

AWARD OF ARBITRATION

THE CUDAHY EDUCATION ASSOCIATION
(Case XXIII No. 24729 MED-ARB-425)
Decision No. 17267-A

AND

THE CUDAHY SCHOOL DISTRICT

BETWEEN

IN THE MATTER OF ARBITRATION

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

DEC 26 1979

RECEIVED

A hearing on the issue involved in the above case as stated below was held in Cudahy, Wisconsin on October 23, 1979 before the undersigned arbitrator.

Appearances for the parties were as follows:

James Gibson
UniServ Director
WEAC UniServ Council #10
4620 W. North Avenue
Milwaukee, Wisconsin 53208

FOR THE ASSOCIATION

Mark Vetter, Esquire
Mulcahy & Wherry, S.C.
811 E. Wisconsin Avenue
Milwaukee, Wisconsin 53202

FOR THE BOARD

All parties were afforded full opportunity to examine and cross examine witnesses and to adduce relevant evidence.

Upon the entire record and with due consideration being given to the arguments advanced by the parties in their briefs, I find as follows:

THE ISSUE

Which final offer of the parties shall the arbitrator select?

BACKGROUND

On February 13, 1979 the Cudahy School District Board of Education (hereinafter referred to as the Board) and the Cudahy Education Association exchanged their initial proposals on matters to be included in a new collective bargaining agreement and thereafter the parties met on six occasions to reach an accord on a new collective bargaining agreement. On June 11, 1979 the Association filed a petition with the WERC requesting the initiation of Mediation-Arbitration pursuant to Section 111.70(4)(cm) of the Municipal Employment Relations Act. On August 27, 1979 a member of the WERC's staff, conducted an investigation which reflected that the parties were deadlocked in their negotiations. During the investigation the parties submitted their final offers as well as a stipulation on matters agreed upon to said investigator who, on September 13, 1979, notified the parties that the investigation was closed and also advised the Commission that the parties remained at impasse.

On September 13, 1979 the Commission ordered that Mediation-Arbitration be initiated for the purpose of resolving said impasse.

On September 27, 1979 the parties advised the Commission that they had selected the undersigned from a panel of five names and the Commission on October 3, 1979 appointed the undersigned to mediate-arbitrate the issue in dispute between the parties pursuant to Section 111.70(4)(cm) 6b of the Act. Notice of this appointment was made public by the Board but no petition requesting a public hearing on the matter in dispute was filed by anyone with the WERC.

As a result thereof and by agreement of the parties mediation was scheduled for October 23, 1979 in Cudahy, Wisconsin. On that date the parties and the arbitrator met and after being unable to resolve the impasse in mediation the parties agreed and did meet immediately thereafter and presented their positions and evidence during the arbitration hearing.

THE FINAL OFFERS

The parties at the beginning of the arbitration hearing submitted their final offers which had been submitted to the WERC and are as follows:

CUDAHY SCHOOL BOARD FINAL OFFER FOR ARBITRATION August 27, 1979

1. Maintain the existing salary schedule index
2. Increase the base to \$11,045 (+\$625)
3. Increase the longevity to \$545 (+\$441)

CUDAHY EDUCATION ASSOCIATION FINAL OFFER FOR ARBITRATION August 27, 1979

1979-80 SALARY SCHEDULE

1. Maintain the existing salary schedule index.
2. Increase the base salary from \$10420 to \$11217. Increase all other salary schedule steps according to the schedule index.
3. Increase the longevity payments at the top of the schedule to the following amounts:

