

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

In the Matter of the Petition of
FREEDOM AREA SCHOOL DISTRICT
AUXILIARY PERSONNEL ASSOCIATION

To Initiate Mediation-Arbitration
Between Said Petitioner and
FREEDOM AREA SCHOOL DISTRICT

Case VII
No. 30290
MED/ARB-1879
Decision No. 20142-A

APPEARANCES

Richard Debroux, Wisconsin Education Association
Council, Association Representative

William G. Bracken, Wisconsin Association of
School Boards, District Representative

On December 21, 1982 the Wisconsin Employment Relations Commission (WERC), appointed the undersigned as Mediator-Arbitrator pursuant to Section 111.70 (4) (cm)6 b. of the Municipal Employment Relations Act, (MERA), in the matter of a dispute existing between the Freedom Area School District, hereafter the District or the Board, and the Freedom Area School District Auxiliary Personnel Association, hereafter the Association. Pursuant to statutory responsibilities, the undersigned conducted mediation proceedings between the parties on March 15, 1983. Said mediation effort failed to result in voluntary resolution of the dispute. The matter was thereafter presented to the undersigned in an arbitration hearing conducted on the same date for final and binding determination. Post hearing exhibits and briefs were exchanged by May 3, 1983. 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 award.

SUMMARY OF ISSUES

This dispute covers the agreement between the parties for the 1982-1983 school year. In dispute are issues related to wages and the entitlement of one part-time employee to insurance and sick leave benefits.

In addition, although the parties are in agreement that other districts in the Olympian Athletic Conference are appropriate comparables to utilize herein, they are in disagreement as to what if any weight should be given to evidence pertaining to increases which the District has granted to other of its employees.

Because the comparability issue may have an impact on the outcome of the wage issue, it will be initially addressed. Thereafter, the merits of the two substantive issues in dispute will be discussed individually. Finally, the relative merit of the total final offers of both parties will be addressed.

COMPARABILITY

The only dispute which exists is whether increases which the District granted to non-unit personnel, including the Custodial Supervisor, the Lunch Supervisor, the District Bookkeeper, and the District Administrator's Secretary, should be considered significant comparables for the purpose of this proceeding.

District Position

The Union has advanced other employees of the District as comparables. The Board does not believe said employees are as comparable as comparable employees in other Conference schools since the employees in question are managerial, supervisory and/or confidential and they do not perform the same duties nor do they have the same responsibilities as bargaining unit employees. In addition, these employees are paid a yearly salary and are expected to work beyond their normal work week should the need arise.

Association Position

The District employees in question should be considered as comparables based upon the commonality of their duties and conditions of employment.

Discussion

The undersigned is of the opinion based upon the stipulated facts in this record pertaining to wages of comparable employees in the settled districts in the Olympian Conference, that said data should be given the most significant weight in determining the reasonableness of the parties' proposals based upon comparability. That is not to say that the increases the District has granted to other employees are not relevant -- in fact, they are; however, the most useful comparisons which can be made in proceedings such as this are made between employees with similar levels of responsibility who perform similar duties, requiring similar skills and training, in similar employment settings. Clearly, in this matter, the most comparable employees to those present herein are those in similar classifications in comparable districts, and thus, said employees' wages must be given greater consideration and weight than the wages and increases which the District has granted to non-unit employees whose levels of responsibility are distinguishable from the employees in question.

WAGES

The Board proposes a \$.35 per hour salary increase across the board. The Association proposes a \$.50 per hour increase.

The Board's total package cost amounts to approximately 9.3%. The approximate value of the Association's proposal is 12.3%.

The difference in the cost of the parties' proposals is about \$5700.

Association Position

The most equitable way to look at salary raises for hourly employees is to look at the amount per hour rather than what percent that equals.

If one looks at the raises given District employees over the last few years, one can see how the percentages have given the higher paid employees larger raises than those of lower paid employees.

During the last few years, when inflation was at an extremely high rate, salary increases given to support personnel in the District always ran well behind the CPI, while those given to other District employees equaled or bettered the CPI. Thus, the gap between the salaries received by the higher paid District employees and support personnel has widened.

The fifty cents per hour increase proposed by the Association will allow unit members to keep pace with some District employees (Custodial Supervisor, Lunch Supervisor, Bookkeeper and District Administrator's Secretary) while others (teachers and administrators) will still widen the gap but not to the extent that would result with acceptance of the Board offer.

In this regard the District has given the Custodial Supervisor the equivalent of a sixty-three cents per hour raise for 1982-83. The Custodial Supervisor works the same number of hours, does the same jobs and has all other benefits as other custodians.

The District Bookkeeper has already been granted a raise amounting to the equivalent of fifty-one cents per hour, and the District Administrator's Secretary has been granted a raise amounting to the equivalent of forty-six cents per hour. Both work the same number of hours and do work that is similar to the work performed by unit secretaries. Both have fringe benefits in addition to those enjoyed by the secretaries in the unit.

