

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BEFORE THE MEDIATOR/ARBITRATOR

RECEIVED

MAY 4 1979

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

Case XXVI
No. 23298 MED/ARB-161
Decision No. 16610-B

In the Matter of the Arbitration :
between :
SCHOOL DISTRICT OF MENOMONEE FALLS :
and :
MENOMONEE FALLS SCHOOL DISTRICT :
EMPLOYEES, LOCAL 2765, DISTRICT :
COUNCIL 40, AFSCME, AFL-CIO :

Appearances:

Mulcahy & Wherry, S.C., Attorneys at Law, by Mr. Mark L. Olson,
appearing on behalf of the Employer.
Mr. Robert Lyons, District Representative, appearing on behalf
of the Union.

ARBITRATION AWARD

School District of Menomonee Falls, hereinafter the Employer or District, petitioned the Wisconsin Employment Relations Commission to initiate mediation-arbitration pursuant to Section 111.70(4)(cm)6 of the Municipal Employment Relations Act to resolve a collective bargaining dispute between the Employer and Menomonee Falls School District Employees, Local 2765, District Council 40, AFSCME, AFL-CIO, hereinafter the Union. On October 31, 1978, Kay B. Hutchison was appointed mediator-arbitrator in the dispute. A mediation session was held in Menomonee Falls, Wisconsin on January 17, 1979. Mediation failed to resolve the impasse and pursuant to prior agreement, an arbitration hearing was convened on the same day. The parties had full opportunity to present evidence and argument. Post-hearing briefs were received by the Arbitrator on March 21, 1979.

STATUTORY CRITERIA

In resolving this dispute, the mediator-arbitrator is directed by Section 111.70(4)(cm)(7) to consider and give weight to the following factors:

- a. The lawful authority of the municipal employer.
- b. Stipulations of the parties.
- c. The interest and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally in public employment in the same community and in comparable communities and in private employment in the same community and in comparable communities.

- e. The average consumer prices for goods and services, commonly known as the cost-of-living.
- f. The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
- g. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- h. Such other factors, not confined to the foregoing, which are normally and traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

THE ISSUE:

The District and the Union are parties to a collective bargaining agreement which, by its terms, is to expire on June 30, 1979. The agreement provides a "reopener" for the 1978-79 school year with respect to wages, health insurance, life insurance, retirement contributions and health room duty. The sole unresolved issue concerns wages. All other matters were settled by stipulation of the parties. The Arbitrator is required to select between the final offers of the respective parties for incorporation in the collective bargaining agreement.

FINAL OFFERS:

Employer Position

Appendix A - Salary

- A. Retain current salary schedule:
 - 1. 50% of appropriate instep increase, if any, at July 1, 1978 (12 month employees) or beginning of school year (10 month employees)
 - 2. Remainder of instep to be granted at mid-year.
- B. Across the board increases upon steps of current salary schedule:
 - 1. Full time Employees: \$20 per month on all steps on July 1, 1978 (12 month employees), beginning of school year (10 month employees)

Part time Employees: 12¢ per hour on all steps at beginning of year.
 - 2. Full time Employees: Mid-year
 - a. At steps Start through One Year: Accept amounts proposed by Union in offer dated August 17, 1978.

- b. Steps Two Years and Three Years: Add \$22 (i.e., \$42 per month total increase during 1978-79).

3. Part time Employees: Mid-year

8¢ per hour on all steps.

The resultant salary schedule represented by the Employer's final offer is as follows:

		<u>Start</u>	<u>120 Days</u>	<u>One Year</u>	<u>1/2 Instep</u>	<u>Two Years</u>	<u>1/2 Instep</u>	<u>Three Years</u>
Account Clerk	Start	544	566	602	639	675	712	748
Secretary IV	Mid-Year	560	584	622		697		770
Secretary III	Start	502	523	556	590	623	657	690
	Mid-Year	518	540	576		645		712
Secretary II	Start	492	511	544	577	610	643	675
	Mid-Year	508	529	564		632		697
Secretary I	Start	480	499	531	563	595	627	659
	Mid-Year	496	517	551		617		681
Part-Time	Start	3.13	3.28	3.43	3.51	3.58	3.66	3.73
	Mid-Year	3.21	3.36	3.51		3.66		3.81

Union Position

1. The Union proposes that the 1977-79 Contract between the parties be carried forward unchanged except for the Stipulated Agreement concerning health room duty and the proposed salary schedule set forth below.
2. The Union proposes that the following salary schedule be implemented effective July 1, 1978.

