

JAN 21 1983

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BEFORE THE ARBITRATOR

In the Matter of the :
Mediation/Arbitration between :
SCHOOL DISTRICT OF RHINELANDER :
and : AWARD AND OPINION
RHINELANDER TEACHERS ASSOCIATION :
LOCAL 3861, AFT-WFT/AFL-CIO : Decision No. 19838-A

Case No. XII, No. 29987
MED/ARB 1773
Decision No. 19838

Hearing Date October 28, 1982

Appearances:

For the Employer Mulcahy & Wherry, S.C.,
Attorneys at Law, by
MR. RONALD J. RUTLIN

For the Union MR. FRED SKARICH,
Representative

Mediator/Arbitrator MR. ROBERT J. MUELLER

Date of Award January 20, 1983

BACKGROUND

The above named parties entered into negotiations between March and June 1982 on certain proposals initiated by each party pursuant to a reopener clause contained in their two-year agreement. Negotiations failed to result in agreement, and the Association and District jointly requested the Wisconsin Employment Relations Commission to initiate mediation/arbitration pursuant to Section 111.70(4)(cm)6 of the Municipal Employment Relations Act. A representative of the WERC subsequently engaged in mediation and investigation, which resulted in the investigator determining that the parties had reached an impasse. The WERC subsequently submitted a panel of arbitrators to the parties from which the undersigned was selected and subsequently appointed to serve as the mediator/arbitrator by the WERC in the subject case.

Subsequent to the filing of the petition, the requisite number of the public petitioned for a public hearing. A Notice of Public Hearing was thereafter issued and published. A notice of initial mediation-arbitration session was also issued setting the matter for mediation to be held immediately following the conclusion of the public hearing.

The matter then came on for public hearing at the Rhinelander School Administration Offices, Acacia Lane, Rhinelander, Wisconsin, on October 28, 1982 at 10:00 a.m.

At such public hearing, each party to the dispute was given an opportunity to briefly explain and identify the unresolved issues and to make a presentation in support of their respective positions. Those persons in attendance at the public hearing who wished to speak were offered an opportunity to sign a sheet and those who so signed were then called in order of signing to

express and present such views and statements as they desired with respect to the issues in dispute. Six members of the public in attendance spoke and presented their views. When no further members of the public desired to speak, the public hearing was declared closed at approximately 11:00 a.m. The respective parties then reconvened with the mediator/arbitrator in mediation. Extensive mediation efforts failed to resolve the issues in dispute. The parties thereupon stipulated and agreed to proceed directly into arbitration. The undersigned concurrently declared an impasse and advised the parties of intent to arbitrate the issues existing between the parties. The parties were each afforded opportunity to modify or withdraw their respective final offers and each declined to do so and indicated readiness to proceed to arbitration.

The parties thereupon presented oral and written evidence and made such arguments and presentation as they deemed pertinent. Briefs were subsequently exchanged through the mediator/arbitrator.

ISSUES

The parties presented basically five identifiable issues for resolution. The undersigned will attempt to identify and describe in brief summary form, those five issues as presented by the final offers of the parties. Such final offers will hereinafter be duplicated in full as they were presented to the WERC investigator.

ISSUE NO. 1: Salary Schedule Increase.

The offers of both parties are made on the premise that teachers would not progress incrementally during the term of the contract. The Board's offer is to grant each returning staff member an increase of 7.74% over their previous school year's salary. The Association's proposal is to provide a 6.02% increase on the same basis, plus the sum of \$400.00. Such offer on wages only by the Association, has been computed as constituting an 8.23% increase.

ISSUE NO. 2: Extracurricular Schedule.

The Board proposes that the 1981-82 schedule be continued without change or increase for the 1982-83 school year. The Association proposes that all extracurricular salaries be increased by 7.5%.

ISSUE NO. 3: Summer Salaries.

The Board's offer consists of proposed selective increases ranging from 7.4% to 7.7%, as reflected by the specific final offer, hereinafter reproduced. The Association's proposal is to increase the hourly rates 9% as more specifically shown by the Association's final offer, hereinafter reproduced.

