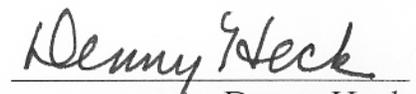


Report of the Governor's Special Masters on the Marysville School District Strike

Issued on October 19, 2003

Submitted to
Governor Gary Locke
The Marysville School District
The Marysville Education Association


Justice Bob Utter (ret.)


Denny Heck

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Background

Governor Gary Locke has requested that we provide “independent, fact-finding services regarding the issues at dispute between the Marysville School District and the Marysville Education Association.” This work began on Saturday, October 11, 2003 and has continued on a non-stop basis. We were primarily supported (and very capably) in this endeavor by Judy Hartmann of the Governor’s staff and Julie Salvi of the Office of Financial Management. Additional and critical expertise was provided by Keith Lowry, retired Assistant Superintendent of Educational Service District 113. In addition, a strong spirit of cooperation was exhibited by personnel in the Office of Superintendent of Public Instruction and the Washington State Legislature, and by the parties to the dispute as well, notwithstanding whatever misgivings they may have had regarding our involvement. During the course of our research and fact finding, numerous documents were collected and analyzed. A portion of those is enumerated in the Appendix. In addition, we have spoken to both parties in this dispute several times.

Commentary on Teaching

Both of us are married to former teachers. Justice Utter’s wife, Betty, is a retired public school teacher and counselor and Denny Heck’s wife, Paula, is a retired teacher and public school principal. This is important context for revealing underlying pro-education values held by both of us. We truly treasure the vital role teachers play in our society. There is a self-evidently important job that has grown more and more difficult especially with increased expectations about learning outcomes. Moreover, today’s classroom teems with issues unknown a generation or two ago. Not only is there a cultural milieu in which historic deference for authority is substantially diminished, but the diversity of individual learning obstacles has dramatically increased. Today’s classroom may contain students who do not speak English. In addition, there are students coming from homes in which they are abused or neglected. These limited examples aren’t the norm but neither are they rare. It is part of why, simply put, teaching is a very hard thing to do. At the outset, we sincerely thank you who are willing to undertake this task so urgent to all of us.

Commentary on Board Membership

Both of us are also former longtime elected officials. We know well the demands and sacrifices of this form of public service. If anything, those demands and sacrifices can become true hardships for those who serve – largely at little or no pay – on school boards which are arguably the basic building block of our democratic form of government. For your service, we sincerely thank you.

Report Organization

This report is organized into several sections: *General Context Perspectives; Perspectives on the Strike; Perspectives on the Collective Bargaining Process Thus Far; Perspectives and Recommendations on Three Major Issues (Salary Schedule; “TRI”, i.e. pay for additional time, responsibility and incentives; and Overall Compensation); and Conclusion and Final Recommendation.* Where we thought it appropriate, we have made specific recommendations. These are not extensively detailed and they are limited to the major issues as we understand them. We did not view our task as “prescribing the exact answer” or functioning as arbitrators but rather as impartial fact-finders who have offered ideas which we hope will illuminate and point the general way toward potential solutions. We are confident that our recommendations are **balanced and affordable within existing District resources** and are viable if the parties truly wish to resolve this dispute. Last, while we did not seek to allocate blame per se, we are blunt. This is intended in the spirit of helping give the wider community an unbiased understanding of what has transpired. In this regard, we hope our observations are of continuing instructive value.

General Context Perspectives

- As a result of strong and effective local bargaining, teacher salaries in Marysville are comparatively high. Well-intended parties may quibble about the exact ranking but there can be no doubt that Marysville teachers are, on average, among the highest paid in the state.
- The state provides a 5.2% higher salary allocation for Marysville based on historic salary levels. This is why it is called a “grandfathered” district.
- High teacher salaries in Marysville have not materialized from nothing. Higher salaries have also effectively been enabled, in part, by large building sizes, somewhat higher class sizes, lean classified staffing levels, and few professional development activities.
- Due to past spending decisions by the District, including collective bargaining settlements, finances have been strained and in general, are a legitimate subject of concern.
- Student performance levels in Marysville, are, compared with districts with similar student demographics, a legitimate subject of concern.

