

FEB 8 1983

STATE OF WISCONSIN  
BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

In the Matter of Mediation/Arbitration

between

THE MENASHA TEACHERS UNION, LOCAL 1166,  
WFT, AFL-CIO

and

MENASHA JOINT SCHOOL DISTRICT

CASE XLIV  
No. 29826  
MED/ARB -  
1705  
Decision No. 19769-A

APPEARANCES

Edward J. Williams, Esq., Mulcahy & Wherry, S.C., on behalf  
of the School Board

Greg Weyenberg, Staff Representative, Wisconsin Federation  
of Teachers, on behalf of the Union

BACKGROUND

The undersigned was notified by an August 11, 1982, letter from the Wisconsin Employment Relations Commission of his selection as Mediator/Arbitrator in an interest dispute between the Menasha Joint School District (hereinafter Board) and the Menasha Federation of Teachers (hereinafter Union). The dispute concerns certain of the terms to be included in the parties' 1982-1983 Agreement. Pursuant to statutory responsibilities, mediation was conducted on September 30, 1982. Mediation efforts did not result in settlement. The matter was advanced to arbitration later that same day for final and binding determination. Both parties filed post-hearing briefs by November 11, 1982. Based upon a detailed review of all the evidence and argument submitted, and relying upon the criteria set forth in Section 111.70 (4) (cm), Wisconsin Statutes, the Arbitrator has formulated this Award.

ISSUES

There are essentially four issues facing the Arbitrator:

1. What is the appropriate method of costing to be utilized when dealing with split schedules?
2. What are the appropriate comparable districts to be utilized in this case?
3. What is the appropriate salary schedule for the 1982-1983 school year?
4. What is the appropriate method in which to express the Board's contribution to Health and Dental Insurance?

The comparability issue has a significant impact on other substantive issues in dispute. Accordingly, it will be considered first. Thereafter, the merits of each remaining

issue will be discussed individually. A discussion of the overall relative merit of the parties' offers will follow. The parties' final offers are attached hereto as Exhibits A (Board) and B (Union).

## DISCUSSION

### Comparability

Board Position. The Board believes that the six school districts within the Fox Valley Association Athletic Conference (Appleton, Kaukauna, Kimberly, Menasha, Neenah & Oshkosh) constitute the appropriate pool of comparables. It notes that while Menasha and Neenah are close geographically, their disparate size should be considered as well. It further points out that Menasha, Kaukauna and Kimberly are more comparable along the size dimension and that the bulk of arbitral authority on the matter is supportive of its position.

Union Position. The Union agrees that the athletic conference is the appropriate pool of comparables but believes that the Neenah and Appleton districts should be given the greatest weight for the following reasons, among others: (1) they are contiguous with Menasha; (2) Neenah and Menasha are considered twin cities; (3) children in the town of Menasha attend schools in the Menasha, Neenah and Appleton Districts, and (4) the Award of Arbitrator Mueller (XXXV, No. 26523; MED/ARB 797) supports its position.

Analysis. The parties are in agreement that only those schools in the Fox Valley Athletic Conference should be included in the pool of comparables, but they disagree as to the relative weight to be placed upon each. This debate is not new. It was disposed of by Arbitrator Mueller in a 1980 MED/ARB award (supra) as follows:

On the basis of an overall evaluation of the various comparability factors, the undersigned concludes that the School District of Neenah should be afforded the greatest weight for comparison purposes. Size alone appears to be the only distinguishing characteristic between the two districts. Geographically, it is clearly a sister or twin city of Neenah. It is comparable in per capita tax base, median family income in both cities are comparable, the cost per member is comparable, the state aid per member is comparable, and the two cities have many jointly shared activities and areas of interchange. The employment area is basically considered and regarded as a single employment area.

The undersigned is of the judgment that the school district of Appleton would be the next most comparable district primarily because of its geographic proximity, and it also being a part of the common employment area along with the Neenah-Menasha area. The third level of comparison, it would seem to the undersigned, would be that of Oshkosh and Kaukauna. Such two districts are in the same basic geographic and employment area and are comparable as to state aid, cost per member, and equalized value per member.