ISSUE NO. 4: Layoff

By its proposal in this article, the Board proposes a formula by which administrators who face layoff from administrative duties, may be returned to the bargaining unit with certain credit for administrative service outside the unit and teaching service previously in the unit and/or for teaching experience outside the District. Additionally, the Board proposes language that would allow an exemption of one employee out of seniority on an annual basis for the purpose of maintaining programs.

The Association rejects the Board's language proposals on such subject matter and proposes that the contract provisions remain unchanged.

ISSUE NO. 5: Medical and Hospitalization Insurance

The Board proposes a new provision that would provide for the

District to pay the full single premium and 90% of the family premium for employees electing coverage.

The Association proposes to retain the current provision which provides that the District pays the full premiums for both single and family coverage.

THE FINAL OFFERS OF THE PARTIES

The final offers of the respective parties are hereinafter reproduced from the final offers submitted to the Wisconsin Employment Relations Commission as shown by their received stamp shown on their respective offers.

SCHOOL DISTRICT OF RHINELANDER
FINAL OFFER
7/27/82

RECEIVED

JUL 28 1982

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

ITEM 14.7 - Layoff

Seniority

- Administrators who are laid off and/or voluntarily return to vacant teaching positions in the District shall, for purposes of salary, receive credit for all years of previous service as a teacher and administrator in this District, entering the salary schedule at the step they should have occupied had they taught the whole time.

For seniority purposes the individual will receive full credit for all teaching in the District plus one half (½) of up to five (5) years administrative experience in the District. When three (3) years of fulltime equivalence is attained, a maximum of half of five (5) years for teaching experience outside the District will be allowed.

ITEM 14.10 Exceptions

Add:

Exceptions: Exceptions to the foregoing are permitted as required by mandate of State and/or Federal law. In addition, on an annual basis the District may exempt from the seniority list up to one (1) individual for the purpose of maintaining programs.

The District shall provide the exception to the Rhinelander Teachers Association (RTA) and represented employees may apply in writing for consideration for the position(s). Candidates will be interviewed and if a candidate as qualified as the employee holding the position is found, the applicant will be assigned the position and the excepted employee will be returned to the seniority list for purposes of layoff.

ITEM 18. B. - Medical and Hospitalization

- The District will pay the full single premium and ninety percent (90%) of the family premium for medical and hospital insurance for all fulltime teachers who request it. The daily hospital room allowance will be based on the charge made for a semi-private room at St. Mary's Hospital. If such room rate should change during the course of the contract year, the adjustment will be made by the Superintendent after approval by the Board.

EXTRA-CURRICULAR SCHEDULE

1982-83

HIGH SCHOOL ATHLETICS

	<u>1 - 3</u>	<u>4 - 6</u>	<u>7 plus</u>
<u>GIRLS</u>			
<u>Basketball</u> - Head	1,571	1,631	1,748
Ass't. I	1,051	1,109	1,341
Freshman	992	1,109	1,284
<u>Catalina</u>	525	583	641
<u>Cheerleading</u>	945	1,112	1,391
<u>Gymnastics</u> - Head	1,516	1,576	1,694
Ass't. I	932	992	1,051
<u>Swimming</u> - Head	1,202	1,261	1,319
Ass't. I	693	752	812
<u>Tennis</u> - Head	778	833	888
Ass't.	500	555	610
<u>Track</u> - Head	1,516	1,576	1,694
Ass't.	1,051	1,109	1,341
<u>Volleyball</u> - Head	1,045	1,104	1,161
Ass't. I	693	752	812
Freshman	580	641	701
<u>BOYS</u>			
<u>Basketball</u> - Head	1,694	1,809	2,043
Ass't. I (2)	1,051	1,109	1,341
Freshman II (2)	992	1,109	1,284
<u>Football</u> - Head	1,796	1,852	1,964
Ass't. I (3)	1,119	1,175	1,233
Ass't. II (1)	1,065	1,119	1,176
Freshman I	875	932	1,051
Freshman II (2)	817	875	932
<u>Hockey</u> - Head	1,341	1,461	1,633
<u>Swimming</u> - Head	1,516	1,576	1,694
J.V.	1,051	1,109	1,341
Diving	932	1,119	1,175
	<u>1 - 3</u>	<u>4 - 6</u>	<u>7 plus</u>
<u>Tennis</u> - Head	922	980	1,037
Ass't.	578	635	693
<u>Track</u> - Head	1,516	1,576	1,694
Ass't. I	1,051	1,109	1,341
<u>Wrestling</u> - Head	1,621	1,681	1,799
Ass't. I	1,051	1,109	1,341
Freshman	932	992	1,051

