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IN THE MATTER OF MEDIATION/ARBITRATION PROCEEDINGS FEB 26 1985

BETWEEN

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

D.C. EVEREST PARAPROFESSIONAL
UNION, LOCAL 1908, AFSCME,
AFL-CIO

CASE XXVI
No. 33331 MED/ARB 2744
DECISION AND AWARD
OF ARBITRATOR

and

DECISION NO. 21941-A

D.C. EVEREST AREA SCHOOL
DISTRICT.

I. BACKGROUND

This is a matter of final and binding interest arbitration pursuant to Section 111.70(4)(cm)6 of the Wisconsin Municipal Employment Relations Act. The D.C. Everest Paraprofessional Union, Local 1908, AFSCME, AFL-CIO (Union) is the exclusive bargaining representative of certain employees of the D.C. Everest Area School District (District or Employer) in a collective bargaining unit consisting of all regular full-time and regular part-time secretaries, teacher aides, library aides, special education aides, tutors and clerical employes.

The Union and the Employer were parties to a collective bargaining agreement which will expire on June 30, 1985. This proceeding involves proposals relating to a reopener provision in the current contract. On May 21, 1984, the Union filed a petition requesting the Wisconsin Employment Relations Commission (WERC) to initiate mediation/arbitration. On August 22, 1984, the parties submitted to the WERC their final offers as well as a stipulation on matters agreed upon.

On September 4, 1984, the WERC certified that the conditions precedent to the initiation of mediation/arbitration had been met. The parties thereafter selected Jay E. Grenig as the mediator/arbitrator in this matter.

Mediation proceedings were conducted on November 26, 1984. The parties were unable to reach voluntary settlement and the matter was submitted to the Mediator/Arbitrator serving in the capacity of arbitrator on the same date.

The Employer was represented by Ronald Rutlin, Attorney at Law, Mulcahy & Wherry. The Union was represented by Daniel J. Barrington, Staff Representative, AFSCME Council 40. The parties were given full opportunity to present

relevant evidence and arguments at the hearing. Upon receipt of the parties' briefs, the record was declared closed on January 9, 1985.

II. FINAL OFFERS

The sole issue in dispute involves the appropriate level of wage compensation to be provided members of the bargaining unit for 1984-85. The basic difference in the two offers is the Union's proposal that each cell on the schedule be compensated at five cents per hour more than is provided in the District's offer.

The cost of the District's final offer for wages only equals \$523,213 or an increase of 6.23%. The District's wage offer would generate a total package of \$670,758 or an increase of 6.54% over the 1983-84 wage and benefit costs. The cost of the Union's final offer for wages only equals \$527,597 or an increase of 7.12%. The wage offer would generate a total package cost of \$675,983 which equals a 7.37% increase over the 1983-84 wage and benefit costs. The difference in total package cost between the two offers is \$5,225.

The Union's final offer is set forth in Exhibit A attached to this Award and incorporated by reference. The Employer's final offer is set forth in Exhibit B attached to this Award and incorporated by reference.

III. STATUTORY CRITERIA

In determining which offer to accept, the Arbitrator must give weight to the following statutory (Wis. Stats. sec. 111.70(4)(cm)7) criteria:

- a. The lawful authority of the employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and financial ability of the unit of government to meet the costs of any proposed settlement.
- 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 and with other employees generally in public employment in the same community and in comparable communities and in private employment in the same community and in comparable communities.
- e. The average consumer prices for goods and services commonly known as the cost of living.

- f. The overall compensation presently received by the municipal employees, including direct wages, compensation, vacation, holidays, and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
- g. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- 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, factfinding, arbitration, or otherwise between the parties in the public service.

IV. POSITIONS OF THE PARTIES

A. THE UNION

The Union contends that the most appropriate set of comparables are those found within the District itself. It offers two reasons for its position:

1. Internal comparisons show that the Union's offer is superior and more reasonable when viewed in relation to compensation granted its employees over the last three years.
2. There is sufficient precedent supporting internal comparisons as primary factors in the consideration of final offers.

