FACT-FINDING REPORT

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

June 22, 2011

In the Matter of:

Toledo Board of Education	)	
	)	Case Nos. 11-MED-03-0287
and	)	11-MED-03-0401
	)	11-MED-03-0402
Toledo Federation of Teachers	)	

APPEARANCES

For the Board:

Craig M. Brown, Counsel
James P. Smith, Counsel
James Gault, Chief Academic Officer
Daniel M. Romano, Treasurer/CFO
James R. Gant, Chief Business Manager

For the Union:

Kevin Dalton, Vice President, TFT
John Roca, Attorney
Elisabeth Dickinson, Assistant to the President, TFT
Raymond M. Mackey, Consultant, AFT
Jewell Gould, Director of Research & Information Services, AFT

Fact Finder:

Nels E. Nelson

BACKGROUND

The instant dispute involves the Toledo Board of Education and the Toledo Federation of Teachers. The board operates the Toledo Public Schools, which enrolls approximately 25,000 students and in FY 2012 will operate 50 school buildings. The union represents three bargaining units consisting of 1,937 teachers, 305 paraprofessionals, and 227 substitute teachers.

In the spring of 2010, the board faced a projected deficit of $38.0 million. In an attempt to balance the budget for FY 2011, the board placed a 0.75% income tax levy on the ballot. Unfortunately, the voters rejected the proposed tax. In order to avoid a state takeover of the schools and the program cuts that would ensue, the TFT agreed to the elimination of 237 classroom teachers, 31 paraprofessionals, a 1% salary reduction, and increased contributions to healthcare costs. The American Federation of State, County and Municipal Employees and the Toledo Association of Administrative Personnel accepted similar concessions.

In January 2011, the board responded to the deteriorating financial situation by announcing its Transformational Plan. The plan calls for replacing elementary and middle schools with K-8 schools, making programmatic changes to eliminate redundancies, focusing resources on direct educational services, and obtaining economic and operational concessions from the TFT and the other unions to eliminate the budget deficits for FY 2011 and subsequent years.

The board and the union reached agreement on the implementation of the K-8 model. It resulted in the closing of a number of elementary schools and the conversion of a number of buildings to K-8 schools. The changes involved the lay-off of 350 teachers, 71 non-teaching employees, 39 secretaries, 20 custodians, eight security personnel, 28 food service workers, one cabinet member, and 19 K-8 transition positions. The board indicates that the changes resulted in savings of $8.1 million in FY 2012 and additional savings of $8.1 million in FY 2013.

Despite the implementation of the Transformational Plan, the board still faces operating deficits of $19.2 million in FY 2012 and $40.2 million in FY 2013 or approximately $59.4 million over the next two years. To close the gap between revenue and expenditures, the board proposed a two-year agreement with significant changes in the health insurance plan and increased employee premium contributions; the elimination of the Intern Board of Review (IBOR) and the Toledo Review and Alternative Compensation System (TRACS); the reduction of professional leaves; the elimination of 25 teachers in supplemental positions (e.g., Alternative Schools, Gifted/Horizon, LPD and curriculum support); the reduction of supplemental contracts by $2.0 million; the elimination of 84 elementary art, music, and physical education teachers; non-restoration of the 1% salary reduction of FY 2011, an across-the board salary reduction of 2.5% from FY 2011 levels for FY 2012 through FY 2013; no movement on or through the salary grid; and the elimination of the salary grid on July 1, 2012. The board also sought to change the contractual seniority systems, restrict voluntary transfers, and obtain the right to modify the collective bargaining agreement when necessary to fully implement the Transformational Plan.

When the union rejected the board's proposal, the parties agreed to proceed to fact-finding pursuant to a mutually upon agreed dispute settlement procedure. The procedure calls for a fact-finding hearing to be conducted June 13 through 15, 2011, and requires the Fact Finder to issue his report and recommendations no later than 12:00 p.m. on June 22, 2011. The parties agreed that the Fact Finder's recommendations are to be based on the criteria contained in Chapter 4117 of the Ohio Revised Code.

