STATE OF NEW JERSEY BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of Further Fact-Finding Inquiry regarding the Impasse between

BOARD OF EDUCATION OF THE CITY OF NEWARK

and

NEWARK TEACHERS ASSOCIATION

FINDINGS AND RECOMMENDATIONS

The New Jersey Public Employment Relations Commission, after having carefully considered the entire record in this matter, hereby adopts the Recommendations of Fact-Finder Walter F. Pease, attached hereto.

BY ORDER OF THE COMMISSION

LOUIS S. WALLERSTEIN Executive Director

DATED: July 24, 1969

Trenton, New Jersey

In the Matter of the Fact Finding:
Inquiry with Regard to the Impasse:
between the Board of Education of:
the City of Newark and the Newark:

Teachers Association

As Fact Finder in the above Inquiry I wish to render to the Public Employment Relations Commission (P.E.R.C.) the following report. Unless you instruct me otherwise, I will not be present when you discuss this report.

The object of the Inquiry was to assist the parties in resolving the impasse. This is one of the important functions of P.E.R.C. for the preamble to Chapter 303 reads:

It is hereby declared as the public policy of this State that the best interests of the people of the State are served by the prevention or prompt settlement of labor disputes, both in the private and public sectors; that strikes, lockouts, work stoppages and other forms of employer and employee strife, regardless where the merits of the controversy lie, are forces productive ultimately of economic and public waste; that the interests and rights of the consumers and the people of the State while not direct parties thereto, should always be considered, respected and protected; and that the voluntary mediation of such public and private employer-employee disputes under the guidance and supervision of a governmental agency will tend to promote permanent, public and private employeremployee peace and the health, welfare, comfort and safety of the people of the State. To carry out such policy, the necessity for the enactment of the provisions of this act is hereby declared as a matter of legislative determination."

Under the law the employers and the designated representatives of the employees are required to enter into negotiations in good faith, with the purpose and intent of reaching an agreement. These negotiations should be meaningful and as long and as arduous as is necessary to reach agreement. When such negotiations have been had and it is clear that no agreement is possible and an impasse has been reached a request may be made by either party to P.E.R.C. and upon such request being made P.E.R.C. shall take such steps as it may deem expedient to effect a voluntary resolution of such impasse.

On June 20, 1969 P.E.R.C. held a Fact Finding Inquiry pursuant to the notice attached hereto and marked "Exhibit A". Walter F. Pease, Chairman of P.E.R.C., was designated as Fact Finder with all of the powers conferred upon P.E.R.C. in connection with the discharge of his duties as Fact Finder.

Notice of this Inquiry was sent by mail to the City Council of the City of Newark (City Council), the Board of School Estimate of the City of Newark, the Board of Education of the City of Newark (Board), the Newark Teachers' Association (Teachers' Association) and all other interested persons were invited to be present. The notice was published in the Newark Evening News and the Newark Star Ledger from June 7 to and including June 19, 1969.

As stated in the notice the purpose of the Inquiry was:

- "1. To determine the efforts which the Board of Education of the City of Newark and the Newark Teachers' Association have made to effect a voluntary resolution of the impasse on terms and conditions of employment of teachers in the school system of the City of Newark.
- 2. To determine the cause or causes of such impasse and the procedures or methods which should be used to resolve such impasse."

Efforts to Effect Resolution of Impasse

Under date of June 19, 1967 the Newark Board of Education and the Newark Teachers' Association entered into

a written agreement covering the period from February 1, 1969 to February 1, 1970. Article II, Section A, paragraph 2 reads in part as follows:

"2. The Board agrees that the Association has the right, by written request made after December 1 of each year during the term of this Agreement, to negotiate with the Board over all budget items concerning teachers' salaries, fringe benefits, working conditions and related matters in the school budget for the following fiscal year; provided, however, that such negotiations shall terminate as between the Board and the Association on February 1 of each year, the statutory date for submission of the budget to the Board of School Estimate. ***

The Agreement further provides that if the negotiations described above reached an impasse either party might request the appointment of a mediator.

Pursuant to the above provisions, the Teachers' Association gave notice and the following negotiation meetings were held.