BA = \$487
BA+8 = 493
BA+15 = 498
BA+24 = 505
MA = 538
MA+8 = 548
MA+15 = 557
MA+24 = 566
MA+30 = 575
Phd = 593

APPENDIX A

1978-79 SALARY SCHEDULE

STEP	BA	BA+8	BA+15	BA+24	MA	MA+8	MA+15	MA+24	MA+30	Ph. D.
0	10420 1.00	10681 1.025	10941 1.05	11202 1.075	11566 1.11	11983 1.15	12400 1.19	12817 1.23	13233 1.27	14067 1.35
1	10941 1.05	11202 1.075	11462 1.10	11723 1.125	12087 1.16	12504 1.20	12921 1.24	13338 1.28	13754 1.32	14588 1.40
2	11462 1.10	11723 1.125	11983 1.15	12244 1.175	12608 1.21	13025 1.25	13442 1.29	13859 1.33	14275 1.37	15109 1.45
3	11983 1.15	12244 1.175	12504 1.20	12765 1.225	13129 1.26	13546 1.30	13963 1.34	14380 1.38	14796 1.42	15630 1.50
4	12608 1.21	12869 1.235	13129 1.26	13390 1.285	13754 1.32	14171 1.36	14588 1.40	15005 1.44	15421 1.48	16255 1.56
5	13233 1.27	13494 1.295	13754 1.32	14015 1.345	14379 1.38	14796 1.42	15213 1.46	15630 1.50	16046 1.54	16880 1.62
6	13859 1.33	14120 1.355	14380 1.38	14641 1.405	15005 1.44	15422 1.48	15839 1.52	16256 1.56	16672 1.60	17506 1.68
7	14484 1.39	14745 1.415	15005 1.44	15266 1.465	15630 1.50	16047 1.54	16464 1.58	16881 1.62	17297 1.66	18131 1.74
8	15109 1.45	15370 1.475	15630 1.50	15891 1.525	16255 1.56	16672 1.60	17089 1.64	17506 1.68	17922 1.72	18756 1.80
9	15734 1.51	15995 1.535	16255 1.56	16516 1.585	16880 1.62	17297 1.66	17714 1.70	18131 1.74	18547 1.78	19381 1.86
10	16359 1.57	16620 1.595	16880 1.62	17141 1.645	17505 1.68	17922 1.72	18339 1.76	18756 1.80	19172 1.84	20006 1.92
11	16985 1.63	17246 1.655	17506 1.68	17767 1.705	18131 1.74	18548 1.78	18965 1.82	19382 1.86	19798 1.90	20632 1.98
12					18756 1.80	19173 1.84	19590 1.88	20007 1.92	20423 1.96	21257 2.04
13					19381 1.86	19798 1.90	20215 1.94	20632 1.98	21048 2.02	21882 2.10
*	\$104	\$104	\$104	\$104	\$104	\$104	\$104	\$104	\$104	\$104

*Beginning with the second year of placement at the last step of a column a teacher will be paid the amount of 1% of the BA, Step 0, salary in addition to the scheduled salary amount at the last step of the column.

EVIDENCE

At the hearing the parties by their representatives, submitted into evidence a number of exhibits purporting to show economic data, statistics and pertinent information to support their positions regarding their final offers. As each exhibit was introduced it was described and explained.

I have attempted to carefully read and analyze this evidence with emphasis being placed upon those portions pointed out by the parties in their briefs and have arrived at certain findings and conclusions as hereinafter set forth.

The Act provides guidelines for the arbitrator in making his decision. These guidelines state that he shall give weight to the lawful authority of the employer, stipulations of the parties, ability to pay, cost of living, comparisons with other employees in the public and private sector doing similar work, comparisons with other employees generally in comparable communities, and other factors that are normally or traditionally taken into consideration in determining the wages, hours, and conditions of employment in the public and private sectors. In his decision the arbitrator herein has considered all of the above factors wherein evidence was presented by the parties which the arbitrator could consider and weigh as to value.

ANALYSIS

An examination of the final offers of the parties indicates that the Association is seeking an increase in the base salary from \$10,420 in 1978-79 to \$11,217 in 1979. The Board's final offer proposes an increase in the base salary from \$10,420 in 1978-79 to \$11,045 in 1979.

The Association's proposal for the longevity increase would amount from \$104 in 1978-79 to amounts ranging between \$487 to \$593 as set forth in their proposed schedule while the Board's proposal would increase the amount from \$104 in 1978-79 to \$545. Both parties agree that the percentage increase would amount to 9.84% under the Board's proposal (\$1542 per teacher) while the Association's increase would amount to 11.1% (\$1803 per teacher). The final offers

of the parties are a total of \$62,127 apart.

It is the feeling of the arbitrator that the selection of the more appropriate comparables in this case is the most important part in deciding this case and he has therefore carefully considered all of the evidence and arguments in this regard submitted by both parties.

Both parties submitted into evidence what they considered to be the most reliable method of comparing comparable data with other employees doing similar work.

In support of its position the Association set forth that it was relying primarily on comparison with other employees generally in comparable communities, the average consumer prices for goods and services and other factors that are normally or traditionally taken into consideration in determining the wages, hours and conditions of employment in the public and private sectors.

In support of its position the Board relies on (1) comparison with wages and fringe benefits of employees performing similar services in public employment in comparable communities; (2) comparisons with total wage and benefit compensation of employees performing similar services in public employment in comparable communities; (3) the average consumer prices for goods and services; (4) the interest and welfare of the public; and (5) other factors normally taken into consideration in the determination of wages through voluntary collective bargaining, mediation and arbitration.

