BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between

NORTHWEST UNITED EDUCATORS

and

BARRON SCHOOL DISTRICT

Case 47
No. 62653
MA-12381

(Jean Waters Grievance)

Appearances:

Toby Paone, Executive Director, Northwest United Educators, appearing on behalf of the Association.

Christopher Bloom, Attorney, Weld, Riley, Prenn & Ricci, appearing on behalf of the District.

ARBITRATION AWARD

The above-captioned parties, hereinafter the Association and District, respectively, were parties to a collective bargaining agreement which provided for final and binding arbitration of grievances. Pursuant to a request for arbitration, the Wisconsin Employment Relations Commission appointed the undersigned to decide a grievance. A hearing, which was not transcribed, was held on October 31, 2003, in Barron, Wisconsin. Afterwards, the parties filed briefs, whereupon the record was closed on December 29, 2003. Based on the entire record, the undersigned issues the following Award.

ISSUES

The parties stipulated to the following issues:

1. Is the grievance timely?

2. If so, did the District violate the collective bargaining agreement when the scheduling committee determined the grievant's schedule for the 2003-2004 school year?

3. If so, what is the appropriate remedy?

PERTINENT CONTRACT PROVISIONS

The parties' 2001-03 collective bargaining agreement contained the following pertinent provisions:

ARTICLE I – RECOGNITION

. . .

C. NUE recognizes the Board's right to operate and manage the school system subject to the conditions of this Agreement, the Board retaining all functions not otherwise specifically modified or nullified by this Agreement.

. . .

Article VI – Working Conditions and Placement

. . .

C. The normal teaching load shall be determined by the Administration in consultation with the teacher within generally accepted standards as set forth by the following recommendations with the final decision remaining the prerogative of the Administration.

1. Each elementary teacher shall have an average of 90 minutes student-free preparation time per day, inclusive of a 30-minute duty-free lunch period.

. . .

4. If an individual feels that his/her teaching load is excessive the grievance procedure shall apply as defined in Article XI.

. . .

Article XI – Grievance Procedures

A. Definitions:

1. A "grievance" is a claim based upon an event or condition which affects the interpretation, meaning, or application of any of the provisions of this Agreement.

. . .

D. Initiation and Processing:

1. Level One -

. . .

2. Level Two -

. . .

c. If the aggrieved person does not file a grievance in writing within 30 days after the teacher knew or should have known of the act or condition on which the grievance is based, then the grievance will be considered as waived. . .

BACKGROUND

The District operates a public school system in Barron, Wisconsin. The Association is the exclusive collective bargaining representative for the District's certified teachers. Jean Waters, the grievant herein, is a teacher in the District and thus is a member of the teacher bargaining unit.

Over the last several years, the District has been experiencing declining enrollment in kindergarten through fifth grade. Specifically, in the last three years, enrollment in those grades is down about 17%. As a result of this declining enrollment, the District has made changes to the classes it offers and has decreased the number of sections of elementary students. In 2002-2003, the District reduced the number of fifth grade sections from four to three. In 2003-2004, the District reduced the number of fourth grade sections from four to three. It has also reduced the number of multiage sections at the Almena Elementary School from six to five. It has also reduced the number of kindergarten sections by one.

The reductions just referenced have also affected the District's elementary art program. In the 2002-2003 school year, the District had two elementary art teachers: Jean Waters and Paula McDaniels. At the end of that school year, the District eliminated part-time teacher McDaniels' position based on budgetary restraints and declining elementary school enrollment. As a result of this staffing change, Waters is now the District's only elementary art teacher. She now has sole responsibility for the elementary art program at all three District elementary schools. She maintains, organizes and supplies the art rooms at all three schools. She transports art supplies herself in her car.

In the 2002-2003 school year, Waters taught at Woodland Elementary Monday through Thursday. She taught at Almena Elementary on Friday. Woodland is located in the City of Barron and Almena is located in the Town of Almena (which is about ten miles from Barron). That year, she had 205 preparation minutes on Monday, 150 preparation minutes on Tuesday, Wednesday and Thursday, and 175 preparation minutes on Friday.

In May, 2003, Waters initiated a discussion with Principal John Gevens concerning the length of elementary art class periods. Waters felt that the art classes, which at the time were 55 minutes long, were too long. The District subsequently decided to reduce the length of elementary art class periods for the next school year. That year, the class periods were reduced to 45 minutes for kindergarten and first grade and to 50 minutes for second through fifth grade.

