

BEFORE THE ARBITRATOR

In the Matter of the Arbitration
of a Dispute Between

GIBRALTAR SCHOOL DISTRICT

and

GIBRALTAR EDUCATION ASSOCIATION

Case 35
No. 51929
MA-8781

Appearances:

Mr. Dennis Muehl, Executive Director, Bayland Teachers United, 1136 North Military Avenue, Green Bay, Wisconsin 54303, on behalf of the Association.

Mr. Jeffery M. Weir, Pinkert, Smith, Weir, Jinkins, Nesbitt & Hauser, P.O. Box 89, 454 Kentucky Street, Sturgeon Bay, Wisconsin 53235, on behalf of the District.

ARBITRATION AWARD

According to the terms of the 1993-1995 collective bargaining agreement between the Gibraltar Board of Education (hereafter District) and Gibraltar Area Education Association (hereafter Association), the parties requested that the Wisconsin Employment Relations Commission designate a member of its staff to act as impartial arbitrator to resolve a dispute between them regarding the proper placement on the salary schedule of teacher Nancy Akerly for the 1994-95 school year. The Commission designated Sharon A. Gallagher arbitrator. A hearing was scheduled and held on February 16, 1995, at Fish Creek, Wisconsin. No stenographic transcript of the proceedings was made. By agreement of the parties, the parties waived their right to submit post hearing briefs and orally argued the case before the close of the record on February 17, 1995.

Issues:

The parties stipulated that the following issues should be determined in this case:

Did the Gibraltar School District violate the 1994-95 salary schedule, Appendix III, as referred to in Article XIII, paragraph E, Salary Schedule, of the Master Agreement by denying Nancy Akerly the use of 21 graduate credits earned prior to receiving a Master's degree to be used to advance beyond the Master's degree to MA plus 18.

If so, what is the appropriate remedy?

Relevant Contract Provisions:

The contract contains no specific language regarding placement on the salary schedule for credits earned.

ARTICLE IX - PROFESSIONAL IMPROVEMENT

. . .

- B. All teachers will be reimbursed the tuition fees for six (6) credits every five years. Additional courses taken upon request of the administration will also qualify.

To be eligible for reimbursement, the following requirements are to be met:

1. Credits must be approved by the Superintendent prior to attendance.
2. Credits earned must be for professional improvement in the area of applicable courses in the fields of education or psychology and including courses accepted towards the earning of the next degree in the teaching field.
3. Courses must be from an accredited college or university.
4. An official transcript must be filed with the Superintendent before reimbursement can be made.
5. The responsibility for filing an application for reimbursement shall rest with the teacher.

. . .

1994-1995 SALARY SCHEDULE

APPENDIX III

Lane		BA	BA+06	BA+12	BA+18	BA+24
Step	1	2293423278		23622	23966	24310
	2	2414024484		24828	25172	25516
	3	2534725691		26035	26379	26723
	4	2655326897		27241	27585	27929
	5	2775928103		28447	28791	29135
	6	2896629310		29654	29998	30342
	7	3017230516		30860	31204	31548
	8	3137831722		32066	32410	32754
	9	3258532929		33273	33617	33961
	10	3379134135		34479	34823	35167
	11	3499735341		35685	36029	36373
	12	3620436548		36892	37236	37580
	13	3741037754		38098	38442	38786
	14	3936439708		40052	40396	40740

Lane		MA	MA+06	MA+12	MA+18	MA+24
Step	1	2465424998		25342	25686	26030
	2	2586026204		26548	26892	27236
	3	2706727411		27755	28099	28443
	4	2827328617		28961	29305	29649
	5	2947929823		30167	30511	30855
	6	3068631030		31374	31718	32062
	7	3189232236		32580	32924	33268
	8	3309833442		33786	34130	34474
	9	3430534649		34993	35337	35681
	10	3551135855		36199	36543	36883
	11	3671737061		37405	37749	38093
	12	3792438268		38612	38956	39300
	13	3913039474		39818	40162	40500
	14	4108441428		41772	42116	42460

Facts:

The grievant, Nancy Akerly, began working for the District in 1971. She has worked for the District for 20 of the past 24 years. 1/ Akerly has taught Kindergarten, First Grade, Fifth Grade, Sixth Grade and Seventh and Eighth Grade Math and Computer Science. For the past five years, Akerly has been employed as the Coordinator of the Gifted and Talented Program at the District.