According to the Union, an erosion has developed with respect to the other five employee groups of the District. The Union says that a comparison of the last three years clearly shows that the Union's offer is more in line with the pattern of settlements than the District's offer.

The Union asserts that the average increase of 1984-1985 settlements within the District is in excess of eight percent. Eliminating the administrative and confidential employees, the average increase granted the food service, custodial, teaching and administrative units averaged 7.3%.

The Union points out that a tentative agreement was reached on the very same basis as the Union's final offer but was rejected by the School Board.

B. THE EMPLOYER

The District argues its final offer guarantees that the

members of the bargaining unit will receive pay and benefit increases exceeding increases in the cost of living.

With respect to a comparison of wages, the District claims its selection of comparable districts provides a balanced selection that conforms to the general determination of comparability. When compared with the level of settlements, wages and benefits provided to similar employees in comparable districts, the District says its final offer is more reasonable than the Union's.

The District contends that it has provided a fair and equitable increase when compared to the increases provided to Marathon County employees, City of Schofield employees and other District employees.

The District submits that the economic climate operating within a community must be considered in a final determination of this case.

It concludes that the Union's attempt to interject into these proceedings a tentative agreement reached during negotiations and later rejected by the School Board is totally inappropriate.

V. FINDINGS OF FACT

A. LAWFUL AUTHORITY OF THE EMPLOYER

There is no contention that the District lacks the lawful authority to implement either offer.

B. STIPULATIONS OF THE PARTIES

While the parties were in agreement on many facts, there were no stipulations with respect to the issue before the Arbitrator.

C. ABILITY TO PAY AND INTERESTS AND WELFARE OF THE PUBLIC

There is no contention that the District lacks the financial ability to pay either offer. The economic conditions in the District are considered under another criterion.

D. COMPARISON OF WAGES HOURS AND CONDITIONS OF EMPLOYMENT

1. EXTERNAL COMPARABLES

In a previous interest arbitration involving the District and the teaching staff, the arbitrator concluded that the school districts making up the Wisconsin Valley Athletic Conference (Antigo, Marshfield, Merrill,

Rhineland, Stevens Point, Wausau and Wisconsin Rapids) and the contiguous districts of Mosinee and Wittenburg-Birnamwood were comparable to the D.C. Everest School District. *D.C. Everest School District*, Decision No. 17942-A (Christiansen, 1981).

In another more recent interest arbitration an arbitrator ruled that the school districts in the Wisconsin Valley Athletic Conference were appropriate comparables to be compared with the D.C. Everest School District. *D.C. Everest School District*, Dec. No. 21027 (Vernon, 1984).

Based on the geographic proximity, size, tax rates, and per pupil costs of the districts, it is concluded that the following school districts are appropriate external comparables to be used in comparing the wages, hours and conditions of employment of the District:

- Antigo*
- Marshfield
- Merrill*
- Rhineland
- Stevens Point
- Wausau
- Wisconsin Rapids
- Mosinee
- Wittenburg-Birnamwood

*Staff employees not represented by a union.

TABLE 1--TOTAL PACKAGE INCREASES IN 1984-1985
(Clerical and Aide)

District	Increase
Marshfield	6.25% (aides)
Stevens Point	6.4% (aides)
Stevens Point	6.5% (secretaries)
Wisconsin Rapids	6.5%
Rhineland	6.67%
Wausau	6.7%
Marshfield	7.0% (secretaries)
Antigo	7.5%
Merrill	7.5%
Mosinee	Not Settled
Wittenburg-Birnamwood	Not Available
Average Increase	6.78%
Median Increase	6.67%

District's Offer 6.54%
 Union's Offer 7.37%

The District's offer would result in a rate of increase exceeded by five of the comparable districts. The Union's offer would result in a rate of increase exceeded by two of the comparable districts. offer would rank third from the top. The District's offer is .24% below the average increase and Union's is .59% above the average. The District's offer is .13% below the median increase and the Union's is .7% above the median increase.