	<u>START</u>	<u>120 DAYS</u>	<u>1 YEAR</u>	<u>2 YEARS</u>	<u>3 YEARS</u>
Accounting Clerk Secretary IV	\$560	\$584	\$622	\$700	\$778
Secretary III	\$518	\$540	\$576	\$648	\$720
Secretary II	\$508	\$529	\$564	\$635	\$705
Secretary I	\$496	\$517	\$551	\$620	\$689
Part-Time	\$3.25	\$3.41	\$3.57	\$3.74	\$3.90

For purposes of subsequent comparison, the 1977-78 salary schedule is reproduced below:

	<u>Start</u>	<u>120 Days</u>	<u>1 year</u>	<u>2 years</u>	<u>3 years</u>
Accounting Clerk Secretary IV	\$524	\$546	\$582	\$655	\$728
Secretary III	\$482	\$503	\$536	\$603	\$670
Secretary II	\$472	\$491	\$524	\$590	\$655
Secretary I	\$460	\$479	\$511	\$575	\$639
Part-time	\$3.01	\$3.16	\$3.31	\$3.46	\$3.61

1. Employees hired prior to July 1, 1977, who are not at the maximum shall be advanced one step on July 1 of each year until they reach the maximum.
2. Employees hired after July 1, 1977, shall receive step increases based upon their anniversary dates of employment.
3. The following employees are "off-step", and shall be paid the following monthly rates for the period July 1, 1977 through June 30, 1978: J. Anfinen - \$546.00; C. Becker - \$578.00; K. Lutzke - \$535.00. Following June 30, 1978, these three employees shall advance on the salary schedule set forth in Appendix 'A', above, pursuant to the provisions of paragraphs 1 and 2 above.

UNION ARGUMENTS:

The Union notes that the stipulations of the parties relevant to these negotiations, including health insurance premiums, maintains the status quo of the contract reopened. The only economic impact which will result from this round of bargaining is the disputed wage increase.

The Union asserts that wage comparisons are not particularly significant in the instant dispute. During the hearing, it offered comparisons with other employers in surrounding jurisdictions which will be discussed subsequently. The Union claims that acceptance of either offer will have little impact upon the relative ranking of unit salaries among any selected group of "comparables." However, what is significant, according to the Union, is the effect of the proposals upon the integrity of the salary schedule.

The Union asserts that cost of living information relative to urban wage earners and clerical workers in the Milwaukee metropolitan area is an important factor in this dispute. The cost of living, according to the Union, increased 9.7 percent between August, 1977 and July, 1978. The total cost impact of the District's offer is 8 percent, 1.7 percent less than the rise in the cost of living over the preceding eleven months. The Union's proposal carries a total cost impact of 11.8 percent, a 2.1 percent increase over the cost of living. More importantly, the Board's offer is not uniform across the schedule and discriminates against the employees at the top of the schedule with annual increases ranging between 4.3 percent and 5.2 percent. The Union's offer maintains the concept of the existing salary schedule and provides increases of 6.8 percent and 8.04 percent for employees at the top of the schedule. The table below demonstrates the Union's analysis of the respective offers by top step of classification and percentage increase over 1977-78 base:

	<u>No. Employees at Top</u>	<u>Union Offer</u>	<u>Board Offer</u>
Account Clerk	1	6.8%	4.26%
Secretary IV	2		
Secretary III	7	7.46%	4.96%
Secretary II	3	7.63%	5.07%
Secretary I	0	7.82%	5.20%
Part-Time	1	8.04%	4.66%

The Union argues that during the pendency of this arbitration, the cost of living has continued to rise.

The Union asserts that the voluntary wage guidelines were not published at the time the parties submitted their final offers and therefore, should be given no weight herein. Further, it argues that technically both offers are in excess of the 7 percent voluntary guideline. The Union also argues that many unit employees fall into the low wage exemption category by reason of earning \$4.00 or less per hour.

