

STATE OF WISCONSIN

RECEIVED

BEFORE THE ARBITRATOR

AUG 11 1982

----- X
: WISCONSIN EMPLOYMENT
In the Matter of the Petition of : RELATIONS COMMISSION
: CUBA CITY EDUCATION ASSOCIATION :
: and : Case VII
: SCHOOL DISTRICT OF CUBA CITY : No. 28011 MED/ARB-1165
: : Decision No. 19302-A
----- X

APPEARANCES

Kenneth Cole, Director, Employee Relations, Wisconsin Association of School Boards, on behalf of the Board

Paul R. Bierbrauer, Executive Director, South West Teachers United, on behalf of the Association

On February 1, 1982 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 Cuba City, hereafter the Board or the District, and the Cuba City Education Association, hereafter the Association. Pursuant to statutory responsibilities the undersigned conducted mediation proceedings between the District and the Association on March 9, 1982. Said mediation effort failed to result in voluntary resolution of the dispute. The parties thereafter agreed to a mail exchange of exhibits and briefs in lieu of an arbitration hearing. All exhibits and briefs were exchanged between the parties by May 26, 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 instant dispute arose over the impasse between the parties in their negotiations for the 1981-82 collective bargaining agreement. The issues in dispute include disputes over the salary schedule, reduction in staff, pay rates for staff substitution, the number of pay periods, mileage reimbursement and personal leave. The parties also disagree as to what should constitute appropriate comparable school districts for purposes of this proceeding.

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

District Position

The Board proposes that contiguous districts be used since they are particularly appropriate as comparables due to the current economic climate in the Cuba City area.

The Association's proposed use of Horicon as a comparable is also not suitable since it is not geographically proximate, it contains a large John Deere facility, and it has a contractual COLA provision which distinguishes its salary schedule from that of Cuba City.

Association Position

The Association's comparables best reflect the statutory intent to utilize as a criterion in these proceedings "comparability."

Statewide comparables exemplify the intent of the Legislature and the State Constitution to provide a uniform level and quality of instruction throughout the state. This is facilitated by the equalization formula which attempts to give all districts an equal ability to pay for its educational services.

It is further contended that the Horicon District is clearly comparable to Cuba City since they both have an economic reliance on the John Deere Company, similar adjusted gross income, state aids, number of pupils and valuation per pupil.

Finally, the Association points out that the districts in the Athletic Conference should be utilized as comparables since conference districts are nearly always considered comparable because of their similar size and geographic proximity.

Discussion

Although the record does not provide sufficient data for the undersigned to analyze in determining appropriate comparables, the undersigned will, on the basis of certain assumptions and established mediation-arbitration precedent utilize as comparables in this proceeding the contiguous districts proposed by the District and the districts in the Athletic Conference proposed by the Association. Although the record is not complete as to the relative size of all of said districts, it would appear from the data which has been presented that there are districts which are significantly larger and smaller than Cuba City among said population. In addition, all of these districts are relatively proximate geographically, with none being directly affected by an adjacent urban community. Since relative ability to pay is not an issue in this dispute, no comparative analysis has been made of the comparables in this regard.

Based upon the foregoing reasons the undersigned deems the following districts to be comparable to Cuba City for purposes of this proceeding: Shullsburg, Potosi, Hazel Green (Southwestern), Platteville, Benton, Belmont, Darlington, Dodgeville, Iowa Grant, Lancaster, Mineral Point, and Mount Horeb.

On some issues in dispute, complete data from all of the above districts has not been made available to the undersigned. Accordingly, in those cases, when comparability is being utilized as a criterion, the undersigned has had to utilize only the data which has been made available to him, which has resulted in an incomplete analysis in this regard on some issues. Unfortunately, to have completed the record in this regard would have resulted in undue delays. Therefore, the analysis herein will be based upon the record made by the parties, which in most instances is sufficiently complete to allow for reliable comparisons to be made.

The undersigned has not included Horicon in the list of comparables since, although it shares many characteristics of Cuba City, it is not geographically proximate. This factor traditionally has detracted from comparability since comparable working conditions have generally developed through the negotiations process based upon comparisons with geographically proximate employers and employees with a common labor market and economic environment. Another factor working against the use of Horicon as a comparable is the fact that its salary schedule contains a COLA clause which leaves unclear the answer to the question how much teachers in said District actually received in the 1981-82 school year.