The Fact Finder met with the parties as scheduled. The first day was devoted to mediation. When a settlement could not be reached, a hearing was held on the second day. After the Fact Finder's continuing efforts to resolve the dispute were unsuccessful, he issued his report on the date established by the parties' mutually agreed uon dispute settlement procedure.

The recommendations of the Fact Finder are based upon the criteria set forth in Section 4117-9-05(K) of the Ohio Administrative Code. They are:

(a) Past collectively bargained agreements, if any, between the parties,

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

(c) The interest and welfare of the public, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;

(d) The lawful authority of the public employer;

(e) The stipulations of the parties;

(f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed upon dispute procedures in the public service or in private employment.

ABILITY TO PAY

The record indicates that the board faces a severe budget crisis. This conclusion is supported by an examination of the board's five-year financial forecast. The Ohio Department of Education requires such forecasts to be prepared and submitted in October and May of each year. The forecasts include the actual data for the prior four fiscal years, the current budget, and four years of projected revenues and expenditures. The five-year forecasts are reviewed by the Department of Education and posted on its website.

The board's five-year forecast reveals a substantial fall in revenues. The forecast indicates that revenue has fallen from $344.4 million in FY 2009 to $330.5 million in the current fiscal year. It is projected to decline to $317.6 million in FY 2012 and to $300.3 million in FY 2013.

The decline in revenues has a number of causes. First, real estate taxes have fallen from $88.0 million in FY 2007 to $83.1 million in the current fiscal year and are projected to fall to $82.5 million in FY 2012. The decline in real estate taxes is the result of numerous factors including fewer residents, the decrease in property values, and the lack of new construction as well as various tax abatements and incentives.

Second, investment income has declined very sharply. The five-year forecast shows revenue on investment income has fallen from $2.8 million in FY 2008 to only $200,000 in FY 2011. It projects that investment income will remain at that level through FY 2015.

Third, the district has experienced a loss of money from the Ohio Foundation Program. The highest level of support was $212.9 million in FY 2009. It is expected to fall to $193.8 million in FY 2013.

Fourth, the tangible personal property tax was eliminated and the state's reimbursement for the loss of the tax is ending. In FY 2007 the district collected $11.2 million in tangible personal property tax and received reimbursement for $7.0 million from the state. In the current fiscal year, tangible personal property tax collections were $1.0 million and the state reimbursement was $13.6 million. However, by FY 2013 tax collections will be $300,000 and the reimbursement will be only $163,000. By FY 2014 the reimbursement from the state will end.

The declining revenues in FY 2010 and FY 2011 were partially offset by federal funds. Federal receipts, primarily due to the American Recovery and Reinvestment Act, rose from $146,000 FY 2008 to $14.1 million in FY 2010 and $15.1 million in FY 2011. However, this revenue source will fall to $11.0 million in FY 2012 and to $2.3 million in FY 2013.

At the same time as revenues have fallen, expenditures have risen. Without the implementation of the Transformational Plan and the contractual and economic changes sought by the board, expenditures would have increased from $329.7 million in FY 2011 to $346.5 million in FY 2012 and to $350.9 million in FY 2013.

There are two major sources of increased expenditures. First, salary and fringe benefits were projected to increase. Salaries would have increased from $148.0 million in FY 2011 to $152.0 million in FY 2012 and to $155.0 million in FY 2013. Fringe benefits would have risen from $78.0 million in FY 2011 to $82.2 million in FY 2012 and fallen to $80.6 million in FY 2013, reflecting reduced payments to retirees.

Second, the district faces increasing expenses due to a loss of students. In FY 2011, the district paid other districts $8.4 million because of the Ed-Choice Program and $61.4 million for charter school tuitions. The combined totals are projected to rise to $76.1 million in FY 2012 and to $78.1 million in FY 2013.

The board must eliminate the budget deficit. Section 5705.412 of the Ohio Revised Code prohibits a school district from entering into a labor agreement without certifying that it has sufficient funds to maintain personnel and programs for the term of the contract. Without an agreement on cuts to close the budget gap, the board cannot certify that it has the funds it needs to operate beginning in FY 2012.

