

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of	:	
	:	
REEDSVILLE EDUCATION ASSOCIATION	:	
	:	
To Initiate Arbitration Between	:	Case 14
Said Petitioner and	:	No. 49243 INT/ARB-6883
	:	Decision No. 28058
	:	
REEDSVILLE SCHOOL DISTRICT	:	
	:	

Appearances:

Mr. Anthony L. Sheehan, Staff Counsel, Wisconsin Education Association Council, 33 Nob Hill Drive, P.O. Box 8003, Madison, Wisconsin 53708, with Mr. Dennis W. Muehl, Executive Director, and Mr. David Campsure, Research Consultant, Bayland Teachers United, 1136 North Military Avenue, Green Bay, Wisconsin, 54303, for the Association.

Mr. William G. Bracken, Director of Employee Relations Services, Wisconsin Association of School Boards, Inc., 132 West Main Street, P.O. Box 160, Winneconne, Wisconsin 54986, for the District.

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

On February 10, 1994, the Reedsville Education Association filed a motion with the Wisconsin Employment Relations Commission seeking review pursuant to ERB 33.10(6) of the manner in which the Reedsville School District was proposing to implement a qualified economic offer.

The parties stipulated to certain matters and filed initial written argument. On April 7, 1994, the parties advised the Commission that no reply briefs would be filed.

Having considered the matter and being fully advised in the premises, the Commission makes and issues the following

FINDINGS OF FACT

1. The Reedsville School District, herein the District, is a municipal employer having its principal offices at Reedsville, Wisconsin.
2. The Reedsville Education Association, herein the Association, is a labor organization functioning as the collective bargaining representative of certain District employes and having its principal offices at 1136 North Military Avenue, Green Bay, Wisconsin.
3. The 1992-1993 salary schedule in a collective bargaining agreement between the District and the Association is set forth in Appendix A (attached) and includes steps (increments) of \$920 and lanes of \$375.
4. The historical evolution of the 1992-1993 salary schedule in terms of step and lane amounts is set forth in Appendix B (attached) and reflects that the value of steps and lanes in the 1992-1993 schedule is a function of bargained uniform dollar amounts.
5. The historical value of steps and lanes as a percentage of the BA base is set forth in Appendix C (attached) and reflects that the value of steps and lanes in the 1992-1993 schedule is a function of bargained uniform dollar amounts.

Based upon the above and foregoing Findings of Fact, the Commission makes

and issues the following

CONCLUSION OF LAW

Section 111.70(4)(cm)8p, Stats., ERB 33.03 and Form C, Section 2.A.4. mandate that the Reedsville School District implement the general salary increase portion of its qualified economic offer in a manner which distributes general salary increase monies through a uniform dollar amount increase on each salary cell of the 1992-1993 salary schedule.

Based upon the above and foregoing Findings of Fact and Conclusion of Law, the Commission makes and issues the following

ORDER 1/

If the Reedsville School District elects to implement its qualified economic offer to the Reedsville Education Association, the District must distribute general salary increase monies in a manner which maintains the \$920 steps and the \$375 lanes contained in the 1992-1993 salary schedule.

Given under our hands and seal at the City of
Madison, Wisconsin this 27th day of May, 1994.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/
A. Henry Hempe, Chairperson

Herman Torosian /s/
Herman Torosian, Commissioner

William K. Strycker /s/
William K. Strycker, Commissioner

1/ Footnote found on pages 3 and 4.

1/ Pursuant to Sec. 227.48(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.49 and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.53, Stats.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025(3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefore personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59(6)(b), 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified.

(Continued)

. . .

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSION OF LAW AND ORDER

POSITIONS OF THE PARTIES:

The Association

The Association argues that compliance with Commission rules and Act 16 requires the District to maintain the cell-to-base ratios and increment percentages that existed in the 1992-1993 salary schedule. Because the District proposes to maintain the existing dollar relationships contained in the 1992-1993 schedule, the Association contends the District's proposed method of implementation is incorrect.