December 12, 1968 - 3 hours December 17, 1968 - 3 hours January 11, 1969 - 3 hours January 14, 1969 - 1 hour

No agreement was reached.

A copy of the present teachers' salary schedule is annexed as "Exhibit B".

By letter dated January 30, 1969 P.E.R.C. was notified by the Teachers'Association that the Board and the Teachers'Association had reached an impasse and requested the appointment of a mediator.

On February 4, 1969 the Board adopted its budget for submission to the Board of School Estimate in the amount of \$65,287,000 with no provision for salary increases to the teachers.

By letter dated February 4, 1969 P.E.R.C. appointed Mr. Theodore Kheel as mediator.

On February 11, 1969 the Board of School Estimate approved the budget for the Board in the amount of \$63,287,000 which was \$2,000,000 less than the budget submitted by the Board.

Mediation was unsuccessful and by letter dated February 28, 1969 Mr. Theodore Kheel was appointed Fact-Finder by P.E.R.C. at the request of the parties.

On March 5, 1969 the City Council reduced the budget submitted by the Board by an additional \$2,000,000 or to an amount of \$61,287,000.

Under date of March 10, 1969 Mr. Theodore Kheel and his associate Mr. Kaden rendered their Fact-Finding report, a copy of which is annexed and marked "Exhibit C". Excerpts from this report read as follows:

"The parties, however, disagree on the items that are properly in these negotiations and therefore before us. The Board would confine the negotiations and our recommendations to the salary schedule. The Association contends that all of its demands come within the provisions of the contract for this reopening.

The contract provides that the Association has the right to negotiate 'over all budget items concerning teachers' salaries, fringe benefits, working conditions, and related matters.' It is obvious that this is broader than the salary schedule alone. We believe, nevertheless, that we should confine our recommendations to the salary schedules for teachers, cafeteria managers, school clerk stenographers and recreation directors at this time on the assumption that the resolution of these issues will enable the parties to negotiate a settlement of all the other issues as well."

* * *

"... We submit this report based on our examination of the briefs submitted in the belief that the terms proposed would represent a fair and equitable basis for settlement of the salary schedule, a basis that meets the teachers' legitimate salary needs, is

within the fiscal limits of the City's capability, and is adequate to permit the effective continuation of public education in Newark.

<u>Proposal</u>

Effective September 1, 1969, the salary schedule for teachers with a bachelor's degree (including all teachers presently under Column A of the salary schedule) shall be increased by \$700 at each step; the salary schedule for teachers with a bachelor's degree plus 32 credits shall be increased by \$800 at each step, and the salary schedule for teachers with a master's degree plus 32 credits shall be increased by \$900 at each step. Schedule I will then read as follows:

Salary Steps	A Four-Year Preparation Bachelor's Degree*	B Five-Year Preparation Bachelor's +32 Credits	C Six-Year Preparation Master's +32 Credits
1	\$ 7,400	\$ 8,100	\$8,800
2	7 , 800	8,500	9,200
3	8,200	8,900	9,600
4	8,600	9,300	10,000
5	9,000	9,700	10,400
6	9,400	10,100	•
7	9,800	10,500	10,800
8	10,200	10,900	11,200
9	10,600	11,300	11,600
10	11,000	11,700	12,000
11	11,400	12,100	12,400
12	11,800	12,500	12,800
Longevity	11,000	12,500	13,200
20	12,200	12 000	
25	12,600	12,900	13,600
	12,000	13,300	14,000

Effective September 1, 1969, Recreation Directors should receive a differential of \$40 per month (\$400 per year) above maximum when reached.

Effective September 1, 1969, the salary schedule for School Clerk Stenographers shall be increased by \$400 at each step.

Effective September 1, 1969, the salary schedule for Cafeteria Managers shall be increased by \$400 at each step."

On March 11, 1969 the Teachers' Association accepted the Fact Finders' report. On March 11, 1969 a public hearing was held on the school budget at which a statement was made by Harold J. Ashby, President of the Board. A pertinent excerpt from this statement is hereinafter set forth. Subsequently \$2,000,000 was restored by the City Council to the budget of the Board for a total amount of \$63,287,000.