The undersigned would consider the above three levels on a descending order of priority.

This Arbitrator has carefully reviewed the positions of both parties on the comparability issue and, as a result, is in accord with the conclusion quoted above. In support of assigning lesser weight to the Kimberly District the Arbitrator notes that it appears isolated from other Districts in the conference on several well-accepted dimensions: its FTE staff is by far the lowest, its enrollment is about 1000 pupils lower than the next highest (Kaukauna), its cost per pupil is the lowest, its State aid per pupil is by far the highest, its equalized valuation per pupil is a significant statistical departure from the average, and its tax levy rate is at the bottom of the range.

The Arbitrator recognizes that Kaukauna and Kimberly are closest in size to Menasha. However, size is only one element of comparability; and even on that dimension, and compared with those two districts, Kimberly is still significantly smaller. The next largest district, Kaukauna, has about a 33% larger FTE staff and about twice the enrollment. Accordingly, the comparable districts of Neenah and Appleton will be considered closely, followed by Oshkosh and Kaukauna, and, finally, by Kimberly.

#### The Costing Method

The parties' 1981-1982 settlement included BA base salaries of \$13,100 for the first semester and \$13,500 for the second semester. The method by which these figures are used as a cost base for calculation of percentage increases for the 1982-1983 school year is in dispute.

Board Position. The Board believes that the actual salary expense from the first semester and that from the second semester should be weighted and combined according to the number of calendar days in each to calculate the actual salary cost for the 1981-1982 school year. It is this cost, asserts the Board, which is the appropriate base upon which to calculate 1982-1983 salary increase percentages. In further support of its position the Board argues that in their most recent interest arbitration proceeding (re. the 1980-1981 Agreement) both parties costed off of the average of the 1979-1980 schedules, not off of the year end.

Union Position. The Union believes that the split increase included in the 1981-1982 Agreement is a reflection of the parties' intent to bring Menasha teacher base salaries once again to a comparable level with those at Neenah and Appleton. Therefore, it argues, the Board's position is unfair since it knew the Union's objective in the 1981-1982 negotiations was to seek a comparable base salary to Neenah and Appleton. That objective was reached through the trade-off some language concessions in mediation, and the resultant split increase was supposed to provide a year-end lift from which to begin bargaining of the subsequent Agreement.

Analysis. The costing method adopted in this matter, to be useful for purposes of comparison to other districts in the athletic conference, should be a reflection of the increase of 1982-1983 salaries over 1981-1982 salaries. Comparison of the former with only the second semester salaries of the 1981-1982 school year represents a myopic view of incremental salary impact on the District. It is only by using actual cost from one Agreement to another that an accurate calculation of the salary increase percentage can be generated. The Arbitrator

recognizes that the 1981-1982 split increase may have been the result of trade-offs during mediation, yet the fact remains that actual salary paid is the only costing method of the two presented which would permit a realistic comparison to salary increases in comparable districts.

Accordingly, the Arbitrator has concluded that the Board's costing method will be used in the remainder of this analysis. The principal reason for this conclusion rests on the mathematical sensibility of the method. This does not mean that it is the only calculation method which could be used, for the parties themselves may at times mutually agree that another might be more appropriate. For example, had the parties to the instant matter expressly agreed to cost from the second semester 1981-82 base, the Arbitrator would obviously support and abide by that calculation method. However, the record does not contain clear and convincing evidence of such an agreement. In fact, the record indicates that they used actual salary costs from 1980-1981 to calculate percentage increases for 1981-1982. The Arbitrator must therefore select the method most consistent with that used by the parties in the past. And, for comparison purposes, it is helpful to use a costing method which is consistent with those used by comparable school districts.

#### The Salary Schedule

Board Position. The Board's final offer would increase the BA base to \$14,200 for the entire school year. Placing 81/82 staff on the new schedule would result in a 9.6% increase in actual salary cost.

The Board maintains that its salary offer is the more reasonable of the two when the public interest is considered. It cites real earnings decline both nationally and locally in the private sector. It also points to 1982 average wage increases in 26 local municipal units of 8.41%, about 1 1/2% below the Board's offer.

