage" the duplication of evaluation processes. The Association answers this by stating that if any question exists in administrator's minds about the coaching position, s/he need not assure the coach of the job for the next year. If, however, there is no question about the present coach coaching next year, we think that coach and the coaching function would be much better served by so notifying said coach of that fact.

Without this kind of language in the contract, there is potential for the District to have the present coach hanging in limbo for 8 months, while actively seeking other candidates for the coaching position. We believe this is very unfair and unethical.

Coaches should be informed in a more timely manner and on the basis of their coaching season of their coaching status for the ensuing sport season.

The Association proposal answers these two very important needs.

POSITION OF THE DISTRICT

ARTICLE X - WAGES AND BENEFITS

Section 2 - ACTIVITY ASSIGNMENTS AND SALARY SCHEDULES

The current agreement requires that the District notify each employee twenty (20) calendar days after the end of the school year whenever s/he is to be recommended for the same activity for the following year. The Association wishes to have such recommendation come 20 days after the appropriate season.

The District has rejected this proposal for several reasons, the prime one being that for many coaches multiple assignments occur and therefore an annual evaluation is more meaningful and practicable.

If a coach is told twenty (20) days after the conclusion of a season that s/he is to be recommended for the same activity next year, then said coach can concentrate all of his/her efforts, according to the Association, to prepare for that one sport. Not true for all. Many plunge right into the next seasonal activity.

The District has always offered a great many athletic activities to its students, but that has increased dramatically in recent years as a result of Title IX and the increased interest in sports by both sexes.

Most coaches are doing double duty. It is for this reason that the District wants to continue to evaluate coaches at the end of the year. An annual evaluation does not prohibit a coach from taking related courses/workshops or attending clinics.

During the course of mediation, the District felt that there might be one exception that should be investigated. The District would be willing to

evaluate "head coaches" thirty (30) calendar days after the appropriate activity season.

ANNUAL EVALUATIONS ARE MORE APPROPRIATE AND PRACTICABLE BECAUSE OF MULTIPLE COACHING ASSIGNMENTS.

FACT FINDING AND RATIONALE

At the hearing, the District indicated that a majority of building principals favor the Association proposal respecting head coaches and that it was willing to accede to a thirty-day proposal for head coaches.

Disagreement remains in respect to assistant coaches. Many coaches do double duty, i.e. coach more than one activity. The District argues that this is the reason why a yearly evaluation is more meaningful and practicable.

I disagree. While more than one evaluation will be required for those individuals coaching two or more activities, this will not create a heavy burden on the District. Moreover, the decision to retain a coach for a particular activity is determined on the basis of performance in that activity, and not on the basis of all activities in which that individual is involved.

The advantage of this system is that coaches can plan with certainty for the ensuing season. To the extent that they could not in the past, the Association proposal seems a legitimate step in that direction.

Finally, some difference exists as to the evaluation period. The District proposes 30 days for head coaches and the Association 20 days. I perceive no problem with the District's time period and deem it a reasonable modification of the proposal.

RECOMMENDATION

I recommend that the Association's proposal be adopted, with the time extended to 30 days in lieu of 20 days as proposed by the Association.

22. ARTICLE X

WAGES AND BENEFITS

Section 12A - CHILD CARE LEAVE

ARTICLE X - WAGES AND BENEFITS

Section 12A Child Care Leave

12.A.1 All certificated employees shall be eligible to receive a leave for the purpose of child care. This child-care leave shall be granted without pay for a period not to exceed one (1) year. This leave may commence upon the birth or adoption of a child but shall not apply to care required prior to birth. This leave will not require the use of any accumulated sick leave. The certificated employee shall notify the District in writing of the desire for a child-care leave no later than four (4) weeks prior to the start of the time of the intended leave. A certificated employee returning from child-care leave shall be assigned to a similar position held prior to taking the leave.

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

22. Article X - Wages and Benefits

Section 12A - CHILD CARE LEAVE

The absence of a child care leave which would allow for the care of an infant during the first crucial year of life works a real hardship on teachers in the Bellevue School District, particularly young women. Historically, heavy responsibility for the care of an infant has fallen to women, although the sole care of an infant may in some cases be undertaken by men. At the present time, pregnancy may mean that women forfeit their working future because few are willing to return to work such a short time after the birth of their baby as the present guidelines mandate. Honest women are not going to claim "disability" to stay with the child, even if their doctors would agree to it. The result is that young and able women who ought to remain in the classroom must drop out of the profession and little consideration may be given to the years they have already dedicated to education. While one District response to our proposal was "If these people want to work for the District, O.K. If you want to have children, O.K. But not both." (p. 19 BEA minutes June 8, 1977) The BEA feels that this is a highly inhumane remark. It does not need to be one way or the other. Dedicated teachers have a right to stay in education and also have families.

Although the Distirct now states that they do not need a leave of this type, at one time the B.S.D. recognized this problem and offered a maternity leave. When it became the opinion of the State Human Rights Commission that such a leave was unlawful under the State Equal Rights Amendment, the maternity leave was dropped. A woman could then claim disability using up all of her sick leave and, at the end of six weeks, either return to the job or take a regular leave of absence with no return guaranteed. Should she return, she faces the rather onerous position of working with no cushion

of paid sick leave to help her through a time when the presence of an infant in the home might make for sleepless nights, exhaustion and lowered resistance to disease. Basically, she has had little choice but to quit the job. Until this procedure is altered, the BEA, unlike the District, feels there is a strong need for a Child Care Leave.

The elimination of the maternity leave thus did away with a protection that affected the working lives of women. The step backward that this change represented has not been resisted heavily up to this point, partly because of confusion about what meaning the establishing of equal rights for women and men before law should take. The enlightened position must be that instead of removing protection for women, the same general kind of protection must be extended to men; thus insuring that no women lose ground on a result of laws intended to give them equality of opportunity.

An example of a leave that was at one time directed specifically to men, and then was extended to include women is the Military Leave in our current contract. (Each employee granted a military leave of absence shall be eligible to return to a comparable position in the District with annual increments equivalent to the number of years spent in the service of his/her country.)

It would seem appropriate then, to establish a Child Care Leave that would primarily protect women during their early years of motherhood, but could also extend itself to include men. Surely a Child Care Leave is equal in necessity to a Military Leave!

It is apparent that other Districts see the need and value of this type of leave when Renton, Kent, North Shore, Lake Washington, Edmonds and Seattle do now include it in their contracts. In discussing it with the Lake Washington School District (LWSD) personnel office, it was stated that there was no cost to the leave or certainly their district would not have it. (They have not passed several levies.)

They also felt that it had not hindered their programs by lack of continuity as the BSD suggests might happen. (One of the District's initial--and later dropped--proposals, incidentally, was a Temporary Leave where the district could move teachers about for a week to a few months when they felt the need. Did they then consider lack of continuity of programs?)

A conversation with "Debbie" in the LWSD, a teacher that took a Child Care Leave, revealed that not only did she request and have two months (8 weeks) of leave, but her child arrived one week before her leave was to begin. She was granted paid emergency leave. Furthermore, she became fatigued teaching full days after her return and the district allowed her to have a substitute in the afternoons for an additional six weeks. Needless to say, this teacher feels grateful to her school district, and it would seem the District will benefit from their generosity with a continued dedicated and loyal teacher.

The Association feels the only fair answer to Bellevue's problem is a child care leave which allows anyone who is assuming the major care of an infant an opportunity to do so for the first years without forfeiting the right to a job.