Perspectives on the Strike

- The strike has brought obvious and great harm to students and members of the community. For example, many students with learning difficulties are especially harmed by the substantial delay in school and senior students are at meaningful risk of having their postsecondary educational plans detrimentally impacted.
- There is plenty of blame to go around. Both sides have committed errors that have materially contributed to this circumstance.

Perspectives on the Collective Bargaining Process Thus Far

- There is a very strong and proud tradition of aggressive and effective bargaining by the local teachers union as evidenced by the high salaries.
- To a very real degree, the bargaining process this year appears to have devolved principally into a power struggle. It has been largely devoid of “interest based” bargaining or any semblance of a “win-win” approach.
- The District has aggressively sought to transition to the state salary schedule and to regain control of “TRI days” (time, responsibility and incentive pay). Given all considerations, the District has been too ambitious in its efforts in this regard and as a result, has notably contributed to prolonging the duration of the strike. In other words, the current salary schedule and TRI configuration did not happen overnight; it is difficult at best to change them significantly overnight.

Perspectives on Three Major Issues

In this collective bargaining process, all increased expenditures are effectively in competition with one another given that resources are limited. Therefore, the following three major issues and recommendations must be taken as a whole.

Salary Schedule

- The great majority of local school districts – but not all – have adopted the state allocation model as their local salary schedule. Marysville actually has five unique and locally bargained salary schedules for teachers and other certificated instructional staff. There is a strong tradition in support of this approach by the teachers.
- The salary schedules currently utilized in Marysville benefit senior teachers over junior teachers in terms of the amount of money those teachers are paid versus what they generate in payment from the state.
- There is nothing magic or inherently superior about either form of salary schedule; both share the same basic philosophy of recognizing years of service in the profession and educational attainment.
- The overwhelming number of districts that have adopted the state allocation model as their local salary schedule have done so more cooperatively, more slowly, with minimal impact to individual teachers and often, with financial incentives to make the transition.

RECOMMENDATION: The parties have locked into their respective positions; but this is not an “either-or” choice. The parties can and should negotiate a new single consolidated salary schedule that meets as many of the stated interests of both sides as possible. The District has defined these interests, in part, as: making it easier to comply with state requirements and paying less senior teachers more closely to the amount they generate from the state given their

years of experience and education. The Local has defined its interests, in part, as: protecting senior teachers from any reductions (real or nominal) and support for a locally developed schedule that reflects unique concerns. These interests are not mutually exclusive.

TRI (Time, Responsibility and Incentive)

- The District currently provides the equivalent of 10 additional “TRI days” for teachers. The pay rate for this time is about 237% of the regular daily rate for teachers. Of the ten “TRI days”, two are required by the local bargaining agreement to be within the school building and eight are not. In the latter instance, teachers vouch for the performance of additional work to warrant payment. These days are not under the direction of the District.
- These “TRI days” are largely viewed by teachers as a means by which they are paid for responsibilities performed outside the regular school day.
- The District, because of its concerns about improving academic performance, has sought to direct teacher activity during these days and to connect them directly to student improvement efforts. On the other hand, the Local has contended that the net effect of giving the District control of the days is to simply add to their workdays – without pay – since the work they are doing now doesn’t go away.

RECOMMENDATION: The parties should negotiate an additional day or more of District-directed activity at the base rate of pay (versus the current “premium” rate for “TRI days”.) This would be in addition to the current 10 days. The parties should also pursue other means to create available time for professional development activities within the parameters offered by state law.

Overall Compensation Increases

- We acknowledge that our recommendations stated above increase expenditures.
- The Local seeks to maximize the overall compensation increases for all employees.
- The District’s objective of moving toward a local salary schedule based on the state allocation model requires increased expenditures in order to prevent certain teachers from receiving pay reductions. This reduces the amount available for overall compensation increases.
- Compensation increases include both pay rates as well as increased contributions by the District toward health care benefits.
- Health care benefit costs are increasing and have been, at a rate much faster than the overall consumer price index.