The Board feels its total package salary offer of 9.6% compares favorably with the 4.9% inflation rate between September, 1981 and September, 1982. It also notes that a district with a high equalized property value has more resources available to support wage and benefit levels for its employees and that Menasha has one of the lower equalized property values in the Fox Valley Association.

Finally, the Board warns that it is inappropriate to give inordinate attention to the 1982-1983 settlements for the Neenah and Appleton Districts. These settlements were arrived at in a different economic climate than that surrounding the parties in the instant dispute and they are taken from the second year of a two-year contract. Moreover, they should not be considered to the exclusion of government indices of the cost of living.

Union Position. The Union feels its offer merely enables it to maintain the status quo with respect to appropriate comparables. For example, in 1981-1982 Menasha's BA base of \$13,500 was even with that at Neenah and \$50 less than that at Appleton. The Union's offer of \$14,600 for the second semester would place it \$20 above Neenah's \$14,580 and \$75 below the Appleton base of \$14,675.

The next most comparable districts, from the Union perspective at least, are Oshkosh and Kaukauna. At the time of the instant hearing Oshkosh had not yet submitted final offers. At Kaukauna the Association's offer was \$14,500 as compared to the Board's offer of \$14,200. If the Association's offer there and the Union's offer in the

instant case were both accepted, the result would be a relative gain for the Kaukauna teachers. In addition, though the Kaukauna Board's offer appears at first glance to equal the Menasha Board's offer, it should be recalled that the Kaukauna 1981-1982 base was \$13,350 as compared to the Menasha 1981-1982 base of 13,500.

Analysis. The actual salary expenditure costing method produces the following figures for 1982-1983:

	<u>Board's Offer</u>	<u>Union's Offer</u>
cost	\$4,260,979	\$4,316,607
incr/ee	\$1,936	\$2,224
% incr	9.6	11.04

One statutory guidepost against which to evaluate the above offers for reasonableness is the cost of living. Either offer appears to advance salary beyond increases in conventional measures of that guidepost. The Arbitrator is duly cautious about the validity of the Consumer Price Index as an accurate reflection of the cost of living, but also notes that a more well-established and widely accepted indicator does not exist. At the moment at least, the C.P.I. seems to be the best gauge. Both the conventional C.P.I. and a revised form (CPI-U X-1 Rental Equivalency Index) reflect an inflation rate of less than 6% from August 1981-August 1982. In addition, the U.S. Commerce Department's Personal Consumption Expenditure Index reflects a declining inflation rate from the last half of 1981 through the last half of 1982. The average inflation rate for that period as estimated by the Expenditure Index was about 7%. Clearly, and even if the Union's costing method were used, it can be concluded that both offers would keep salaries ahead of conventional measures of the cost of living.

The statute also cites as an evaluation criterion the wages, hours, and working conditions of employees in private and public sector employment in the same and comparable communities. With regard to the private sector, the Board presented a good deal of evidence that many private sector employees in Menasha have settled for no wage increases or for increases of less than 5%. The Arbitrator realizes that the methodology used by the Board to gather this evidence is questionable. For example, the validity of the Board's sample of private sector employers as a reflection of the universe of private sector employers in the same and comparable areas cannot be determined from the information presented. Still, the only information in the record which reflects private sector settlements in the area indicates that they have been significantly below the

same result is obtained when comparing Menasha to Appleton on these dimensions.

However, the Board raises a persuasive argument about the timing of the Neenah and Appleton settlements. At the time the Appleton agreement was reached the Consumer Price Index estimated the inflation rate at 10.1%; the same indicator estimated inflation at the time of the Neenah accord at 9.5%. And again, the C.P.I. estimate of inflation when the parties' formulated their final offers in the instant case was less than 6%.

Juxtaposition with other Districts in the comparables pool is very difficult because only Neenah and Appleton had settled at the time of this arbitration. The Arbitrator notes, however, that Board offers in each of those cases were about 8.5% total packages.