When Akerly was hired by the District she had two graduate credits which she had earned before receiving her BA degree in 1971. Despite this, the District placed Akerly at the BA+0 lane at the time of hire. The evidence further showed that the District never gave Akerly any credit for placement on the salary schedule for the two graduate credits she had received in 1971.

In August, 1994, Akerly received her Master's Degree from the Viterbo College. Viterbo College credited Akerly with 36 credits for receipt of her Master's Degree, as follows:

August, 1994 Master of Arts in Education Degree Viterbo College

Date	College/University	Grade	Class	Credits	
Summer	Mundelein College	A	RST 6603 Creative Writing	3	1. 1987,
2. 1989, Fall	Portland State	A	Excellence in Teaching	3	
3. 1990, Feb.	Boston University	A	EM 591, Computers in Education - Software	2	
4. 1990, Feb.	Boston University	A	EM 592, Computers in Education - Lab	2	
5. 1990, May	Boston University	A	Study of Teaching	3	
6. 1993, March	Viterbo College	A	Literature Based Reading	3	3
7. 1993, April	Viterbo College	A	Whole Lang/Natural Literacy	3	
8. 1993, July	Viterbo College	A	Educational Research 1	3	
9. 1993, July	Viterbo College	A	Philosophical Perspectives	3	
10. 1993, August	Viterbo College	A	Mission of Teaching	3	
11. 1994, Spring	Viterbo College	A	Educational Research II	3	
12. 1994, August	Viterbo College	A	Independent Study- Hypercard	2	
13. 1994, August	Viterbo College	A	Professional Seminar	<u>3</u>	
					36 Total

1/ Akerly took a four year unpaid leave of absence to stay at home for two years and to teach in Germany for two years. Akerly then returned to work for the District.

However, Akerly had earned the following additional graduate credits in excess of the 36 she needed for her Master's degree by 1994:

Additional Graduate Credits

1. 1971, January	SMU	P	1-95, Communication Skills	2
2. 1980, Spring	U of W - GB	A	G595 Gifted & Talented Students	1
3. 1980, Summer	Northern Mich U	S	ED 4918, Creativity & Giftedness	1
4. 1982, Spring	U of W - GB	A	G695 Teaching/Guiding the Gifted	3
5. 1982, Spring	Cardinal Stritch	A	Ed 590W Hunter - Teach More Faster	1
6. 1981, Summer	Cardinal Stritch	A	Teacher Effectiveness Training	3
7. 1984, Summer	U of W - Oshkosh	A	16-710 Conferencing Techniques	3
8. 1985, Fall	Coll. of St. Thomas	A	CE707Z Maximizing Potential	3
9. 1986, Spring	Coll. of St. Thomas	A	CE578Z Total Learning	3
10. 1993, June	U of W - GB	A	Intro to Hypercard	1
Total Credits Beyond MA				21 Total

There is no dispute in this case regarding credit reimbursement for Akerly. The sole issue here is whether Akerly should have properly been placed at the MA+18 lane at the time she received her Master's Degree because she had previously earned more than 18 graduate credits in excess of those she needed for her MA degree. The facts demonstrated that Akerly was moved on the salary schedule for all of the graduate credits she earned after receiving her BA degree, from BA+6 to BA+12 to BA+18 to BA+24. As the next lane on the salary schedule was MA+0, Akerly could not receive movement on the salary grid for the additional 33 graduate credits she earned beyond a BA+24 credits.

District Administrator Dahlstrom, employed by the District as its Administrator for the past four years, stated that he found in his investigation that no District teacher has ever been given credit for advancement beyond a Master's Degree on the salary grid for excess graduate credits earned before receiving the MA degree. Dahlstrom stated that for the 1982-83 school year, Akerly was placed on the BA+6 lane at a time when her personnel records showed that she had earned 8 graduate credits.

Positions of the Parties:

Association:

The Association admitted that there was no evidence of a past practice controlling this issue. In addition, the Association admitted that the record evidence failed to show that Akerly had been given any salary credit for the two graduate credits she had earned before receiving her BS degree.

However, the Association observed that all of the post graduate credits that Akerly earned after her hire the District had recognized for payment on the salary grid. The fact that Akerly had received her MA degree in 1994 should not result in her losing graduate credits. The Association then implied that because the District has had the advantage of Akerly's knowledge, it should pay for this knowledge and that there are other employes who have taken the same courses as Akerly and who have received movement on the salary grid therefor.