RECOMMENDATION: Given our recommendations above, and given the strained finances of the District, we believe that overall compensation increases can and should be negotiated for all employees that are in an amount that is less than last proposed by the Local – in whatever combination of pay and health care benefit increases. We do not recommend a specific amount since the overall package is interrelated.

Conclusion and Final Recommendation

Tomorrow, Snohomish County Superior Court Judge Linda Krese will issue her ruling in this matter. If Judge Krese grants injunctive relief and orders teachers back to work, we strenuously urge them to return to the classroom and simultaneously continue bargaining. We know that the teachers of Marysville have chosen the profession of teaching because of a profound commitment to students. They have amply demonstrated this over time. Those students' interest now – after all that has transpired – can only be served by the commencement of school.

Finally, enough is enough. The students, staff (on both sides) and community have suffered too much. It is time to move forward and reopen schools. We are confident that if the parties are truly willing to compromise, an agreement is altogether possible. But if success continues to elude the parties, there is another option which is tried and true in the history of labor relations throughout the nation and Washington State and that is **BINDING INTEREST ARBITRATION**.

RECOMMENDATION: Therefore, if the parties do not come to agreement within a very short period of time, we recommend that they voluntarily avail themselves of the binding interest arbitration services of the Public Employment Relations Commission.

The Public Employment Relations Commission, in accordance with the provisions of Chapter 41.56 RCW, has substantial experience over a long period of time in settling disputes between certain uniformed personnel in Washington. In this circumstance, these procedures could be utilized with certificated staff. This is neither a new nor exotic dispute resolution mechanism. It works regularly and can work here. It is inconceivable to us that either party would maintain that continuation of this strike is a better alternative for anyone involved.

We will continue to monitor this situation and stand ready to assist in whatever manner is helpful. We thank Governor Locke for the privilege and honor of attempting to be of assistance. And lastly, we pray both for a speedy resolution of the strike and as importantly, for a rapid healing of the wounds it will leave behind. Our thoughts are with the students.

Appendix: Documents Reviewed and Analyzed

Basic Education Assistance Report; Washington State Board of Education; March 2003

Chapter 25, Laws of 2003 (ESSB 5404 -- 2003-05 State Operating Budget), Sections 503 and 504: Office of the Superintendent of Public Instruction (OSPI) -- Basic Education Employee Compensation and School Employee Compensation Adjustments

Chapter 41.56 RCW – Public Employees’ Collective Bargaining

Chapter 41.59 RCW – Educational Employment Relations Act

Collective Bargaining Agreement between the Marysville Education Association and the Marysville School District No. 25 (Marysville), August 31, 2000-August 31, 2003

Legislative Evaluation and Accountability Program (LEAP) Committee Analysis of Marysville Salary Compliance

LEAP Committee K-12 General Fund Expenditures and FTE Enrollment: by Object of Expenditure for Marysville, including comparisons to similar sized districts and statewide information (based on OSPI F-195 and F-196 reports for 1998-99 through 2002-03 School Years)

LEAP Committee K-12 General Fund Expenditures: by Program Group for Marysville, including comparisons to similar sized districts and statewide information (based on OSPI F-195 and F-196 reports for 1998-99 through 2002-03 School Years)

LEAP Committee K-12 Workload, Staffing, and Finance Analysis for Marysville and Statewide Information (based on OSPI F-195 and F-196 reports for 1997-98 through 2002-03 School Years)

LEAP Document 12E -- computer tabulation of 2003-04 and 2004-05 School Year salary allocations for certificated administrative staff and classified staff and derived and total base salaries for certificated instructional staff, by district

Levy Authorization for Calendar Years 2004 through 2006 for Marysville

Levy History for Marysville based on annual OSPI School District Property Tax Levies, Collection Years 1998-2003

List of 34 Grandfathered Districts Compared to All Other Districts

Marysville Balance Sheet Report as of August 31, 2003 dated October 16, 2003

Marysville Budget Status -- Fund Balance Report for 2002-03 School Year dated October 2, 2003

Marysville Budget Status -- Fund Balance Report for 2003-03 School Year dated October 16, 2003

Marysville Education Association (MEA) Website

Marysville F-197 (Cash Report) for School Years 1999-00 through 2002-03

Marysville: Master 2003-04 School Year Revenue Worksheet for General Fund, dated October 3, 2003