The undersigned has also not chosen to utilize statewide averages since usage of same has not been commonly adopted by arbitrators or the parties, since there is no agreement as to whether weighted averages are appropriately utilized in determining such averages, and since the use of such averages does not allow for consideration of currently accepted distinctions in employment conditions based upon economic factors which are unique to a geographical area.

Salary Schedule

Board Proposal

<u>Step</u>	<u>BS</u>	<u>BS+12</u>	<u>BS+24</u>	<u>MS</u>	<u>MS+12</u>
1	11,900	12,175	12,475	12,825	13,225
2	12,376	12,662	12,974	13,338	13,754
3	12,852	13,149	13,473	13,851	14,283
4	13,328	13,636	13,972	14,364	14,812
5	13,804	14,123	14,471	14,877	15,341
6	14,280	14,610	14,970	15,390	15,870
7	14,756	15,097	15,469	15,903	16,399
8	15,232	15,584	15,968	16,416	16,928
9	15,708	16,071	16,467	16,929	17,457
10	16,184	16,558	16,966	17,442	17,986
11	16,660	17,045	17,465	17,955	18,515
12	17,136	17,532	17,964	18,468	19,044
13			18,463	18,981	19,573
14					20,102

Association Proposal

	<u>BA</u>	<u>BA+12</u>	<u>BA+24</u>	<u>MA</u>	<u>MA+12</u>
1	12,000	12,400	12,800	13,200	13,600
2	12,480	12,896	13,312	13,728	14,144
3	12,960	13,392	13,824	14,256	14,688
4	13,440	13,888	14,336	14,784	15,232
5	13,920	14,384	14,848	15,312	15,776
6	14,400	14,880	15,360	15,840	16,320
7	14,880	15,376	15,872	16,368	16,864
8	15,360	15,872	16,384	16,896	17,408
9	15,840	16,368	16,896	17,424	17,952
10	16,320	16,864	17,408	17,952	18,496
11	16,800	17,360	17,920	18,480	19,040
12	17,280	17,856	18,432	19,008	19,584
13			18,944	19,536	20,128
14					20,672

District Position

The Board salary proposal is extremely reasonable in light of current economic conditions. The District notes the area's dependence on the Dubuque labor market which is experiencing severe economic setbacks at the present time.

Compared to contiguous districts, the Board's offer is very reasonable at the benchmark levels. Furthermore, the Board believes its 10.3% increase is more reasonable than the 12.5% increase proposed by the Union.

Total compensation increase figures supplied by the Association are unreliable since no source data was provided to verify these statistics. Finally, such average increases tend to reflect the position of the majority of the teachers rather than the schedule itself.

Association Position

Based on all of the relationships cited, the Association believes that Cuba City should be a wage leader in the area. Ability to pay is not in issue, and the Association's proposal is modest - only an average of \$14 more per teacher than the District offer. In fact, the Association offer does little more than maintain the District's rank among Conference schools.

On the other hand, the District proposal would put Cuba City outside the settlement pattern both in terms of base increase and horizontal increment. It is further noted that Cuba City is far behind the state-wide average and even the Association offer will not provide sufficient catch up.

Another critical measure of a salary schedule is the way it treats career teachers. The Board's proposal would result in loss of rank and dollars

for mid-level and maximum level teachers (compared to teachers in the Athletic Conference). Even further erosion for the career teachers is illustrated by the min/max ratio which would continue its slide with the Board offer.

It is also important to point out that only the Association's proposal falls within the voluntary settlement pattern among Conference schools.

The comparability of the Horicon District was cited earlier, and it is pointed out here that only the Association's salary schedule would come close to maintaining even that poor comparison. Finally, acceptance of the Association's proposal would allow minimal catch up, although Cuba City would still not be able to recover in one year what it has lost in five.

Discussion

In analyzing the salary proposals of both parties the undersigned will utilize seven salary benchmarks: the BA base, BA 7th step, BA maximum, MA base, MA 10th step, MA maximum, and Schedule maximum. Such an analysis will allow for comparisons of salaries and increases for teachers with little, moderate, and substantial seniority, and with varying degrees of graduate coursework.

