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: WISCONSIN EMPLOYMENT
In the Matter of the Stipulation of : RELATIONS COMMISSION
: SCHOOL DISTRICT OF ITHACA :
: and : Case VI
: ITHACA EDUCATION ASSOCIATION : No. 27841 MED/ARB-1109
: : Decision No. 18946-A
To Initiate Mediation-Arbitration :
Between Said Parties :
: :
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On September 21, 1981 the Wisconsin Employment Relations Commission appointed the undersigned as Mediator-Arbitrator, pursuant to Section 111.70(4)(cm) 6.b. of the Municipal Employment Relations Act in the matter of a dispute existing between the School District of Ithaca, hereafter the District, and the Ithaca Education Association, hereafter the Association. Pursuant to statutory responsibilities, the undersigned conducted mediation proceedings between the District and the Association on November 12, 1981. Said mediation effort failed to result in voluntary resolution of the dispute. The matter was thereafter presented to the undersigned in an arbitration hearing conducted on December 1, 1981 for final and binding determination. Post hearing exhibits and briefs were filed by both parties by January 29, 1982. Based upon a review of the evidence and arguments and utilizing the criteria set forth in Section 111.70(4)(cm), Wis. Stats., the undersigned renders the following arbitration award.

The current dispute arose over the impasse reached between the parties in their negotiations resulting from their reopener on financial provisions in their current collective bargaining agreement.

The substantive issues in dispute include disputes over the salary schedule, longevity, extra curricular pay, and overload pay. The parties agree that the districts in the Athletic Conference are comparable, but disagree as to whether additional contiguous districts should also be deemed comparable. Since the comparability issue has a significant impact on all of the other substantive issues in dispute, it will be discussed first.

Thereafter, the merits of the substantive issues in dispute will be discussed individually. Finally, the relative merit of the total final offers of both parties will be addressed.

COMPARABILITY

As indicated above, the parties agree that all schools in the Athletic Conference are comparable. The Association however also argues that the districts which are contiguous to Ithaca should also be deemed comparable because of their geographic proximity to the District. This is particularly so in the instant situation because there is very little shopping and housing in Ithaca and therefore the teachers for the most part have to look elsewhere for their goods, services, and housing. Thus, Richland Center and its surrounding districts should be deemed comparable to Ithaca, since employees in all of these districts compete for the same goods, services, and housing.

Furthermore, the Association also argues that the District salary schedule should also be compared with the state average in salaries. In this regard it contends that there is no reason why the District's teachers should earn less than the average teacher in the State of Wisconsin.

DISCUSSION

Since both parties agree that the districts in the Athletic Conference

should be utilized as comparables, they will be so used, except for Seneca which had not settled its 1981-82 agreement at the time of the instant proceeding.

With respect to the contiguous districts issue, the undersigned believes that it is generally well established that comparable districts are those that are geographically proximate and of similar size, and if ability to pay is an issue, other factors may be considered which pertain to that issue. In this instance no data was presented regarding the relative ability of allegedly comparable districts to support their educational programs, therefore, such factors cannot be considered. With respect to size, as measured by FTEs and pupil enrollment, the undersigned deems the Richland Center and River Valley School Districts to be too significantly distinct from the districts in the Athletic Conference, which both parties agree are comparable, to be included in said list of comparables for purposes of this proceeding. However, the Riverdale School District is both geographically proximate and sufficiently similar in size to be deemed comparable to the Conference schools, and therefore, it will be so considered.

Therefore, the undersigned has utilized the following districts as the comparables which will be utilized in this proceeding: DeSoto, North Crawford, Kickapoo Area, Wauzeka, Weston, La Farge, and Riverdale.

The statewide average comparable proposed by the Association has not to the undersigned's knowledge been given significant weight by arbitrators in such proceedings, particularly where there is sufficient reliable data regarding comparable districts in the vicinity of the district in question. The undersigned does not believe that the Association has presented a persuasive argument to justify varying that practice.

SALARIES

On the salary schedule the Association proposes an \$11,700 base and the District proposes an \$11,500 base. Both propose \$200 between lanes and 4% vertical increments. The difference between the two salary offers, including longevity, is somewhat in excess of \$7,000.