While revenues and expenses for FY 2012 and FY 2013 are necessarily projections, they are entirely credible. The board pointed out that the financial analysis it requested from the Ohio Department of Education provided results consistent with its projections. It notes that the projections were also reviewed and approved by by a group from the University of Toledo. Most importantly, the union's financial expert from the American Federation of Teachers was unable to challenge the projections.

The board did agree to two changes in its projections. First, subject of the possibility of future reductions in staff if enrollment projections are not met, it accepted the union's suggestion that the projected loss of students due to charter schools and the EdChoice Program could be reduced from 1000 to 500 students. This reduces the deficit in FY 2012 and FY 2013 by $3.0 million each year. Second, the board agreed to modify the projected spending on textbooks by taking some of the needed money from the capital improvement fund. This results in a reduction in the deficit of $1.0 million each year.

These two modifications to the projections do not materially change the situation facing the board. Declining revenues require significant cuts in expenditures. However, employees cannot be expected to continue to bear the burden for falling state assistance. The voters must pass a levy to allow the board and the teachers to offer their students the education they deserve and to provide the city with the schools it needs to attract new businesses and retain residents.

ISSUES

The parties submitted 11 issues to the Fact Finder. For each of the issues, the Fact Finder will set forth the positions of the parties with respect to the issue and summarize the arguments and evidence they presented in support of their demands. He will then offer his analysis for the issue, followed by his recommendation.

1) Health Insurance – The current contract offers three health insurance plans. All of the plans include co-pays of $15 for office visits and $100 for the use of an emergency room, pay 100% for preventive care, have no annual deductibles, and require employees to pay 5% of their premiums. The most popular plan has no co-insurance while the other plans include 10% or 15% co-insurance requirements with no out-of-pocket limits.

The board proposes a number of changes. First, it wishes to add annual deductibles of $250 for single coverage and $500 for family coverage for the most popular plan and deductibles of $500 and $1000 and $1000 and $2000 for the two other plans. Second, the board seeks co-insurance of 10% for the most popular plan and 20% for the other two plans with out-of-pocket maximums of $1750 for single coverage and $3500 for family coverage for the most popular plan and $3500 and $7000 and $5000 and $10,000 for the other plans. This health care plan design is referred to as Option C. Third, the Board proposes 15% in employee cost sharing.

The union offers a different health insurance proposal. First, it rejects the changes in plan design sought by the board. Second, the union seeks to have the insurance committee investigate changes in the co-payments for office visits and the use of an emergency room, which would produce savings of at least $2.0 million per year, and the level of employee contributions. Third, it offers to increase the employee premium contributions, which it states leads to additional savings.

Board Position – The board argues that its proposal should be adopted. It states that Kaiser's annual survey of employer health benefit reports that in the Midwest the average family deductibles were $1321 for HMO plans, $1518 for PPO plans, and $2253 for POS plans compared to the $500 family deductible it seeks. The board adds that the national average employee premium contribution for family coverage is $333 per month compared to approximately $200 per month in its proposal. It reports that national data from the Kaiser survey show that 67% of covered workers with family coverage had out-of-pocket maximums of $4000 or more per year.

The board contends that its proposal helps close the budget deficit. It states that the changes in the plan design provide annual savings of $4.5 million and the increase in employee premium contributions to 15% yields annual savings of $5.0 million. The board indicates that the two changes will result in $19.0 million in savings over two years.

Union Position - The union argues that its position should be recommended. It points out that the insurance committee has been successful making changes in plan design that have resulted in savings on health insurance. The union offers as an example the changes in the prescription drug provisions, including an increase in drug co-pays and the adoption of incentives for employees to use mail order prescription. The union notes that these changes resulted in $1.1 million in annual savings.

The union opposes increasing the employee premium contribution to 15%. It points out, however, that it offered to increase the employee share, which would result in savings of $2.5 million. The union stresses that this is in addition to the concessions it made in FY 2011, which resulted in annual savings of $1.6 million.

Analysis - While the board proposes significant changes in health insurance, TFT members have enjoyed a health insurance plan that few other employees have had and have done so while paying only a small portion of the premiums. Kaiser's widely cited Employer Health Benefits indicates that the plan and the premium payments suggested by the board are entirely consistent with health insurance in the private sector. In addition, employees in the Ohio public sector have seen their co-pays, co-insurance, annual deductibles, and premium contributions increase rather sharply in recent years.

