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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BEFORE THE ARBITRATOR

* * * * *

In the Matter of the Mediation-Arbitration

Between

WESTBY AREA EDUCATION ASSOCIATION

and

WESTBY AREA SCHOOL DISTRICT

* * * * *

OPINION AND AWARD

Case VI

No. 25086

MED/ARB-505

Decision No. 17429-A

Appearances:

Thomas C. Bina, Executive Director, Coulee Region United Educators, appearing on behalf of Westby Area Education Association.

Karl L. Monson, Wisconsin Association of School Boards, appearing on behalf of Westby Area School District.

On September 4, 1979, the Westby Area Education Association (referred to hereafter as the Association) filed a petition with the Wisconsin Employment Relations Commission (WERC) pursuant to Section 111.70(4)(cm)(6) of Wisconsin's Municipal Employment Relations Act (MERA) to initiate mediation-arbitration. The Association and the Westby Area School District (referred to hereafter as the School District or the Employer) had begun negotiations on February 26, 1979 for a successor contract to their agreement which expired on June 30, 1979. The parties failed, however, to reach agreement on all issues in dispute covering this unit of approximately 80 regular full-time and part-time certificated teaching personnel. On November 19, 1979, following an investigation by a WERC staff member, the WERC determined that an impasse existed within the meaning of Section 111.70(4)(cm)(6)(a) and that mediation-arbitration should be initiated. On December 11, 1979, the undersigned, after having been selected by the parties, was appointed by the WERC as mediator-arbitrator to resolve the impasse. She met with the parties on January 31, 1980 at 4 P.M. in Westby, Wisconsin, to mediate the dispute. When mediation efforts proved unsuccessful, by prior agreement with the parties, the arbitration meeting referred to in Section 111.70(4)(cm)(6)(d) was held on the evening of January 31, 1980, commencing at approximately 7:50 P.M. Public notice of the evening arbitration meeting had been given previously. At the hearing, the parties were given a full opportunity to present evidence through exhibits and testimony and to make oral arguments. Thereafter written briefs and reply briefs were submitted and exchanged through the arbitrator.

ISSUES AT IMPASSE

Of all the issues which were subjected to the collective bargaining process between the parties for a successor agreement to the existing collective bargaining agreement which expired June 30, 1979 the following issues remain unresolved:

1. Salary (including disputes over salary base, step increments, longevity increments and lane differentials);
2. Amendment, if any, to existing contractual language regarding duration of recall rights for bargaining unit members laid off; and
3. Duration of the successor agreement. The Employer proposes one year

while the Association proposes 2 years. For the second year, the Association proposes a new BA base and full family health insurance to be paid by the Employer.

The Association's final offer is attached hereto as Appendix A and the Employer's final offer is attached as Appendix B.

Since there is no voluntary impasse procedure agreement between the parties, the undersigned is required under MERA to choose either the entire final offer of the Association or the entire final offer of the Employer.

STATUTORY CRITERIA

Under Sec. 111.70(4)(cm)(7) the mediator-arbitrator is required to give weight to the following factors:

- A. The lawful authority of the municipal employer.
- B. Stipulations of the parties.
- C. The interests 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 or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective

school district comprising CESA #11, support its proposal instead of the Employer's. The Association notes that the adoption of either final offer relating to salary will not raise substantially the relative standing of the Westby Area School District. Therefore, in the Association's view, the Association's proposal is to be preferred because of its lower economic cost (according to the Association, approximately \$13,700 for 1979-80).

The Association raises further objections to the Employer's salary offer on two additional grounds. First, the Association observes that even with Westby's relatively low ranking, it has managed to hire beginning new teachers when needed this past year. Second, the Association points out that Employer's proposed salary schedule rewards those with the least experience and additional educational credits rather than the reverse and this, the Association believes, is not good educational policy.

Finally, in affirmative support of its salary offer the Association argues cost of living as it applies to all bargaining unit members plus the "real bargain" the School Board and the public will receive if the Association's two year package is selected since it believes its salary proposal for 1980-81 and the family health insurance premium proposal are exceedingly modest economic improvements.

As to the final issue in dispute between the parties, the modification of the existing contract provision relating to the duration of recall rights for teachers who have been laid off, the Association characterizes its proposal for changing the specified period from one school year to sixteen months as a "bare minimum" needed to assure such laid off teachers recall rights for two summer hiring periods. Noting that many comparable school districts provide for recall rights for two years, the Association summarizes that its recall proposal is to be preferred because it is based upon equity, comparability and "common sense"

For all the above reasons, the Association concludes that its total package final offer more closely meets the statutory factors that must be considered by the undersigned than does the final offer of the Employer and, therefore, should be selected.