Association Position

The final offer of the Association is more comparable to the settled comparable districts on a dollar and percentage basis than is the final offer of the District. The Association's salary offer seeks to and in fact does maintain the District's relationship in salaries with comparable districts. On the other hand the District's offer in most instances reduces the position in ranking of the District's salaries.

The Association's salary offer is only slightly above the average of the settled districts and is much closer to the average than that of the District, looking at either dollar or percentage comparisons.

In response to the District's inability to pay arguments, it is not unusual for a district to experience short-term borrowing while

Although other Districts may have a higher starting base, none approach the District at the top of the bachelor's and master's lanes. This is particularly important since the District has many veteran teachers.

In further support of the District's offer on salaries is the fact that the District has one of the most advantageous vertical increment schedules in the Conference.

The Association's proposal, in terms of percentage, exceeds all settlements in the Conference. The District's percentage increase does not have to be as high as other schools in the Conference since it has no catching up to do. The District can offer a little less in some instances and still outdistance the other districts in pay at both the bachelor's and master's tops.

No matter which offer is selected, the District will have to engage in short-term borrowing in order to cover operating expenses during the 1981-82 school year. Furthermore, if state aids are reduced, the District is not sure "where's the money coming from?"

Discussion

The following tables reflect seven salary benchmarks among the comparable districts the undersigned has utilized.

CHART 1

	<u>80-81</u>	<u>81-82</u>	<u>% Increase</u>	<u>\$ Increase</u>
DeSoto	\$10,830	\$11,700	8.0	870
Kickapoo	10,600	11,500	8.5	900
LaFarge	10,300	11,500	11.7	1200
North Crawford	10,700	11,650	8.9	950
Wauzeka	10,600	11,500	8.5	900
Weston	10,600	11,550	9.0	950
Riverdale	10,800	11,800	9.3	1000
Average	10,633	11,600	9.1	967
Ithaca	10,650	Board 11,500 Assn. 11,700	Board 8. Assn. 9.9	Board 850 Assn. 1050
Ithaca Ranking Among 8 Districts	4	Board 4-7 Assn. 2-3		
Ithaca +/- Average	+17	Board -100 Assn. +100	Board-1.1 Assn.+ .8	Board -117 Assn. + 83

CHART 2

	<u>80-81</u>	<u>81-82</u>	<u>% Increase</u>	<u>\$ Increase</u>
DeSoto	\$11,500	\$12,500	7.9	920
Kickapoo	11,400	12,300	7.9	900
LaFarge	11,150	12,350	10.8	1200
North Crawford	11,800	12,900	9.3	1100
Wauzeka	11,650	12,625	8.4	975
Weston	10,975	12,150	10.7	1175
Riverdale	12,096	13,216	9.3	1120
Average	11,522	12,577	9.2	1056
Ithaca	11,450	Board 12,300 Assn. 12,500	Board 7.4 Assn. 9.2	Board 850 Assn. 1050
Ithaca Ranking Among 8 Districts	5	Board 6-7 Assn. 4-5		
Ithaca +/- Average	-72	Board -277 Assn. - 77	Board-1.8 Assn.-0.	Board -206 Assn. - 6

CHART 3

	<u>80-81</u>	<u>81-82</u>	<u>% Increase</u>	<u>\$ Increase</u>
DeSoto	\$12,780	\$13,860	8.5	1080
Kickapoo	12,700	13,900	9.4	1200
LaFarge	11,900	13,100	10.1	1200
North Crawford	12,740	13,960	9.6	1220
Wauzeka	12,550	13,750	9.6	1200
Weston	13,144	14,322	9.0	1178
Riverdale	13,392	14,632	9.3	1240
Average	12,744	13,932	9.4	1188
Ithaca	13,206	Board 14,260 Assn. 14,508	Board 8. Assn. 9.9	Board 1054 Assn. 1302
Ithaca Ranking Among 8 Districts	2	Board 3 Assn. 2		
Ithaca +/- Average	+462	Board +328 Assn. +576	Board -1.4 Assn. + .5	Board -134 Assn. +114