The following tables reflect the foregoing analysis:

CHART 1
BA Base

District	80/81 \$	81/82 \$	% Increase	\$ Increase
Shullsburg	10,800	11,856	9.8	1,056
Potosi	10,800	11,800	9.3	1,000
Hazel Green	10,900	11,650	6.9	750
Platteville	11,200	12,225	9.2	1,025
Benton	10,500	11,850	12.9	1,350
Belmont	11,050	12,000	8.6	950
Darlington	11,000	11,950	8.6	950
Dodgeville	11,000	11,875	8.0	875
Iowa Grant	10,800	11,875	10.0	1,075
Lancaster	10,900	11,925	9.4	1,025
Mineral Pt.	11,200	12,250	9.2	1,025
Mount Horeb	10,700	11,900	11.2	1,200
Average	10,904	11,930	9.4	1,023
Cuba City	11,000	Bd. 11,900 Assn 12,000	Bd. 8.2 Assn 9.1	Bd. 900 Assn 1,000
+/- Average	+96	Bd. -30 Assn +70	Bd. -1.2 Assn - .3	Bd. -123 Assn - 23
Ranking (out of 13)	4/5/6	Bd. 6/7 Assn 3/4		

CHART 2
BA - 7th Step

District	80/81 \$	81/82 \$	% Increase	\$ Increase
Shullsburg	12,660	14,106	11.4	1,446
Potosi	13,050	14,260	9.3	1,210
Hazel Green	13,516	14,446	6.9	930
Platteville	13,900	15,174	9.2	1,274
Benton	13,257	14,958	12.8	1,701
Belmont	13,350	14,300	7.1	950
Darlington	13,300	14,490	8.9	1,140
Dodgeville	13,310	14,487	8.8	1,177
Iowa Grant	13,392	14,725	9.6	1,333

CHART 2 (Continued)

District	80/81 \$	81/82 \$	% Increase	\$ Increase
Lancaster	13,384	14,643	9.4	1,259
Mineral Pt.	13,948	15,256	9.4	1,308
Mt. Horeb	13,268	14,756	11.2	1,488
Average	13,361	14,633	9.5	1,268
Cuba City	13,640	Bd. 14,756 Assn 14,880	Bd. 8.2 Assn 9.1	Bd. 1,116 Assn 1,240
+/- Average	+ 279	Bd. + 123 Assn + 247	Bd. -1.3 Assn - .4	Bd. - 152 Assn - 28
Ranking Out of 13)	3	Bd. 4/5 Assn 4		

CHART 3
BA Maximum

District	80/81 \$	81/82 \$ (Steps)	% Increase	\$ Increase
Shullsburg	12,970	14,488 (8)	11.6	1,511
Potosi	14,550	15,900 (11)	9.3	1,350
Hazel Green	15,696	16,776 (12)	6.9	1,080
Platteville	14,350	15,662 (8)	9.1	1,312
Benton	14,202	16,023 (9)	12.8	1,821
Belmont	14,550	15,500 (9)	6.5	950
Darlington	14,080	15,350 (9)	9.1	1,270
Dodgeville	15,510	16,863 (11)	8.7	1,353
Iowa Grant	14,688	16,150 (10)	10.0	1,462
Lancaster	15,454	16,908 (12)	9.4	1,454
Mineral Pt.	16,240	17,761 (12)	9.4	1,521
Mt. Horeb	14,980	16,660 (11)	11.2	1,680
Average	14,773	16,170	9.5	1,397
Cuba City	15,840	Bd. 17,136 Assn 17,280	Bd. 8.2 Assn 9.1	Bd. 1,296 Assn 1,440
+/- Average	+1,067	Bd. + 966 Assn +1,440	Bd. -1.3 Assn - .4	Bd. - 101 Assn + 43
Ranking out of 13)	2	Bd. 2 Assn 2		

CHART 4
MA Base

District	80/81 \$	81/82 \$	% Increase	\$ Increase
Shullsburg	11,750	12,806	9.9	1,056
Potosi	11,925	13,030	8.5	1,105
Hazel Green	11,500	12,400	7.8	900
Platteville	12,272	13,297	8.4	1,025
Benton	11,100	12,450	12.2	1,350
Belmont	12,250	13,500	10.2	1,250
Darlington	12,050	13,090	8.6	1,040
Dodgeville	11,900	12,775	7.6	875
Iowa Grant	11,880	13,063	10.0	1,183
Lancaster	11,700	12,725	8.8	1,025
Mineral Pt.	12,100	13,150	8.7	1,050
Mt. Horeb	12,412	13,804	11.2	1,392
Average	11,903	13,007	9.3	1,104
Cuba City	11,925	Bd. 12,825 Assn 13,200	Bd. 7.5 Assn 10.7	Bd. 900 Assn 1,275
+/-Average	+ 22	Bd. - 182 Assn + 193	Bd. -1.8 Assn +1.4	Bd. - 204 Assn + 171
Ranking (out of 13)	6/7	Bd. 8 Assn 4		