The Association urged that the instant grievance should be sustained and that Akerly should be placed on the salary schedule at the MA+18 lane. The Association asserted that the Weston School District case, 2/ offered by the District for arbitral notice in this proceeding, is likely to be distinguishable from the instant case on the facts of each case.

District:

The District urged that Article IX, although not specifically on point for this case, contains language which requires that ". . . credits earned must be for professional improvement . . . including courses accepted towards (sic) the earning of the next degree in the teaching field." This language, the District urged, demonstrates that the parties intended that the District should pay only for graduate credits according to the salary grid up to BA+24 and then for credits earned after receipt of the MA degree.

The District argued that the Association has failed to prove that a past practice existed to support a conclusion that Akerly must be moved to the MA+18 lane. Rather, the District noted, the evidence showed that no other District teacher had ever been given credit beyond a Master's Degree for graduate credits previously earned at the time they received their Master's Degree and were moved to the MA+0 lane. The District asserted that it was highly unlikely that all District teachers who previously received their Master's Degrees had the exact number of credits to receive those degrees before moving to the MA+0 lane.

The District offered an arbitration award in Weston School District, supra, for the

2/ Case 27, No. 50751, MA-8374 (Burns, 12/94).

proposition that there is a potentially harsh affect in allowing teachers to leap over steps of the salary grid by granting salary advancement after an advanced degree is earned for courses taken before that degree was earned. When a teacher earns their Master's Degree, the District contended, it is logical and fair to require them to earn additional credits for payment on the salary schedule after receiving their degrees.

Therefore the District sought denial and dismissal of the grievance in its entirety.

Discussion:

The labor agreement is silent on the specific issue presented in this case. In addition, the evidence failed to show the existence of any District past practice moving teachers on the salary grid beyond the MA lane for graduate credits teachers have earned before receiving their Master's Degrees. Also, in my view, the language of Article IX is not relevant to the issues raised by this case. That language deals specifically with the procedure teachers must follow to receive reimbursement for tuition fees spent on credits earned.

This record is devoid of any evidence showing that any District teacher has ever been given credit on the salary grid for graduate credits earned before they earned their Master's degrees. Indeed, the record showed that the Grievant was not given salary advancement credit for the two graduate credits she earned prior to receiving her Bachelor's degree. In addition, I note that the salary grid in the parties' labor agreement contains a lane progression from BA + 24 to the MA lane with no recognition for credits taken beyond BA + 24 credits before a teacher gains their Master's degree. This fact supports a conclusion that the parties did not intend to remunerate teachers on the salary grid for any graduate credits they earned beyond BA + 24, even though many Master's programs require up to 36 credits for completion. This salary progression scheme also supports a conclusion that the parties intended to require teachers to attain their Master's degrees before they move to the MA + 6, etc., lane and that teachers should first attain the MA lane before they can move further horizontally on the grid after taking additional graduate credits beyond their Master's degree. Had the parties intended to allow for the lane progression sought by the Grievant in this case, they could have specifically described this in the labor agreement. They chose not to do this, making it reasonable to conclude, based upon the contract, the record evidence and the argument herein, that they never intended teachers to receive movement on the salary grid for all graduate credits earned.

Therefore, there appears to be no intent demonstrated by the parties that they desired all teachers to be paid on the salary grid for all graduate credits earned prior to earning their Master's degrees as if those credits had been earned after receipt of their Master's degrees. Rather, the contract states that no graduate credits beyond BA + 24 should be paid on the salary grid and it implies that the parties intended that teachers should first attain the MA lane before moving further horizontally through attaining more credits.

In all of the circumstances of this case and in the absence of any past practice supporting the Association's arguments herein, I find that there is insufficient evidence to show that the Grievant must be moved on the salary grid to the MA + 18 lane and I issue the following

AWARD

Gibraltar School District did not violate the 1994-95 salary schedule, Appendix III, as referred to in Article XIII, paragraph E Salary schedule, of the Master Agreement, by denying Nancy Akerly the use of 21 graduate credits earned prior to receiving a Master's degree to be used to advance beyond the Master's degree to MA + 18.

The grievance is therefore denied and dismissed in its entirety.

Dated at Madison, Wisconsin this 28th day of April, 1995.

By Sharon A. Gallagher /s/
Sharon A. Gallagher, Arbitrator