History

As is often the case in this year's bargaining, there were only 3 very short references made to a Child Care Leave. On June 8, 1977, (p. 19-20) the proposal was introduced by the BEA and rejected. The BEA at that time asked for a counter-proposal. None was given.

On June 22, 1977, in an Attachment made by the BEA, there was an additional request for a counter-proposal. None arrived.

On June 29, 1977, BEA again brought up the Child Care proposal, and there was no response.

For that reason, and for the reasons given in the main body of this statement, the BEA continues with its original proposal.

POSITION OF THE DISTRICT

ARTICLE X – WAGES AND BENEFITS

CHILD CARE LEAVE (New Association Proposal)

The present guidelines mandated by the District are no doubt the direct result of the District's complete compliance with the concept that pregnancy should be considered the same as any other disability.

Now that that fact has been established and maternity leaves per se are not in vogue, the new frontier is for child care leave. The BEA's child care argument focuses on the pregnancy related leave, but as proposed both male and female can quality and adoptions (any adoptable age) also qualifies an individual for a leave.

If you accept the premise that pregnancy is just another disability then it does not follow that a woman must forfeit her working future because of the current regulations.

The District's current regulations do not guarantee a "similar position" as proposed, but an unpaid leave may be requested.

The continuing contract law is based on continuity of instruction. Such a leave provision would be detrimental to this concept. Of what value is such a provision? If the District grants an unpaid leave and the terms of the leave permit the District to consider the person for rehire, then the District has the option of doing just that.

The teacher also has the option of requesting or not requesting a leave with such terms. (No guarantee of the same position, only consideration.)

The subject of pregnancy is not applicable here because such a condition is

tantamount to a broken leg, a position well argued and won by teacher and other groups around the country.

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1) HISTORICALLY PREGNANCIES DEMANDED A MATERNITY LEAVE.

2) UNPAID LEAVES ARE AVAILABLE.

FACT FINDING AND RATIONALE

The Association in this proposal requests that up to one year leave of absence be granted for the purpose of child care as of right.

The concept of providing a leave for child care is very appealing and certainly has a lot of merit. This would also include child care leave where there is an adoption which normally requires that the parent must care for the child during the first year following adoption. Furthermore, the proposal contemplates that the leave is not confined to a female teacher but applies equally to male teachers.

The mandatory aspects of granting leave may cause serious mechanical problems in the administration of such a policy. I do believe that some qualifications should be added so as to permit the District some discretion if the granting of the leave would cause serious disruption in the educational process. I have not formulated specific language to cover this, but some proviso reflecting a broad limitation based upon educational needs should be included or added to the proposed section 12A-1. This, in essence, reflects the present policy that has been administered except that it guarantees a position on return.

RECOMMENDATION

I recommend that the Association's proposal be adopted with the caveat that some provision be made for paramount educational needs.

23 & 24. ARTICLE XII

ACADEMIC FREEDOM

Section 1 - General

Section 3 - Selection of Speakers

ARTICLE XII - ACADEMIC FREEDOM

Section 1. General

Academic freedom has two facets:

(1) Primarily, it is designed to expose the learner to all ideas.

(2) Secondarily, it is to assist and protect the teacher in her/his attempt to guide the learner in the search for truth.

~~The freedom to teach is limited by the maturity of the student. For this reason, judgments about the presentation of instructional resources are appropriate in the terms of the maturity of the student and not in terms of the suppression of knowledge.~~

Each teacher shall be free to pursue the objectives of their course through whatever methodology they see necessary and/or relevant. Considerations should be given to the circumstances as to the age and sophistication of the students, the closeness of the relation between the specific technique and some concededly valid educational objective, and the context and manner of presentation.

The kindergarten levels through the earlier experience in high school is seen as a continuous expanding period of growth toward maturity. The latter years of high school are regarded as the first fully mature level.

ARTICLE XII - ACADEMIC FREEDOM

Section 3. Selection of Speakers

Within the limitations imposed by the level of intellectual and emotional maturity of the students to be addressed, any faculty member of any school may invite any speaker to address students on any subject, the presentation of which is relevant within the general goals of the educational process, which is not prohibited by law and which presentation is consistent with this Article.

It should be clearly understood that an invitation to a speaker to address students does not necessarily imply an endorsement of the views expressed by the speaker, nor are the Board of Directors, administrative officers, or teachers required to take a stand either for or against the ideas presented by the speaker. They may do so provided that the provisions on controversial issues (Article XII, Section 2) are observed when the subject is controversial.

~~Ten (10)~~ Five (5) calendar days prior to the date upon which an outside speaker is to address a class or student group, the faculty member, a faculty group, or a student group inviting the outside speaker shall, in writing, inform the chief administrator of the school building where the speaker is to make her/his address of:

(1) The name of the guest speaker;

(2) The subject to be discussed by and with the speaker;

(3) The class or group to be addressed.

The chief building administrator may, at her/his discretion, inform the Area Superintendent of the guest speaker and the subject involved.

The purpose of the ~~ten~~ five-day period is, consistent with professional courtesy, to allow:

(1) The chief building administrator and Superintendent the opportunity to discuss the speaker and subject matter in the context of the controversial issues and academic freedom provisions of this agreement with the faculty member, faculty group, or student group.

(2) The faculty member, the faculty group, or the student group to express their views on the speaker or subject matter in relation to curriculum and course context.

(3) The chief building administrator, the Superintendent, the faculty group, or the student group to make suggestions on ground rules and format.

(4) Adequate time for notification of parents of students addressed, if either the administration, the faculty member, the faculty, or student group deem it advisable.

PROVIDED THAT, at the discretion of the chief building administrator the ~~ten (10)~~ five (5) calendar days of prior notice may be reduced under the following circumstances:

(1) The availability or other condition of arranging for the appearance of the speaker prohibited notification to the chief administrator ~~ten (10)~~ five (5) days prior to the intended appearance; and

(2) the speaker and his/her topic are judged by the administrator to be noncontroversial and otherwise able to conform with ground rules established in this section.

The chief building administrator, Superintendent, or any other School District official shall place no prior restraint on either the appearance of specific guest speakers or the subject matter of any address because the speaker or his views are controversial.

The function of the outside speaker is to serve as an educational and instructional resource. Consistent with this function and School District policies, the following ground rules shall be observed at the time of the speaker's appearance.

(1) The speaker shall observe the decorum of the classroom.

(2) The speaker may not solicit money or other items of value.

(3) The speaker may not incite the students to breach of law or school rules.

(4) The speaker may present her/his views but may not use her/his opportunity to address students for overt solicitation of membership in any organization.

(5) The speaker may not bring with her/him any other persons unless they are invited.

(6) The speaker must observe all rules and regulations of the District and school buildings at which he appears.

Ground rules consistent with this policy may be developed at the building level. A copy of the specific ground rules applicable to a particular building, which shall include the ground rules established at the District level, shall be provided all speakers prior to their presentation to students or faculty. Should the speaker fail to abide by these ground rules, s/he shall be requested to leave.

During the appearance of an outside speaker, the faculty member, faculty group, or faculty advisor of the student group shall, at all times, retain and be responsible for retaining the control of the class or student group, and shall be responsible for assuring compliance with the ground rules set forth above.

