

RECEIVED

APR 7 1983

* * * * * WISCONSIN EMPLOYMENT
* * * * * COMMISSION
In the Matter of Mediation/Arbitration Between
Ladysmith School District
-and-
Northwest United Educators
* * * * * Case VII No.29600
* * * * * MED/ARB-1626
* * * * * Decision No. 19803-A
* * * * *

Appearances: Mulcahy & Wherry, by Michael J. Burke, for the District

Northwest United Educators, by Alan D. Manson, for the Union

On August 19, 1982, the Wisconsin Employment Relations Commission appointed the undersigned as mediator/arbitrator in the above-captioned case. Thereafter, on November 5, 1982, the undersigned met with the parties for mediation. After approximately eight hours, a tentative agreement was reached by the parties' negotiating committees. The undersigned was subsequently notified that the Board of Education did not ratify the tentative agreement.

The parties agreed that it was not necessary to have an arbitration hearing. Instead, they agreed to submit exhibits, briefs and reply briefs to the arbitrator. The reply briefs were exchanged by the arbitrator on February 10, 1983.

The final offers of the parties, as certified by the Wisconsin Employment Relations Commission, are as follows:

FINAL OFFER

LADYSMITH SCHOOL DISTRICT

1. Increase the BA and MA Base by \$600.00. Increment to remain at 4.55%.
2. Stipulations (attached).

July 19, 1982

LADYSMITH SCHOOL DISTRICT

By /s/ Michael J. Burke

(continued next page)

SALARY SCHEDULE 1982-83

<u>Step</u>	<u>BA (579)</u>	<u>MA (623)</u>
0	12,725	13,700
1	13,304	14,323
2	13,883	14,946
3	14,462	15,569
4	15,041	16,192
5	15,620	16,815
6	16,199	17,438
7	16,778	18,061
8	17,357	18,684
9	17,936	19,307
10	18,515	19,930
11	19,094	20,553
12	19,673	21,176
13		21,799
14		22,422

NUE FINAL OFFER FOR THE 1982-83 LADYSMITH
TEACHERS CONTRACT

Except for the changes set forth in this offer or the stipulations between the parties, the 1981-82 Agreement, with date changes to reflect a 1982-83 term, shall remain unchanged.

1. Article XIV-Fringe Benefits

Section D - Revise the first sentence to read:

"The Board will pay 100% of the hospital, surgical, major medical, and dental insurance for all instructional staff members."

Add at the end of the first paragraph:

"The dental insurance for 1982-83 shall become effective on 4/1/83, or within 30 days of an arbitration award on this issue, whichever is later; the dental coverage shall be substantially equivalent to or better than that in the Blue Cross-Blue Shield QQ Plan; the Board may choose the carrier."

2. Wages-Appendix A

Change the per credit payment in A from "\$35" to "\$38"

Salary Schedule 1982-83:

<u>STEP</u>	<u>BA</u>	<u>MA</u>
0	13,125	14,265
1	13,722	14,914
2	14,319	15,563
3	14,917	16,212
4	15,514	16,861
5	16,111	17,510
6	16,708	18,159
7	17,305	18,808
8	17,903	19,457
9	18,500	20,107
10	19,097	20,756
11	19,694	21,405
12	20,291	22,054
13		22,703
14		23,352

Neither party formally amended its final offer, and it is the arbitrator's duty to select either of the above-quoted final offers in its entirety.

In making his decision, the arbitrator is required to give weight to the statutory criteria. There is no issue with regard to criterion (a), "the lawful authority of the municipal employer," nor is criterion (b) a factor in this case, "stipulations of the parties." The other factors have each been considered, and they are mentioned specifically, below, where appropriate.

Criterion (c) is "The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement."

The District, in its exhibits and arguments, emphasizes the "prolonged and severe recession" in the economy, nationally, in the state, and in Rusk County in which the District is located. It emphasizes that Rusk County is predominantly rural and is affected by depressed farm cash receipts and farm prices. It emphasizes the depressed condition of Wisconsin's manufacturing economy, and the problems being faced by several local private companies. It emphasizes the high unemployment rate in Rusk

County, which varied from 8.4% in July, 1981 to 10.0% in July, 1982, with the latter figure being the lowest since October, 1981.

The District also emphasizes the slowdown in tax collections and a resulting cash flow problem which is exacerbated by delays in state aids payments.