CHART 5
MA - 10th Step

District	80/81 \$	81/82 \$	% Increase	\$ Increase
Shullsburg	14,540	16,181	11.3	1,641
Potosi	15,300	16,720	9.3	1,420
Hazel Green	15,640	16,864	7.9	1,224
Platteville	16,709	18,108	8.4	1,399
Benton	14,802	16,623	12.0	1,821
Belmont	15,750	17,000	7.9	1,250
Darlington	15,880	17,280	8.8	1,400
Dodgeville	16,184	17,502	8.1	1,318
Iowa Grant	16,155	17,765	10.0	1,610
Lancaster	15,912	17,306	8.8	1,394
Mineral Pt.	16,554	18,310	10.6	1,756
Mt. Horeb	16,264	18,088	11.1	1,824
Average	15,808	17,312	9.5	1,505
Cuba City	16,218	Bd. 17,442 Assn 17,952	Bd. 7.5 Assn 10.7	Bd. 1,224 Assn 1,734
+/- Average	+ 410	Bd. + 130 Assn + 96	Bd. - 2. Assn + 1.2	Bd. - 281 Assn + 229
Ranking (out of 13)	4	Bd. 6 Assn 6		

CHART 6
MA Maximum

District	80/81 \$	81/82 \$ (Steps)	% Increase	\$ Increase
Shullsburg	16,400	18,431 (16)	12.4	2,031
Potosi	16,800	18,360 (14)	9.3	1,560
Hazel Green	17,940	19,344 (15)	7.8	1,404
Platteville	18,352	20,252 (14)	10.4	1,900
Benton	15,747	17,688 (12)	12.3	1,941
Belmont	16,550	17,800 (11)	7.6	1,250
Darlington	17,170	18,690 (12)	8.9	1,520
Dodgeville	17,969	19,419 (13)	8.1	1,450
Iowa Grant	18,055	19,855 (14)	10.0	1,800
Lancaster	17,316	18,833 (13)	8.8	1,517
Mineral Pt.	17,545	19,457 (12)	10.9	1,912
Mt. Horeb	18,404	20,468 (15)	11.2	2,064
Average	17,354	19,050	9.8	1,696
Cuba City	17,649	Bd. 18,981 Assn 19,536	Bd. 7.5 Assn 10.7	Bd. 1,332 Assn 1,887
+/- Average	+ 295	Bd. - 69 Assn + 486	Bd. - 2.3 Assn+ .9	Bd. - 364 Assn + 191
Ranking (out of 13)	6	Bd. 7 Assn 4		

CHART 7
Schedule Maximum

District	80/81 \$	81/82 \$ (Steps)	% Increase	\$ Increase
Shullsburg	18,340	20,631 (20)	12.5	2,291
Potosi	17,175	18,780 (14)	9.3	1,595
Hazel Green	18,720	20,240 (16)	8.1	1,520
Platteville	19,160	21,061 (14)	9.9	1,901
Benton	16,777	18,798 (14)	12.0	2,021
Belmont	16,950	18,300 (11)	8.0	1,350
Darlington	18,030	20,570 (15)	14.1	2,540
Dodgeville	18,422	20,101 (13)	9.1	1,679
Iowa Grant	19,692	21,660 (16)	10.0	1,968
Lancaster	18,240	19,798 (14)	8.5	1,558
Mineral Pt.	18,295	20,207 (13)	10.5	1,912
Mt. Horeb	19,260	21,420 (16)	11.2	2,160
Average	18,255	20,130	10.3	1,875
Cuba City	18,734	Bd. 20,102 Assn 20,672	Bd. 7.3 Assn 10.3	Bd. 1,368 Assn 1,938
+/- Average	+ 479	Bd. - 28 Assn + 542	Bd. 3.0 Assn 0	Bd. - 507 Assn + 63
Ranking (out of 13)	4	Bd. 8 Assn 4		

A review of the foregoing data indicates that the Association's salary proposal is closer to the average comparable increase both in terms of actual dollars and percentages at every salary benchmark utilized herein. In addition, the Association's proposal does not place the District in the position of a wage leader at any of these salary benchmarks. Accordingly, it is clear from the above that the Association's proposal is the more reasonable of the two in terms of comparability.