BOYS and/or GIRLS

<u>Baseball</u> - Head	922	980	1,037
Ass't.	578	635	693
Freshman	539	589	637
<u>Softball</u> - Head	922	979	1,037
Ass't.	525	583	641
<u>Cross Country</u> - Head	869	927	985
<u>Swimming</u> - Head	1,051	1,109	1,341
Ass't.	525	583	641
<u>Golf</u> - Head	922	980	1,037
<u>R - Club</u>	292	292	351
<u>Equipment Manager</u>	1,097	1,373	1,566

Each During Christmas - \$31.07 per day (up to 5 days)
Vacation Only

ELEMENTARY ATHLETICS

BOYS and/or GIRLS

<u>Basketball</u>	206	233	263
<u>Football</u>	175	206	233
<u>Soccer</u>	175	206	233
<u>Softball</u>	175	206	233
<u>Volleyball</u>	175	206	233

HIGH SCHOOL NON ATHLETICS

	<u>1 - 3</u>	<u>4 - 6</u>	<u>7 plus</u>
<u>Audio-Visual</u>	992	1,051	1,109
<u>Auditorium Lighting</u>	351	408	467
<u>Chess</u>	292	292	351
<u>Debate</u> - Head	1,045	1,104	1,161
Ass't. (2)	525	583	641
<u>Dramatics</u> - 2 Productions	1,434	1,631	1,822
Ass't.	408	467	525
<u>Forensics</u> - Head	644	700	759
Ass't. (2)	408	467	525
<u>Forestry Camping</u>	408	467	525
<u>Instrumental Concert</u>	525	583	641
<u>Junior Class Advisor</u> (3)	292	292	351
<u>Senior Class Advisor</u> (1)	361	361	420
<u>Student Council</u>	408	467	525
<u>Student Council Book Store</u>	408	467	525
<u>Vocal Concert</u>	351	408	467

<u>Newspaper Advisor</u>	516 (if no class 2nd semester add \$257)
<u>Year Book Advisor</u>	516 (if no class 2nd semester add \$257)
<u>Teachers Who Serve at Commencement Exercises</u>	10
<u>Ticket Takers/Sellers</u>	10
<u>Ticket Takers/Sellers/Crowd Control</u>	16
<u>Crowd Control</u>	16
<u>Chaperones - 12¢ per mile</u>	

JUNIOR HIGH SCHOOL ATHLETICS

	<u>1 - 3</u>	<u>4 - 6</u>	<u>7 plus</u>
<u>GIRLS</u>			
<u>Basketball</u> - Head	624	668	712
Ass't.	351	395	438
Intramural (2)	351	408	467
<u>Cheerleading</u>	408	467	525
<u>Gymnastics</u> - Head	817	875	932
Ass't.	487	549	610
<u>Tennis</u>	292	292	351
<u>Track</u> - Head	408	467	525
Ass't.	292	292	351
<u>BOYS</u>			
<u>Basketball</u> - 8th	817	875	932
7th	817	875	932
Intramural	351	408	467
<u>Football</u> - Head	700	759	817
Ass't. I (3)	525	583	641
Intramural (2)	292	292	351
<u>Tennis</u>	292	292	351
<u>Track</u> - Head	408	467	525
Ass't.	292	292	351
<u>Wrestling</u>	817	875	932

JUNIOR HIGH SCHOOL NON-ATHLETICS

<u>Forensics</u> - Head	351	408	467
Ass't. (3)	292	292	351
<u>Instrumental Concert</u>	292	292	351
<u>Student Council</u> - Head	408	467	525
Ass't.	408	467	525
<u>Vocal Concert</u>	292	292	351
<u>Yearbook</u>	817	875	932

SALARY RANGES

Salary Ranges

The following salary ranges are established for the 1982-83 school year:

	<u>Minimum</u>	<u>Maximum</u>
BACHELORS	13,400	22,600
MASTERS	14,700	25,000

Returning staff members 1982-83 will receive 7.74% of their 1981-82 base salary.