Other municipal employees in Menasha may also be used for comparison purposes, and the comparison can be reasonably made looking to total package costs. Notably, 1982-83 increases for three of four other employee groups were less than the Board's offer in the instant case (Custodians, 8.5%; Teacher Aides, 9.3%; Administrators, 9.2%). In contrast, the secretarial group settled for 11.4%. The Board argues that the latter figure is an aberration, though, and the thrust of the argument seems reasonable. Apparently the Board had agreed to open enrollment on employer paid insurance and many employees in the secretarial unit took advantage of the opportunity. The result was that 41% of the total package was composed of increased insurance premium costs. Menasha teachers also enjoy these insurance benefits.

Examination of 1982 municipal unit salary settlements in the cities of Menasha, Neenah, and Appleton, and in Winnebago and Outagamie Counties reveals that only 2 out of 24 of them are higher than the Board's salary offer of 9.6%. Many of them are even lower than what the Board offer would be under the Union's costing method. Only 7 of the 24 employee groups had settled 1983 increases at the time of the instant arbitration, and all of them were less than the Board's final offer.

There are obviously a host of additional comparisons which could be made, and different parties tend to select and rely upon only those which support their positions. Even if the parties could agree upon exactly which units should be used for such purposes, however, they would certainly disagree as to the appropriate weight to be given to each. Indeed, the task of characterizing one final offer as the more reasonable of two is not an exercise in mathematical precision. It is not an exact science. Recognizing that difficulty, it is impossible for an Arbitrator to specify an elaborate and intricate formula used to make such a decision. Suffice it to say that the Arbitrator must call it as he (or she) sees it, based upon careful consideration of the facts of the matter against the criteria outlined in the controlling statute.

Following such a method the Arbitrator has concluded that the Board's salary offer is the more reasonable of the two. Considerable weight was given to the state of the economy at the time the offers were formulated. Substantial weight was also given to comparables, but such weight is discounted a bit by the fact that the Neenah and Appleton settlements for 1982-83 were negotiated during times of a significantly higher inflation rate than that which prevailed when the parties to this matter made their final offers. Moreover, private sector settlements and other public sector settlements seem to support the Board's position.

## Insurance Contributions

Board Position. The Board wishes to continue the current expression of Health and Dental Insurance in the Agreement as "up to \$175 per month" toward the family plan premium and "up to \$65 per month" toward the single plan premium. These amounts are more than the \$159.16 family premium and \$57 single premium in effect at the time the final offers were formulated. The Board feels it is in the best interest of the District's taxpayers to express its insurance contributions contractually in specific dollar amounts so that the employer contribution remains a negotiable item in the future.

Union Position. The Union believes that its wish for contractual language guaranteeing "full" payment of health and dental insurance premiums is not a change in the status quo. It is clear from the record that the Board has paid an amount equivalent to the full premiums since 1979. Due to a unilateral action by the Board in regard to the renewal date of the insurance contract, however, the possibility now exists that the premiums could rise during the term of the Agreement so that unit members might have to pay a portion of them out of their own pockets.

Analysis. It is clear from the record that the parties have intended since 1979 that the Board would pay the entire cost of applicable insurance premiums. While they did indeed negotiate specific dollar amounts, the renewal dates for the insurance premiums coincided with the term of the Agreement. The Union was therefore guaranteed upon reaching accord at the bargaining table that the amount negotiated would cover the entire cost of the monthly premiums for the duration of the collective bargaining agreement. But that guarantee would not carry over to 1982-1983 under the Board's proposal.

Apparently without consulting with the Union the Board effected a change in the insurance renewal dates. Now it is possible that the insurance premium could rise July 1, and the Agreement does not expire until two months later. Accordingly, it seems to the Arbitrator that the Board's offer on this issue represents a risk for the Union that it has not had to face in recent years. Indeed, the new timing of the insurance contract renewal has changed the meaning of a fixed dollar contribution in the Agreement.