Citing Act 16's reference to the "previous collective bargaining agreement," the Association maintains that the only relevant salary schedule is the 1992-1993 schedule in the immediate predecessor agreement. Any practice demonstrated by earlier schedules is irrelevant to maintenance of the existing salary structure, argues the Association.

The Association asserts its proposed method of implementation is more beneficial to teachers who are not eligible to receive a step and is thus consistent with the legislature's intent not to penalize such teachers.

Given the foregoing, the Association alleges the District has not made a legitimate qualified economic offer.

The District:

The District asserts that its proposed manner of implementing its qualified economic offer complies with ERB 33 and Sec. 111.70(4)(cm)8p., Stats.

It contends that the salary schedule structure which it must maintain consists of flat dollar amounts that define the vertical and horizontal increments. The District alleges that an analysis of prior salary schedules demonstrates that the parties do not have an indexed schedule but have historically bargained the increase on the BA base independently from the increase in the vertical and horizontal increments. Under such circumstances, the District alleges that its proposed manner of implementation (uniform dollar amounts per cell) is the only manner of implementation permitted by ERB 33.03 and Sec. 111.70(4)(cm)8p., Stats.

Given the foregoing, the District asks the Commission to confirm that the District's proposed manner of implementation is correct.

DISCUSSION:

Section 111.70(4)(cm)8p., Stats. provides in pertinent part:

. . . In every collective bargaining unit covering municipal employes who are school district professional employes in which the municipal employe positions were, on the effective date of this subdivision . . . assigned to salary ranges with steps that determine the levels of progression within each salary range, the parties shall not, in any new or modified collective bargaining agreement, alter the salary range structure, . . .
(emphasis added)

ERB 33.03 provides in pertinent part:

. . .

Any collective bargaining agreement shall not alter the salary range structure, number of steps or requirements for attaining a step or assignment of a position to a salary range for any professional school district employes who were assigned to salary ranges with steps that determined

the level of progression within each salary range.

. . .

Form C of Chapter ERB 33 provides in pertinent part:

4. Pay an average salary increase to all employees . . . in a manner which does not alter the relationship between steps and lanes in your existing salary structure. The options available for distribution of the general salary increase are a uniform dollar amount increase on each salary cell; or a uniform % increase to each salary cell; or an increase in the base which increases each cell in accordance with the existing salary structure. USE THE OPTION WHICH DOES NOT ALTER YOUR EXISTING SALARY STRUCTURE AS REFLECTED BY THE EXISTING RELATIONSHIP BETWEEN STEPS AND LANES.

As both parties have noted, Form C, Section 2.A.4 provides three methods for the distribution of general salary increase money on the "salary range structure" which the District must maintain when implementing a qualified economic offer and parties ultimately must maintain when they reach agreement on a new contract.

1. A uniform dollar amount increase on each salary cell;
2. A uniform percentage increase to each salary cell; or
3. An increase in the base which increases each salary cell.

Selection of the appropriate method requires an analysis of the salary range structure in effect August 12, 1993 (the effective date of Act 16) to determine whether the relationships between steps and lanes are a product of a bargained dollar amount (Method 1, above); a bargained percentage (Method 2, above), or a bargained index relationship of the base to salary cells (Method 3, above). Thus, while it is the "salary range structure" in effect on August 12, 1993 which is to be maintained, consideration of prior schedules is appropriate to determine which type of step/lane relationship (or combination thereof) generated the structure and thus must be used to maintain the structure.

The Association argues that the existing salary schedule structure is maintained only where existing cell-to-base ratios and step/lane increment percentages are maintained. We concur with the Association where it is established that the parties bargained such ratios and percentages as the basis for their structure. However, where the structure is produced by bargained dollar amounts, our rules reflect our view that the statutorily mandated maintenance of that structure requires use of dollar amount increases. Adoption of the Association view in all cases would in some cases alter the "structure" the parties have previously bargained and thus alter the "structure" the statute requires must be maintained.