Since the District's ability to pay is not at issue, the only other basis

for considering the selection of the less comparable salary proposal which has been raised is the fact that the citizens in the District are facing high unemployment, and under such circumstances, the District's more modest salary proposal is arguably the more reasonable of the two. Although the undersigned is sympathetic to the political merit of this contention, it cannot provide a basis for the selection of the less comparable salary proposal in a proceeding such as this.

Although the undersigned is persuaded that many of the citizens in the District are experiencing economic hardship which understandably results in resistance to substantial increases for public sector employees, absent a demonstration that the District is suffering unique problems in this regard or that the District cannot, for fiscal reasons, provide its teachers with a salary schedule and increases which are competitive with comparable districts, there is no legitimate basis for the undersigned to differentiate the District from comparable districts in this regard. Accordingly, the Association's salary proposal is deemed to be the more reasonable of the two on this issue.

Reduction in Staff

The Association proposes layoffs by seniority within currently established elementary and secondary departments. It also proposes that the layoff procedure would apply to the reduction in the number of regular full-time and part-time positions and to the reduction in hours in any such staff position. It also provides for the conditions of recall to full-time and part-time positions. Lastly, the Association proposal would end a laid off teacher's recall rights on the first day of school of the third year following the teacher's layoff.

The District wishes to retain the criteria for selection for layoff which were contained in the prior agreement, which were as follows:

"The following criteria shall be applied to all of the teachers within the department identified for nonrenewal:

1. Teaching performance and effectiveness previously and currently evaluated by the appropriate supervisor or administrator. Also included in the evaluation should be an analysis of the appropriateness of the training of the teachers, their experience and certification with respect to the remaining teaching assignments which must be filled, their academic achievements and where applicable co-curricular assignments or activities held or to be filled.
2. In the event two or more teachers are found to be approximately similar to equal in performance and effectiveness, evaluations and certification, the length of service in the school district shall be considered as a determining factor with the last hired being the first nonrenewed. (Or the length of service in the department.)
3. Length of service in the district shall be determined by the date the initial contract was signed."

The District proposes that recall rights continue for two years beyond the end of the school year in which the layoff occurs. Finally, it is unclear whether the layoff language previously in effect, which reflects the Board's position, applies to reductions in hours and regular part-time positions.

District Position

No evidence has been produced to indicate a problem with the current layoff procedure. Moreover, existing layoff provisions in comparable districts do not emphasize seniority to the extent of the Union proposal.

The Board seeks only to maintain minimum layoff flexibility, fully realizing that justification will be required for any layoffs which do not rely exclusively on seniority.

Association Position

The District's current practice of layoff by seniority is the best argument for incorporation of such a procedure in the collective bargaining agreement. Furthermore, refining the contract language will reduce the likelihood of layoff according to subjective criteria and subsequent related grievances. Thus; the Association's proposal, which provides for a consistent method of layoff, is superior.

Furthermore, Cuba City stands alone in the Conference in providing for the uncontrolled use of subjective selection criteria in layoffs.

The District proposal is also inadequate in that it fails to deal with the application of the procedure to partial layoffs and therefore it leaves another gray area for litigation. In addition, the trend in comparable districts is also supportive of the Association's position.

Lastly, the Association's position on the length of recall rights is also more reasonable than the District's, since it is unreasonable to end a recall in June when it is very likely that the District would need to replace resigning teachers in June, July, and August.

Discussion

As the undersigned has indicated in other awards, comparison of layoff procedures in public education, particularly in specific terms, has become a practical impossibility. For that reason, the undersigned must evaluate the merits of the arguments raised by the parties in terms of their relative equity and reasonableness, general comparability, and based upon the relative legitimacy and importance of the problems each party is trying to address.

Clearly, the most significant issue in dispute pertains to the weight to be given to seniority as a criterion to be utilized in the selection of teachers identified for layoff. On this issue both parties appear to have taken rather extreme positions which cannot be supported on the basis of comparability. The Association would deny the District the right to consider any factors except for seniority, which is clearly inconsistent with the prevailing practice in comparable districts. On the other hand, the District's position and prior contract language would appear to give less significance to seniority than is the case in most comparable districts. Considering the fact that neither position appears to be in the comparable mainstream the undersigned believes the District's position should be selected for the following reasons. It has been in effect and no problems arising therefrom have arisen to date. In addition, it is somewhat more similar to the criteria utilized in comparable districts than is the Association's position.