Part-time employees will receive the same percent increase on their 1981-82 salary.

Extra-curricular assignments, graduate credits, summer school pay, Unit Leaders and Department Chairpersons, etc. are not considered base salary.

SUMMER SALARIES

Classroom Teaching	\$8.00
Counselors	\$8.00
Driver Education (behind the wheel)	\$8.00
Instrumental Music	\$8.00
Library	\$7.70
Curriculum Writing	\$6.80

NOTE. The number of hours for each program is determined by the School Board.

FINAL OFFER - RHINELANDER TEACHER'S
ASSOCIATION

July 27, 1982

FILE

JUL 28 1982

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

- I Maintain the existing agreement (see attached copy) with the following exceptions:
- A. Those items agreed to during current negotiations (see attached sheet)
 - B. All necessary date changes
 - C. Those items modified by this final offer:
 - 1. Appendix C - Extracurricular Schedule - pp. 35-37.
Change by adding 7½ percent to all figures.
 - 2. Appendix D - Salary Ranges - p. 39.
Change by cutting Parren 1
Under "Salary Ranges" change as follows:
 - a. Bachelors - \$13,463 - \$22,665
 - b. Masters - \$14,737 - \$24,939Returning staff members 1982-83 will receive 6.02 percent of their 1981-82 base salary (including department head and unit leader pay) plus \$400.
Change Parren 4 by changing \$500 to \$400.
Change Parren 5 by dropping the words "Unit Leaders and Department Chairpersons."
Drop Parren 6
 - 3. Appendix E - Summer Salaries - p. 40.
Change
 - a. line one to read \$8.10 instead of \$7.43
 - b. line two to read \$8.10 instead of \$7.43
 - c. line three to read \$8.10 instead of \$7.43
 - d. line four to read \$8.10 instead of \$7.43
 - e. line five to read \$7.80 instead of \$7.15
 - f. line six to read \$6.90 instead of \$6.33

CONTENTIONS OF THE PARTIES AND DISCUSSION

Both parties addressed their evidence and arguments toward the various factors specified as the criteria to be utilized by the arbitrator in rendering an Award as set forth in Section 111.70(4)(cm) 7 of the Wisconsin Statutes. The undersigned is charged with the statutory assignment of considering the relevant evidence and assigning weight to the respective positions of each party within the scope of the relevant statutory factors (a) through (h) of said Statute.

Neither the lawful authority of the Employer (Factor (a)), nor stipulations of the parties, (Factor (b)), were argued by either party as being of such relevance as to require consideration in this case.

With respect to the interest and welfare of the public, (Factor (c)), both parties addressed argument based on the record evidence submitted into the case.

Each of the parties' brief contained a summary of their respective major arguments and contentions. The Association summarized its major contentions as follows:

"SUMMARY

"The salary increase issue:

The Union's proposal is supported by settlements in comparable districts. The Union's distribution of the available money is more equitable and is the same as the voluntary method adopted last year.

"The hourly summer rate issue:

No increase was negotiated last year due to a technical error on the Union's part. A 9% increase over two years is very modest.

"The seniority for administrator's issue:

Current language adequately covers the administrators who enter the teaching unit. Administrators are given some credit already even though they are not in the bargaining unit.

"The layoff issue:

The Employer does not need the right to make an exception to seniority in order to protect programs. The current procedure already provides protection for programs.

"90% vs. 100% insurance issue:

The Employer has attempted to portray its position as an effort to curtail benefits paid by the insurance company. It is not. It is simply an effort to make employees pay 10% of the family premium."

The conclusions of the District, as set forth in their brief, is as follows:

- "1. The interest and the welfare of the public facing high unemployment in Oneida County, and the recessionary experience of the private sector dictates restraint and moderation in the compensation package to be included in the 1982-83 Agreement between the parties.
- "2. Any method of analysis establishes that Rhinelander teachers are compensated well above the average salaries in the area.
- "3. The level of fringe benefits currently received by Rhinelander teachers does not dictate the need for higher salaries.
- "4. Enormous increases in the cost of health insurance

since the establishment of the HMP Plan in 1973-74 dictate a need for greater sensitivity by the employees to the cost of health care.