The Fact Finder recognizes that the proposal to increase employees' premium contributions from 5% to 15% may be burdensome. For that reason, he believes that the insurance committee should have the opportunity to investigate plan design options that might result in lower premium costs and contributions but still contribute the savings that the board must achieve to close its budget deficit. With this in mind, the Fact Finder recommends that the insurance committee convene to consider alternative plan designs and premium contributions that will produce savings of $9.5 million in FY 2012 and an equal amount in FY 2013.

Recommendation - The Fact Finder recommends the following contract language:

> The current Health Care Committee shall be convened immediately to identify and reach agreement on plan design changes and premium cost sharing amounts sufficient to provide the Board with savings of $9.5 million in both FY 2012 and FY 2013. If the Committee fails to reach an agreement by August 31, 2011, then, on September 1, 2011, the health care plan redesign proposed by the board (Option C) and 10% premium cost sharing proposal shall become immediately effective September 1, 2011. Following August. 31, 2011, the Committee will continue to meet. However, if the Committee fails to reach a decision by December 31, 2011, on how annualized health care cost savings of $9.5 million can be achieved through additional plan design changes and/or additional employee premium cost sharing, then the plan redesign proposed by the board (Option C) shall continue in effect for the duration of the Agreement and the premium cost-sharing amount shall be raised to 15% effective January 1, 2012, which shall continue for the duration of the Agreement. Plan design and premium cost sharing shall be applied equally to all bargaining units.

2) Voluntary Transfers - The current contract provides that vacancies which occur up to January 31 are to be filled by teachers' transfer requests. The board proposes to roll back the transfer date to October 15 with vacancies which occur after that time filled on a temporary basis until the start of the next school year. The union opposes the board's proposal.

Board Position - The board argues that its position should be recommended. It points out that filling a vacancy in the middle of the school year results in new teachers in at least two classrooms as positions are backfilled. The board claims that its proposal minimizes the disruption caused by filling vacancies occurring between October 15 and January 31.

Union Position - The union opposes the board's demand. It points out that after the beginning of the school year, teachers must be moved whenever enrollment projections are wrong. The union complains that the board does not propose any remedy for a teacher whose assignment is changed. It emphasizes that the current procedure has existed for at least 16 years without any attempt by the board to change it.

Analysis - The Fact Finder must reject the board's proposal. First, while he understands its argument that mid-year staffing changes are disruptive for students, it offered no evidence regarding the number of transfers between October 15 and January 31. Without such information, the Fact Finder is hesitant to recommend a change in a long-standing contract provision. Second, the changes in the district resulting from the closing of a number of schools and adoption of the K-8 model are likely to make the opportunity for a teacher to transfer to a vacant position a more valuable benefit than in the past. Finally, the significant reductions in compensation that the board seeks from the teachers make it a difficult time to ask them to make additional sacrifices.

Recommendation - The Fact Finder recommends the current contract language be retained.

3) Seniority System - The current contract calculates seniority in a number of different ways depending on its use. The board proposes using system-wide seniority for all purposes. The union wishes to retain the current contract seniority provisions.

Board Position - The board argues that its demand must be adopted. It claims that the contract provides for at least five different measures of seniority depending on its use. The board claims that the complex seniority systems require staff and teacher time and result in excessive and unnecessary grievances and arbitrations.

Union Position - The union rejects the board's demand. It reports that the current seniority provisions have been in place for at least 20 years and that most are used every year. The union claims that a seniority issue has not been arbitrated for two or three years.

Analysis - While the fact finder understands the board's desire to simplify the calculation and use of seniority, he cannot recommend its demand. The current contract provisions regarding the calculation and use of seniority have existed for many years. It appears that they have evolved to meet the needs of both the board and the union. Any change in the current system cannot be recommended without evidence of thorough consideration and discussion of the changes.

Recommendation - The Fact Finder recommends the current contract language.