The Lunch Supervisor has been given a raise equalling forty-seven cents per hour. She works the same number of hours, does the same work and has the same benefits as the other cooks.

All of these increases support the reasonableness of the Association's wage proposal.

In support of the Association's contention that unit personnel are underpaid in comparison to other District employees is the fact that the District ranks fourth in "comparison costs" while it spends the second largest amount on instruction among the Conference schools. Thus, it is clear that the professional staff in Freedom reaps larger proportional benefits than the non-professional staff.

In addition, unit personnel are far behind their colleagues in other Conference districts when it comes to salary. Even if the Association's offer is accepted, the employees would remain far behind in salaries.

Regarding the District's state of the economy arguments, last summer when impasse was reached, the CPI was still at 10% or better. It has only been during the last few months that the CPI has dropped considerably. Thus, the earlier CPI data is clearly more relevant to the instant dispute.

Furthermore, although the Association does not dispute that the farm economy is depressed, as is the economy of the entire country, it would point out that the farms in the District have not been as negatively affected as have the farms across the country. Farms in the District are well established and so the inflationary costs are not as severe as in other parts of the country, since they do not have to purchase equipment and other materials to the extent of the less established farms. Additionally, the farms in the

Freedom area are certainly not depressed and the owners of these farms live very comfortably.

In addition, the tax rates in the District are not out of line with comparable districts. In fact, out of all comparable districts, Freedom assesses taxpayers the least amount for schools.

All of the foregoing considerations support the reasonableness of the Association's wage proposal.

District Position

In the midst of the most severe recession since the 1930s, an arbitrator should not award a 12.3% package as the Union has proposed. In this regard, Outagamie County's unemployment rate from January to June 1982 was 10.3%, slightly above the state average of 10%. Delinquent real estate taxes from 1980 to 1981 in Outagamie County have also increased 40 percent, far in excess of the State average.

The impact of high unemployment, wage freezes, wage cuts or very small wage increases mean severe cutbacks in many citizens' income levels.

The Board cannot in good conscience agree to burden the hard-pressed taxpayer with a significant tax increase to cover the Association's double-digit wage and fringe benefit package.

In addition, because of the District's heavy reliance on the farm community to fund its budget, it is important to consider the disastrous economic conditions facing farmers at this time as well.

In this case the general public interest and the employee interest as expressed in the Association's offer are opposed. The Board's final offer most reasonably balances the public interest with the employee interest. An offer of 9.13% in an economy with an inflation rate of 3.3% clearly strikes a responsible and generous balance between the public interest and the needs of the District's employees.

Relatedly, the taxpayers in the District support the District's educational programs handsomely as evidenced by the District's rank of fourth out of ten when comparing complete annual school cost per member in 1981-82 as well as the "comparison cost," or the amount of money that is attributed solely to the District's instructional program.

Many arbitrators have already recognized the extreme significance of the current recession and its impact on the interest and welfare of the public as the most important statutory criterion upon which arbitration awards should be based. (Citations omitted.) Such recognition should apply herein.

Somewhat relatedly, the cost-of-living for the relevant contract period increased by 5.8%. The Board's final offer exceeds the

In terms of ranking with Conference districts, Freedom ranks in the middle in terms of salaries paid to support staff. In addition, on most positions the Board's final offer is above the average wage by \$.10 to \$.70 per hour. The Association's final offer exceeds the average wage in all positions but one, by \$.04 to \$.85 per hour. Thus, the Board's final offer is more reasonable since it is paying wages that are significantly above the Conference average on nearly all positions.

It therefore cannot be argued that there is any need for catch up in the District.

In addition, the Board's final offer is closer to the prevailing total package settlement rate established in the Conference, and in the same regard, the Association's 12.3% package is excessive.

Lastly, the parties have already agreed to numerous new benefits including health and dental insurance paid completely by the Board (up from 90% coverage); and one day of personal leave with pay. Most comparable districts do not provide comparable employees with the benefits and job protections the District provides these bargaining unit employees.

Discussion

Several factors support the reasonableness of the District's wage proposal. Most importantly, it would appear that the District's proposal will result in wages for unit employees which are generally comparable with the wages paid similar employees in comparable districts in the Athletic Conference. In this regard, when wages are compared at the high and low ends of the ranges in comparable districts, the District's proposal approximates or exceeds the Conference average in almost all instances. In addition, the District's proposal also results in a ranking among Conference districts which approximates the middle of the range in most instances. Thus, based upon comparability, the District's proposal would result in competitive wages for unit employees.

In this same regard it must be conceded that the Association's wage proposal would also result in relatively competitive wages, and thus, if the two proposals were to be evaluated solely on the basis of their comparability with wages in comparable districts, no significant difference in their relative reasonableness could be discerned.