In submitting comparable school districts to the Cudahy School District the Board maintains that the following are most comparable: (1) West Allis, (2) Elmbrook, (3) Wauwatosa, (4) New Berlin, (5) Menomonee Falls, (6) Oak Creek, (7) Muskego, (8) Cudahy, (9) Greendale, (10) South Milwaukee, (11) Germantown, (12) Brown Deer, (13) Franklin, (14) Whitnall, (15) Shorewood, (16) Nicolet, (17) St. Francis, and (18) Greenfield.

The Association in presenting what it contends to be the most comparable districts submitted the following: (1) Cudahy, (2) Franklin, (3) Greendale, (4) Greenfield, (5) Oak Creek, (6) St. Francis, and (7) So. Milwaukee. These seven districts as set forth above are included in the Board's 18 districts.

It is the contention of the Association that the seven districts submitted should be used by the arbitrator for the following reasons:

- (1) The seven belong to a single Uni Serv Council (#10).
- (2) They coordinate in bargaining and are aware of and concerned with the comparative collective bargaining agreements.
- (3) WERA Uni Serv Council #10 represents all seven associations in bargaining with the same bargaining representative of six of the seven districts.
- (4) The teachers of the seven locals live in close geographic proximity to each other in the Milwaukee metropolitan area.
- (5) All seven districts have commonly accepted comparative criteria.
- (6) The seven districts were used as the appropriate comparable base in the Greendale, Oak Creek and Greenfield arbitrations for 1978-79.

In the Oak Creek arbitration the Association pointed out that the Oak Creek representative, who also presently represents the Board herein, argued that the seven districts submitted by the Association herein was the appropriate base of comparison. The Association further alleged that in a fact finding hearing the Cudahy Board used as a base fourteen Milwaukee County K-12 districts including all seven Association districts.

The Board contends that the 17 districts offered as comparables are based on the fact that they are in close geographic proximity to Cudahy, that they all compete in the labor pool of certified teachers competing for jobs within the same general area, the employees and populace of these districts compete for the same goods and services and are influenced by the same variations in the Milwaukee Area's economic environment. The Board pointed out that the 17 comparable districts submitted were comparable in relative number of pupils and full time equivalency staffs, comparable in full valuable taxable property, and Cudahy is a member of the Milwaukee Suburban Athletic Conference. In addition the Board referred to several arbitrators decisions which supported the Boards "concentric ring" theory, i.e. the influence of a metropolitan area on its surrounding area. The Board

further submitted excerpts from other arbitrators decisions supporting its position regarding comparables which I find to have merit in establishing comparables.

However, it is incumbent on this arbitrator to find not only that a party has presented good and sufficient evidence to show that its comparables have merit, the arbitrator must also find that the comparables submitted are more appropriate to be used as a base than those submitted by the other party.

It is interesting to note that the Board does not contend that the seven districts submitted by the Association are not comparable. The Board states "...other districts are just as comparable and have been viewed as comparable in the past." Since the Board concedes that it has recently used the Association's districts as having been an appropriate base in other cases within the same seven districts, I find that the burden of proof rests upon the Board to show that its present comparables are more appropriate than those submitted by the Association. I am unable to find nor has the Board pointed out to me sufficient evidence to show that its more recent comparables of the larger group of eighteen districts has more merit or is more appropriate for comparison with the Cudahy district than the ones submitted by the Association and previously used by the Board. It is the feeling of the arbitrator that the smaller group of comparables submitted by the Association is much more wieldy, this being another factor in its favor. I have carefully read and studied all the other evidence and arguments of both parties in their briefs regarding their contention as to the use of comparables and in my opinion I believe and I so find that the evidence submitted by the Association in this regard is more meritorious than that submitted by the Board.

I therefore must and do select the comparisons submitted by the Association (the seven districts) to be the most appropriate in the instant case.

A comparison of the salaries of Cudahy teachers with the teachers in the seven comparable districts as submitted by the Association shows that Cudahy teacher salaries ranked last in 1978-79 and was \$5 below St. Francis, \$44 below So. Milwaukee, \$197 below Greenfield, \$289 below Greendale, \$370 below Oak Creek, and \$514 below Franklin or \$237 below the average of these districts.