ARTICLE XII - ACADEMIC FREEDOM

Nothing in this section shall limit the responsibility of the chief building administrator, Area Superintendent, or Superintendent to assure that the established course of study in the District is followed and that the proposed presentation is reasonably germane to the course of study being pursued by the class or classes to be addressed by the speaker.

The District assumes no obligation to provide an audience for outside speakers in its classroom activities. Requests by outside persons to speak to classes will be referred to the office of the Superintendent. Such requests will be reviewed and may be referred to the appropriate faculty member.

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

23 & 24. Article XII - Academic Freedom

Section 1 - GENERAL

Section 3 - SELECTION OF SPEAKERS

Teachers must be truly free to utilize whatever methodology they deem necessary, relevant, or essential to enable themselves to do the best job possible. Such freedom can only come from being free in their minds from coercion of either "soft" or "hard" sell from supervisors who would prefer, and in fact insist that the teacher follow a particular methodology.

To keep this freedom from fear of coercion and, indeed, fear of losing one's very job is essentially what our proposed language for the Academic Freedom section is all about.

Inclusion of the proposed clause would eliminate fear of imposition of any District-adopted or supported methodology.

True Academic Freedom means that the educator is respected as a "professor" of a particular subject matter. S/he is a person whose methods, as long as they can be reasonably justified in accordance with given course requirements are respected and not interfered with by an outsider.

The Bellevue School District has had a long tradition of priding itself as being an innovative "lighthouse" district in this state for teaching methodology. This feeling of pride is losing its reason for existence as the District comes closer to dictating teaching methodology. In the past several years, teachers have been subject to everything from a "soft sell" to "harassment" to adopt certain approaches in their teaching.

The present superintendent, school board, and indeed even the state legislature have increasingly demanded more restrictive measures on the methodology used by teachers. The state legislature had mandated testing at certain grade levels which restricts freedom of methodology by eliminating some

methods which may not guarantee a certain level of results. The local board and superintendent has stressed in the past "mastery learning," a nebulous method never quite fully defined by the superintendent, and presently a methodology called ITIP (Instructional Theory into Practice).

The Bellevue District must recognize and respect the professional responsibilities and abilities of its teachers. This can only be done completely by assuring those who teach here that their methodology will be respected and that it will be supported so long as it can be justified. That is all we ask.

* * * * * * * *

The proposal to decrease the number of days required for notification of a controversial speaker is an attempt to recognize what already happens in some instances. In fact, it is another important element of academic freedom. A speaker's available time can sometimes be very difficult to coordinate with the class program. As a result, the ten-day requirement frequently results in short-changing the subject being discussed in the class simply because the speaker may not be able to give assurance of being there as far as ten days in advance. In addition, frequently the opportunity or necessity of a guest speaker simply doesn't occur that far in advance and thus can't be planned for.

History

The District has refused to provide rationale for opposing the Association's proposal on methodology. Therefore, it is impossible to develop a counterproposal.

In the brief negotiations which took place on the issue of five versus ten day notification on speakers, the District at first proposed to insert a clause which would in effect let the principal decide if the guest speaker was controversial or not. If the guest was not deemed controversial, then the ten-day limit could be waived. This hardly gives sufficient regard or respect to the teacher's judgment and was not considered a significant move by the Association bargainers. Nevertheless, the Association is willing to accept the District language provided that the ten day limit were revised to five days.

During mediation, as was mentioned in the FORWARD, the District proposed to decrease the number of days to five on the notification of speakers. The Association agreed to this although it was a compromise from the BEA's original position of no mention of time on notification. Both the BEA negotiators and the mediator understood this compromise to be an agreement. However, the next day the District reneged on this agreement and denied what they had already done, giving us further evidence of bad faith bargaining. The mediator was as upset about this as was the BEA negotiations team.

Apparently the District feels that to maintain as well as cultivate a decent academic freedom section, the teachers must pay some price for it. It is difficult to understand how a price can be affixed to something as basic to freedom of education as academic freedom clauses on methodology and guest speakers.

POSITION OF THE DISTRICT

ARTICLE XII - ACADEMIC FREEDOM

Section 1 - GENERAL

The BEA argued last year the contract had to have an academic freedom clause. It was described as the "linch pin" to settlement. The current agreement has a complete and detailed academic freedom article covering its basic tenets, the handling of controversial issues, and the selection of guest speakers.

The District initially did not want such an item in the contract but it never argued against its existence. Academic freedom language "was" before EESB 2500.

Agreement was reached on this item through negotiations not the fact finding process, and after one short year the Association has found fault with what has worked well for the past few years.

The BEA proposal, described as a single clause designed to make the contract section a true statement of the academicians role in our schools, is totally unacceptable.

The District could never agree to depart from the current language in Section 1 without a demonstrated need to do so.

Why alter the "linch pin?"

With regard to procedures, however, some modification to the selection of speakers could be considered.

We proposed such a modification and would do so again. Our proposal allowed the administrator to reduce the ten (10) calendar days notice required

under certain circumstances. The District is always willing to respond to a demonstrated need.

UNDER THE CURRENT PROVISIONS, ACADEMIC FREEDOM IS ALIVE AND WELL.

FACT FINDING AND RATIONALE

GENERAL

The Association's proposal would leave a selection of teaching methodology to each certificated staff member. The District opposes the proposal on the ground that no demonstrable need to depart from the existing contract language has been shown.

I agree with the District. Leaving the question of methodology solely with the individual teacher could result in the disruption of District policies. While teachers must participate in the matter of District policy and indeed do, as secured by other provisions of the contract, it must be kept in mind that the District has primary responsibility in this area.

RECOMMENDATION

I recommend that the Association proposal not be adopted and that the existing contract language be retained.

CONTROVERSIAL SPEAKERS

The Association's proposal is to decrease the number of days required for notification of a controversial speaker from ten to five days. The reason for this proposal is that teachers have met with some difficulty in receiving commitments from speakers ten days in advance.

At the hearing, the District stated that it had no real opposition to the concept of reducing the notification period.

RECOMMENDATION

I recommend that the Association's proposal calling for a reduction in notification for controversial speakers from ten to five days be adopted.

25 & 26. ARTICLE XIII

PROFESSIONAL INVOLVEMENT

Section 1 - GENERAL

Section 2 - PARTICIPATION AS ADVISORS ON EDUCATIONAL MATTERS

ARTICLE XIII - PROFESSIONAL INVOLVEMENT

Section 1. General

Within areas of professional expertise where decisions are made which significantly alter the instructional environment, certificated employees are expected to contribute to the educational program of the District by participating actively and constructively in various ad hoc and continuing advisory and developmental groups. This process shall include open dialogue in which issues are presented, responded to, analyzed and examined from many viewpoints; in which problems are defined, discussed, and resolved; and in which recommendations are made for implementation. This shall be a process in which those affected by a decision participate, either directly or through representation.

Within areas of professional expertise where decisions are made at the District level which significantly alter the instructional environment, and/or when new program/methods progress beyond the exploratory stages, certificated employees shall be guaranteed authentic participation through appropriate processes. These processes shall insure that those affected by a tentative decision regarding program/methods are assured of being involved at all levels of the process beyond the exploratory stages. (Initial, developmental, implementation.)

A provision guaranteed under this article will be that the District shall notify the Association of any such district-wide program/methods changes when they move beyond the exploratory stage (to the initial planning stage).