For the last several years, the District has used a scheduling committee to compile the master teaching schedule. That committee has consisted of both administrators and teachers. Scheduling is considered a complicated matter.

FACTS

In the spring of 2003, the scheduling committee referenced in the preceding paragraph met five times to determine the master schedule for the 2003-2004 school year. Specifically, they met May 1, 6, 13, 20 and 28, 2003. Waters was one of the teachers on that committee. She attended some, but not all, of the committee meetings. The scheduling committee concluded its work on May 28, 2003. All teachers, including Waters, were notified of their proposed 2003-2004 teaching schedule on that date (May 28, 2003).

Waters was dissatisfied with her schedule. She felt it was excessive.

Over the next month, Waters met several times with District Administrator Monti Hallberg about her teaching schedule for the upcoming school year. Each time, she expressed dissatisfaction with her schedule and asked him to remedy it by hiring additional staff or reassigning existing staff. Hallberg declined to do that. As a result, Waters' schedule was not changed.

. . .

The following facts pertain to Waters' teaching schedule for the 2003-2004 school year.

The initial focus is on where Waters teaches. On Monday, she teaches all day at Ridgeland Elementary School. Ridgeland is located in the Town of Ridgeland (which is about 15 miles from Barron). She is not required to go back to Woodland Elementary (in Barron) at the end of the workday. On Tuesday, Wednesday and Thursday, she teaches all day at Woodland Elementary School in Barron. On Friday, she teaches one class at Woodland Elementary at the start of the day and then travels to Almena Elementary School where she teaches for the rest of the day. She is not required to go back to Woodland Elementary at the end of the workday.

The focus now turns to what Waters does each workday. Her workday formally starts each day at 8:00 a.m. and ends at 4:00 p.m. She starts each day with 30 minutes of preparation time. Waters prepares one class of art per week, per grade level. For example, when she prepares a plan for fourth grade art, she teaches that same lesson plan to all her fourth grade classes. On Monday, she teaches six classes. On Tuesday, she teaches seven classes (two of which are fourth grade). On Wednesday, she teaches seven classes (two of which are third grade). On Thursday, she teaches six classes (two of which are second grade). On Friday, she teaches six classes. Waters testified that a normal workload for an elementary teacher is seven classes per day with a preparation period. Each day, mid-morning, she has ten minutes of preparation time, except for Friday when she gets 40 minutes to travel to Almena. In the middle of each workday, she gets a lunch break/preparation period. It is 60 minutes each day except for Friday, when it is 50 minutes. She ends each day with preparation time, which varies from day to day. On Monday, it is 90 minutes, on Tuesday, Wednesday and Thursday it is 45 minutes and on Friday it is 40 minutes. She has a total of 190 preparation minutes on Monday, 145 preparation minutes on Tuesday and Wednesday, 185 preparation minutes on Thursday and 160 preparation minutes on Friday. Her preparation minutes on Friday include her travel time to Almena.

On Tuesdays and Wednesdays, Waters teaches for three hours without a break. The record indicates that the District has 25 other teachers who teach for three consecutive hours without a break.

On Fridays, Waters has to travel between schools during the day. The record indicates that the District has eight other teachers who travel between schools during the day.

All elementary students in the District attend art class once per week. There are 530 elementary students in the District, so Waters teaches 530 students every week. Each semester, she has to grade 530 art projects and give grades and report cards to 530 students.

Waters teaches more students than any other elementary teacher. Waters also teaches more students than do the art teachers at the District's middle school and high school.

. . .

On July 21, 2003, the Association filed the instant grievance which alleged that Waters' schedule for the 2003-2004 school year was excessive. As a remedy, it requested that a portion of her schedule be reassigned. The District Administrator's response to the grievance was that it was not filed on a timely basis and that Waters' teaching assignment did not violate the contract. The grievance was ultimately appealed to arbitration.

POSITIONS OF THE PARTIES

Association

The Association initially argues that the District's timeliness contention is without merit. First, as the Association sees it, the date that the grievant was notified of her teaching schedule should not be dispositive for purposes of determining timeliness. In its view, the act which the grievance complained about was the teaching schedule itself; not the date that the grievant was notified of same. Second, aside from that, the Association notes that after the grievant was notified of her teaching schedule in late May, she was in constant contact with Elementary Principal Karl and District Administrator Hallberg wherein she tried, albeit unsuccessfully, to get them to change her teaching schedule. Third, the Association further notes that the grievance was filed before the new school year began. It asks rhetorically how a grievance can be untimely when it challenged something that had not yet started. It therefore avers that the grievance was filed in accordance with the timeline contained in the grievance procedure and thus is properly before the arbitrator for a decision on the merits.