A study of the exhibits submitted by the Board (Bd. Ex. #44) and the Association (CEA Ex. #8) show that 1979-80 contract settlements for the following districts have increased salaries and their 1979-80 salaries are as follows:

	<u>1978-79 Salaries</u>	<u>1978-80 Increases</u>	<u>1979-80 Salaries</u>
Franklin	16708	1297	17005
Greendale	16483	1604	18087
Greenfield	16391	1500(Bd. Of)1643(As.Of)	17891 - 18034
Oak Creek	16564	1605	18169
So. Milwaukee	16238	1546	17784
St. Francis	16199	1550	17749

With the Association's request for \$1803 the Cudahy average salary for 1979-80 would be \$17997 or about in the middle of the seven districts although it would be approximately \$180 more than the average salary of the seven districts including Cudahy. An increase of \$1542 as proposed by the Board would merely place the Cudahy teachers ahead of the Franklin teachers. It need not be pointed out that this average is reduced considerably since Franklin salaries for 1979-80 are about \$900 below the average of the other five districts.

It is the contention of the Association that the inflation rate for the Milwaukee Area from July, 1978 to July, 1979 was 15.6% and for the previous 12 months it was 10.5%. Since the 1978-79 Cudahy teacher raise amounted to 8.1%, the average Cudahy teacher recouped only 77% of the loss due to inflation. In order for the average teacher to recoup at least 77% of the loss due to inflation between July, 1978 and July, 1979 the average salary settlement would therefore have to be at least 12%.

It is the Board's contention that it recognizes the rapid increase in the Consumer Price Index but it states that all parts of the county have been hit by this inflation and that all spendable earnings have declined. It is further the contention of the Board that its offer of 9.5 increase more nearly corresponds to the wage increases nationwide.

While inflation does have an effect on the earnings of the Cudahy teachers it also has the same effect on the teachers in the districts used as comparables and while the C.P.I. does have an effect on teachers salaries the blame for this cannot be placed on the Board but in any event it is a factor which must be considered.

With respect to the Presidential guidelines regarding pay increases it must be remembered that these guidelines are voluntary and they must be understood to be just that. With respect to these guidelines it is common knowledge that since they were issued very few contracts in the public and private sector have been below 7% and some of the more recent settlements in the private sector have exceeded 12%. Neither party has seriously raised this issue. However, it would be illogical to ignore the guidelines entirely as it would further add to the spiral of inflation.

In regard to the other monetary issue in dispute, that is the longevity payments, the Board takes the position that its offer increases the longevity payments from \$104 to \$545 and that the Board is proposing to continue the concept of providing the same dollar amounts for longevity for teachers beginning their second year of placement at the last step of any column on the schedule. The Board contends that the Association's proposal ~~abolishes the previously established approach to longevity which the parties voluntarily agreed to for 1978-79.~~ It is the further position that the Association's proposal creates a new concept of longevity which had never been previously accepted but also that once such a new concept is included in the agreement, the likelihood that the Board would prevail in any subsequent attempt to have it deleted from the agreement would be practically impossible under the current arbitration laws.

Under the Association's proposal it eliminates the specific equal dollar amount payment to teachers beginning their second year of placement at the last step which was equal to a percentage of the BA, Step 0 salary and it establishes dollar amount longevity payments ranging from \$487 in the BA column to \$593 in the PhD column.

After analyzing the evidence submitted by both parties regarding this issue I find that the Association's has failed to convince the arbitrator herein that the method of longevity payments should be changed from the previously agreed upon method. If this were the only issue involved herein to be decided I would be inclined to deny the Association's request regarding the longevity issue. However, since the arbitrator is not permitted by statute to decide each issue separately or to divide issues he will not decide the longevity issue separately but will do so on the basis of deciding which total package should be implemented.

However, in any event, in deciding the issue as set forth below it must be pointed out that the difference in the total amounts in the two longevity programs is very small and I find that if the majority of the Association members, who most certainly must have voted on this proposition, so desire this type of distribution then I feel the Board should not be too overly concerned with that distribution at least for the term of the next contract.

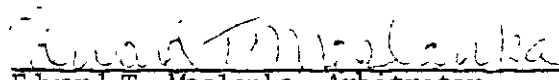
CONCLUSION

Having considered the record as a whole and the arguments advanced by both parties and having considered the statutory criteria for decision, it is the conclusion of the arbitrator that the Association's position is more meritorious and should be supported. From the record I find that the evidence supports the Association's position that the Cudahy teachers are entitled to and deserving of the salaries requested in its final offer. It is the finding of the arbitrator that the Association's wage proposals which amount to approximately \$62,000 will not be burdensome on the Board or the community, no convincing evidence having been submitted that this would or could result.

AWARD

It is the finding of the arbitrator, having considered all the evidence in the record, the arguments of the parties, and the statutory criteria, that the Association's position herein is the more meritorious. Based on all these factors the final offer of the Association is selected and must be implemented by the Board.

Respectfully submitted,


Edward T. Maslanka, Arbitrator
7 South Dearborn Street
Chicago, Illinois 60603

Dated: 12/15/79