On March 25, 1969 the Board rejected the Fact Finders' recommendations. This was done based on "a lack of funds". Since the impasse between the Board and the Teachers' Association continued P.E.R.C. reconvened the Fact Finding Inquiry pursuant to notice "Exhibit A" attached hereto.

In view of the fact that the Fact Finders' report dealt only with teachers salaries, the Chair agreed to so limit the Inquiry, without prejudice and reserving to the Commission the right to consider at a later date any other items included in "terms and conditions of employment" of the teachers.

Causes of Impasse

The Board is made up of nine members, all appointed by the Mayor, all serve for three year terms, three appointed each year.

The Board of School Estimate is made up of five members, of whom two are appointed by the President of the Board, two from the City Council and the fifth is the Mayor, ex officio.

The City Council is made up of nine elected members one from each of the five wards and four at large.

The record supports the fact that the Fact Finders' recommendations are reasonable and in line with surrounding communities. The Board contends that the Fact Finders' recommendations are erroneous in stating that the recommendations are within the fiscal limits of the City's capabilities. The Board admits salary increases are justified and that the salaries paid to teachers in Newark should be higher than surrounding communities to attract qualified teachers. It pleads "lack of funds" by the City. The Board's attitude is best shown by the following excerpt from its statement to the City Council on March 11, 1969:

"Moreover, with great trepidation and regret the Board has presented a budget with no provisions for increasing the salaries of its teachers at a time when practically every nearby school district has raised its minimum and maximum salaries well above those which the Newark school system pays.

And in doing so the Board faces the coming school year with great worry and anxiety. Even if the salaries were as good or slightly better than those in nearby towns, it would be hard enough to entice the best teachers to seek employment in a city such as Newark because the problems they must face in the inner-city schools are so much more complicated and difficult than those of the suburban communities that surround us.

What will now happen when we cannot even compete financially? How many of our classes will remain teacherless when September comes? Yet the only reason the Board has not negotiated an increase in salaries for its staff is its acute sensitivity to Newark's financial crisis. It would be most happy to be able to pay more than any of its neighbors."

There are some 74,000 children in the Newark public school system. The Board employs some 4,000 teachers some 3,000 on a permanent basis and the balance as substitutes. As of June 30, 1969 only 360 teachers had been employed or had agreed to be employed for the school year 1969-1970. Teachers have been leaving the Newark system and the experience level of teachers in Newark is low at a time when it needs experienced teachers. The Board will have to hire an estimated 600 new teachers before school opens this fall.

It was and is the duty and obligation of the Board to maintain, operate and supervise an adequate public school system. One of its principal duties was and is to hire an adequate teaching staff. It cannot do this unless it pays them a reasonable and competitive salary. The fact that the present salaries paid to some of the teachers in Newark is barely enough for them and their families to subsist on is shown by the record. Admittedly the present salary rate schedule does not provide for reasonable and competitive salaries to the teachers. Thus, unless the impasse is resolved the result is clear, namely, that the Board will not be able to hire an adequate teaching staff for the school year 1969-1970 and all or some of the schools will not open this fall.

The Board could have adopted a salary policy, including salary schedules, for all full-time members of its teaching staff in an amount sufficient to assure quality education in the Newark public schools. Such a policy, when adopted, would have been binding for a period of two years. Every school budget thereafter approved by the Board, the voters of the district, the Board of School Estimate, the City Council or the Commissioner of Education, as the case may be, would have to contain amounts of money necessary to implement the salary policy. This procedure would have assured the Board of the necessary funds and it could have entered into agreements with the teachers. Thus this impasse would have been resolved and the schools would open this fall.

The Board did not adopt such a salary policy for the teachers in the Newark school system although a minority of the Board favored doing so.

The Board in the statement above, clearly felt that the City Council had not appropriated enough money for an adequate school system. There is a dispute in the record as to whether or not the Board could have appealed to the Commissioner of Education. Clearly the rights of the children to an adequate school program are threatened and this question should be resolved.

The Board has no legal obligation to provide the monies to pay teachers' salaries.

The City Council has the legal obligation to provide the monies to pay the teachers' salaries.