4) Intern Board of Review, Professional Leaves, and Toledo Review and Compensation System - The current contract includes IBOR to assist new teachers and other teachers with problems in the classroom and TRACS, an alternative review and compensation system. Additionally, employees are entitled to professional leaves under the current contract. The board proposes the elimination of IBOR and TRACs and the reduction of professional leaves to save a total of $800,000 per year. The union did not express opposition to the board's demand because i the issue was resolved sidebar discussions regarding the Race to Top.

Analysis – Since the issue has been resolved, the Fact Finder believes the board's proposal should be adopted.

Recommendation - The Fact Finder recommends that the language in the agreement relating to IBOR and TRACS be dropped from the agreement and that professional leaves reduced to produce a total cost savings of $800,000 per year.

5) Elementary Specialists - The district currently has 138 art, music, and physical education teachers. The board seeks to reduce the number of specialists to 54. The union opposes the reduction in the number of specialists.

Board Position - The board argues that the unfortunate reality is that certain positions must be eliminated to make up for its financial shortfall. It indicates that its proposed trimester schedule for specialists will allow the art, music, and physical education teachers to deliver instruction to all elementary students over the course of a year. The board indicates that its proposed reduction will result in savings on $11.1 million over two years. It adds that should a levy be passed in FY 2012 or FY 2013, it is committed to restoring as many specialists as circumstances will allow.

Union Position - The union argues that the board's demand should be denied. It contends that art, music, and physical education teachers are an essential part of the elementary educational program. The union suggests that the cuts in these areas will result in a loss of students as they leave the Toledo Public Schools for alternative educational providers.

Analysis - The board's proposal would significantly reduce the number of art, music, and physical education teachers. It would produce savings of $11.1 million over two years but would still provide some instruction in each of the areas. Moreover, it would make it unnecessary to recommend some of the other changes in the current contract which are necessary to eliminate the budget deficit.

Despite these points. the Fact Finder cannot recommend the board's proposal. First, it was strongly opposed by the union. It feels that art. music, and physical education are an essential part of the elementary curriculum. The union also complained that the reduction in the number of specialists would significantly reduce elementary teachers' planning time.

Second. one of the problems facing the district is the loss of students to charter and other schools. A substantial reduction in art, music, and physical education could result in additional losses in enrollment where parents recognize the value of instruction in art, music, and physical education.

Finally, the passage of a levy is essential to the Toledo Public Schools and even to the City of Toledo. Anything that might be identified as a reduction in the quality of the schools could result in the rejection of a levy. A decline of the public schools could impact the city's ability to recruit and retain employers.

Recommendation - The Fact Finder recommends the current contract language be retained.

6) Modifying the Collective Bargaining Agreement - The board seeks a new contract provision that would allow it to modify the contract as necessary to insure a full implementation of the Transformational Plan. The union opposes the board's proposal.

Board Position - The board argues that its proposal should be adopted. It claims that the full implementation of the Transformational Plan is critical to ensuring the viability of the schools. The board insists that any conflict between the collective bargaining agreement and the plan must be resolved in favor of the implementation of the plan. It indicates that if the parties are unable to agree on whether a contract provision is an impediment to the full implementation of the plan, the issue will be subject to expedited arbitration.

Union Position - The union argues that the board's proposal must be rejected. It suggests that there are no details regarding the Transformational Plan but only vague goals. The union complains that the superintendent never contacted it about negotiating the Transformational Plan. It asserts that the provision sought by the board is unprecedented.

The union contends that the provision sought by the board is unnecessary. It states that it has worked collaboratively to implement a number of changes the board wanted to make. The union reports that it has reached a number of agreements with James Gault, the Chief Academic Officer, about imperatives the board wished to implement.

Analysis – The Fact Finder must reject the board's proposal. While the implementation of the Transformational Plan may require modifications to the collective bargaining agreement, the union has demonstrated through changes it has already accepted that it is willing and able to negotiate necessary alterations to the contract to ensure the implementation of the Transformational Plan. Furthermore, even with the proposed expedited arbitration procedure to determine the necessity of contract changes, the board's proposal gives it much too much power to alter the contract.

Recommendation - The Fact Finder recommends that the board's demand be denied.

