

RELEVANT CONTRACT LANGUAGE:

ARTICLE XV

PROFESSIONAL GROWTH

A. All certified staff members are encouraged to provide for professional growth through college courses, conferences, or workshops. Teachers that take additional courses for advancement in their fields may have these credits applied toward the next step on the horizontal column in the salary schedule, provided these credits are submitted to the Superintendent in writing for approval prior to enrollment into the course or courses. Credit on the salary schedule will be granted upon proof of completion and will be credited to the teacher for the school year which begins following the completion of the course or courses.

BACKGROUND:

John Mathieus, hereafter the Grievant, has been a teacher at the District since 1975. The Grievant completed his Masters Degree program during the summer of 1994 and was advanced to the MA column.

The Grievant has requested that the District place him on the MA + 12 column, rather than the MA column. The Grievant has also requested that the District apply six additional credits towards the MA + 24 column. The credits at issue had been used for advancement to the BA + 12 and BA + 24 columns. The grievance was denied at all steps and, thereafter, submitted to arbitration.

POSITIONS OF THE PARTIES:

ASSOCIATION

The relevant contract language is Article XV, Professional Growth. With the exception of grammatical corrections, this language has not been altered since its inception in the 1976-78 agreement.

Article XV provides for horizontal movement on the salary schedule at twelve credit intervals for approved credits. This movement is automatic except that a teacher cannot move horizontally to the masters column without a Masters Degree and horizontal movement beyond the masters column arguably requires graduate level course work.

Credits that are part of a Masters Degree program are more than adequate to advance through all of the columns up to and including the Masters Degree column. Therefore, the Grievant's non-degree graduate credits would have no salary schedule applicability except as applied beyond the masters column. If it were the intent of the parties to restrict the applicability of such credits, the contract language should have been written in such a way as to preclude that possibility.

The District relies on the reference in the contract to application of credits ". . . toward the next step on the horizontal column . . ." This proviso, however, merely establishes a logical progression for use of acquired

credits and does not mean that, upon completion of a Masters Degree, non-degree credits become irrelevant.

The Grievant's position does not involve any "leaping of lanes." Rather, it recognizes the acquisition of sufficient degrees and credits to warrant placement in the MA + 12 column. The District never advised the Grievant, nor the Association, that graduate credits earned outside a masters program, prior to receiving a Masters Degree, would not count toward MA + columns.

Former District Administrator Lemery did not bargain the 1976-78 agreement and, thus, has no knowledge of bargaining history. Lemery's testimony that other teachers' unions would not have the Grievant's expectation regarding application of graduate credits is without foundation.

Ms. Bette Schmitt is the only other employe whose circumstances approximate those of the Grievant. As Ms. Schmitt testified, she had not grieved her placement on the salary schedule because she mistakenly believed that she had eleven, rather than twelve additional credits. The cases of Larry Villiard, Kay Amborn, Cheryl Setwyn and James Nowak are not controlling.

The relevant contract language is clear on its face and there is no contrary past practice. The Association respectfully requests that the arbitrator find for the Grievant and award placement in the MA + 12 column, effective with the commencement of employment for the 1994-95 school year. The Association further requests that the District be directed to post a compliance notice and to cease and desist from such misapplication of the salary schedule in the future.

DISTRICT

Article XV, Professional Growth, clearly states that approved credits will be applied only to the "next step on the horizontal column in the salary schedule." The contract does not state that credits which were previously used to award step increases can be reused to reach additional steps. If the parties intended the contract to allow leaping over steps, the language would have so stated. As the testimony of former District Administrator Lemery establishes, the District's interpretation of the provision is consistent with industry practice.

Advancement on the salary schedule is not automatic, but rather is determined by a teacher's current placement. For example, if a teacher opts to take classes that do not apply toward a Masters Degree, the teacher does not advance past the MA column.

Assuming arguendo that the arbitrator finds the language of Article XV to be ambiguous, acceptance of the Grievant's interpretation would lead to a harsh and absurd result, and, thus, should be avoided. The interpretation is harsh and absurd for two reasons. First, budgetary limitations would prohibit the District from meeting the large increases in teachers' salaries. Second, the teacher would be compensated twice for the same course work.

Since District Administrators are not likely to compensate a teacher twice for the same credits, they are not likely to approve credits which are not part of an advanced degree program. It follows, therefore, that teachers would be discouraged from attending conferences, workshops, seminars, and courses that are not part of an advanced degree program.

Credits earned by the Grievant between 1983 and 1992 were applied towards the next step on the horizontal schedule. As a result, the Grievant advanced

to Step BA + 12 and BA + 24. The Grievant has completed a Masters Degree. Credits completed from this day forward will allow advancement past a Masters Degree because, again, the credits will be applied towards the next step.

Arbitral authority, contract language and practice do not contradict the District's interpretation and application of Article XV. The grievance must fail for lack of proof.

DISCUSSION:

The parties agree that Article XV is the controlling contract provision. Under this provision, approved credits are "applied toward the next step on the horizontal column in the salary schedule."

The eighteen credits in dispute were earned prior to the time that the Grievant earned his Masters Degree. As these eighteen credits were approved, they were used to advance the Grievant to the BA + 12 and BA + 24 columns. When the Grievant completed his Masters Degree, his remaining credits were also "applied toward the next step on the horizontal column in the salary schedule.", i.e., the Grievant was advanced to the MA column.

All of the Grievant's approved credits have been "applied toward the next step on the horizontal column in the salary schedule." Thus, the District has complied with the plain language of Article XV.

Only one witness, Robert Klestinski, was present during the negotiation of Article XV. Klestinski was not able to recall any of the discussions which lead to the adoption of Article XV. Accordingly, the evidence of bargaining history does not demonstrate that the parties had any mutual understanding with respect to Article XV other than that reflected in the plain language of the provision.

As the Association argues, the record fails to establish that any employe other than Bette Schmitt has been in the Grievant's situation. While the District's treatment of Schmitt was consistent with the District's treatment of

the Grievant, one incident is not sufficient to establish a binding past practice. Thus, the evidence of past practice is not dispositive of the instant dispute.

The credits required by the Grievant's Masters Degree may have been sufficient to advance the Grievant to the BA + 12 and BA + 24 lanes. The Grievant, however, did not choose that method of advancing on the salary schedule. Indeed, had the Grievant used that method, he would have delayed his movement to the BA + 12 and BA + 24 lanes, thereby reducing his total compensation. Contrary to the argument of the Association, the eighteen credits in dispute have had relevance with respect to salary schedule advancement.

The District's administrators do not have a contractual duty to explain a contract provision to an employe prior to applying the provision. Therefore, it is immaterial that the District's administrators had not advised the Grievant and other employes that graduate credits earned outside a masters program and used to advance on the salary schedule prior to receiving the Masters Degree could not be used to move to the MA + columns. The parties are presumed to understand the effect of the plain language of the contract.

Neither the evidence of bargaining history, nor the evidence of past practice, establishes that the parties mutually intended Article XV to be given any meaning other than that reflected in its plain language. The District has complied with the plain language of Article XV.

Based upon the above and foregoing, and the record as a whole, the undersigned issues the following

AWARD

1. The Weston School District did not violate Article XV, Professional Growth, of the Master Agreement, by denying use of all approved earned college credits in determining salary schedule placement for John Mathieus.
2. The grievance is denied and dismissed.

Dated at Madison, Wisconsin, this 28th day of December, 1994.

By Coleen A. Burns /s/
Coleen A. Burns, Arbitrator