The Union contends that the paramount issue in the instant dispute is the integrity of the salary schedule negotiated for the first time in the 1977-79 contract. According to the Union, a historical analysis of the parties' bargaining relationship discloses the gradual development of a predictable salary progression based on length of service and classification. The Union argues that the District's offer abandons the salary progression before it has become operative.

The Union's final offer represents a \$50 per month increase on the top step of each classification, a percentage increase of 6.87 percent to 7.82 percent. The Union's offer then applies the step percentages of the existing contract to the \$50 top step increase to determine the increases for the respective steps (i.e., 90%, 80%, 75%, 72%). The Union's offer relative to part-time employees is an 8 percent across-the-board increase.

The Union points out the complexity of the salary schedule offered by the Employer. The District proposes a half step increase and a mid-year base adjustment which kicks in according to the individual's starting date of employment for 1978-79. In other words, the mid-year increase would vary for year-round and school year employees. Union argues this bargaining unit has been singled out for such bifurcated treatment by the Employer. The Union concludes that the bargaining history of the parties and the Employer's treatment of other bargaining units, clearly supports maintenance of the current salary schedule.

EMPLOYER ARGUMENTS:

The District contends that the most relevant criteria in the instant dispute consists of wage comparisons among other employee groups in the District, among other comparable districts and among clerical employees in the private sector in Milwaukee and Waukesha counties. The District also argues that the Consumer Price Index is a relevant consideration.

Based on size and geographic proximity, the following districts, according to the Employer, constitute appropriate comparisons for clerical wages: WAUKESHA, ELMBROOK, West Bend, NEW BERLIN, Oconomowoc, Arrowhead, HAMILTON, MUKWONAGO, MUSKEGO, Kettle Moraine, Cedarburg,

GERMANTOWN, Slinger, Pewaukee, Hartford Jt. Dist. #1, and Hartford Union High School Dist. 1/ The Employer discounts the relevancy of the City of Milwaukee to the instant dispute, arguing that the greater the distance from the metropolitan center, the less the influence of the metropolitan center upon the wages of the community.

The Employer further argues that the labor market for non-certified personnel is considerably more limited to the immediate geographic area than is the market for the professional teaching staff. Accordingly, the District contends that comparisons should be made on a decidedly narrower scope.

The District points out the limitations of comparing wages by job titles where the duties and responsibilities may vary from district to district. Therefore, the District urges the use of its telephone survey over the Union's source of contract excerpts without accompanying job descriptions and hours of work.

The Employer argues that the most relevant comparisons can be made by converting monthly salaries to hourly rates. The District asserts that the actual hours worked per month varies from month to month due to the fact that they do not work during summer, Christmas or spring vacations and therefore average out to 150.7 hours per month. The Employer contends that use of 162.5 hours per month as urged by the Union, deflates the hourly rates of employes and is inappropriate in determining hourly rates for comparison.

The District characterizes its offer as 8.96 percent increase in wages, and the Union's as 12.9 percent. The Employer contends that the Union's offer mandates an excessive wage increase by its conformance with the salary schedule and its disregard of the salary increments. The Employer avers that its offer maintains the structure of the salary schedule, continues the equitable movement of employes, and moderates the severe fiscal impact of the instep progression. The Employer argues that "at the close of the contract year, each employe will realize a substantial salary increase in a manner which the District's budget can bear and which is in keeping with all other contract settlements in the District."

The District indicates that the one-half instep will not appear on the salary schedule itself and that for purposes of uniformity all 10.5 month employes will receive instep movement on January 22, 1979. The District indicates that it has included the instep progression in costing the packages as it and other employers traditionally have done with other units. The District argues that arbitrators and the federal wage/price guidelines have acknowledged the appropriateness of including instep increases as pay-rate increases.

The Employer concurs with the Union that the award of either final offer would not appreciably alter the comparative salary rank of Menomonee Falls clerical employes. Therefore, the District urges the application of other criteria to the instant dispute.