This provision is intended to stimulate constructive participation, at the District level, by certificated employees in open dialogue, in which issues are presented, responded to, analyzed and examined from many viewpoints; in which problems are defined, discussed and resolved; and in which recommendations are made for implementation.

Provisions for professional involvement stated elsewhere in this contract shall include provisions for:

1.1 Appropriate involvement in the recruitment and selection of certificated employees;

1.2 Involvement of certificated employees in the Instructional Materials Committee;

1.3 Involvement of certificated employees in subject matter advisory committees which assist in selecting instructional materials and in dealing with challenges to materials in use;

1.4 Involvement of certificated employees in the professional development and sabbatical programs through participation in the Professional Credits Committee;

1.5 Involvement in the process of appraising certificated employees and expectations of involvement as reflected in evaluative criteria;

1.6 Involvement in processes of program, service, and staff adjustment;

1.7 Involvement of individual employees and the BEA in processes related to assignment, reassignment, and transfer of employees;

1.8 Involvement of BEA representatives in regular, informal sessions with District representatives throughout the term of this Agreement.

Section 2. Participation as Advisors on Educational Program

2.1 Certificated employees shall advise the Superintendent and, through him/her, the School Board by participating in the Educational Program Committee. At least 2/3 of the teacher members of the Educational Program Committee shall be selected from a list or lists submitted from the BEA. The list(s) submitted should represent all levels in each zone as well as special services. The people elected as members should broadly represent zones.

2.2 Certificated employees shall participate in District subject matter advisory groups established for purposes of (1) assisting in establishment of instructional goals and objectives, (2) monitoring existing and new programs, and (3) suggesting program improvements within a subject matter area through the Educational Program Committee.

These subject matter advisory groups shall also be responsible for fulfilling the requirements of subject advisory councils contained in Article XI of this contract.

The District shall appoint a person to act as Executive Secretary to each subject matter advisory group for purposes of coordination, referral, reference and support services.

2.3 Certificated employees shall participate in subject matter advisory groups within each zone (High school attendance area) for purposes of assisting in the decision-making concerning matters related to those subject areas. Elected representatives from these zone subject matter advisory groups shall form the nucleus of the subject matter advisory groups identified above.

2.4 Building administrators shall create advisory councils. Members may be elected or selected. A recognized option is that the faculty as a whole may constitute the advisory council.

2.5 Building administrators will establish written procedures for professional involvement of the certificated employees within their schools. Such procedures will include provisions for meetings of advisory groups, published agendas, minutes, and means of resolving differences among members of the faculty. The certificated employees in a building will assist building administrators in preparing these procedures.

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

25. Article XIII - Professional Involvement

Section 1 - GENERAL

The Association proposal seeks to insure a strong, vigorous instructional program. We feel that good ideas and programs initiated by an administrator, not only deserve but require the scrutiny of the professional staff expected to implement that program. This can be accomplished only before the actual implementation of the program.

Article XIII - Section 1 asks that certificated staff be authentically involved through "participation" in a process which provides that those affected by a decision or process be involved in helping shape the decision. It does not ask that the certificated staff "make" decisions - only that they be involved in a process when district-wide program/methodology changes contemplated move into initial planning stages.

District administrative officers have the responsibility to seek out promising instructional alternatives and while in "exploratory" (exploratory, initial, developmental, implementation) stages to be solely involved in whatever ways they deem necessary.

The Association contends that when "initial" planning begins for a district-wide change that the staff members who conceivably will be involved in that change should be involved from that point on until the program/method is implemented. The program/method potential for success will have been greatly enhanced.

Without the proposed language contained in this article, the potential exists for entire programs/methodology changes to occur which can affect the entire certificated staff without their being involved in any of the planning stages.

Entire programs can be conceived, planned, and developed before any of those ultimately responsible for implementing these programs even know of their existence.

The District contends "take it to meet and confer." This seems a bit like closing the barn door after the horse is out. $100,000 or more can be already spent on materials, teacher trainers hired, and the program implemented - and then the recourse we have is to "take it to meet and confer."

In a district such as Bellevue where many classroom teachers have advanced training beyond that of many administrators, this seems an unusual waste of collective training and expertise.

Established practice clearly indicates that those affected by decisions have been involved. Involvement of students, parents and teachers has been a very important cornerstone in the long-standing support of community for its schools.

Building staffs have been able to participate through Advisory Councils in building-wide instructional planning and helping to shape building-wide decisions relating to instruction.

Our proposal suggests that in order to responsibly create a strong instructional program and insure maximum success for good ideas and programs, they not only deserve but require the scrutiny of the professional staff expected to implement that program. That can be done only before the actual implementation of the contemplated program.

History

The District contends that the appropriate place for input by staff in matters which "significantly alter the instructional environment" and "when new programs/ methods progress beyond exploratory stages" is at meet and confer.

The Association contends that such a process for developing responsible curriculum and instruction is totally inadequate. A further contention of the Association is that when both the District and certificated staff members have common goals affecting a district-wide population of students (and teachers), that both the District and certificated staff members should sit down and jointly develop/plan ideas to be incorporated into new programs/methodology.

RATIONALE AND BACKGROUND

26. Article XIII - Professional Involvement

Section 2 - PARTICIPATION AS ADVISORS ON EDUCATIONAL MATTERS

This Association proposal is seeking to cause the District to assign a person to act as a coordinator or executive secretary to each subject matter advisory group for purposes of coordination, referral, references and support services.

At the present time, there exist large numbers of professional staff members who volunteer to serve on advisory groups for different subject areas (i.e., reading, art, PE, etc.). These certificated personnel are involved in an advisory capacity to a larger body called the Educational Program Committee (EPC). This body, again, "advises" the Superintendent in matters relating to instruction.

Teachers serving on these subject matter advisory groups are classroom teachers from the elementary level, subject matter specialists serving all elementary schools, and classroom teachers from both the junior and senior high school levels.

All teachers come to the advisory committees with one common goal in mind - to improve instruction for that specific area. Members come from different levels unique to each level. None on this committee have time or resources required to serve them as a coordinator for that subject matter area. The District contends that the 1200+ classroom teachers needing assistance in methodology or materials would best be served by sitting down with a telephone list of all members on the committee and "shop around" until you find help.

The Association contends that foraging in this manner for professional services on a wide-scaled basis is totally inadequate.

If the District sees a necessity in creating such committees and directs the staff to participate in them, the District owes to the staff the potential for creating coordination within each of these areas. It also owes to the staff the capability for providing help to other staff members seeking that help.

To have such large numbers of staff members involved in attending to improving instruction without the minute possibility of teachers actually gaining help in finding materials or ideas relating to methodology is frustrating to the entire process of instructional committee making.

The Association feels it is unsatisfactory for a specialist to have to spend in excess of four (4) hours on the telephone before finding someone who has the knowledge or time to help that specialist. The specialist is, in turn, working with a total elementary school and this time wasted in locating help is time taken from children in direct, specialized instruction.

If a teacher needs materials in the area of social studies, the Association feels the teacher should be able to place one, or maybe two, calls and locate the kind of help sought.

The position of the Association is that there are many persons at the Education Service Center (ESC) who should have been hired to aid instruction in the cases illustrated above (and the many not cited).

On the other hand, the position of the District is that teachers or specialists, when they need help, should begin with their list of names of members serving on the advisory group and continue with the list until someone helps said teacher.

Elementary teachers have fifteen (15) minutes in the morning and (if they're lucky) another fifteen (15) minutes in the afternoon free from children. They have no telephones in their rooms. In short, the means for solving the problem of the teacher (by the District) is not satisfactory.