- "5. Fifty percent (50%) of the comparable districts pay toward the health insurance plan in a manner expressed either as a flat dollar or as a percentage which represents less than 100%.
- "6. The best scientific evidence available establishes that in order for an employer to effectively manage health insurance costs the cooperation of all parties, the patient, provider and the payor must be maximized.
- "7. The District's proposal to modify the layoff clause by exemption of one person from the procedure is amply supported by the comparable layoff provisions in the sixteen area districts and the pragmatic need to maintain programs.
- "8. The District's proposal to modify the layoff clause with respect to the application of the seniority provision to administrative staff is consistent with the credit given to teachers hired from outside the District as well as the District's need to maintain some stability of employment for these personnel."

In addressing the comparability factor of paragraph (d) of the Statute, the parties were in disagreement as to those districts to which the most meaningful comparison should be made.

The District described its rationale in its selection of those districts which it claims are most comparable in its brief as follows:

"The Employer, pursuant to the statutory criteria, has presented comparative wage and benefit information with respect to sixteen (16) other districts which the Board maintains are generally comparable due to their size, geographic proximity to the Rhinelander District, and participation in the same athletic conference as Rhinelander Schools. Specifically, Lakeland Union High School and the underlying K-8 districts of Boulder Junction, Lac Du Flambeau, Minocqua Grade School and Woodruff, as well as the Northland Pines, Three Lakes, Elcho, Antigo, and Tomahawk Districts are contiguous. In addition the Districts of Marshfield, Wisconsin Rapids, Stevens Point, D.C. Everest, Wausau, and Merrill were included since they (with Antigo) constitute the athletic conference in which Rhinelander participates. However, as stated at the hearing on the outstanding issues, the District considers those districts which are of sufficiently similar size in close geographic proximity, namely Antigo, Merrill, Northland Pines and Tomahawk, to be most comparable."

The Union's contentions, as stated in their brief, are as follows:

"The Union maintains that the school districts included in the Wisconsin Valley Athletic Conference are the most viable comparables based upon size, proximity and similarity of communities. The district, on the other hand, is claiming that contiguous non-conference districts should be used as comparables as well. The contiguous districts are so small, however, that seven of

the nine non-conference districts cited by Employer Exhibit #2 have fewer teachers in the district than Rhinelander has at the high school alone.

"In addition to the conference schools, the Arbitrator should compare Rhinelander with Chippewa Falls and Superior, both of which are in the northern part of the state, and both of which settled voluntary agreements for 1982-83."

The District presented a number of exhibits and engaged in comparative analysis in its brief with two groupings of comparables. They made comparison with the broad selection of 16 districts and another comparison of the four which they described as the "most comparable" of the 16. They made such comparisons by comparing the average annual salaries as they existed at various steps of the salary schedules. The comparative analysis engaged in by the Board in its brief resulted in it drawing and stating the following conclusion as found at page 16 of their brief:

"...The Rhinelander teachers maintain a position which is significantly above the average ranking either among the four most comparable districts or among the 16 comparable districts in the area."

The Union addressed its argument primarily to the percentage levels of settlements in the various other districts. They state at page 5 of their brief as follows:

"Union Exhibit #2 summarizes the settlements in the Wisconsin Valley Conference. Of the four districts settled, the increases in the BA minimum column ranged from 8.2% to 9.4%. The increase in the MA maximum column ranged from 7.9% to 9.8%. These numbers should not be compared with the 8.23% salary of the Union's final offer or the 7.74% salary of the Board's final offer, because the other districts paid increments and Rhinelander will not. Salary increases for persons who obtained increments in those four districts will raise the percentage much higher.

"While it may be true that the four districts cited above settled the 82-83 year as part of two-year contracts, they are nevertheless similar districts in the same part of the state.

"The Chippewa Falls and Superior settlements are one year settlements for 1982-83. (See Union Exhibit #2) Both contracts included increments. The Chippewa Falls settlement totalled 9.0% and the Superior settlement totalled 10.8%, because dental insurance was also added. (See Union Exhibit #3) Other public employees in the area also have received salary increases more commensurate with the Union's final offer."