The Employer argues that granting the Union's proposal for a 12.9 percent increase would exceed the consumer price index. The Employer further contends that comparisons of the parties' offers to the settlements reached with other units of employes of this Employer are par-

1/ Jurisdictions in capitals indicate districts which are also cited as relevant comparisons by Union.

ticularly relevant. The Employer costs these 1978-79 settlements as follows:

	<u>% Wages Only</u>	<u>% Total Impact</u>
Teachers	7.9%	7.7%
Custodians	8.0%	7.36%
Food Service	8.7%	7.9%
Teacher Aides	10.3%	5.2%
Secretarys: Board Offer	8.98%	8.0%
Union Offer	12.85%	11.84%

The District argues that its offer is clearly higher than its other settlements, and that the Union's proposal is clearly excessive.

The Employer argues that the clerical employes have received a 35.6 percent wage increase over the past five years while the U.S. City Average CPI for the same period has increased 29.9 percent. The District argues that it is important to include the cents per hour increase generated by the instep movement of employes and not just the across-the-board salary adjustment in evaluating the respective offers. Including instep movement, the Employer contends that its offer represents a 13 to 16 percent increase in new money per month for full-time clericals.

DISCUSSION:

The parties have expended a great deal of effort in providing the Arbitrator with comparative wage data. The analysis of such data is impeded for several reasons. It is more difficult to make wage comparisons across jurisdictions for clerical employees than it is for teachers. Differences in job titles, assigned duties and classifications are readily apparent among contracts and telephone surveys covering clerical employes. Whereas teachers are traditionally compensated across districts according to attained education and experience, clerical employes are classified and compensated according to local structure. Wages may be negotiated on hourly, monthly, or annual bases. In addition, some employes work on an annual basis while others work on a school year calendar. Therefore, meaningful comparisons are difficult to generate.

Furthermore, the undersigned is of the opinion that the labor market for clerical employes is significantly different from that for teachers. The market for clerical employes embraces the private sector as well as other public sector jurisdictions. Furthermore, that labor pool is highly localized. A comparison of wage rates for Menomonee Falls clerical employes limited to those paid clericals in other school districts, does not reflect the reality of competing markets for the services of clerical employes. The parties did not provide a great deal of wage information from employers other than surrounding school districts. Furthermore, the information on other local employers is subject to the aforementioned limitation with respect to job titles and classifications.

Another impediment to an effective comparison of the final offers results from the variation in computation and costing of the proposed salary increase by the respective parties. The Employer urges that the Arbitrator adopt its method of converting monthly salaries to hourly rates. The District further argues that the hourly computation be made on the basis of 150.2 hours per month rather than 162.5 hours per month in order to reflect the monthly fluctuations in hours worked. The Arbitrator rejects this argument in view of the previous grievance settlement between the parties which acknowledged 162.5 as the appro-

appropriate conversion figure, and further based on the fact that employees are compensated by uniform monthly salaries regardless of the number of working days in a particular month. The Arbitrator concludes that the Employer's data representing hourly rates for Menomonee Falls clerical employees overstates their actual hourly rate. In addition, the Employer's offer includes instep increases which vary in effective date according to 12 month or 10.5 month employment.

With consideration of the above and foregoing, the Arbitrator has devised the following table setting forth wage comparisons which she believes are most pertinent:

1978-1979 CLERICAL WAGES

<u>School Dist. 2/</u>	<u>Staff Size</u>	<u>Secretary II</u>		<u>Account Clerk</u>	
		<u>Min.</u>	<u>Max.</u>	<u>Min.</u>	<u>Max.</u>
Elmbrook	597	\$618/mo.	\$768/mo.	\$635/mo.	\$845/mo.*
Hamilton	242	\$3.29	\$4.78	\$3.54	\$5.17 *
Germantown	198	\$3.25	\$3.90	\$4.00	\$4.40 ***
Waukesha	670	\$3.38 \$568/mo.	\$4.18 \$724/mo.	\$3.68 \$588/mo.	\$4.76 ** \$775/mo.*
Mukwonago	241	\$3.40 \$3.05	\$4.45 \$3.80	\$3.35	\$4.35 *** *
Muskego	240	\$3.24	\$4.14	\$4.14 \$3.79	\$5.04 * \$4.69 **
New Berlin	406	\$645/mo.	\$870/mo.	\$875/mo.	\$1200/mo.*
<u>Other Employers:</u>					
Waukesha Voc. Tec.*		\$625/mo.	\$732/mo.	\$698/mo.	\$819/mo.
Waukesha County*		\$721/mo.	\$828/mo.	\$757/mo.	\$869/mo.
Village of Menom. Falls*		\$634/mo.	\$799/mo.	\$3.59/hr.	
Milwaukee-Waukesha Private Employers**		\$668 average		\$715 average	
<u>Menomonee Falls</u>					
Union Offer:		\$3.13 (\$508/mo.)	\$4.34 (\$705/mo.)	\$3.45 (\$560/mo.)	\$4.79 (\$778/mo.)
District Offer: 3/		\$3.02 (\$492/mo.)	\$4.29 (\$697/mo.)	\$3.35 (\$544/mo.)	\$4.79 (\$770/mo.)