These problems have made it necessary for the District to borrow money for operating expenses which for 1982-83 will result in at least \$12,000 in unbudgeted, unanticipated interest payments.

The Union does not disagree that the economy is in a depressed state. It argues, however, that pay to teachers lagged behind payments made to private sector employees during better times, and that the poor state of the private sector economy in the July, 1981 to July, 1982 period should not be a determining factor in keeping teachers' pay in line with those conditions.

The arbitrator has considered the parties' arguments and evidence. He has concluded that the record does not establish that the District is less able to pay than comparable districts or that the interests and welfare of the District's taxpayers require that a lower settlement be awarded in the District than elsewhere. Nonetheless, it is the arbitrator's conclusion that given the existence of two reasonable final offers, the depressed state of the economy would support the implementation of the lower offer, if criterion (c) were considered alone.

The next criterion that must be considered is (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 in public employment in the same community and in comparable communities and in private employment in the same community and comparable communities.

The District contends that the appropriate teacher comparison group is the Heart of the North Athletic Conference, which the parties have used in the past for comparison purposes. The parties have noted, however, that at the time of the completion of the record in this case, only one (Maple) had reached a voluntary settlement for 1982-83. Two other districts were still negotiating, and the others are in the mediation-arbitration process.

The Union contends that particularly in light of the lack of settlements in the Athletic Conference, it is appropriate to look at other districts in Northwestern Wisconsin. The Union has produced data on 17 districts which have reached voluntary settlements. All but one are located as close to the District as Maple.

Of these 17 districts 13 of them negotiated one-year settlements in 1982-83. These districts are: Altoona, Amery, Arkansaw, Bruce, Drummond, Durand, Elmwood, Hudson, Mondovi, Plum City, Port Wing, Somerset, and Spring Valley. Union exhibits show that these districts negotiated the following median percentage increases at each of the indicated benchmarks: BA-min 8.6%; BA-max 8.5%; MA-min 8.7%; MA-max 8.5%; schedule-max 8.5%. It is reasonable to consider the median figures, because if the District were ranked with these 13 districts, its rankings for 1981-82 would be: BA-min 4; BA-max 3; MA-min 5; MA-max 4; sched-max 5.

Since the Union's comparison districts range widely in size, the arbitrator has looked at the five of them which are closest to the District in size. These compare closely to the District in terms of 1981-82 enrollment and FTE teachers (the statistics shown in Union exhibits). These districts are Altoona, Amery, Durand, New Richmond and Mondovi. These districts are not in particularly close proximity to the District but they are in the Northwest and as close to the District as Maple is. Only New Richmond's settlement was negotiated as part of a two-year agreement, in 1981-82.

Using these districts, and Maple, the Conference district that settled voluntarily in 1982-83, the arbitrator constructed the following table. Additional Conference districts are not included because, as in the case of the parties involved in this case, there is a wide gap between employer and union final offers, and no good assumptions can be made about where the settlements or Awards will be.

	% Change 1981-82 to 1982-83				
	<u>BA Min</u>	<u>BA Max</u>	<u>MA Min</u>	<u>MA Max</u>	<u>Sched.Max</u>
Altoona	7.5%	7.5%	7.5%	7.5%	7.5%
Amery	8.6	8.9	8.7	8.9	9.0
Durand	10.0	8.1	14.7	7.5	7.5
Mondovi	7.2	7.2	7.3	7.3	7.3
New Richmond	9.6	9.6	9.6	9.6	9.6
Maple	6.2	6.2	6.2	---	6.6
Ladysmith-Bd.	4.9	4.9	4.6	4.6	4.3
Union	8.2	8.2	8.9	8.9	8.9
Median (not including Ladysmith)	8.05	8.2	8.1	---	7.5

This table shows that the Union's offer places it at or very slightly above the median at the BA min and BA max, and above the MA max (.8) and schedule max (1.4). The Board offer is far below the median at each of these benchmarks, (from 3.2 to 3.6 below).