Union Exhibit No. 3 contained the total settlement costs for the 1982-83 school year for the four districts of D. C. Everest, Marshfield, Merrill, and Stevens Point. Such total settlements range from 10.50% to 10.80%. Such exhibit also indicates that the total settlement cost at Chippewa Falls was 9% and at Superior it was 10.8%.

The District addressed the settlement data argument as being relevant and persuasive to the level of settlement that should be afforded Rhinelander teachers for the 1982-83 school year in their brief as follows:

"Those settlements primarily relied upon by the Association as establishing the pattern for the 1982-'83 school year are settlements which represent the second year of multi-year agreements negotiated during the middle of 1981, more than a year ago. During the period when these settlements were being negotiated the economic data was considerably different. Specifically the Consumer Price Index in the summer of 1981 ranged between 9.5 and 10.8%. Currently that same index represents a 4.9% annual increase. (ER 49) The unemployment rate in Oneida County in the summer of 1981 ranged between 6.2 and 6.5%. (ER 50) In the summer of 1982 the unemployment in Oneida County ranged from 9.2 to 10.8%. (ER 51) The Districts of D. C. Everest, Stevens Point, Marshfield, Merrill and Woodruff clearly took a risk in these two year agreements that they will have to correct when they have the opportunity."

In contending that the District's final offer is the more reasonable when weighed with the public interest, the District directed attention to Factors (c) and (h) of the statutes. The District pointed to those elements of the economy as depicted by the evidence and testimony presented on that subject in their brief, excerpts thereof being as follows:

"The private sector in the Rhinelander area has been severely affected by the prolonged recession nationwide. The major employers have reduced their workforces permanently, laid off employees for substantial periods of time and negotiated take backs from employees in order to reduce operating costs. Two employers, Rhinelander Foods and Rhinelander Paper have wage freezes in effect currently.

. . . .

"The economic malaise has also led to record level unemployment in the Rhinelander area. The unemployment conditions in the Rhinelander area were reviewed by Mr. Gene Voss, the District Director for the Wisconsin State Job Service, a professional with a twenty year tenure in the Rhinelander area. Mr. Voss's testimony and the accompanying exhibits ER 49 through 51 reveal that Rhinelander has a higher unemployment rate than either the state or national average. . . .

"tax delinquencies which are nearly 50% higher than in October of 1981 in Oneida County are a direct result of the difficult economic times. (ER 53). . .

"The experiences of the private sector companies in Rhinelander mirror the national experience: ER 44 shows that average real earnings increased only .1% from July to August 1982 and increased 4.5% from August of 1981 to August of 1982. In addition, in the third quarter of 1982, the 'all industries' median first year wage increases were 6.5%. (ER 45) This constitutes a substantial reduction from the 9% increases negotiated during the first quarter of 1982. Clearly, there has been a significant lowering of expectations on behalf of those Unions currently bargaining major agreements nationwide."

With respect to Issue No. 2, involving the extracurricular schedule, the Association contends that there has been a negotiated

increase to such schedule every year for the last ten years. They contend that it has become a long established practice to increase extracurricular salaries annually and that simply because the 1981-82 salary amounts were acceptable, that does not mean that such amounts are also acceptable for 1982-83 after another year of inflation.

The District contends that the issues involving extracurricular pay, summer salaries and treatment of department head pay are not significantly large enough to constitute a major consideration to the overall offer of each party. The District alleges that based on their review, extracurricular salaries were favorably comparable to extracurricular salaries at the comparable schools and that it would therefore be more equitable to place the maximum amount of money available on the salary adjustments so as to benefit all staff members.

As to the hourly summer salary issue, the Union pointed out that summer rates were first negotiated into the contract approximately four or five years ago. Since that time, increases were negotiated in the summer rates each year with the exception of the last contract at which time no increase was negotiated or implemented because the Union had inadvertently omitted submitting a proposal with respect to increasing the summer rates. They contend that because no increase was negotiated last year, that their proposed 9% increase this year would constitute basically a 4.5% increase for each of the two years which is significantly less than any other comparable increase.