Although the record does not clearly establish a pattern regarding the length of time laid off teachers retain their recall rights, at least five comparable districts contain recall provisions at least as long as that proposed by the Association. In addition, the Association's proposal in this regard seems to address a legitimate problem in a constructive way without seriously jeopardizing any legitimate District interest. Accordingly, the Association's proposal is deemed to be the more reasonable of the two in this respect.

With respect to the application of the layoff procedure to partial layoffs and to layoffs of regular part-time employees, again it would appear that the Association's proposal is in accord with a currently developing trend among comparable districts, and furthermore, it clarifies an ambiguous provision in the parties' agreement in an equitable and comparable manner. Accordingly, the Association's proposal is also more reasonable in this regard.

Although the foregoing discussion indicates that on two of the three issues in dispute concerning layoffs the undersigned considers the Association's position to be more reasonable than the District's, on the critical issue, namely the criteria for identifying teachers to be laid off, the District's position is considered to be the more reasonable of the two. Therefore, because this latter issue is of so much greater importance than the former two, the undersigned has concluded that the District's layoff proposal is the more reasonable of the two.

Pay Rates for Staff Substitution

The Union has proposed a rate of \$8 per class period. The District has proposed \$7 per class period.

The District has also proposed modifying the following contractual language:

Previous contract:

Only in emergency will other staff members be requested to assume substitute duties. In the event a teacher agrees to substitute for a teacher during their designated preparation period the substituting teacher will be paid....

Proposed change:

Other staff members may be requested to assume substitute duties in emergency situations. Those teachers that are requested by the administration to perform substitute duties during their designated preparation period will be paid....

District Position

Staff substitution occurs in special situations (usually emergencies) when a teacher is asked to take a colleague's class. The amount per period is paid in addition to the regular teacher's salary. The Board's offer of \$7 per period is equivalent to \$8.10 per hour, and no evidence produced justifies a greater amount.

Association Position

The regular teacher assumes added responsibility and work when substituting for a colleague. The District's language would make acceptance of such additional duties mandatory whereas the Association proposes continuation of voluntary acceptance. Voluntary acceptance allows the teacher to complete plans or commitments already made for the period of time in question. Mandated substitute work would jeopardize lesson preparation or related duties.

It is also asserted that the Association's rate of pay is more reasonable in terms of the amount of time worked. Comparisons in Union Exhibit No. 2 illustrate this point.

Discussion

There has been no evidence introduced by the District indicating that it has experienced problems under the language previously in effect in obtaining the assistance of teachers to cover emergency situations. Absent such evidence, there would appear to be no need for a change in the language regarding the voluntary nature of the current arrangement.

With respect to the rate of pay for such service, there is scanty evidence in the record. However, based upon the limited evidence which has been made available, it would appear that the Association's proposal is slightly closer to the practice in other districts than is the District's, though concededly in this request it is on the high side of the norm. Accordingly, for both of the foregoing reasons, the Association's proposal is deemed to be the more reasonable of the two on this issue.

Pay Periods

The Association has proposed 24 pay periods per year. The District has proposed 12 pay periods.

District Position

No pay period arrangement dominates among the districts in the Athletic Conference (according to the Union's own Exhibit No. 3), and therefore, insufficient evidence has been produced to justify a change. Moreover, doubling the number of pay periods also doubles the administrative cost of the payroll preparation.

Association Position

Only two districts in the Conference other than Cuba City pay employees on a monthly basis. Although some additional office costs would undoubtedly be incurred, the prevalent practice should be given greater weight.

Discussion

The record indicates that the prevailing practice in the Athletic Conference in this regard is bi-weekly pay periods. More specifically, five of the eight districts in the Conference provide for such an arrangement. Absent persuasive evidence that that the costs of such an arrangement in the District would be prohibitive, the prevailing practice in comparable districts appears to support the reasonableness of the Association's position, and therefore, the Association's proposal in this regard is deemed to be the more reasonable of the two.

Mileage

The Association is proposing a rate of 23 cents per mile; the District is proposing 20 cents per mile.

District Position

Clearly, the mileage reimbursement benefit in the comparable districts proposed by the Board justify its final offer in this regard.