The planning, coordination and actual creation of instructional alternatives is of major importance to teachers. The Association believes that it is important enough to have a name listed in a telephone directory (from the ESC) to be available to teachers and/or building administrators when they need assistance or advice in a given subject area.

The Association believes it is irresponsible for a school administration to expect those desiring help to forage for that help among members of the teaching corps who have neither time nor resources to provide such assistance.

Coordinators have existed in the past for different subject areas. In an attempt to streamline the budget, "cut out the fat," etc., those coordinators have been removed. Instead of helping teachers as they did before, those coordinators have been removed from instructional roles and now are administrators. This certainly does streamline the budget, in instructional areas, but somehow leaves much to be desired. The void left by removing coordinators is sorely felt by classroom teachers and makes a sham of involving large numbers of teachers in a process to improve instruction. The process wouldn't be a sham if one person from each of the major subject matter areas were available to serve the other 1200 teachers seeking help in the respective subject areas.

History

As with most other items in dispute, the Association's proposal has been discussed only rarely and on those occasions has met with rejection - certainly no counterproposals. The District at first contended that the appointment of executive secretaries would be a cost item. However, when it was pointed out that existing administrators who are already on these various advisory committees could be designated as executive secretaries, the District changed their plea to one of simply not wanting this matter in writing and in a contract. Had bargaining taken place on this issue, many other solutions could have been brought forth to the table.

POSITION OF THE DISTRICT

ARTICLE XIII - PROFESSIONAL INVOLVEMENT

Less than one year ago, the BEA proclaimed to all who would listen that it had won provisions for professional involvement which were exemplary. (Seattle Times, November 24, 1976)

Beginning in December of 1976, the District has been working diligently to implement the provisions of that agreement. Fourteen subject-matter advisory councils were formed in each of the four administrative zones. In addition to these fifty-six councils, fourteen District level subject-matter advisory councils were elected. In addition, the Educational Program Committee was revamped to correspond with the new contract, and program/policy decisions were reviewed with the EPC before being submitted to the Board for action. One of the District's major problems throughout the winter and spring of 1977 was obtaining enough teachers who were willing to spend the time required to make this many groups function well.

At the conclusion of the year, teacher members of the various councils designed to provide professional involvement had various constructive suggestions for improving the quality of involvement. One of the most common suggestions was to reduce the number of councils so that there would be a chance for those which were continued to have enough members who were committed to make the councils successful. Frankly, teachers did not want as many groups as had been required under the 1976-77 contract.

Based on the experience of 1976-77, the District proposed a modified Article XIII, Section 2.3, which would permit a reduction in advisory councils with the hope that the reduction in numbers would lead to an increase in quality. The District has the administrative capabilities of supporting fourteen District

subject-matter groups, the Educational Program Committee, the Instructional Materials Committee, and four Zone Instructional Advisory Councils as well as various ad hoc and building level groups. However, it cannot support 50 additional councils, and the teachers have said they are not necessary. Certainly the exemplary provisions of the contract of a year ago should not be broadened with additional vague and potentially conflict-producing language such as the BEA has proposed.

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1. TEACHERS WANT FEWER GROUPS, NOT MORE.

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2. DISTRICT DOES NOT HAVE ABILITY TO PROVIDE ADMINISTRATIVE AND CLERICAL SUPPORT TO MORE GROUPS.

FACT FINDING AND RATIONALE

GENERAL

It is important that one examines what has occurred during the past academic year which has prompted the proposal on the part of the Association.

There was a major decision made concerning the methodology which was researched, analyzed and a recommendation for adoption was made by one of the administrators of the District. The final decision seems to have been reached and then posthumously the Association members were requested to offer comments and suggestions, etc. When the administrator was advised that this participation should have proceeded any final decision, the administrator indicated that this was not provided for by the contract. At the hearing, it was clearly stated that the District recognized that that was not the contractual obligation and that certificated teachers should have had the right to participate before the decision became final. In fact, the District promptly on discovering that there had been no participation in the decision on this matter, took steps to have an in-depth discussion of the matter.

I agree with the District that the language of the contract is quite clear and this sort of decision should have involved in the decision process the members of the Association who were vitally affected by the decision. In fact, it made a significant change in the so-called "environment" of the instructional process.

The specific language which would seem to cover, in general at least, the proposal of the Association on this question of professional involvement is found in the first paragraph of Article XIII, Section 1:

"Within areas of professional expertise where decisions are made which significantly alter the instructional environment, certificated employees are expected to contribute to the educational program of the District by participating actively and constructively in various ad hoc and continuing advisory and developmental groups. This process shall include open dialogue in which issues are presented, responded to, analyzed and examined from many viewpoints; in which problems are defined, discussed, and resolved; and in which recommendations are made for implementation. This shall be a process in which those affected by a decision participate, either directly or through representation."

The underscored phrases seem to point to the fact that participation shall have been provided for in this particular instance.

I feel an attempt to change the language of the contract every time there is a possible misunderstanding as to the scope of the rights and duties of the parties when it is already covered is a bad precedent. It is important to recognize that the substance of the teacher's concern is already taken care of and fully recognized by the District

RECOMMENDATION

I recommend that the Association's proposal not be adopted, and that the present provisions remain unaltered.

PARTICIPATION AS ADVISORS ON EDUCATIONAL MATTERS

The thrust of this proposal is that an executive secretary be provided for every advisory group that has been constituted pursuant to the contract. What prompts the request is the fact that in the operation of these advisory groups there has been a lack of coordination, effectiveness, etc. The District recognizes that the problems encountered in the operation of these advisory groups have been present but indicates that these problems have been due to the fact there has been difficulty in the staffing of these groups -- teachers have not been too ready to volunteer for participation in these advisory groups -- particularly to take on the responsibility of chairperson. If this is the case (this was not refuted at the hearing), it seems that part of the problem is not that of lack of staffing these advisory groups with an executive secretary but a greater willingness on the part of the members of the teaching staff to participate in these activities more readily than they have shown in the past.

In any event, the District made it clear at the hearing that most of the initial problems of staffing and instituting groups seemed to be fairly well resolved. A chairperson and secretary is provided for each group. Before adding specific personnel to handle each one of the advisory groups, it would seem that there should be a fair opportunity to determine if the groups as organized and instituted are reasonably efficient in their performance before changes are adopted.

RECOMMENDATION

I recommend that this proposal not be adopted because it does not seem to be warranted at this time.

B. DISTRICT PROPOSALS

1. ARTICLE IX

HOURS (WORKDAY AND WORK YEAR)

Section 2 - WORK YEAR

POSITION OF THE DISTRICT

APPENDIX 2

The first item of negotiations this year was the calendar for 1977-78. While other districts engaged in debate as to whether or not the calendar was a mandatory subject of negotiations, we began to hammer out a calendar.

On the 25th of April, the District presented the BEA with the two calendars and the criteria for their development. This was after we both had arrived, at least we thought, at the understanding that both calendars would appear in the Appendix of the contract. Having both calendars would be of great benefit to the District, the Association and the community. Teachers and parents want and need to know when school is to begin, vacations and holidays, etc. We would be one year ahead by having a '78-79 calendar.

The criteria for the calendar was the crucial issue but they were agreed to on 27 April (Exhibit #2). The key was the District's restoration of the in-service day in March and the winter vacation to run the week before Christmas and the first week of January.