CHART 4

	<u>80-81</u>	<u>81-82</u>	<u>% Increase</u>	<u>\$ Increase</u>
DeSoto	\$14,505	\$15,740	8.5	1235
Kickapoo	14,550	15,900	9.3	1350
LaFarge	13,550	14,750	8.9	1200
North Crawford	14,860	16,365	10.1	1505
Wauzeka	14,575	16,000	9.8	1425
Weston	14,926	16,524	10.7	1598
Riverdale	15,984	17,464	9.3	1480
Average	14,707	16,106	9.5	1399
Ithaca	15,572	Board 16,728 Assn. 17,000	Board 7.4 Assn. 9.2	Board 1156 Assn. 1428
Ithaca Ranking Among 8 Districts	2	Board 2 Assn. 2		
Ithaca +/- Average	+865	Board +622 Assn. +894	Board -2.1 Assn. - .3	Board -243 Assn. + 29

CHART 5
BA MAXIMUM

	<u>80-81</u>	<u>81-82</u>	<u>% Increase</u>	<u>\$ Increase</u>
DeSoto	\$15,705	\$17,100	8.9	1395
Kickapoo	15,150	16,950	11.9	1800
LaFarge	14,000	15,200	8.6	1200
North Crawford	14,780	16,270	10.1	1490
Wauzeka	13,850	15,250	10.1	1400
Weston	15,688	17,350	10.6	1662
Riverdale	13,824	15,104	9.3	1280
Ithaca	15,336	Board 16,560 Assn. 16,848	Board 8.0 Assn. 9.9	Board 1224 Assn. 1512
Ithaca Ranking Among 8 Districts	2	Board 4 Assn. 4		
Ithaca +/- Average	+622	Board +385 Assn. +673	Board -1.9 Assn. 0.	Board -237 Assn. + 51

CHART 6
MA MAXIMUM

	<u>80-81</u>	<u>81-82</u>	<u>% Increase</u>	<u>\$ Increase</u>
DeSoto	\$16,455	\$17,900	8.8	1445
Kickapoo	15,950	17,500	9.7	1550
LaFarge	14,850	16,050	8.1	1200
North Crawford	16,200	17,905	10.4	1685
Wauzeka	15,875	17,500	10.2	1625
Weston	16,243	17,982	10.7	1739
Riverdale	16,848	18,408	9.3	1560
Average	16,063	17,606	9.6	1543
Ithaca	17,404	Board 18,696 Assn. 19,000	Board 7.4 Assn. 9.2	Board 1292 Assn. 1596
Ithaca Ranking Among 8 Districts	1	Board 1 Assn. 1		
Ithaca +/- Average	+1,341	Board +1,090 Assn. +1,394	Board-2.2 Assn. -.4	Board -251 Assn. + 53

CHART 7
SCHEDULE MAXIMUM

	<u>80-81</u>	<u>81-82</u>	<u>% Increase</u>	<u>\$ Increase</u>
DeSoto	\$16,830	\$18,300	8.7	1470
Kickapoo	15,950	17,500	9.7	1550
LaFarge	14,850	16,050	8.1	1200
North Crawford	16,520	18,305	10.8	1785
Wauzeka	16,575	18,250	10.1	1675
Weston	16,428	18,278	11.3	1850
Riverdale	17,172	18,762	9.3	1590
Average	16,332	17,921	9.7	1589
Ithaca	17,404	Board 18,696 Assn. 19,000	Board 7.4 Assn. 9.2	Board 1292 Assn. 1596
Ithaca Ranking Among 8 Districts	1	Board 2 Assn. 1		
Ithaca +/- Average	+1,072	Board + 775 Assn. +1,079	Board-2.3 Assn.- .5	Board -297 Assn. + 7

Chart 1 indicates that at the BA base, the Association's salary proposal is slightly closer to the average among comparables than the District's, both in terms of the size of the percentage and dollar increase involved. In addition, the Association's proposal does not put the District in a position out of line with comparable districts. Accordingly, at this step the Association's position is deemed to be slightly more reasonable than the District's.

Chart 2 indicates that at the MA base, the Association's proposal is significantly closer to the norm among comparables in every respect. Therefore, its proposal is deemed to be the more reasonable of the two at this step.