The record before us in this case conclusively establishes that the step/lane relationship and "structure" in question is based upon uniform dollar amounts.

As clearly reflected in Appendices B and C, the parties' "salary range structure" has been generated by bargained dollar amounts rather than the indexed structure argued by the Association or any percent per cell structure. Further, the 1992-1993 salary range structure on its face (Appendix A)

provides no persuasive evidence of any index or percentage step/lane relationship. Indeed, the 1992-1993 schedule explicitly reflects uniform dollar steps (i.e. "Increments") of \$920.00.

Given the foregoing, we conclude that when implementing its qualified economic offer the District is correct that it must distribute general salary increase money in a manner which maintains the \$920 steps and the \$375 lanes.

Dated at Madison, Wisconsin this 27th day of May, 1994.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/
A. Henry Hempe, Chairperson

Herman Torosian /s/
Herman Torosian, Commissioner

William K. Strycker /s/
William K. Strycker, Commissioner

APPENDIX A

SALARY SCHEDULE - 1992-1993

STEP	BA	BA6	BA12	BA18	BA24	BA30	MA	MA6	MA12	MA18	MA24		
1	22250	22625	23000	23375	23750	24125	24500	24875	25250	25625	26000		
2	23170	23545	23920	24295	24670	25045	25420	25795	26170	26545	26920		
3	24090	24465	24840	25215	25590	25965	26340	26715	27090	27465	27840		
4	25010	25385	25760	26135	26510	26885	27260	27635	28010	28385	28760	5	25930
26305	26680	27055	27430	27805	28180	28555	28930	29305	29680				
6	26850	27225	27600	27975	28350	28725	29100	29475	29850	30225	30000		
7	27770	28145	28520	28895	29270	29645	30020	30395	30770	31145	31520		
8	28690	29065	29440	29815	30190	30565	30940	31315	31690	32065	32440		
9	29610	29985	30360	30735	31110	31485	31860	32235	32610	32985	33360		
10	30530	30905	31280	31655	32030	32405	32780	33155	33530	33905	34280		
11	31450	31825	32200	32575	32950	33325	33700	34075	34450	34825	35200		
12	32370	32745	33120	33495	33870	34245	34620	34995	35370	35745	36120		
13							35540	35915	36290	36665	37040		
14							36460	36835	37210	37585	37960		
15							37380	37755	38130	38505	38880		
16							38300	38675	39050	39425	39800		
Incre.	920	920	920	920	920	920	920	920	920	920	920		

APPENDIX B

	<u>Step</u>	<u>Lane</u>
<u>Year Increment</u>	<u>Increment</u>	
1980-81	400	300
1981-82	470	300
1982-83	470	300
1983-84	495	300
1984-85	555	300
1985-86	645	300
1986-87	645	300
1987-88	690	300
1988-89	735	300
1989-90	820	325
1990-91	840	325
1991-92	885	350
1992-93	920	375

APPENDIX C

Step And Lane Increments Computed As A Percent Of The Base

<u>Year</u>	<u>Vertical Increment</u>	<u>Horizontal Increment</u>
	Expressed As A Percent Of The BA Base	Expressed As A Percent Of The BA Base
1980-81	3.5714285	2.6785714
1981-82	3.9166666	2.5000000
1982-83	3.6964215	2.3594180
1983-84	3.6940298	2.2388059
1984-85	3.7871033	2.0470829
1985-86	4.1306436	1.9212295
1986-87	3.9389312	1.8320610
1987-88	3.9204545	1.7045454
1988-89	3.9043824	1.5936254
1989-90	4.2213642	1.6731016
1990-91	4.1025641	1.5873015
1991-92	4.145199	1.6393442
1992-93	4.1348314	1.6853932