7) Supplemental Pay - The current contract provides for a variety of supplemental contracts for teachers who engage in extra activities involving athletics, music, and student

organizations. The board seeks to reduce the money spent on supplemental contracts by $2.0 million. The union rejects the board's proposal.

Board Position - The board argues that its proposal should be recommended. It states that while it recognizes the value of extracurricular activities, supplemental salaries are spiraling out of control. The board claims that it cannot continue to spend $7.9 million per year on supplemental salaries and wishes to reduce the spending by $2.0 million per year.

Union Position - The union opposes the board's position. It indicates that teaching is the district's core mission. The union states that if the board wants to reduce supplemental contracts, it is not the union's job to determine which activities to cut.

Analysis - The Fact Finder recommends that the board's proposal to cut supplemental salaries by $2.0 million be adopted. While he agrees with the union that education is the core mission of the schools, extracurricular activities do make a positive impact on the educational experience. However, any larger cut than that proposed by the board might make it difficult to fill the positions and could diminish the quality of the schools in the eyes of the voters.

Recommendation - The Fact Finder recommends the following contract language:

> The board, in collaboration with the union, shall identify and implement $2.0 million in reductions in supplementals through a combination of position eliminations and compensation reduction.

8) Duration - The current contract had a term of three years and was extended for one year. The board seeks a two-year agreement. The union wishes a one-year agreement.

Board Position - The board argues that its proposal should be adopted. It asserts that anything less than a two-year term is unworkable. The board states that in order to pass a levy, it must convince voters that it is heading in the right direction and providing a quality education. It claims that it needs two years to implement the Transformational Plan and win voter support for a levy.

Union Position - The union argues that a one-year agreement is appropriate. It indicates that while the deficit for FY 2012 is real, the deficit for FY 2013 is based on projections. The union complains that the board has consistently referred to unidentified members of the community who are conditioning their support of a levy on the parties agreeing to a two-year contract. It stresses that a one-year agreement will allow the parties to pass a levy and recruit students back to the district.

Analysis – The Fact Finder must recommend a two-year agreement. First, the board needs additional money to operate the schools. Substantial cuts have been made to staff and programs which threaten the quality of a Toledo Public Schools education and increase the potential loss of students to charter schools and through the EdChoice Program. Employees have been forced to accept deep cuts in their salaries and benefits. Short of dismantling public education, there is little left to cut.

Second, the only source of additional money is the passage of a levy. The current climate in Columbus makes an increase in state funding unlikely. Any federal assistance, such as the ARRA funds the district received during the last few years, seems remote given the concern in Washington over budget deficits.

Third, the Fact Finder believes that the chances of passing a levy are significantly increased by a two-year agreement. If the voters are asked to approve a levy soon after the negotiation of a one-year agreement cutting employees' salary and benefits, they are likely to conclude that the purpose of the levy is simply to restore the cuts and will be less likely to vote for a levy. Moreover, with a one-year contract, the district will likely be forced to attempt to pass a double digit levy just to break even.

The Fact Finder acknowledges that in negotiating a two-year contract the parties must rely on projected revenues and expenses. However, the board's projections are sound and have not been disputed by the union's financial expert. Moreover, projections must be relied upon in negotiating any multi-year agreement. The alternative using projections is to negotiate one-year agreements, which means nearly non-stop bargaining.

Recommendation - The Fact Finder recommends the following contract language:

The contract shall be effective July 1, 2011, through June 30, 2013.

9) Salaries - The 2008-2010 collective bargaining agreement has a salary schedule with rates of pay ranging from $35,313 for a new teacher with a B.A. to $70,763 for a teacher with a Ph.D. and 30 years of service. However, in June 2010, the parties agreed to reduce all of the salaries in the schedule by 1% for FY 2011 with the stipulation that teachers who were entitled to advance on the salary schedule would do so. The board proposes that the 1% salary cut not be restored and further proposes cutting current FY 2011 salaries an additional 2.5% for two years. It also demands that teachers be frozen at their current step on the salary schedule for FY 2012 and that the schedule be abolished in FY 2013 and replaced by a pay-for-performance system. The union proposes a one-year agreement with a 3% reduction for FY 2012 on all current earned income after step increases.