While we are not unmindful of the problems facing Newark and other urban centers, nevertheless the duty and obligation of the Board is to maintain, operate and supervise an adequate public school system for some 74,000 children. The Board's concern for the financial condition of the City, while commendable, was beyond the scope and authority of the Board. The Board should not be concerned about the source of revenue, the allocation of funds by the City or the possible difficulty in levying taxes to meet the City's obligations. These are, and properly so, the role of the elected legislative representatives of the citizenry charged with such responsibility.

<u>Procedures and Methods to Resolve Impasse</u>

One method of resolving the impasse would be for the parties to voluntarily submit the matter to binding arbitration.

The Board and the City Council plead lack of funds and the figures cited by the City are quite convincing. However, in government, as in any business, the question always is asked "Is the government being operated in an economical and businesslike manner?" This cannot be determined from the figures cited by the City. A detailed and thorough examination of the City's operations by an independent group composed of leading businessmen and experts in city administration - such as a little Hoover commission - would be a good method of determining this. This commission could consider the priorities of items in the budget; whether any or some could be deferred or delayed; whether there is overstaffing in any of the departments; whether there are departments or services no longer needed; and whether the introduction of management techniques and modern equipment in the various departments might save The Business Administrator of the City has generously money. extended an open invitation for any person to sit with him and his staff in order to determine the financial condition of the City. It would appear to be helpful to the City and all parties concerned if this offer were accepted and a little Hoover commission appointed by the City Council and the Mayor.

This same reasoning applies to the school budget. Are the schools being operated in an economical and business-like manner? Are there frills and really unnecessary things included in the budget? Does the budget include only those things which are really basic to education? Is there a "cushion" in the budget from overbudgeting certain items? These questions can best be answered by an investigation and study by independent experts. It would be helpful to the Board, the teachers and all parties concerned if the Board engaged experts in public school administration to do or assist the Board in such a study.

Appeals to the state and federal government have been made but to date they have not been too successful. Why we do not know. However, the procedures set forth above perhaps might answer many of the questions in some people's minds and after they have been complied with, if more money is needed to fully fund the vital services of the City, appeals to the state and federal government should be renewed and should be joined in not only by the city government and the teachers but by all of the civic organizations, all of the leading businessmen and all interested residents.

At this point it is pertinent to refer to and paraphrase parts of an editorial appearing in the New York Times, set forth in the record.

"It is unrealistic to suggest that the budget of the City of Newark or that of the Board of Education defies re-examination. Some items that make the total of these budgets are inevitably more important than others. In the face of skyrocketing costs for all city services, efforts to improve the productivity of available funds is imperative. Some of the shortages in funds are the direct consequence of reduced state subsidy. are the result of inadequate federal recognition of the desperate urban problems. Locally, a less generous support of certain school items would free funds for more important educational uses. thorough reappraisal of administrative costs and non-essential services in both the budget of the City of Newark and its Board of Education is essential and urgent appeals to the state for full funding of vital services and redoubled effort to increase federal contributions could combine to assure uninterrupted operation of schools without sacrifice of reforms already instituted and others so urgently needed. The emergency in Newark is It calls for an early and prompt reassessment in joint meetings of the Board of Education with city, state and federal fiscal authorities to put an end to the threats and uncertainties about the education of Newark's school children."

According to news reports this result has been accomplished in New York City by its new Board of Education with the understanding and cooperation of the Mayor, the City Council and state and federal authorities. There appears to be no reason why the same result cannot be accomplished in Newark. The people, the school children and the teachers in Newark should have assurance that the

schools will be open this fall and that the teachers will be paid salaries which are fair, reasonable and competitive with the surrounding communities. It is the duty and obligation of the Board of Education to do this and it is the duty and obligation of the City Council to provide the funds to accomplish this result through a non-political re-examination of all of its administrative costs and the elimination of all non-essential services, plus convincing appeals to the state and federal authorities for assistance in providing all essential services to avoid the interruption or breakdown of the Newark public school system. Neither the City of Newark nor the State of New Jersey can afford to let this happen.