The School District

The Employer argues that it is an urgent priority for the School District to change the nature of the salary structure now because of its adverse "ballooning" potential by substituting constant fixed dollars for existing percentage step increments, longevity increments, and lane differentials. Thus it proposes to change the B.A. salary base from \$9300 to \$10,100 (higher than the Association's proposed base) with \$450 for each step, \$250 for each lane differential, and \$205 and \$410 for longevity increments. It documents its concern over the ballooning effect of the present percentage approach to longevity and lane differentials by projecting salaries through 1985-86. Moreover, the Employer argues that, at present, the School District's salary schedule is low for base salaries but "very comparable" at the top of the salary lanes and therefore, needs restructuring. The Employer relies upon CESA #11 constituent school districts for comparability noting that only 3 follow Westby's present percentage salary schedule pattern.

In addition to its main economic policy arguments, the Employer makes three further arguments. First, it argues that the arbitrator should take into account, is indeed required to take into account, already agreed upon contractual improvements for 1979-80 which include mileage, STRS, gymnastics pay and non-economic issues such as calendar, just cause, and clarification of the evaluation procedure. The Employer also argues that its salary offer treats teachers very favorably if cost of living data over the last decade or more is considered. For example, according to the Employer, teacher salaries since 1967-68 have more than kept pace with actual increases in the cost of living. Finally, the School District registers its objection to the concept of a two year contract noting that these are uncertain economic times, that

Westby has never had a two year agreement, and that it is exceedingly rare to find a two year agreement among the comparables.

As to the issue relating to the duration of recall rights for laid off members of the bargaining unit, the Employer points out that the present contractual language may provide greater teacher protection than the language proposed by the Association and, therefore, is to be preferred. For example, in order to comply with the existing requirement covering one complete school year, a laid off teacher may retain recall rights up to a maximum of 21 months when the lay-off originally occurred in the fall after a school year has begun.

Based upon all the above reasons and arguments, the Employer concludes that its final offer is more reasonable and should be selected by the arbitrator in this proceeding.

DISCUSSION

This interest arbitration proceeding presents an unusual situation. The Employer's final offer for the 1979-80 contractual year exceeds that of the Association by approximately \$15,000, as calculated by the Employer, or approximately \$13,700, as calculated by the Association. This economic circumstance is the reversal of the more typical impasse dispute and may be explained by the fact that it is a top priority of the Employer to change the existing salary schedule structure because of serious defects in the existing schedule with its built in percentage increases. In contrast, the the Association's final offer maintains the existing salary structure by changing the base to \$10,035 for 1979-80 and to \$10,700 for 1980-81. The Association's final offer also changes the Employer's contribution for family health insurance premiums from 85% (for 1979-80) to 100% for 1980-81. Thus, each side has offered the other a major inducement to settle. The Employer has offered a larger salary package including a higher base salary in order to establish a new salary structure which eliminates percentage increases and substitutes fixed constant dollars for longevity and lane increments. The Association proposes a 2 year contract with comparatively modest base salary increases (plus the 1980-81 change in health insurance premium payments noted above) as an inducement to preserve the existing salary schedule format.

In the judgment of the arbitrator, it is the economic issues which define the basic dispute between the parties and will determine the outcome of this proceeding. The difference between the parties relating to the duration of recall rights is small. On the recall duration issue, either side should be able to live with either a continuation of the present contractual language, as proposed by the Employer, or the Association's modification without difficulty.

Having closely scrutinized the specifics of the Association's and the Employer's salary proposal for 1979-80 and the comparability data offered by both parties, it is apparent that the dollar difference at each step and at each lane between the two offers is small and the relative position of the School District will not be affected very much regardless of which offer is selected. Accordingly, it would appear that the more modest Association proposal is to be preferred even though that choice leaves the School District with a salary schedule structure which has, in its judgment, a potential for certain economic harm in future years.

The more difficult issue that must be confronted is the relationship between the salary schedule proposals and the duration of the agreement. If the Association's total package is to be chosen, then the School District will be "locked into" the existing salary schedule structure (which it is trying hard to eliminate) for two more years without an opportunity to renegotiate its structure until negotiations begin for a successor contract in 1981. While the arbitrator must acknowledge that this argument by the School District has much merit, she is persuaded, nevertheless, that under the facts herein presented, the interests and welfare of the public will be better served by the selection of the Association's two year package. As the Association itself points out, the cost of its first year proposal is less than the Employer's and the cost of its second year proposal is quite modest. The Employer has calculated that the Association's 1980-81 proposal is an 8.16% increase. That second year includes full family health insurance


premium payment by the Employer, a contractual benefit found in many surrounding school districts. It should be noted that a two year contract for these parties means that there will probably be less than one full year before contract negotiations begin in 1981 for a successor contract, surely a brief enough time of "certainty" and peace in labor relations between the parties. Finally, and perhaps most critical, while the selection of the Association's offer necessarily retains the existing salary schedule structure for two years, the adverse effects of the structure as viewed by the Employer are not yet evident. Teachers have been hired even though the School District has a comparatively low B.A. base and the differences between the salary proposals do not greatly affect the School District's relative rankings. The real thrust of the Employer's concerns over the salary structure and its "ballooning" effects relate to future years beyond 1979-81 and a feeling that "something should be done now" to prevent future anticipated difficulties. For those years beyond 1980-81, the Employer will have ample opportunity to negotiate structural changes. It will also be in a position to offer definite proof as to more immediate adverse effects and comparisons rather than speculation about possible future adverse effects, both at the bargaining table and during any impasse procedures.