Marysville Salary Schedules for 2002-03 School Year

Marysville School District Website

Marysville TRI Schedule for 2002-03 School Year

MEA/WEA Estimates on Marysville Ending Fund Balance for School Year 2002-03, based on district financial reports

MEA/WEA Research Analysis of Marysville General Fund Expenditures by Object for 2001-02 School Year Compared to 2003-04 School Year (Budgeted)

MEA/WEA Research Compilation of TRI pay and recent TRI settlements in other districts

MEA/WEA Research Estimates of School Year Levy Amounts for 2001-02 through 2005-06 School Years based on authorized levy amounts

MEA/WEA Research Summary of Marysville Certificated Instructional and Certificated Administrative Staff Data for 2002-03 School Year and 2003-04 School Year

NCES and OSPI Data on School Building Size 1996-2002

OSPI 1801 Report for Marysville for 2002-03 School Year, as of May 2003

OSPI Apportionment Reports for August 2003 and September 2003 for Marysville

OSPI Compilation of School Year 2001-02 General Fund Expenditures, Revenue, and Ending Total Fund Balance, by County, and by FTE Enrollment Size (Data from F-196 Reports)

OSPI Compilation of School Year 2001-02 Reserved and Unreserved/Undesignated Fund Balance by County and by Enrollment (Data from F-196)

OSPI F-195 for 2003-04 School Year report (School District Budget) for Marysville

OSPI F-196 for 2000-01 and 2001-02 School Years for Marysville

OSPI F-196 Report Summary for 1999-2000 through 2001-02 School Year for Marysville

OSPI Organizing and Financing of Washington Public Schools, January 2003

OSPI Preliminary School District Personnel Summary Reports for 2002-03 School Year, February 2003 (S-275 data)

OSPI Report 1159: Calculation of 2002-03 Certificated Instructional Staff Ratios for Marysville, as of August 19, 2003

OSPI S-275 Personnel Reporting Handbook Instructions, August 2003 Appendix D

OSPI School District and Educational Service District: Financial Reporting Summary, School District Fiscal Year 2001-02, Table 9

OSPI School District Personnel Summary Reports for 2001-02 School Year and S-275 Data Analysis

OSPI School Report Card Website: State Averages and Marysville Information for Demographics, Teacher Data and WASL Trend Data; Comparison Queries for districts with similar enrollment, percent of free and reduced price lunch, ethnicity, and Snohomish County.

A Picture of Conflict and Conflict Resolution; Institute for Conflict Management, Inc.; 1995

RCW 28A.150.410 -- Basic Education Certificated Instructional Staff -- Salary Allocation Schedule -- Limits on Postgraduate Credits

RCW 28A.400.200 -- Salaries and Compensation for Employees -- Minimum Amounts -- Limitations -- Supplemental Contracts

RCW 28A.415.020 -- Credit on Salary Schedule for Approved In-Service Training, Continuing Education, and Internship

RCW 28A.415.023 -- Credit on Salary Schedule for Approved In-Service Training, Continuing Education, or Internship -- Course Content -- Rules

State Salary Allocation Models for 2002-03 through 2004-05 School Years

Summary of Audit Report Results for 1995-96 School Year through 2001-02 School Year from State Auditors Office Website for Marysville

WAC 392-121-255 Definition -- Academic Credits

WAC 392-121-257 Definition -- In-Service Credits

WAC 392-121-259 Definition -- Nondegree Credits

WAC 392-121-261 Definition -- Total Eligible Credits

WAC 392-121-262 Definition -- Additional Criteria for All Credits

WAC 392-121-270 Placement of Certificated Instructional Employees on LEAP Salary Allocation

WAC 392-121-280 Placement on LEAP Salary Allocation Documents -- Documentation Required

WAC 392-121-295 Definition -- District Average Certificated Instructional Staff Mix Factor

WAC 392-121-299 Determination of District Average Certificated Instructional Staff Salary for the Purpose of Apportionment

Washington Initiative 728: Examining the First Year of Implementation; University of Washington Educational Leadership and Policy Studies; February 2003