These comparisons suggest strongly that the Union's final offer is more in line with voluntary settlements in districts in Northwest Wisconsin, both generally and in comparison to those of similar size. The arbitrator is aware that the record does not contain data about the size and number of districts that have not settled, or their salary schedules. The information about the settled schools is useful nonetheless, because it demonstrates what is happening in voluntary negotiations in the area and among districts of similar size. Contrasting these settlements with the parties' final offers enables one to look at relative rankings and salaries of these districts in comparison to the District even though these districts have not been the basis for past comparisons.*

The arbitrator does not believe that a comparison with only one other public sector employer, as suggested by the District, is meaningful. It is true that athletic conference data is generally more useful, but its absence or incompleteness should not result in the abandonment of public sector comparisons. The comparison with Maple provides slight support for the District's offer since the District's offer is closer to it (although substantially below it) than is the Union's (which is substantially above it). Under the circumstances, however, it is appropriate to utilize other districts for making public sector comparisons. The parties have not provided wage settlement data for non-teaching public employes in the District and nearby counties and municipalities.

The District makes its comparisons with local private sector businesses. In the arbitrator's opinion, as noted below, the teacher salary data analyzed in this decision provide a better measure for purposes of comparisons than the use of one school district and inconclusive private sector data. The arbitrator has done further analysis of the five non-Conference districts in relation to the District, to gain further perspective about the parties' offers.

From the Union's exhibits, the ranking of the District is shown in relationship to the rankings of the five most comparable

*Another one of the settled districts, Bruce, is located only a few miles west of the District, in Rusk County. Although much smaller than the District, it settled for 8.5% increases at each of the benchmarks.

Northwestern districts (see listing above), since 1979-80. The comparisons also show the relationship of the District's salaries at those benchmarks to the median salaries of the five comparable districts at these benchmarks.

LADYSMITH RANK COMPARED
TO 5 DISTRICTS

LADYSMITH SALARY COMPARED
TO MEDIAN OF 5 DISTRICTS

U = Union
D = District

	<u>79-80</u>	<u>80-81</u>	<u>81-82</u>	<u>82-83</u>	<u>79-80</u>	<u>80-81</u>	<u>81-82</u>	<u>82-83</u>
BA Min	6	4	3	4-U 5-D	-350	-175	+5	- 36 U -436 D
BA Max	3	2	3	3-U 3-D	+743	+1178	+794	+875 U +257 D
MA Min	6	4	4	5-U 5-D	-445	-342	-204	-352 U -917 D
MA Max	4	4	3	3-U 5-D	-281	-18	+123	+ 37 U -893 D
Sched. Max	5	3	5	5-U 5-D	-577	+313	-616	-344 U -1364 D

In terms of rankings, the offers of both parties result in a deterioration of the District's position compared to 1981-82. This is true at BA-min and MA-min. At BA max and schedule-max, there is no change in ranking. At MA-max, there is no change if the Union's offer is accepted, but there is deterioration if the District offer is implemented.

A look at the rankings since 1979-80 reveals that although the District improved relatively in 1980-81 and 1981-82, the offers for 1982-83 result in relative deterioration, although not as far as was the case in 1979-80. In the arbitrator's view, these rankings favor the Union's position, but slightly.

When the salary figures are added to the tables, however, they become more significant. At each of these benchmarks the District's offer loses ground to the median of the other five districts. This is the case not only in comparison to 1981-82, but the District's relative position would be considerably worse than 1979-80 or any time subsequently. The Union's offer, compared with 1981-82, would produce slight improvement

at BA max, and significant improvement at Schedule-max, and slight deterioration at BA-min, MA-min, and MA-max. Compared to 1979-80, the Union's offer is slightly improved at BA-max, MA-min, and significantly improved at BA-min, MA-max and schedule-max, but at BA-max and schedule-max, there is significant deterioration compared to 1980-81.

In the arbitrator's opinion, these relative rankings over a period of years with several districts of similar size in the same area of the state, strongly favor the Union's position. There is nothing in the District's exhibits to justify the sharp relative decline that would result from the District final offer. The District has demonstrated that the economy is depressed, but it has not shown that the plight of the District's finances or its economy are worse, or markedly worse, than is the case of other districts of similar size in its geographical area.

In an attempt to demonstrate that the District has given increases close to the increases of other area districts, the District analyzed the Union's data for the 17 Northwestern school districts. Since the arbitrator has used 5 of those districts for comparison, not 17, he has done the same analysis for the 5, as follows:

	<u>5-District Average</u>		<u>Average increases 1979-80 to 1982-83</u>			
	<u>\$ increase</u>	<u>% increase</u>	<u>with Assn. offer</u>		<u>with District offer</u>	
			<u>\$</u>	<u>%</u>	<u>\$</u>	<u>%</u>
BA Min	2699	26.0	3125	31.3	2725	27.3
BA Max	4469	29.6	4831	31.2	4213	27.3
MA Min	3146	27.8	3465	32.1	2900	26.9
MA Max	5436	30.6	5692	32.2	4762	27.0
Sched.Max	6765	35.6	6232	34.1	5212	28.5

These figures show that the District offers have kept up with the average increases more closely than the Union's at the minima, but the Union's offer is closer at the maxima, especially for the MA-max and Schedule-max.