With regard to the merits, the Association contends that the District violated the collective bargaining agreement when it assigned Waters her teaching load for the 2003-2004 school year. According to the Association, her teaching load is "excessive" within the meaning of Article VI, Sec. C (4). It makes the following arguments to support this contention.

The Association acknowledges at the outset that the management rights clause gives the District the right to operate and manage the school system. In making this admission, the Association implicitly acknowledges that the District has the right to assign work and classes to teachers. That said, the Association maintains that the District's right to assign work and classes to teachers is not unfettered. In the context of this case, the limitation which the Association relies on is that the teacher's teaching load not be "excessive" within the meaning of Article VI, Sec. C (4).

Building on the last point just made (i.e. that the teacher's teaching load not be "excessive"), the Association next reviews the contract for a definition of the word "excessive". After doing so, it avers that no definition is contained anywhere in the contract. It further contends that that word (i.e. "excessive") is not defined in either the state statutes or DPI regulations.

Since the contract does not define what an "excessive" teaching load is, the Association contends it is up to the Arbitrator to supply his own definition of that term. After doing so, the Association asks the Arbitrator to apply that definition here and identify for the parties exactly "what is and what is not an excessive teaching load."

The Association argues that the grievant's teaching load for the 2003-2004 school year should be found "excessive" for the following reasons. First, the Association notes that the grievant, who is now the only elementary art teacher in the District due to declining enrollment, has 530 students that she teaches and grades. According to the Association, this number of students taught exceeds any other teacher, elementary or secondary, in the District. Second, the Association avers that the grievant's teaching load for this year is "much more difficult" than her previous years of teaching in the District. It notes in this regard that she now has sole responsibility for the elementary art program at all three District elementary schools. Consequently, this year, she has to maintain, organize and supply the art rooms at three different work sites (i.e. the District's three elementary schools). Third, the Association notes that nine of her planning periods are for just ten minutes apiece. Fourth, the Association notes that on Tuesdays and Wednesdays, the grievant teaches from 12:10 to 3:15 p.m. without a break of any sort; a time period of three hours and five minutes. The Association acknowledges that some high school and middle school teachers have similar class schedules, but it distinguishes them on the grounds that at the secondary level, there is a student pass time of four minutes as students move from one classroom to another, whereas there is no student pass time between classes at the elementary level. The Association also claims that on the whole, secondary students need less supervision than elementary students, so this makes the grievant's "lack of break for over three hours on two days of the week that much more onerous." Fifth, the Association notes that while the grievant teaches at all three District elementary schools, the other District elementary "encore" specialists (i.e. music and physical education) teach at just one school.

Having thus commented on the record evidence that relates to the grievant's teaching load, the Association concludes by putting the grievant's work load in purely personal terms. It contends that the grievant's workload is humanly impossible for her to do alone, and is affecting her physical and personal well-being.

The Association therefore asks that the grievance be sustained. As a remedy, the Association asks that Waters' current and future teaching loads be reduced from what they are at present to loads which "are humane and reflective of good teaching practices."

District

The District initially argues that it is unnecessary for the arbitrator to address the merits of the grievance because it was not initiated within the prescribed time limits which are set forth in the contractual grievance procedure for filing grievances. Hence, the District avers that the grievance was untimely filed. According to the District, the "act or condition" on which the grievance was based was when the grievant was notified of her teaching schedule for the 2003-2004 school year. Since that occurred on May 28, 2003, the District avers that a grievance filed two months later was untimely. The District therefore maintains that since the grievance was untimely, it should be dismissed on that basis alone.

If the Arbitrator finds otherwise, and addresses the substantive issue in dispute, it is the District's position that the grievant's schedule for the 2003-2004 school year did not violate the collective bargaining agreement. It elaborates as follows.

First, the District argues that the grievant's teaching schedule is within the contractual parameters established in Article VI, Sec. C (1). It notes that that section says that "each elementary teacher shall have an average of 90 minutes of student-free preparation time per day. . ." The District acknowledges that if the grievant had less than 90 minutes of student-free preparation time per day, it would be in violation of this provision. The District asserts that the grievant's teaching schedule is not violative of this section. To support that premise, it cites Joint Ex. 7 for the proposition that it shows that the grievant has 190 student-free preparation minutes on Monday, 145 preparation minutes on Tuesday and Wednesday, 185 preparation minutes on Thursday and 160 preparation minutes on Friday. The District maintains that since all these numbers are more than 90, and on some days are double 90, the grievant has been given more student-free preparation minutes per day than the number referenced in Article VI, Sec. C (1). Building on that premise, the District submits that no violation of Article VI, Sec. C (1) has been shown.