It was on this date, 27 April, that we agreed that both calendars, pending slight modifications, were tentatively agreed to and that they would appear in the Appendix. Final ratification, as in all tentative agreements, was required.

On 2 May, the District presented the calendars generated by the criteria agreed to on 25 April. After an approximately 20 minute caucus, Pete Vall-Spinosa indicated that the 1977-78 calendar was okay, but they wanted to put the 1978-79 calendar aside for the time being. The District reiterated

its position -- we wanted a calendar for the ensuing year. The 1977-78 calendar has been published and disseminated.

We feel that we did indeed negotiate and develop criteria and that these criteria were used to develop calendars for 1977-78 and 1978-79.

THE CRITERIA FOR TWO (2) YEARS WERE AGREED TO SO THAT TWO (2) CALENDARS COULD BE INCORPORATED INTO THE AGREEMENT.

POSITION OF THE ASSOCIATION

RATIONALE AND BACKGROUND

1. Article IX - Hours (Workday and Work Year)

Section 2 - WORK YEAR

The District is demanding the inclusion of a calendar for the 1978-79 school year in the 1977-78 contract. They would like to obligate the teachers to two school calendar years, but with contract language on all other conditions of work (except staffing) for only one year. The Association would be in agreement, on the other hand, to a calendar for 1978-79 subject to settlement on a multi-year contract containing items which met the goals of the BEA for this bargaining session. Bargainers for the Association have made their position on this matter quite clear from the very beginning.

The District in a memorandum dated 19 July 1977 claims we are attempting to "renege on Agreement (27 April 1977) and not have the calendar without a multi-year agreement." It is important to understand that although we entertained the idea of a two-year calendar, it was always with the understanding that we would do so only with a two-year contract.

We never said we would agree to a single year contract with a multi-year calendar attached. Ironically, at the June 8 negotiations session, both parties reviewed the status of bargaining up to that date and Board representatives agreed that no tentative agreement had been achieved on a '78-'79 calendar.

History

Examination of our minutes of April 27, 1977, page 1 and 2, as well as the minutes of May 2, 1977, page 1, will make the Association position perfectly clear. For emphasis of this point we quote: "Our proposal is for a two or three year contract. We would accept this ('78-'79 calendar)subject to a two or three year contract." May 2, 1977.

Concepts for a calendar for '78-'79 may be those agreed upon in Article IX Section 2. They do not necessarily have to be, however, as new negotiations for the '78-'79 school year may change them (assuming we cannot reach agreement on the question of duration of this contract).

It should be noted that the '77-'78 calendar is tentative and is therefore still subject to change. In fact the Association has stated to the District that we may renegotiate the '77-'78 calendar when we discuss salaries. Page 3 of the June 8, 1977 minutes contains an exchange between the Association and the District which is one example of this point.

In summary then, the District is mistaken when they charge us with reneging on an agreement. Such agreement as they state it has never taken place. Further the Association has no intention of agreeing to a calendar for work without the concomitant conditions of work attached in the same contract. Even the '77-'78 calendar is only tentative and is subject to discussion in the future when salary items are considered.

FACT FINDING AND RATIONALE

There is some disagreement between the parties as to whether agreement was reached during negotiations on the 1978 - 79 calendar. Concepts for the 1978 - 79 calendar appear to be those agreed upon in Article IX, Section 2. (See Exhibit 2 in the District's brief).

The main difference between the parties centers on the duration of the contract. It is the position of the Association that it cannot adopt a two-year calendar unless provision is made for a two-year contract.

There may be a residual difference in that the District contemplates three days of contracted for service before the instructional year while the Association prefers to continue with the present practice of two days.

As indicated infra, I have recommended that a two-year contract be adopted by the parties. Regardless of whether the parties follow my recommendation, however, I believe that the 1978 - 79 calendar should be adopted.

The reason for this recommendation is that I can foresee no substantial detriment to the Association by so agreeing, but rather perceive a definite benefit to all parties in the area of planning.

RECOMMENDATION

I recommend that the parties adopt the 1978 - 79 calendar as an appendix to the contract as well as the 1977 - 78 calendar.

PART III

ECONOMIC ISSUES

INTRODUCTION

In dealing with the economic issues, I have chosen to depart from the order of presentation followed in Part II. This is because I believe that a summarization of the position of the parties is required for purposes of brevity, and was important to properly focus on the differences as I perceive them. Elaboration of the arguments of the parties will appear in my Findings and Rationale.

ISSUES

A. Wages
   1. Basic Salary for 1977-78.
   2. Prior Approval.
   3. Extended pay for 1977-78.
   4. Activity pay for 1977-78.

B. Fringe Benefits
   1. Health and Dental Insurance
   2. Disability Insurance
   3. Life Insurance
   4. Travel
   5. Sabbaticals
   6. Professional growth.

POSITION OF THE PARTIES

ISSUE	ASSOCIATION	DISTRICT
A. Wages 1. Basic salary for 1977-78	No change to the schedule. 8.4% and 1% and increments (2.86%)	Delete A and A" lanes from the salary schedule and eliminate the additional 10% for PhD. 6% including increments (2.86%).
2. Prior approval of courses to qualify for educational increment	No prior approval should exist either in or out of the contract.	Retain the untested procedures for control over the courses taken for advancement.
3. Extended pay for 1977-78	Stipends for junior high school level department chairpersons. Rate of hourly pay for extended work be increased by the percent that the base salary is increased.	Acceptable if taken from overall 6% proposal.
4. Activity pay for 1977-78	To be based on a full per per diem percent of salary rather than 55%.	Acceptable if taken from overall 6% proposal.
B. Fringe Benefits 1. Sabbaticals	Maintain the present contract language. Teachers on sabbatical should advance on the salary schedule.	Eliminate the percentage number of sabbaticals to be granted and dollar amount ($100,000 minimum - $130,000 maximum). No movement should be made on the salary schedule while on sabbatical leave.

ISSUE		ASSOCIATION	DISTRICT
2.	Professional Growth	No change.	Credit to be granted only for those courses offered by the District.
3.	Health and Dental Insurance	Fully paid plans for employee and dependents	Acceptable if taken from overall 6% proposal.
4.	Disability Insurance	Fully paid plan paying 2/3 salary after 30 days.	Acceptable if taken from overall 6% proposal.
5.	Life Insurance	Fully paid $50,000 dividend policy.	Acceptable if taken from overall 6% proposal.
6.	Travel	Increase mileage allowance from 13¢ to 15¢.	Acceptable if taken from overall 6% proposal.

BASIC SALARY INCREASE

FINDINGS AND RECOMMENDATIONS

The District has made out a good case that its 1977-78 projected budget has been seriously impaired by three factors:

A) Change in fiscal year from July 1 - June 30, to September 1-August 31;

B) Its expected income from the State has been limited on the per student basis and also in the amount of increase in faculty salaries that can be used from this source. Certainly it has shown that its expected increment in the per pupil subsidy has been seriously curtailed and restrictions placed upon available funds for salary increases. In fact, it alleges that in relation to other school districts throughout the State, it is being funded at the absolute lowest rate.

C) A Legislative ceiling in the authorized levy to be sought in 1978 for use in the calendar year 1979.

The Association, as a result of a direct specific question from me accepts these factors as valid. It is difficult, however, to plan a total figure on the effect of these Legislative restraints upon the total capacity to budget and on the use of its resources.