The next criterion to be considered is (e) "the average consumer prices for goods and services, commonly known as the cost of living."

The District has presented three published measures of the consumer price index, which are general for all areas of the country. The Union emphasizes the indexes for the Minneapolis metropolitan area, and for non-metropolitan urban areas. Since, in the arbitrator's opinion, there is no particular reason to compare the cost-of-living in Ladysmith, which is a rural community in Northwest Wisconsin, to economic conditions in urban Minneapolis, and since by population the District is at the very low end of the areas included in the non-metropolitan urban index, the arbitrator believes that the more generally applied indices are more appropriate for use in this case.

The relevant period of measurement is the twelve month period preceding the new contract year, thus the period from July, 1981 to July, 1982. During that period the CPI for urban wage earners increased 6.3%. For urban consumers, the CPI increased 6.5%. The Department of Commerce's Personal Consumption Expenditures Index rose 5.9% from second quarter 1981 to second quarter 1982.

Each of these indices show that the District's 7.76% offer exceeds the increase in the cost of living and is much closer to each of the index figures than is the Union's 11.5% final offer. District exhibits demonstrate also that since 1978 the increases in wage and benefit costs for teachers paid by the District for teachers have exceeded the increases in the cost of living, and thus, in the arbitrator's opinion, if only cost of living increases are considered, there is no basis in the recent history of negotiations in the District which would justify an increase which is almost double that of the rise in the cost of living.

The Union argues that if experience increments and per credit payments are excluded, teachers' salaries and benefits have not kept up with the increase in the cost of living since 1978. It is the arbitrator's opinion, however, that it is reasonable to count experience increments in determining whether the employe's salaries and benefits have kept up with the cost of living.

The District has presented private sector data for eight private businesses in the Ladysmith area. One had a wage decrease, two had no wage increase, two had increases of approximately 4%, while three others had increases in the 7-9% range. Six of the businesses had 22 or fewer employes, and thus were much smaller than the District.

There is no historical comparison of these private sector wages with teachers' salaries, nor anything to suggest what makes these particular businesses or the work that they do a sound basis for comparison with District salaries. Insofar as

they suggest the depressed state of the local private sector economy, they support the District's offer, but in the arbitrator's opinion they are not as significant for determining appropriate teacher salaries as the increases being given to other teachers by school districts of comparable size in the same geographical area.

In the analysis up to this point dental insurance has not been considered separately. This is because as offered by the Union, the benefit would not take effect until 4/1/83 or 30 days after this arbitration award, whichever is later. Thus in the 1982-83 contract year the monetary effect of dental insurance is small.

District exhibits show that no other employes of the District have dental insurance. Within the Athletic Conference, the one voluntary settlement, Maple, does not include dental insurance. In the two districts in which the parties have not settled and have not submitted final offers, Hayward had no dental insurance in 1981-82, and Chetek had 100% employer-paid dental insurance. In Bloomer, the employer pays all single employe dental coverage, and part of the family coverage. That is not an issue in 1982-83 bargaining. In Cumberland the employer pays all of single and family coverage. In Rice Lake, where there was no dental plan in 1981-82, the employer offers to pay all of the premium for a dental plan, but the plan contained in the Union's offer in Rice Lake is a considerably more expensive one. Barron and Spooner are in the same position as the District in this case. There is now no dental coverage. The employer offers maintain the status quo, while the Union offers contain a dental plan fully paid for by the employer. Thus, although it appears that the number of conference districts which had dental insurance is increasing, at the time of the close of the record in this case, four of the eight other districts have agreed to pay dental insurance in 1982-83, and four have not.

The Union's exhibits show that among the 17 settled non-Conference districts in Northwest Wisconsin (which include the five used above by the arbitrator), only one does not have dental insurance (and one other will have it for the first time as of 6/1/83). Each of the five districts used for comparison by the arbitrator has dental insurance. The Union points out also, that of the six districts contiguous to the District, five provide dental insurance.