Next, the District argues that the grievant's teaching schedule is not "excessive" within the meaning of Article VI, Sec. C (4) for the following reasons. First, the District contends that the word "excessive", which is used in that section, refers to a schedule which does not meet the recommended number of student-free preparation minutes per day. Repeating the point made in the previous paragraph, the District notes again that the grievant's schedule meets the minimum number of recommended student-free minutes per day. According to the District, this means that the schedule is not "excessive" within the meaning of Article VI, Sec. C (4). Second, the District avers that teachers' schedules vary from year to year based on either the reduced or increased needs of particular grade levels. In the District's view, that is particularly the case where, as here, student enrollment is declining and revenue is decreasing. The District argues that just because the grievant's teaching schedule changed this year from what it was previously does not mean that it is an "excessive" schedule. Third, the District

notes that it currently has 27 teachers who teach and supervise students for three consecutive hours without a break. That being so, the District maintains that in that respect, the grievant's schedule is not different from the current schedule of those teachers in the District. Aside from that, the District notes that prior to beginning these three consecutive hours of instruction, the grievant has 60 minutes of preparation and lunch time. The District maintains that even if the grievant needed to take a break during these three consecutive hours of work, staff is available in the area to cover her class for her while she goes to the bathroom or makes a phone call. Fourth, with respect to the grievant's complaint that she has to travel between schools, the District notes that it has eight other teachers that travel to outlying schools on a daily basis. As the District sees it, the grievant's schedule is not unique in this respect; rather, it is comparable. Fifth, responding to the Association's contention that the grievant sees more students than other teachers, the District notes that unlike other elementary teachers, the grievant is only responsible for preparing one class of art per week, per grade level. It further notes that while she is responsible for teaching six sections of third grade per week, she is teaching the same lesson to all six sections. The District submits that in contrast, the other elementary teachers are responsible for six preparations per day, or 30 per week. As a result, the District believes that it can hardly be said that the grievant is responsible for more students and lesson plans in a week when compared to other elementary teachers. Sixth, the District contends that in order to find the grievant's schedule "excessive" within the meaning of Article VI, Sec. C (4), he would have to read something into the contract that currently is not there (namely, the Association's definition of "excessive"). The District cautions the Arbitrator against doing that and avers he is without authority to add any provision to the contract or to render an award which does not draw its essence from the agreement or is not supported by the explicit language of the agreement.

Finally, the District avers that the grievant's teaching schedule was not determined in an arbitrary and capricious manner. It notes in this regard that the grievant served on the District's scheduling committee which ultimately compiled the schedule she is complaining about.

In sum, the District believes the grievant's teaching schedule complies with the contract. Conversely, the District maintains that the Association has not proven that the grievant's schedule violates the contract. It therefore asks that the grievance be denied.

DISCUSSION

Timeliness

Since the District contends the grievance was untimely filed, it follows that this is the threshold issue. Accordingly, attention is focused first on the question of whether the grievance was timely filed.

I find that it was timely filed. My rationale follows.

Like most grievance procedures, the instant grievance procedure contains a timeline for filing grievances. In this contract, the timeline for filing a grievance is found in Level Two of Article XI, Section D. That section specifies that grievances are to be filed "within 30 days after the teacher knew or should have known of the act or condition on which the grievance is based . . ." If a grievance is not filed within that time limit, "then the grievance will be considered as waived." When the word "waived" is used in this context, it means that unless a grievance meets this time limitation, it is time-barred. Said another way, if a grievance is filed after that, it is untimely.

Sometimes there is no question about the date on which a grievance arose. Take, for example, a grievance which involves a completed transaction, such as a grievance challenging employee discipline. In such a situation, the grievance would be said to have arisen on the date the employer disciplined the employee.

In other situations though, determining when a grievance arose is more problematic than the example just given. In my view, this is such a case. Here's why. In this case, the grievance involves the grievant's teaching schedule for the 2003-2004 school year. As the District sees it, the "act or condition" on which the grievance was based was when the grievant was notified of her schedule for the 2003-2004 school year. That occurred on May 28, 2003. The Association, however, does not see the date of notification as dispositive. In its view, the "act or condition" complained of was not the date that the grievant was notified of her teaching schedule for the 2003-2004 school year; rather, it was the teaching schedule itself.