Assuming that one accepts the statement of the District that as presently constituted the budget only permits a six percent (6%) increment in total economic benefits that can be conferred upon the certificated staff in the forthcoming year, nevertheless the District at the hearing did accept the principle that there was some room in

adjusting other aspects of the budget which would permit a benefit adjustment over six percent (6%). However, because of other increased costs (there has already been in the last two or three years a major impact in reduction of costs in other areas), there is a limited amount that could be wrung out from other sources within the budget. I have no way of knowing what the extent of this possible other adjustment over and above six percent (6%) is. I cannot substitute my judgment for that of the District. I do not have that much knowledge in the individual budget items where perhaps some cut-back or other type of adjustment could provide additional resources to be devoted to teacher's salary.

I therefore have proceeded on the basis of what is a reasonable minimum that should be provided for by way of salary adjustments to the teachers. I assume that the figure that I am recommending is, perhaps, subject to the problem of finding the resources within next year's budget.

I have started, first of all, with the concept that the salary schedule as presently constituted is a vested benefit that has been instituted in the past and has carried on for several years and should not be considered as in any way, despite what the Legislature says, as anything but a normal merit increase and not an adjustment due to inflationary factors or other economic reasons. This is almost in the nature of a contracted-for increase that has been established in the past and it is not reflective of any cost of living or other type of inflationary factors. Thus, I start with the concept that the teachers are entitled to the normal increases

both because of experience and increased educational background. The 2.86% which is represented by these vertical and lateral increases, as I describe them, is not really to be used as part of what would be a fair adjustment in their salaries.

They are merit increases i.e. the District is receiving a new quid pro quo because of additional experience and training and hence are not really increases although to be sure, teachers are receiving this total take home pay. # From there, I go to the six percent (6%) that has been suggested by the District (I recognize that the District includes in this the 2.86%). However, as I have indicated, I do not think that this is really an adjustment that should be looked upon as an increase in salary. It simply reflects what has already been committed. The six percent (6%) is a figure which the Legislature has also seen fit to indicate is at a level that is acceptable (4% from the State subsidy and 2% from the levy). Once again, I do recognize the State takes from the 4% the 2.86%. I think this is a horrible distortion. It fails to recognize the difference in that type of an increment over a wage adjustment that takes place on a yearly basis but which is not bottomed on merit.

Thus, I would recommend a 6% increase over and above the 2.86% that represents a merit increase. I have not attempted to allocate this to individual items. I do believe that this choice, as indicated by the District, is entirely up to the members of the Association. They can allocate it in any way that they wish. From the District's point of view, it does not have strong feelings how the distribution takes place. I think an analysis and summary of position will reveal that. I leave this up to the consent of the parties and do not propose to make any judgment as to where it would be best allocated.

Lastly, I would adjust the travel allowance from 13¢ to 15¢ per mile. This is not really a benefit item. It simply is a reimbursement for actual costs incurred. I recommend this adjustment in addition to the 6% and the 2.86% package.

The 6% plus 2.86% recommendation is well within reason which is demonstrable from looking at several comparitive facts.

Administrators received a 6.7% increase in salary last year while teachers received a 6.1% increase. Greater disparity is seen in the fringe benefit package of administrators than teachers. Administrators receive a fully paid $50,000 term life insurance plan while for teachers, it is $10,000. A fully paid medical plan is provided for administrators. The District's contribution to the teacher's plan is presently limited at $32.00 per month. Finally, it should be kept in mind that my recommendation (6% excluding increments) is below the increase in cost of living of 8.4%, although prospectively this may be lower. There is strong evidence that food prices in the last quarter of 1977 will be considerably lower.

What makes the recommended adjustment in economic benefits reasonable on a comparative basis is the fact that the District has awarded for 1977-78 an 8.2% overall adjustment to classified employees and in the case of administrators a 7% increase for salary when there is a very gross existing disparity in fringe benefits ($57.00 for teachers versus $117.00 plus adjustments for administrators).

I will now address the remaining issues:

1) Change in salary schedule.

The District proposes the deletion of A and A" lanes from the salary schedule and the elimination of the 10% increase for the PhD. I am in agreement with the Association that this proposal contains a "regressive and devisive concept that would produce profound repercussions detremental to the educational climate in the District." (Brief of the Association) I therefore feel that it should not be urged.

2) Prior approval.

The Association is proposing that there be no prior approval for the salary increases section in next year's contract. The District wishes to retain these untested procedures, agreed to last year.

The Association views the prior approval system as an insult to the professional integrity of the certificated staff. I disagree. The District, as well as the certificated staff, must play an active role in the educational advancement of teachers. I do not believe that the Association questions the appropriateness of some participation by the District. Here, as in other areas, it is the nature of that participation which is at issue.

I find that the prior approval system, yet untested, should be given an opportunity to work. The District has adopted comprehensive "Procedures and Guidelines for Approval of Training Advancement Courses and Programs: (see District Exhibit 4). Procedures for the selection of a mediator (from the certificated

staff) are included in the event disagreement exists between the employee and the supervisor concerning the appropriateness of a program. Other safeguards against arbitrary or capricious action by the supervisory are provided.

I believe that these procedures reflect an enlightened approach to the area of training advancement and I feel strongly that they should at least be tried before modification or elimination.

3) Sabbaticals

The District offers two proposals affecting sabbaticals:

a) Eliminate the percentage number of sabbaticals for a dollar amount ($100,000 minimum to a $130,000 maximum), and

b) No movement should be made on the salary schedule while on sabbatical leave.

Each proposal will be taken up in the above order.

The first proposal of the District allegedly seeks to reduce the current uncertainty in sabbatical expenses resulting from the difference in salaries of employees selected to receive leave. The 1976-77 expenditure was $116,328.00, the approximate mid-point of the District's range of funding. I believe that whatever uncertainty exists in the sabbatical funding does not create serious problems.

Essentially, the proposal seeks to reduce sabbatical funds. By providing for a flat sum, the number of sabbaticals will each year be reduced unless an automatic or negotiated adjustment tied to the base of total salaries is provided for. Sabbaticals are a relatively insignificant part of the total budget while the corresponding benefits are great. I therefore find that the formula

recommended and adopted by the parties last year is reasonable. Sufficient certainty of funding is present.

The District argues in its second proposal that a teacher on sabbatical leave requiring additional training (which is paid by the District) provides no benefits to the District until he or she returns to regular service and therefore should not receive the educational lateral increment.

I believe that this is a sound position and a change in this practice should obtain. Inasmuch, however, as there are teachers who have been granted sabbaticals prior to the settlement of this contract, it would not be fair to change the terms applicable to those teachers. However, it is certainly recommended as a change in the 1978-79 contract year.

At the same time, I want to make it clear that I am not recommending that the teacher on return from sabbatical should not receive the one year vertical increment due to experience in the classroom. It was well pointed out by the Association that on a sabbatical there is an experience over and above that resulting from earning credits. There is a total experience over and above that which can be equated to the one year's teaching experience in the classroom.

4) Professional growth.

The thrust of the District's proposal is that credit toward the educational increment be given only for <u>District-sponsored</u> in-service programs. The Association seeks credit for approved outside programs as well.

The District's proposal is prompted by a grievance ruling interpreting the requirements of the program (see the brief of the District, Article X, Section 3). In reviewing the materials submitted to me by the parties, I have searched in vain for a copy of that ruling and the actual proposal of the District (Article X, Section 3.1.1). Without these materials available for review, I find it impossible to reach an informed recommendation.