AWARD

Based upon full consideration of the exhibits, testimony, oral arguments and written briefs submitted on behalf of the parties and due weight having been given to the statutory factors set forth in Section 111.70(4)(cm)(7) of MERA, the mediator-arbitrator selects the final offer of the Association and orders that the Association's offer be incorporated into a written collective bargaining agreement as required by statute.

Dated: April 24, 1980

Madison, Wisconsin


June Miller Weisberger
Mediator-Arbitrator

LAST BEST OFFER

Recall: "Any teacher not recalled within 16 months after the last day worked shall be deemed to be no longer on the recall list and has no recall rights."

BA Base -- \$10,035
(Present structure*)

- * 4 increments at 4%
- 5 increments at 4 $\frac{1}{4}$ %
- 3 or 4 increments at 4 $\frac{1}{2}$ %

* Lane Differential of \$250 except MA--MA +6 is \$125

* Longevity at 2% and 4% of lane base

1980-81

BA Base -- \$10,700

Full family health insurance

WESTBY EDUCATION ASSOCIATION

Last Best Offer, 1979-80

	<u>BA</u>	<u>BA +12</u>	<u>BA +24</u>	<u>MA</u>	<u>MA + 6</u>
0	10,035	10,285	10,535	10,785	10,910
1	10,436	10,696	10,956	11,216	11,346
2	10,838	11,108	11,378	11,648	11,783
3	11,239	11,519	11,799	12,079	12,219
4	11,641	11,931	12,220	12,510	12,656
5	12,067	12,368	12,668	12,969	13,119
6	12,494	12,805	13,116	13,427	13,583
7	12,920	13,242	13,564	13,886	14,047
8	13,346	13,679	14,012	14,344	14,510
9	13,773	14,116	14,459	14,802	14,974

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WESTBY EDUCATION ASSOCIATION

Last Best Offer, 1980-81

	<u>BA</u>	<u>BA +12</u>	<u>BA +24</u>	<u>MA</u>	<u>MA + 6</u>
0	10,700	10,950	11,200	11,450	11,575
1	11,128	11,388	11,648	11,908	12,038
2	11,556	11,826	12,096	12,366	12,501
3	11,984	12,264	12,544	12,824	12,964
4	12,412	12,702	12,992	13,282	13,427
5	12,867	13,167	13,468	13,769	13,919
6	13,322	13,633	13,944	14,255	14,411
7	13,776	14,098	14,420	14,742	14,903
8	14,231	14,564	14,896	15,229	15,395
9	14,685	15,029	15,372	15,715	15,887
10	15,167	15,522	15,876	16,230	16,408
11	15,648	16,014	16,380	16,746	16,928
12	<u>16,130</u>	<u>16,507</u>	<u>16,884</u>	17,261	17,449
				<u>17,776</u>	<u>17,970</u>

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October 12, 1979

AMMENDED FINAL OFFER

OCT 15 1979

BOARD OF EDUCATION

WISCONSIN DEPARTMENT
OF PUBLIC INSTRUCTION

WESTBY AREA SCHOOL DISTRICT

I. The collective bargaining agreement for the July 1, 1978-June 30, 1979 school year with the Westby Area Education Association shall remain in full force and effect for the July 1, 1979-June 30, 1980 school year except as modified by the attached stipulations and as modified by the following final offer of the Board:

A. One (1) year agreement-July 1, 1979-June 30, 1980.

B. Salary Base - \$19,100.00

1. Lane Differential - \$250.00

2. Increments - \$450.00

3. Longevity - \$205.00 and \$410.00

- a. All teachers with accumulated longevity through the 1978-1979 contract year shall have their accumulation based on the two percent (2%) or four per cent (4%) basis as contained within the Longevity Pay provision of the 1978-79 labor agreement. Beginning school year 1979-80, all certified teaching personnel, as per the Recognition clause, beyond the top step shall receive longevity pay of \$205.00 until the start of the 25th year of service in the District, thereafter it shall be \$410.00. Each successive year's longevity shall be added to the previous longevity accumulation.
- b. A Teacher will receive longevity pay the year following their arrival at the top of any lane in this salary schedule.
- c. The years of experience shall be determined from records maintained by the District Administrator