Recommendation

On the basis of the record and the foregoing report I make the following recommendations:

- l. That the offer of the City Administrator, mentioned above, be accepted and that a little Hoover commission, composed of leading businessmen in Newark and experts in city administration, be appointed by the Mayor and City Council to investigate and study all items in the expense budget of the City and to report to the people with all deliberate speed.
- 2. That the Board reconsider the Fact-Finders' recommendations and adopt them. The record supports the conclusion that they are fair and equitable.
- That the Board review its budget in order to see if there are any items which can be cut down, cut out, deferred or delayed. In doing this the Board should call in outside experts in public school administration to assist it. After this has been done if the Fact-Finders' recommendations can be met by the present budget, fine. If not, then the Board should prepare a new budget based upon the study set forth above and submit it to the Board of School Estimate. Hopefully the Board of School Estimate and the City Council would approve such budget and the City would take the necessary steps to implement it. In these proceedings the Board should be careful to follow the procedure necessary to preserve its right to appeal to the Commissioner of Education if such budget is not approved by the Board of School Estimate and the City Council. Inasmuch as there is a dispute on the record as to the right of the Board to appeal to the Commissioner of Education on the present facts. This dispute should be resolved by the Board taking such an appeal to the Commissioner and if necessary to the courts.

- 4. The record supports the conclusion that the recommendations of the Fact-Finder are fair and equitable. The Newark Teachers' Association having accepted them should reaffirm that acceptance.
- 5. Hopefully, after the above recommendations have been accomplished the revenues to the City will be sufficient to balance its budget. If not, then the City, all of its employees, all of its civic associations and leading businessmen should join in appeals to the state and federal governments for the funds necessary to implement these recommendations.

The one concern of all parties should be the right of some 74,000 children to a quality education. The recommendations made herein are directed solely to help all parties accomplish that objective.

Walter F. Pease

Fact-Finder

Dated: July 21, 1969

EXHIBIT A

STATE OF NEW JERSEY

PUBLIC EMPLOYMENT RELATIONS COMMISSION Labor and Industry Building Post Office Box V Trenton, New Jersey 08625

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The Public Employment Relations Commission has reconvened the Fact Finding inquiry concerning the impasse which exists between the Board of Education of the City of Newark and the Teachers Assocition concerning the terms and conditions of employment of the teachers in the school system in the City of Newark,

Such Fact Finding Inquiry will be open to the public and will be held in Rooms 123 and 124 (Ackerson Hall) of the Rutgers Law School Building located at 180 University Avenue, Newark, New Jersey, on Friday, June 20, 1969 at 7:00 P.M., for the following purposes:

- 1. To determine the efforts which the Board of Education of the City of Newark and the Newark Teachers Association have made to effect a voluntary resolution of the impasse on terms and conditions of employment of teachers in the school system of the City of Newark.
- 2. To determine the cause or causes of such impasse and the procedures or methods which should be used to resolve such impasse.

The cost of such Fact Finding inquiry shall be borne by the parties equally.

The City Council of the City of Newark, The Board of School Estimate of the City of Newark, The Board of Education of the City of Newark, The Newark Teachers Association and all other interested persons are invited to be present.

Becuase of time limitations oral presentations of those organizations listed above are not to exceed thirty (30) minutes. Any other interested persons who may wish to speak should make a request in writing to the Commission and if time allows will be allotted not more than fifteen (15) minutes. Those wishing to file written statements may file eight (8) copies with the Commission not later than June 20, 1969.

Dated: Trenton, New Jersey
June 5, 1969

THE NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

By /s/ Walter F. Pease Chairman

EXHIBIT B

Present Teachers Salary Schedule

STEPS	B.S. 4 y r. (9/68)	BS+32 5 yr. Prep(2/69)	MS+32 6 yr. Prep(2/69)
1	\$ 6700	\$7300	\$7900
2	7100	7700	8300
3	7500	8100	8700
4	7900	8500	9100
-5	8300	8900	9500
6	8700	9300	9900
7	9100	9700	10300
8	9500	10100	10700
9	9900	10500	11100
10	10300	10990 0	11500
11	10700	11300	11900
12	11100	11700	12300
LONGE	EVITY		
20	11500	12100	12700
25	11900	12500	13100