In this case, I agree with the Association that the "act or condition" complained of was the teaching schedule itself. A teaching schedule is something that recurs on a daily/weekly basis. When an act complained of may be said to be recurring or continuing from day to day, arbitrators have oftentimes applied what has become known as the continuing violation theory. Under that concept, arbitrators have held that "continuing" violations of the labor agreement give rise to "continuing" grievances in the sense that the act complained of may be said to be repeated from day to day. I find that the continuing violation theory applies here.

Even if I am wrong to apply the continuing violation theory here, there is another good reason for finding this grievance to be timely. It is this: the grievance was filed a month before the 2003-2004 school year started. When the grievance was filed, the grievant had not started teaching the schedule she was challenging (via the grievance). I am hard pressed to find a grievance untimely which challenges something which had not yet started. It is therefore held that the grievance was timely filed.

Merits

Attention is now turned to the substantive merits of the grievance. At issue here is whether Waters' teaching schedule for the 2003-2004 school year violates the collective bargaining agreement. Based on the analysis which follows, I find it does not.

My analysis begins with an overview of the pertinent contract language. Both sides agree that the contract language applicable here is found in Article VI, Sec. C. That section states that the "normal teaching load" is determined by the administration in consultation with the teacher within "generally accepted standards" as set forth by "the following recommendations". The "recommendations" are specified in the three paragraphs which follow. The first paragraph, which is delineated as (1), applies to elementary teachers; the second paragraph, which is delineated as (2), applies to middle school teachers; and the third paragraph, which is delineated as (3), applies to high school teachers. Since the affected teacher herein (i.e. the grievant) is an elementary teacher, it logically follows that just (1) applies herein and (2) and (3) are simply inapplicable. (1) specifies that "Each elementary teacher shall have an average of 90 minutes of student-free preparation time per day, inclusive of a 30-minute duty-free lunch period." On its face, this section references just one aspect of a teacher's workday – namely, preparation time. That's it. It does not address other aspects of a teacher's workday such as the number of classes taught or the number of students taught. Once again, it only addresses preparation time.

The focus now turns to an examination of the amount of preparation time in Waters' teaching schedule. The parties disagree over how much preparation time Waters has. This disagreement stems from the fact that there are a number of documents in the record which purport to show Waters' schedule for the 2003-2004 school year. In the context of this discussion, the two documents that are pertinent are Association Exhibit 2 and Joint Exhibit 7 because both contain preparation time numbers. The preparation time numbers on each document differ though. Association Exhibit 2 says that Waters has 140 preparation minutes on Monday, 95 preparation minutes on Tuesday and Wednesday, 135 preparation minutes on Thursday and 140 preparation minutes on Friday. The preparation time numbers on Joint Exhibit 7 are higher. That document says that Waters has 190 preparation minutes on Monday, 145 preparation minutes on Tuesday and Wednesday, 185 preparation minutes on Thursday and 160 preparation minutes on Friday. Although I used the numbers from Joint Exhibit 7 when I referenced this matter in the **FACTS**, it really does not matter whether the preparation numbers are those referenced on Association Exhibit 2 or Joint Exhibit 7. The reason is this: the numbers on both documents are in excess of the number referenced in (1), namely, 90 minutes per day. Thus, even if Waters only has the preparation time referenced in Association Exhibit 2, she has more than 90 preparation minutes per day.

Knowing that Waters has more total preparation minutes each day than is referenced in Article VI, Sec. C (1), the Association asks me to focus instead on how those preparation minutes are allocated each day. The Association avers in this regard that Waters' preparation minutes are so fragmented and broken up during the course of the day that she really can't do much with that time. While I understand the Association's point, the problem with this contention is that there is nothing in Article VI, Sec. C, or elsewhere in the contract for that matter, that requires a teacher's preparation time to be in certain blocks of time. Instead, (1) specifically references "an average" of 90 minutes. With this language, the District retained the right to divide up a teacher's preparation time over the course of a day so long as the teacher gets at least 90 total minutes of preparation time. Ditto for travel time within the school day (such as Waters' travel on Friday morning). Once again, there is nothing in Article VI, C, or elsewhere in the contract for that matter, that excludes travel time during a school day from being counted as preparation time. Since no exclusion exists, the District has retained the right to include travel time in the counting of preparation time.