My opinion would be, without recommending it, that if the outside program is meritorious and the District has control, because its approval is required, that this should be adopted. There is no reason to differentiate between in house and out house* programs.

SUMMARY OF RECOMMENDATIONS ON ECONOMIC ISSUES

1) Wages and fringe benefits
   a) That the 2.86% cost of the wage index should be provided for and that this item be deemed not as an increased wage adjustment but a merit increase previously determined and agreed upon.
   b) Wages and fringe benefits should be limited to a total of 6% to be allocated as the Association elects. This may include adjustments in items such the $7.50 per hour rate for extended pay. I wish to place

*(No undue inference should be made from the use of this term.)

special emphasis on the fact that the total cost of sabbaticals is also to be taken out of the 6% recommended.

c) Travel cost should be reimbursed at the rate of 15¢ instead of 13¢ a mile as previously provided. This is not to be deducted from the 6% package.

2) The wage index should not be disturbed. Thus lanes should not be eliminated.

3) Prior approval in course credit earnings should be retained.

4) Sabbatical policy. The amount to be allocated for sabbatical cost should remain unchanged. Beginning with the 1978-79 school year, those who are on sabbatical should receive payment for their credits earned on sabbatical only beginning with the school term following their return.

5) Professional growth. I make no recommendation but express the opinion that credit be given for outside programs if prior approval is obtained.

PART IV

MIXED ISSUES

CONTRACT TERM

FINDINGS AND RATIONALE

The parties have traditionally provided for a one year contract. They now recognize that they reached and evolved very sophisticated contract terms for which I commended them at the hearing. It bespeaks a very progressive imaginative approach to employer-employee relations.

Both parties seemed to be amenable at the hearing to provide for stability at least in the non-economic area as hereinafter defined. Furthermore, the gigantic problem that the District and its teachers face because of serious adverse financing Legislative enactments requires all their effort be concentrated in this area.

Continued heavy negotiations in the non-economic areas detracts from the total effort required to achieve solution of the serious problems that are in the offing.

I recognize that adjustments in the economic area this year have some locked-in effect on future economic conditions. I am optimistic, however, that to some extent if the parties work together as they have in the past, that they will alleviate future problems they face.

I perceive that the parties require a period of tranquility to the extent that a general freeze in non-economic questions can provide. That is not to say that the parties by mutual agreement cannot change the terms of the contract at any time (not solely at reopening time) and adjust what may be discovered to be recognized problems.

I believe the parties would agree to a long term contract for the non-economic provisions provided that they could agree on what

the balance -- ~~economic conditions are~~ -- which would be renegotiated prior to the inception of the new academic year as they have in the past.

I attempted to define these conditions recognizing that a definition, as all others, may limp.

Economic issues, as I perceive them, are those that have attached to them a declared dollar amount either absolutely or arrived at by applying a percentage to a known base. Provided, however, that staffing and the calendar are included.

All provisions of the contract have at least an indirect economic impact. The definition attempts to confine economic conditions to those that have a visable (dollar) impact. Except for staffing and the calendar, these would be the following: wages, medical, dental and insurance benefits, extended pay, travel allowance, sabbatical, per diem activity pay, stipend for chairpersons.

The parties did, at least, in determining procedural approach at the hearing, seemed to have agreed that the foregoing were the economic issues as distinguished from non-economic.

RECOMMENDATION

1) I recommend that the parties agree to a three-year term preferably but not less than a two-year term.

2) That economic terms remain constant for the period of the contract subject to any change by mutual agreement at any time during the term.

3) That economic conditions of the contract, as defined supra be negotiated as they have in the past, prior to the beginning of each subsequent year.

That for the academic year 1978-79, staffing negotiations will not be included except as previously recommended in this report.

Similarly, the 1978-79 calendar shall remain unchanged as also recommended for adoption by the 1977-78 contract.

PART V.

OVERVIEW OF THE IMPASSE

In addition to making findings and recommendations on each specific issue that has been involved in the impasse under each broad category i.e. economic, non-economic, and mix, I take the opportunity to comment on aspects of the negotiation which in my judgment have contributed to an impasse which is self-evident, to be gigantic in its complexity.

I have elected to divide these into two categories i.e. those over which negotiators have no control and those which, perhaps, with a somewhat different approach might well have minimized the scope of the impasse.

A. Non-controllable factors.

The impact of new legislation has been of devasting effect upon the negotiations. The District has been uncertain and still is very dubious of the total impact. In fact, AGO opinion as to its effect and meaning is still vacillating. This has provided tremendous difficulty to determine the base from which to negotiate intelligently. Of particular concern is the locked-in effect of any 1977-78 adjustment in salaries on the future adjustments in subsequent years.

It is unfortunate that the Legislature in its attempt to remedy present problems on a state-wide basis has, in effect, horribly impaired an educational program in Bellevue which in this State has been exemplary and outstanding.

The Association has been even more uncertain as to the Legislative effect and thus has not been able to propose changes

and improvements on a more informed basis.

The vulnerability that Professor Collins diagnosed last year is now not impotency but real and disastrous -- particularly the limitation of the State on levy limitations and funding of teacher's salaries.

B) Some attitudinal problems.

1) The Association negotiators have suffered in their advocacy by unreasonable pressures brought to bear on them by the several segments of the Association. It was very evident that they felt that continued healthy existence of the Association depended, as the negotiators perceived it, on presenting and advocating a bevy of new benefits which one might characterize in some cases as over ambitious.

A collective bargaining agreement cannot hope to be all things to all people and failure to achieve the status in one fell swoop should not be deemed to be a failure of representatives of the Association. I feel that improvement must come through an evolutionary process. The many requested changes when coupled with the horrible impact on financing by recent Legislative enactments, has brought about a disastrous adverse climate for negotiations. Certainly adoption of an agency shop provision requested might well eliminate some of the anxieties as to the Association's stability and thus reduce some of the pressures to achieve that security by insisting on a normal number of adjustments each year.

2) At the risk of impairing my reputation and popularity, I must observe that the Fact Finding process very frequently reveals that the District in negotiations either failed to communicate fully

its position or problems or at times it did not explore in depth the possibility of reaching agreement. On several occasions, the Association had made a proposal but had clearly and early signalled that was a starting point and it was willing to pare down the proposal to some more acceptable level. The hearing revealed that the Association had the general feeling that they were very often left with no room for bargaining.

By the same token, at the hearing it became evident that the Association could have avoided the extent of the disagreement had it more fully stated its position. A good example of that is the matter of transition from voluntary exchange of teachers. At the hearing, the District for the first time learned that "principal approval" was acceptable at least that is the impression I gathered.

One would never have gathered that some of the above problems existed during negotiation if one were an observer at the Fact Finding hearing where both groups exhibited a cordiality and the highest quality of advocacy and professionalism that I have ever been privileged to witness. One can conclude that some of the problems encountered in negotiation were due primarily to the shock that has been experienced by virtue of the adverse effect of Legislation.

It would be a gross misunderstanding of the intent of my observations and comments to emphasize the problems that I judge have existed and not look at the paramount conduct of the parties. The total overview of the bargaining process which I have witnessed I think was outstanding on both sides.

Prepared and rendered at Tacoma, Washington on August 26, 1977.

Joseph A. Sinclitico
Fact Finder