The Union shows also that of the 17 settled non-Conference districts, all 17 pay a greater number of dollars for health and dental benefits than what the District offers to pay, and only four pay a lesser amount for health insurance alone than the District does. Of the five comparison districts used by the arbitrator only one pays less than the District does for health insurance.

In the arbitrator's view, this is a very close issue, which could be decided either way. The arbitrator has concluded that more weight should be given to the fact that as of now only 4 of 8 other Conference districts provide dental insurance. That is not sufficient, at this time, to make the arbitrator conclude that he should award in favor of dental coverage, and especially so because it would result in the District having to grant a new economic benefit at a time of economic difficulty.

The next criterion to be weighed is (f):

- f. The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pension, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

This criterion has relevance to the dental insurance issue, discussed above. This criterion is also important because it relates to the parties' arguments concerning the weight that should be given to experience increments in the calculation of salaries. The arbitrator has included those increments in evaluating the parties' total packages, and how those offers relate to the increases in cost of living.

The District has urged the arbitrator to take note of the fact that under its offer, because of the effects of increments, a majority of teachers will receive increases of \$1179 to \$1574, or 7.5% to 9.7%, while receiving even more \$1597 to \$2504, or 12% to 13.2% if the Union's offer is implemented. The arbitrator is aware of those numbers. At the same time, however, he is aware of the fact that teachers in all districts receive increments. He is also aware of the many teachers at the top of their schedules who receive no increments.

Criterion (g), "changes in any of the foregoing circumstances during the pendency of the arbitration proceedings," is not an issue in this dispute. The parties have supplied data in their briefs and reply briefs which reflect changes since the arbitration began, and those data and arguments have been considered by the arbitrator in this decision. He has not considered information subsequent to the receipt of the reply briefs.

The last criterion is (h):

- 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 bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in the private employment.

Both parties have noted that one "such other factor" is the bargaining history, and specifically the District's rejection of the mediated tentative settlement. The Union urges the arbitrator to consider it in the Union's favor. The District urges that it not be considered.

Although no mediator, including the undersigned, is pleased to learn that a mediated settlement is rejected after long hours of bargaining to achieve it, a mediator understands that no agreement is final until ratified by both parties. In this case, the full Board of Education exercised its right to overturn the tentative agreement reached by its negotiating committee. While such action lengthens the bargaining process and increases frustrations, and perhaps strains future bargaining relationships, the act of either party of rejecting a tentative agreement is not one of "such other factors" that this arbitrator believes should be taken into account in weighing final arbitration offers, and he has not done so in this case.

CONCLUSION

Having considered all of the statutory criteria, the arbitrator's task is to choose the final offer of one party in its entirety. Clearly, it is the wage offer that is the most significant. The dental insurance issue, while favoring the District, is a small part of the costs for 1982-83 and its presence in the Union's offer is not of sufficient importance to be determinative. While it would be a new benefit for the District if it were awarded, it is not an unusual one, and in fact already exists in half of the remaining Conference districts.


This is an unusual case, in the arbitrator's experience, because of the need for him to construct salary comparisons not normally used by the parties as a result of there being only one settlement in the Athletic Conference.

It is clear to the arbitrator based on considerations of the cost of living increases, and conditions in the private sector economy, that the District's offer is a fair one, and more appropriate than the Union's offer based on those criteria. In the arbitrator's opinion, however, the best

criterion for an arbitrator to use in determining the effect of cost of living changes and general economic conditions on teacher employment conditions is the pattern of settlements being achieved voluntarily in comparable public sector employment. These settlements reflect what school districts and unions view as acceptable, and there is no reason that an arbitrated settlement in the District should not keep pace with them, absent exceptional circumstances not demonstrated here. It is not the arbitrator's role to judge the results of the area voluntary collective bargaining as "too high" or "too low." Rather, it is his job to weigh the final offers against the statutory criteria, and he has decided that it is the offer that most reflects prevailing voluntary teacher settlements that should be implemented.

As the above discussion indicates, the comparable voluntary settlements more generally conform to the Union's offer than to the District's offer. Therefore, it is the arbitrator's decision that the award in this case should be in favor of the Union's final offer.

Dated at Madison, Wisconsin, this 5th day of April, 1983.



Edward B. Krinsky, Arbitrator