Board Position - The board argues that its salary position should be recommended. It points out that employee salaries are the largest expense confronting the district and in FY 2011 accounted for 45% of the district's total expenditures. The board claims that the budget cannot be balanced without a reduction in salaries.

The board complains that salaries increase automatically. It observes that step increases based on years of service and/or educational attainment increase its salary costs by 1.7% per year. The board observes that union members get these increases regardless of their performance during the previous year.

Union Position - The union argues that the Fact Finder should recommend its proposal for a one-year agreement with a 3% salary reduction. It states that its salary proposal combined with an increase in employee health insurance premium contributions to 10%, a 50% cut in expenditures related to supplemental contracts, and a reduction in the estimated loss of revenue due to charter schools and vouchers, reduces the budget deficit by $13.9 million. The union states that this would leave $2.1 million in reductions to be negotiated.

Analysis – The Fact Finder must recommend the board's position. Its proposal would save $8.6 million in FY 2012 and the same amount in FY 2013. Combined with the Fact Finder's other recommendations, the district's deficit to a large extent would be eliminated.

Recommendation - The Fact Finder recommends the following contract language:

> Effective July 1, 2011, the 1% salary reduction of FY 2011 will not be restored. In addition, for the period of July 1, 2011 through June 30, 2013, employees shall receive an additional 2.5% salary reduction from their current FY 2011 salaries. Further, during the period from July 1, 2011 through June 30, 2013, employees shall not be eligible for and shall not receive any scheduled step increases as contemplated under the current salary schedule. Similar general wage reductions shall be negotiated with all bargaining units.

10) Salary Schedule and Performance Based Pay - The current contract has a salary schedule with rows representing years of service and columns reflecting different levels of

education. The board proposes that the salary grid be eliminated in the second year of the agreement and that salaries be based on performance. The union opposes the board's demand.

Board Position - The board argues that its proposal should be adopted. It points out that it is not proposing that teachers be evaluated based on standardized testing but on individua student improvement. The board notes that its Race to the Top application requires it to implement a teaching assessment program that meets the state's criteria. It indicates that the proposed system is being developed.

The board contends that merit pay is an important element in a comprehensive performance evaluation program. It indicates that the premise is that good teachers should be rewarded and other teachers should be given an incentive to improve. The board insists that there is no justifiable reason for a teacher to be paid based strictly on seniority.

Union Position - The union argues that the board's proposal should be rejected. It points out that the board has not developed a performance evaluation plan upon which to base merit salary awards. The union adds that the salary grid has been in the contract for many years and similar grids are included in many public school teachers' contracts.

Analysis -- The Fact Finder cannot recommend the board's proposal. First, step salary schedules have been the norm in public schools for many years. Any departure from what has become the norm must be very carefully considered.

Second, the board has not developed a performance evaluation plan to be considered by the Fact Finder. He cannot recommend a plan he has not seen. If a pay-for-performance plan i to be effective, it needs to be developed collaboratively by the teachers and the administration.

Recommendation - The Fact Finder recommends the following current contract language:

Employees will not move on the salary grid for the duration of the contract. However, the salary grid will remain intact.

11) Support Teachers - The current contract provides for a number of support teachers, including those assigned to the Alternative School, the Gifted Program, and curriculum support. The board proposes the elimination of 25 of these positions in order to save $4.0 million over two years. The union opposed the board's demand.

Board Position - The board argues that its demand should be recommended. It points out that the elimination of elementary specialists will produce savings but that other reductions are necessary. The board indicates that reducing the number of support teachers by 25 will result in a two year savings of $4.0 million.

Union Position – The union argues that the board's demand should be denied. It states that the positions at issue are important to the schools.

Analysis – The Fact Finder must recommend the board's demand. The elimination of the support teachers is a necessary part of the savings that are needed to close the budget deficit and is consistent with protecting regular classroom teachers.

Recommendation - The Fact Finder recommends the following contract language:

> The board, in collaboration with the TFT, shall identify and implement the elimination of the 25 positions from among the Alternative School, Gifted Program and Curriculum Support positions effective FY 2012.

Nels E. Nelson

Nels E. Nelson
Fact Finder

June 22, 2011
Russell Township
Geauga County, Ohio