2/ Based on twelve-month employment where source data so indicates.

3/ As computed by Arbitrator on highs and low in range.

* Numbers in row represent Union figures

** Numbers in row represent District figures

*** Numbers in row represent both parties' figures

The foregoing table attempts to compare the minimum and maximum salaries of two classifications across employers. Both parties cited the school districts of Elmbrook, Hamilton, Germantown, Waukesha, New Berlin, Mukwonago and Muskego. The Arbitrator believes that the most relevant of such comparisons are the contiguous districts of relative size, namely Hamilton and Germantown and the public employers of Waukesha County, Village of Menomonee Falls and private employers in Milwaukee and Waukesha counties.

Having thoroughly reviewed the numerous documents offered by the parties, the undersigned is of the opinion that the instant dispute cannot be determined solely on the basis of comparability. The parties agreed that implementation of either award would not alter the relative salary ranking of the District. It is important to note that the present salary schedule contains a 28 percent increase from starting to top salary. Clearly much of the District's anticipated cost is generated by movement of employes on the salary schedule. However, during the 1977-78 contract year, half of the clerical employes (14) were on the top step of their classification. The Employer's proposal, therefore, grants half of the bargaining unit an annual salary adjustment of approximately 4.5 to 5 percent increase. The Union's offer for the same employes represents approximately a 7 to 7.5 percent increase.

While the District argues that the Union's offer substantially exceeds the wage/price guidelines, the Arbitrator believes that the District's method of costing both proposals overstates the actual percentage increase to be incurred. Furthermore, the District has acknowledged that both final offers exceed the guidelines. The undersigned is satisfied that the District's contention with respect to the wage/price guidelines is not persuasive, and that other factors must be considered in order to determine the dispute.

The Arbitrator has given consideration to the impact of the Employer's proposal on the form as well as the substance of the salary schedule. The District's proposal significantly alters the concept of the present schedule. The Arbitrator could not find a similar salary schedule among the collective bargaining agreement submitted into evidence. It appears to the Arbitrator that the sole basis for proposing mid-year and 1/2 instep increases is to minimize the cost impact to the District. Clearly, the salary levels proposed by the District for the conclusion of the contractual period approximate those included in the Union's final offer. The Arbitrator is of the opinion that the rationale of a salary schedule goes beyond easing the financial burden to the Employer. The salary schedule should provide an orderly salary and classification progression related to an employe's skill and length of service. The imposition of half steps and mid-year increases appears, to this Arbitrator, to dilute the concept of employe advancement consistent with the salary schedule. The Employer's proposal effectively increases the number of insteps without offering any evidence that more numerous steps of less duration are reasonably related to the development and reward of experienced employes.

The Arbitrator has given substantial weight to the impact of the respective offers upon the salary schedule; she has considered comparative wage rates, giving prime consideration to contiguous school districts of relative size and to other public and private sector local employers; and concludes that the Union's final offer is the most reasonable. Having considered the issue on the basis of the evidence presented, the arguments and statutory criteria the Arbitrator makes the following

AWARD

That the final offer of the Union is selected and must be implemented by the District.

Dated at Madison, Wisconsin this 3rd day of May, 1979.

By Kay B. Hutchison
Kay B. Hutchison, Arbitrator