The District contends that their offer to increase the summer rates in amounts ranging from 7.4% to 7.7%, is reasonable in view of the economic conditions of the time.

The Association addressed the matter of seniority for administrators, as addressed in the District's proposal separately from that of layoffs. As to the seniority issue, the Union contends that the current labor agreement contains provisions dealing with the salary placement for administrators who return to fill vacant teaching positions. They contend that item 6, paragraph a of the current agreement adequately covers such matter. Additionally, as to layoffs of administrators, the Association contends that they would acquire retroactive seniority for previous teaching experience after three years of teaching in the District and that any layoff would be handled as provided in item 14, paragraph 7 of the existing agreement. The Association contends that in that respect, administrators who return to teaching positions would be treated the same as any newly hired teacher.

The District contends that the issue of administrative seniority has been an outstanding dispute between the parties for some time and that the Association has been unwilling to respond in any meaningful way to the District's concern on such issue. They contend that to adopt the Association's position of retaining the existing contractual language without more specific revision, would merely serve to continue the current dispute that exists between the parties.

The District further contends that under the existing contract language, teachers hired from outside the District are given more credit than would an administrator in the District who returns to a teaching position. They suggest that it would be much more reasonable and would serve to encourage District staff to move up and take promotions into administrative jobs if the contract were to at least treat District administrative personnel equal to those newly hired outside employees. In fact, they suggest that it would be more reasonable and appropriate to grant employees who move from teaching into administrative posts, greater protection than that given newly hired outside employees so as to encourage the willingness of bargaining unit employees to accept administrative positions in the future.

With respect to the second portion of Issue No. 4 involving the matter referred to as the "layoff" issue, the Association again contends that the current labor agreement already contains provisions which provide for program protection. Additionally, they contend the affect of the proposed language of the District could reasonably result in going well beyond the intent which the District expressed as the basis for such proposal.

The District contends that their proposal to exempt one position from the layoff procedure in order to maintain programs, is intended to specifically protect the interest and welfare of the students who would benefit by the maintenance of a program that otherwise may have to be discontinued simply because of the District's inability to retain a qualified junior employee over that of a senior unqualified employee. The District further contends that such type exemption is similar to exemptions contained in the majority of other contracts of the various comparable school districts referred to. The District further contends that such single exemption constitutes a .5% fraction of the total bargaining unit staff. The District contends that in this period of uncertain and recessionary time, that it must look ahead and anticipate that reductions in staff and/or program may be necessary if the economic downturn continues. In the event that it does, the District should be afforded some flexibility to meet those problems so as to best serve the interest of the public, the students, and the staff.

The final issue to which the parties addressed evidence and argument concerned the medical and hospitalization insurance issue. The District contended that during the 1981-82 school year, of the 16 comparables utilized by the District, Rhinelander was the fourth highest with the family premium payment being in the sum of \$141.08. District Exhibit No. 27 indicates that the family premium for 1982-83 is increased 29.4% over the previous school year and is now \$182.50 per month for family coverage. The single plan coverage has been raised from \$50.03 to \$64.80 per month.

The District contends that in view of such enormous increase in the cost of insurance, it is necessary to in some way institute some cost containment measures and that one of the principal measures is to increase the employee's sensitivity to such tremendous cost that is generated by the group experience of the users. They suggest that a minimal sharing of the expense and cost of such insurance is the most direct and meaningful method by which greater awareness and sensitivity can be gained and that such greater awareness will lead to more effective cost containment.

The District further contends that of the 16 comparable districts referred to, five districts contribute a flat dollar contribution toward the cost of health insurance, which dollar contribution is less than the full premium amount payable, and that four of the districts contribute a percentage of the premium payable which is less than 100%.

The Association contends that the District's interpretation of the survey evidence presented into the record to the effect that cost containment is achieved to a higher degree in those situations where employees participate in sharing the premium payment is erroneous and that the simple state of events is that the District in this case is simply attempting to shift 10% of the premium cost onto the employee. The Association contends that the District's offer on this issue serves to further dilute its

inadequate offer on the salary schedule increase.