The Board argues that the parties begin negotiations by February 15 and the Union would therefore have ample time to negotiate a new dollar contribution before the July 1 effective date of a premium increase. However, this still might mean that unit members would have to reach into their own pockets during the last two months of the Agreement's term. This would represent a change in the status quo which would undoubtedly be perceived as a step backward by unit members.

The Arbitrator recognizes the Board's legitimate interest in maintaining insurance contributions as a negotiable item. However, in view of the above analysis the Union's offer on this issue appears to be the more reasonable. It is true that the insurance premiums may not rise above the contractually specified amount, but even a slim possibility that they might clearly changes the meaning of the parties' historically negotiated dollar amount contributions.

## The Total Package

Of the two issues before the Arbitrator, the salary issue is the more significant. It represents an identifiable dollar impact upon the District budget. In contrast, the

parties offers on the insurance contribution issue might indeed represent identical costs to the District, depending upon the extent to which insurance premiums might rise.

The Arbitrator has therefore attached more weight to the salary issue than to the insurance contribution issue. Accordingly, it has been concluded that the Board's final offer is generally more reasonable than that of the Union.

After careful consideration of the parties' respective positions and evaluation of same against the statutory criteria, the Arbitrator makes the following Award.

#### AWARD

The Board's final offer attached hereto and marked Exhibit A shall be incorporated into the parties' 1982-1983 collective bargaining agreement along with all of the provisions of the 1981-1982 collective bargaining agreement which are to remain unchanged and along with the stipulated changes agreed to by the parties.

Dated at Cedarburg, Wisconsin this 2nd day of February, 1983.



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Steven Briggs, Ph.D.  
Mediator-Arbitrator



RECEIVED

JUL 01 1982

MULCAHY P. WHERRY, S.C.

MILWAUKEE - 113  
6/28/82

Final offer of the Board of Education, Menasha Joint School District,  
to Local 1166, Menasha Teachers Union on issues to be resolved for  
a 1982-83 agreement:

1. Article XVIII, Section D, 2, a - Health Dental Insurance

Section remain as in present 1981-82 agreement.

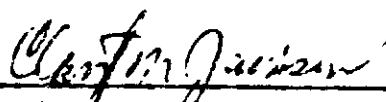
2. Article XVIII, Section E, 2, d. Early Retirement Benefits

Section remain as in present 1981-82 agreement.

3. Appendix A - Salary Schedule

BA Step 0 - \$14,200

FOR THE BOARD OF EDUCATION



Clayton Jackson

Director of Business Services

June 28, 1982

RECEIVED

FINAL OFFER  
MENASHA TEACHERS UNION  
Local 1166, AFL/CIO

JUN 30 1982

1. Health and Dental Insurance: Article XVIII, Sec. D. <sup>WISCONSIN EMPLOYMENT</sup> <sub>RELATIONS COMMISSION</sub>  
The district agrees to pay the full cost of the premiums for the single and family health and dental insurance plans for coverage now in existence for full-time employees covered by this agreement. Part-time employees covered by this agreement will be pro-rated according to Article V, Section A-3. Eligibility for family or single coverage will be determined by the carrier company.
2. Supervisory Duties: Article XVIII, Sec. G. 1. and 2.  
As is
3. Co-curricular Related Sports/Activities: Appendix B  
As is
4. Early Retirement: Article XVIII, Sec. E. 2.d.  
A teacher electing early retirement under this section shall be allowed to participate in the health insurance and dental insurance plans then in effect, with the board of Education paying the full cost of single and family premiums until such time as the early retiree becomes eligible for Medicare or reaches age 65, whichever comes first.
5. Salary Schedule: Appendix A  
BA base: \$14,200--1st. semester  
\$14,600--2nd. semester

Not  
An  
Issue ->  
See Negotiations  
RMC

Career Recognition: The \$600 is a career recognition factor for personnel who were at the top of their respective lane during the 1981-82 school year and, therefore, do not move a vertical step in any lane during the 1982-83 school year.

In addition to the above career recognition, personnel who are identified in the IA, IA +15, and IA +30 lanes will receive an additional \$600 after 20 or more years of service to the school district.

Beverly Long  
M.T.U. President  
Mary Wignall