Chart 3 indicates that at the BA lane, 7th step, the Association's proposal is closer to the average among comparables than the District's in terms of the size of the percentage and dollar increases involved. This factor must be balanced against the fact that at this step the District is one of the wage leaders among the comparables. However, in view of the fact that the Association's proposal at this step is not out of line with comparable districts--in fact, it does not alter the District's relative ranking among comparables -- the Association's proposal is deemed to be slightly more reasonable than the District's at this step.

The undersigned's analysis of Chart 4 leads to the same conclusions reached as a result of the analysis of Chart 3, and accordingly, at this step as well, the Association's proposal is deemed to be the more reasonable of the two.

Chart 5 indicates that the Association's proposal is significantly closer to the average increases granted in comparable districts than the District's both in terms of percentages and dollars. Furthermore, the Association's proposal is not out of line with comparables and in fact reduces the District's relative ranking among comparables. Therefore, at this step the Association's proposal is deemed to be the more reasonable of the two.

An analysis of Charts 6 and 7 on the other hand indicates that although the Association's proposal is closer to the average than the District's in terms of the size of the increase granted, there appears to be justification for the District's belief that at these steps the Association's proposal places it in a position further out of line among comparable districts than does its proposal. Accordingly, at these steps the District's proposals are deemed to be the more reasonable of the two.

Based upon all of the foregoing, the undersigned concludes that the Association's salary proposal is more reasonable and comparable than the District's at five of the seven benchmarks utilized as a basis of comparison, and that accordingly, in its entirety, the Association's final offer with respect to the salary schedule, excluding longevity, is more reasonable than the District's.

This conclusion must however be evaluated in light of the District's inability to pay arguments before a final determination can be made regarding the reasonableness of the parties' respective positions on salaries.

With respect to the District's inability to pay argument, the record fails to demonstrate that the District cannot afford to fund the Association's salary proposal without having to make harmful adjustments in the budget or the educational programs affected thereby, without having to engage in long-term deficit financing, or without having to place an onerous tax burden on the community which would not be politically feasible.

In a proceeding such as this a district asserting inability to pay must demonstrate with supporting evidence that budgetary adjustments cannot be made without harming its educational program, that long-term deficit financing cannot be avoided, or that tax increases would be necessary which the Board has good reason to believe would be politically unacceptable. Mere speculation about such matters is not sufficient.

Absent such evidence, and in light of the fact that the Association's proposal regarding salaries has been deemed to be the more reasonable of the two submitted herein for the reasons discussed above, the undersigned concludes that the Association's final salary offer is the more reasonable of the two submitted herein.

LONGEVITY

The Association proposes a \$250 non-accumulative longevity payment, while the District wishes to retain the current \$200 payment.

Association Position

The Association's offer on longevity is closer to the payment of longevity in comparable districts than is the District's offer in this regard. Therefore, the Association's offer on this issue should be adopted.

District Position

The District's current \$200 longevity payment is fair and reasonable and should be continued. This is particularly true when said payment is compared with longevity payments in comparable districts.

Discussion

The record indicates that among the comparable districts referred to above, four have no longevity payments, two provide for such payments of \$200 or less, and one provides for such payments in excess of \$250. Based upon this comparable data it would appear that the District's position is the more reasonable of the two in this regard. This is particularly true since the District appears to be a wage leader at the top end of its salary schedule.

OVERLOAD PAY

The Association proposes that teachers having more than 25 pupils in the primary grades and 30 pupils in the intermediate grades shall be reimbursed at the rate of \$100 per student overload per year; pro rated if less than a year. In the secondary schools, teachers shall receive for each assigned period over five, excluding study halls, the following:

\$1000 for a full school year
\$500 for one semester
\$250 for one quarter

The District proposes no such payments, but suggests that the present language, which establishes similar teaching load guidelines, be continued.

It is not clear what the cost of implementing the Association's proposal will be, however, it would not appear to be a significant amount.

Association Position

With respect to overload pay, the District is the one exception to the rule among comparable districts. The District is the only one among the comparables that does not have such pay.

In response to the District's argument that such a benefit is not needed during periods of declining enrollments, the Association contends that there continues to be a need for such protection during periods of layoffs as well as during periods of pupil expansion.