DISCUSSION AND CONCLUSIONS

District Exhibit No. 19 sets forth a computation of the costs of the final offers of the two parties. The total cost of the District's final offer is shown to be a 7.96% increase. The total cost of the Association's final offer is shown to be a 9.28% increase. The net difference of the total package final offers is then in the percentage amount of 1.32%.

In viewing the evidence and argument presented by both parties concerning the application of the comparability factor, the undersigned is of the considered judgment that either final offer is supportable as reasonable. While the two parties profess disagreement as to which districts are the most comparable, the arbitrator is of the judgment that such dispute does not require finite resolution in this case. If one compares the actual salaries and benefits paid by the various comparable employers under both the District and Association categories, one could readily conclude that the application of either the District or the Association offer would result in a reasonable comparative result and that either final offer would be justifiable on the basis of comparability data.

If one likewise compares the pattern of settlements on the basis of increase in salaries and benefits by relevant comparables, being both public and private sectors, one could find that either final offer is amply supported by the applicable settlement data. There exists certain persuasive validity in the areas referred to by each party as well as frailties and elements that would cause one to discount the persuasive weight that should be afforded some of the various settlement references. Specifically, the levels of settlements reached by those employers at a time when the underlying economic climate and conditions were different than exists today, would call for modification of the weight to thereon be afforded because it is clearly and unalterably recognized that the levels of settlements in labor management relationships are significantly and dominantly influenced by the specific economic conditions that then exist generally, and specifically that exist with respect to the particular employer involved. For that reason, the Association's reference to the levels of settlements at Chippewa Falls and Superior would require discounting as to weight to be afforded to such settlements in this case.

The more relevant level of settlements would thus be referenced by those arrived at in other areas, which in this case, are in the private sector which specifically reflect the economic conditions of the present time.

The arbitrator has considered the evidence and arguments of both parties as they bear upon the extracurricular pay, summer pay schedule, medical and hospitalization issue, and seniority and layoff issue and finds that the District's contentions on each of such subordinate issues are slightly more supportable by the record evidence and rationale applied to support their adoption. In particular, the District's rationale and supporting evidence entered with respect to its proposal concerning the employees sharing in payment of the medical and hospitalization premium is found to be more supportable by the record evidence and to be and constitute an approach that is reasonably more designed to increase awareness and sensitivity on the part of the employees to the high cost of medical and hospitalization care. The undersigned further finds that the sharing of such premium cost is supportable by similar cost-sharing provisions found in other public employer comparables.

With respect to the seniority and layoff dispute, the arbitrator specifically finds that the District's proposal does appear to be one that more specifically addresses the subject area to which it is directed and that it covers an area that is not otherwise specifically covered by the current provisions of the agreement. Further, the arbitrator would find that such type provisions have support by similar or comparable type provisions in contracts of other comparable employers and while it may not be specifically the procedure or basis to which the Association would otherwise have reached agreement in free and open negotiations had the parties bargained to a mutual agreement thereon, the procedure and terms as proposed by the District are not found to be unreasonable or patently one-sided so as to be clearly repugnant to the concept of dealing specifically and fairly with a subject matter that is reasonably anticipated will occur during a term of a labor agreement.


One is then returned to the bottom line analysis of determining and weighing the respective total final offers of each party against the applicable statutory factors which the mediator/arbitrator is charged with applying to the evidence presented in the case.

It is the considered opinion of the undersigned that the dominant and controlling considerations in this case require that the greater weight be afforded to those criteria which reflect the current economic environment and conditions prevailing at the present time and at the immediately preceding time period during which the terms of this 1982-83 contract would otherwise have been settled upon had the parties proceeded to final resolution short of this mediation/arbitration endeavor. The undersigned thereby finds the final offer of the District to be more reasonably supportable by the application and weighing of the statutory criteria and factors specified in Section 111.70(4)(cm) 7 of the Wisconsin Statutes.

On the basis of the above facts and discussion thereon, the undersigned issues the following decision and

AWARD

That the District's final offer is hereby awarded and ordered to be incorporated into the 1982-83 Collective Bargaining Agreement along with those stipulations of the parties.


Robert J. Mueller
Mediator/Arbitrator

Dated at Madison, Wisconsin
this 20th day of January, 1983.