EXHIBIT C

IN THE MATTER OF THE NEGOTIATIONS BETWEEN THE NEWARK BOARD OF EDUCATION AND THE NEWARK TEACHERS ASSOCIATION

Recommendations of the Mediators

Act of New Jersey, the undersigned were designated on February 4, 1969 as mediators in the negotiations between the Newark Board of Education and the Newark Teachers Association. By the terms of the current agreement between the parties, these negotiations were properly concerned with budget items in the school budget for the term beginning September 1969 and the demands of the NTA were presented to the Board at the negotiating session of December 12, 1968.

The parties have not been successful in settling the dispute through negotiations and mediation. At the request of the Board and the Association, on February 26, 1969 we agreed to examine the facts and make recommendations for settlement of the dispute.

The parties, however, disagree on the items that are properly in these negotiations and therefore before us. The Board would confine the negotiations and our recommendations to the salary schedule. The Association contends that all of its demands come within the provisions of the contract for this reopening.

The contract provides that the Association has the right to negotiate "over all budget items concerning teachers'

salaries, fringe benefits, working conditions, and related matters." It is obvious that this is broader than the salary schedule alone. We believe, nevertheless, that we should confine our recommendations to the salary schedules for teachers, cafeteria managers, school clerk stenographers and recreation directors at this time on the assumption that the resolution of these issues will enable the parties to negotiate a settlement of all the other issues as well.

In making this report and recommendation, we have reviewed the data on the salary schedule submitted by the NTA and the Board of Education. We have been guided most particularly by the evident need of the Newark school system to remain competitive with other communities to facilitate recruitment of competent teachers and retention of experienced personnel. For that reason we were interested in the comparative data submitted and verified and the salary schedules in effect throughout Essex County for the school year 1968-1969 and the schedules negotiated for the year 1969-1970. At the same time we have considered the particular conditions in Newark including the evident financial difficulties which face the city in the next fiscal year. Our recommendation is not predicated on any increase in financial assistance from the State or Federal government.

We reiterate that this proposal deals only with those items submitted by both parties to us. Our proposal is submitted at this time to the Newark Teachers Association and to the Board of Education. It is not binding upon either

party. Each must consider its terms independently. We submit this report based on our examination of the briefs submitted in the belief that the terms proposed would represent a fair and equitable basis for settlement of the salary schedule, a basis that meets the teachers' legitimate salary needs, is within the fiscal limits of the City's capability, and is adequate to permit the effective continuation of public education in Newark.

Proposal

for teachers with a bachelor's degree (including all teachers presently under Column A of the salary schedule) shall be increased by \$700 at each step; the salary schedule for teachers with a bachelor's degree plus 32 credits shall be increased by \$800 at each step, and the salary schedule for teachers with a master's degree plus 32 credits shall be increased by \$900 at each step. Schedule I will then read as follows:

	A	В	C
Sa lary S teps	Four-Year Preparation Bachelor's Degree*	Five-Year Preparation Bachelor's +32 Credits	Six-Year Preparation Master's +32 Credits
1 2 3 4 5 6 7 8 9 10 11 12	\$ 7,400 7,800 8,200 8,600 9,000 9,400 9,800 10,200 10,600 11,000 11,400 11,800	\$ 8,100 8,500 8,900 9,300 9,700 10,100 10,500 10,900 11,300 11,700 12,100 12,500	\$ 8,800 9,200 9,600 10,000 10,400 10,800 11,200 11,600 12,000 12,400 12,800 13,200

Longevity

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 \$ 12,200
 \$ 12,900
 \$ 13,600

 25
 12,600
 13,300
 14,000

Effective September 1, 1969, Recreation Directors should receive a differential of \$40 per month (\$400 per year) above maximum when reached.

Effective September 1, 1969, the salary schedule for School Clerk Stenographers shall be increased by \$400 at each step.

Effective September 1, 1969, the salary schedule for Cafeteria Managers shall be increased by \$400 at each step.

Dated: New York, N. Y. March 10, 1969

THEODORE W. KHEEL LEWIS B. KADEN Mediators