Association Position

Need is a sure indicator of reasonableness. The distance regularly covered by Cuba City itinerant teachers between two buildings which are eight miles apart clearly demonstrates the need for adequate reimbursement. Moreover, an employee should not be expected to subsidize the employer by assuming even part of the cost incurred in the use of personal automobiles on the job.

It is further noted that the American Automobile Association has established the cost of driving a compact auto at 24.4 cents per mile. Therefore, even at 23 cents per mile, Cuba City teachers would suffer a loss.

Although this is a minor bargaining item, it is emphasized that it has considerable economic impact on the teachers involved.

Discussion

The only evidence in the record reveals that in four comparable districts, one reimburses at 25¢ per mile, two reimburse at 21¢ per mile, and one reimburses at 20¢ per mile, the average of which is 21.75¢ per mile. There is no evidence in the record that the teachers in Cuba City drive more than teachers in other comparable districts. Based upon this limited evidence, it would appear that the District's proposal, though slightly low, is more in accord with the prevailing practice among comparable districts than is the Association's, and accordingly, its proposal is deemed to be the more reasonable of the two in this regard.

Personal Leave

The Association has proposed that two days be allowed each teacher annually in the event the teacher has personal, legal, business, household or family matters to care for that cannot be completed outside of the normal work hours. Except in cases of emergency, the teacher would need to present a request at least 24 hours in advance of any absence. Teachers using such leave shall have the days deducted from their accumulated sick leave.

The District has no offer of personal leave.

District Position

There is no Board proposal for personal leave since the practice is not

prevalent among the comparables, and the District currently honors virtually all such requests. However, it is noted that each personal leave day represents .5% of the teacher's work year plus the added expense of a substitute. It is estimated that the Union proposal would add .5% to .75% to the total cost of the package.

Association Position

Personal leave is a long-standing bargaining issue in Cuba City. The benefit is appropriate and generally accepted in most school districts including comparable districts.

If the District does not wish to control the use of accumulated sick leave for illness, it should not attempt to control the teacher's personal emergencies and use of accumulated sick leave for this purpose.

Furthermore, a contractual personal leave provision will establish a consistent practice for both parties to follow.

Discussion

Although the record is far from complete with respect to this issue, it would appear that all but two of the comparable districts make some reference to personal leave in their agreements. The number of days range from one to five, with most (eight) offering one or two days. Five districts deduct such leave from accumulated sick leave, and four deduct the cost of the substitute.

Based upon the foregoing analysis, it would appear that the Association's proposal is more consistent with the practice in comparable districts than is the District's. Accordingly, the undersigned deems the Association's offer to be more reasonable than the District's in this regard.

Perhaps it should be noted that in making this selection, the undersigned does not agree with the Association's assertion that because teachers will be docked accumulated sick leave there will be no cost to the District in this regard, since clearly unused sick leave is a "no cost" item to the District. Therefore, the cost impact of this proposal in the total package clearly will be greater than the Association argues. On the other hand however, the cost will likely be less than that argued by the District since it is unlikely that all staff will legitimately be able to claim both days every school year for matters that "cannot be completed outside of the normal work hours". Clearly, in this respect, though the employee needs no formal "approval" to take such leave, if an employee's eligibility for such leave is reasonably questioned (i.e., not in an arbitrary, capricious, or discriminatory manner), it would appear to be the employee's responsibility to demonstrate that he or she is entitled to such leave under the criteria set forth in the contract.

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 six substantive issues in dispute, the undersigned considers the most critical issues to be the salary schedule and the layoff procedure. With respect to these issues, the Association's salary proposal was selected while the District's layoff proposal was chosen. Of the remaining issue, the District's mileage reimbursement proposal was selected while the Association's proposals on the three remaining issues were deemed to be more reasonable than the District's.

Because the Association's proposals on one of the critical issues and three of the remaining issues have been selected, its total final offer is deemed to be the more reasonable of the two.


The undersigned would suggest however that because the criterion for selection of teachers identified for layoff in the Association's layoff proposal appears to be somewhat out of line with the practice in comparable districts, this issue would appear to be an appropriate subject for renegotiations in the next round of negotiations.

For all of the foregoing reasons, the undersigned renders the following

ARBITRATION AWARD

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

Dated this 3rd day of August, 1982 at Madison, Wisconsin.


Byron Yaffe
Arbitrator