While the undersigned concedes that percentage comparisons are generally not terribly reliable, the evidence in this record indicates that by and large the total package percentage increases granted to similar employees in comparable districts more approximates the District's proposal herein than the Association's. While the reliability of the record evidence may be subject to challenge, there is no evidence indicating that any of the increases granted in comparable districts even approximate the total value of the package proposed by the Association herein.

Regarding the comparisons which the Association has relied upon among other District employees, while it must be conceded that such comparisons generally support the reasonableness of the Association's proposal, these comparisons will not be given as much consideration or weight as those which have been made with similar employees in comparable districts, for reasons which have been discussed above.

In addition, the record indicates that the employees herein generally receive comparable, and in some instances, superior fringe benefits, particularly in the insurance areas, which further supports the reasonableness of the Board's total package proposal. In this regard it is not insignificant to the undersigned that in this round of negotiations the parties have agreed to improved health and dental insurance coverage, at a time when insurance rates are escalating and when many employees are being compelled to accept lesser benefits in this regard.

Additional support for the Board's position can be found in the record pertaining to the impact of the recession in the Outagamie County area, with unemployment exceeding 10% and with significant increases in delinquent taxes, which both reflect the hardship which many taxpayers who are at least partially responsible for supporting the District's educational programs have been confronting. Under such circumstances, it is not unreasonable for an elected body such as the Board to attempt to balance the competing interests of many of the District's hard-pressed taxpayers and the District's employees, to accommodate, as best it can, the interests of both. In this case, the Board's proposal appears to fairly consider both interests in that it provides the employees in question with competitive wages and working conditions; with wage increases which are relatively moderate, particularly when compared to the increases the District granted to other District employees; and with total benefit increases which will prevent the employees in question from losing real income to inflation based upon relevant CPI increases.

Based upon all of the foregoing considerations it is the undersigned's opinion that the District's wage proposal is the more reasonable of the two which have been submitted herein.

BARB PAHL'S ENTITLEMENT TO
CONTRACTUAL HEALTH AND DENTAL
INSURANCE AND
SICK LEAVE
BENEFITS

The Association proposes a side letter agreement in which the District would agree to provide Barb Pahl, a part-time employee, fully paid single health and dental insurance coverage, and in addition, Pahl would be allowed to accumulate sick leave as per the Agreement to a maximum of forty-five days.

The District has no proposal on this issue, which would in effect result in continued denial of such benefits to Ms. Pahl.

Association Position

Presently, all District employees except Barb Pahl, the Special Education Secretary, and four kitchen helpers are included in the insurance program. Pahl works 27½ hours per week while the others work twenty hours or less. The four kitchen helpers are not members of the bargaining unit.

The Board has never argued that the cost of including Pahl in the insurance and sick leave programs was prohibitive; in fact, the cost would only be \$767.28, plus the remote possibility of additional costs resulting from her use of sick leave.

The Board has presented no sound reason why she should continue to be deprived of such benefits.

District Position

The Agreement defines employees based on the number of months worked and the amount of hours worked per week:

1. Regular, full-time, 12 month employees
2. School Year Employees
35-40 hours per week
30-35 hours per week
3. Regular, part-time employees, 25-30 hours per week,
6-12 months worked per fiscal year

Currently, Barb Pahl is classified as a part-time employee since she works 27½ hours per week.

The Agreement currently provides that part-time employees do not receive any health and dental insurance benefits.

Part-time employees also receive nine days of sick leave per year with no accumulation.

The categories established in the Agreement and bargained in the first contract one year ago must be upheld. To make exceptions and side letters for various individuals defeats the entire purpose and rationale for the definition of employee categories.

Discussion

The undersigned believes that if this issue is to be equitably resolved, the resolution must be based upon an amendment of the Agreement's terms which would affect everyone similarly situated in an identical manner. Special arrangements for Ms. Pahl would more than likely cause additional disputes in the future regarding other similarly situated employees. Therefore, because the Association's proposal does not address the issue properly, it is the undersigned's opinion that the District should prevail on this issue as well.

Perhaps it should be noted in this regard that the foregoing conclusion is based upon the Association's approach to the problem; it is not based upon the merits of the Association's contentions regarding Ms. Pahl's equitable right to such benefits.

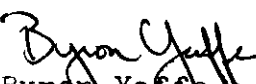
TOTAL FINAL OFFER

The undersigned has concluded that the District's proposals on both issues in dispute are more reasonable than the Association's, and therefore, it must be concluded that the District's total final offer is more reasonable than the Association's as well. Accordingly, the undersigned hereby renders the following:

ARBITRATION AWARD

The final offer submitted by the District herein shall be incorporated into the parties' 1982-1983 Agreement.

Dated this 30th day of June, 1983 at Madison, Wisconsin


Byron Yaffe
Arbitrator