During the pendency of the instant proceeding, the District rearranged teachers' schedules, the effect of which would reduce the cost of the Association's overload proposal, should it be selected, by at least one half.

The District's contention that the Association's overload proposal is not properly before the arbitrator is without merit. To determine that the proposal is not a financial matter would require that the arbitrator interpret the parties' current contract, which he has no authority to do. In addition, if the District felt the proposal was not allowable under the reopener, it should have raised the issue procedurally before the final offers were certified for arbitration. Lastly, the Association's proposal is no less financial than the Association's other proposals just because it is described in words rather than dollars.

District Position

There is no need to add overload pay to the agreement, particularly during a period of declining enrollments. Furthermore, the Association's overload proposal is not appropriate under the reopener involved herein, since it is a language proposal rather than a financial provision.

Discussion

The issue regarding the propriety of the overload pay issue being raised pursuant to the reopener on financial provisions is not one which the undersigned believes he has the authority to resolve. It is the undersigned's responsibility to select the final offer which is not consistent with the statutory criteria set forth in Section

111.70 (4)(cm), Wis. Stats. Any questions which the parties may have regarding the legality of a proposal, the mandatory/permissive nature of such a proposal, or the propriety of such a proposal under a limited contractual reopener must be resolved in other more appropriate forums, i.e., before the WERC and/or in arbitration, whichever is appropriate. Once the final offers in a proceeding such as this are certified by the WERC, in the undersigned's opinion, such questions as that raised herein should not, and cannot be determined by the mediator-arbitrator since to do so would require a determination beyond the arbitrator's jurisdiction. Accordingly, the overload pay issue must be resolved on the merits of the parties' substantive positions on the issue.

In this regard it would appear that the Association's position more approximates the practice among comparable districts than the District's position. While it is conceded that there is a wide diversity in the practices with respect to this issue in comparable districts, all provide for at least the right to negotiate overload pay, and all but two mandate overload pay, the amount of which varies significantly. Because the practices in this regard are so varied no clear pattern can be established; however, the Association's proposal is clearly not out of line nor clearly distinguishable from the policies in place elsewhere.

Accordingly, because the Association's position on this issue is more in accord with the practices in comparable districts than the District's, it is deemed to be the more reasonable of the two in this regard.

EXTRA CURRICULAR PAY

The Association proposes an increase in the extra curricular schedule in accord with the salary schedule increase, which it calculates at 12.28%. The District proposes a 10% increase. The difference between the two positions appears to be somewhat in excess of \$400.

Association Position

The impact of either final offer with respect to extra curricular pay makes minimal difference in the cost of the total package, and thus this issue should be of little concern in the disposition of the instant dispute.

District Position

The District's offer on extra curricular pay places it at the top of the Conference and should therefore be adopted.

Discussion

In all candor, the data provided by the parties on this issue makes reliable and useful comparisons difficult, if not impossible, to obtain. Therefore, absent evidence of gross inequities in the schedule, in light of recent available cost of living data, the District's position on this issue appears to be the more reasonable of the two since it is more in line with recent cost of living increases than is the Association's proposal.

TOTAL FINAL OFFER

Based upon the foregoing discussion of all of the individual issues in dispute, the undersigned concludes that the Association's total final offer is the more reasonable of the two. Of the four basic issues in dispute, the most critical issue to both parties clearly is salaries. For the reasons discussed above, the Association's final offer on said issue has been deemed to be the more reasonable of the two.

Of the remaining issues, the Association's position on overload pay has been found to be more reasonable than the District's while the District's positions on longevity and extra curricular pay are more reasonable than the Association's.

Because the financial consequences of the salary issue are far more significant than the other issues in dispute, and because the instant dispute arose under a financial reopener, the Association's final offer, which has been selected as the more reasonable of the two in this regard, is also deemed to be the more reasonable of the two as a total final offer.

Accordingly, and for all of the foregoing reasons, the undersigned renders the following

ARBITRATION AWARD

The 1981-82 agreement between the Ithaca School District and the Ithaca Education Association shall include the final offer of the Association which has been submitted herein.

Dated this 27th day of March, 1982 at Madison, Wisconsin.

BY Byron Yaffe
Byron Yaffe, Arbitrator