The focus now turns back to the final contract provision involved herein: Article VI, Sec. C (4). That section provides thus: "If an individual feels that his/her teaching load is excessive the grievance procedure shall apply as defined in Article XI." The Association avers that the word "excessive", which is used in that sentence, is not defined anywhere in the contract. While I agree with the Association that the word "excessive" is not explicitly defined in Article VI, Sec. C (4), a plausible interpretation can nonetheless be inferred from its overall context. Here's what I mean. As previously noted, the first paragraph of Article VI, Sec. C says that "the normal teaching load" will be set by the administration using the "recommendations" which follow. The following three paragraphs, which are delineated (1), (2) and (3), respectively, then identify what those "recommendations" are for various grade levels. Each of those three paragraphs deal with just a single component of a teacher's workday, namely preparation time. The next paragraph which follows, (4), is the one which references an "excessive" teaching load. Since all the paragraphs which precede (4) deal only with preparation time, it is certainly plausible to read the word "excessive" in (4) to refer only to a teaching schedule which does not meet the recommended number of preparation minutes per day.

Notwithstanding what I just said (i.e. that it is plausible, given its context, to read the word "excessive" in (4) to refer only to a schedule which does not contain 90 preparation minutes per day), the Association reads the word "excessive" to refer to more than just preparation time. In other words, the Association reads the word "excessive" broader than was noted in the preceding paragraph. However, in order for me to read it that way too (as opposed to the way noted in the previous paragraph), I need something to hang my hat on, so to speak. Specifically, I need extrinsic evidence that that is the way the word "excessive" has previously been interpreted. I am referring, of course, to past practice and bargaining history. Both are forms of evidence arbitrators commonly use to help them interpret ambiguous

language and ascertain the parties' intent regarding same. The rationale underlying its usage is that the manner in which the parties have carried out the terms of their agreement in the past or what was agreed upon at the bargaining table provide reliable evidence of what the parties intended the language to mean. In this case, there is no bargaining history evidence in the record. While there is evidence in the record (via testimony) of an alleged past practice, that evidence ultimately supports the District's position here that Waters' schedule is not "excessive". Here's why. Waters testified that a normal workload for elementary teachers is seven classes per day with a preparation period. Assuming for the sake of discussion that there is such a past practice, this means that a schedule for an elementary teacher of seven classes per day with a preparation period would not be "excessive" – rather, it would be normal. The record indicates that Waters does not have more than seven classes each day; instead, she has seven or less each day. That being so, even if there is a practice that the normal workload for elementary teachers is seven classes per day with a preparation period, Waters' schedule comports with same.

Having so found, the focus turns to the Association's contention that I should apply my own definition to the term "excessive", and after doing so, I should then identify for the parties "what is and what is not an excessive teaching load." I decline to do that. In my view, it is not my task to supply a standard or write contract language. That is for the parties to do. Instead, my task is to interpret the contract as currently written. I have already done that.

The final question is whether the District acted in bad faith in constructing Waters' schedule for the 2003-2004 school year. There is no evidence that the District, through its scheduling committee, acted in bad faith in constructing Waters' teaching schedule. That being so, it is held that Waters' teaching schedule for the 2003-2004 school year does not violate the parties' collective bargaining agreement.

In so finding, I am well aware that Waters feels overwhelmed by her teaching schedule because of the following: (1) two days a week she teaches for three hours without a break; (2) one day a week she travels between schools; and (3) she teaches more than 530 students every week. Be that as it may, with regard to points (1) and (2), it is noteworthy that there are other teachers in the District who do the same thing (i.e. teach three hours without a break and travel between schools during the day). That being so, Waters' teaching schedule is not unique in that regard. That said, what is unique about her schedule is the total number of students taught each week (i.e. 530). No other elementary teacher has that many students. Waters asks me to remedy this on the grounds that it is inequitable for her to have that many students. I decline to do so. In my view, it is not my task to do equity. Instead, as previously noted, my task is to enforce the contract as written. This contract does not contain any language dealing with the number of students taught or providing for overload pay. If the Association wants to change that, it will have to get it in bargaining.

In light of the above, it is my

AWARD

1. That the grievance is timely; and

2. That the District did not violate the parties' collective bargaining agreement when the scheduling committee determined the grievant's schedule for the 2003-2004 school year. Therefore, the grievance is denied.

Dated at Madison, Wisconsin, this 13th day of May, 2004.

Raleigh Jones /s/
Raleigh Jones, Arbitrator

REJ/gjc
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