TABLE 2--COMPARISON OF HIGH SCHOOL PRINCIPAL SECRETARIES' WAGES AND LONGEVITY BENEFITS AT 17 YEARS

DISTRICT	BASE	LONGEVITY	TOTAL
Wisconsin Rapids	\$10.15	\$---	\$10.15
Merrill	7.68	.23	7.91
Wausau	6.95	.22	7.17
Stevens Point'	6.97	.12	7.09
Rhineland	6.30	.12	6.42
Antigo	6.30	.25	6.55
Wittenburg-Birnamwood	5.60	---	5.60
Marshfield	5.28	.32	5.60
Mosinee	Not Settled		
District's Offer	\$6.73	\$.60	\$7.33
Union's Offer	6.78	.60	7.38

The median total wage is \$6.75 and the average wage is \$7.06. Both offers would provide a total wage in excess of the median and the average. Both offers would place the District in third place in this comparison.

TABLE 3--COMPARISON OF ELEMENTARY SCHOOL PRINCIPAL SECRETARIES' WAGES AND LONGEVITY BENEFITS AT 17 YEARS

DISTRICT	BASE	LONGEVITY	TOTAL
Wisconsin Rapids	\$6.83	\$---	6.83
Wausau	6.34	.22	6.56
Stevens Point	6.42	.12	6.54
Merrill	6.21	.23	6.44
Rhineland	6.08	.12	6.20
Antigo	5.65	.25	5.90
Wittenberg	5.60	---	5.60
Marshfield	4.89	.32	5.21
Mosinee	Not Settled		
District's Offer	\$5.98	\$.60	\$6.58
Union's Offer	6.03	.60	6.63

The average total wage in this comparison is \$6.16 and the median total wage is \$6.32. Both offers would provide a total wage greater than either the median or the average. Both offers would place the employees wage in this comparison at second place.

Bargaining units in Marathon County and the City of Schofield received five percent wage increases in 1983 and in 1984. The District's offer would provide a wage increase of 6.23%--1.23% above the settlement pattern established in the city and county. The Union's offer (7.12%) exceeds the city and county settlement pattern by 2.12%.

2. INTERNAL COMPARABLES

In addition to the unit represented by the Union in this proceeding there are six other groups of employees:

1. Administrators (non-unionized)
2. Confidential Employees (non-unionized)
3. Teachers
4. Full-Time Custodians
5. Part-Time Custodians (non-unionized)
6. Food Service (non-unionized)

TABLE 4--TOTAL PACKAGE INCREASES OF OTHER EMPLOYEE GROUPS

GROUP	1982-1983	1983-1984	1984-1985
Administrators	10.55%	6.5%*	7.8%*
Confidential	9.77%	6.0%	12.3%*
Teachers	10.75%	7.68%	7.1%*
Custodians (FT)	8.9%	6.8%*	6.46%
Custodians (PT)	--	--	4.06%
Food Service	9.55%	6.0%	7.89%
* Wages Only			
Bargaining Unit	8.8%	7.00 (District)	6.54% (Union) 7.37%

In 1982-1983, the unit received the lowest overall increase of all of the units. In 1983-84, it ranked second, below the teachers. For 1984-85, the Union's offer would place it fourth and the District's offer would place it in fifth place.

The median increase (the mixture of total package and wages only causes some distortion, but generally tends to minimize the increase) in 1984-85 is 7.45% and the average increase is 7.6%. Disregarding the teachers and administrators, the average 1984-85 increase is 7.68%.

The Union's final offer would result in a total package increase over a period of three years more than that received by only food service workers and full-time custodians. The District's offer would result in a total package increase over a period of three years less than that received by all groups of employees except the full-time custodians.

Special factors affected both the food service and confidential clerical staff settlements. In 1984-85 the District opted to place food service staff on a specific salary schedule. Some employees had their wages frozen while others received substantial increases to place them on the appropriate step on the salary schedule.

E. CHANGES IN THE COST OF LIVING

Both offers exceed the increase in the cost of living as measured by the Consumer Price Index. The District's offer is slightly closer to the increase in the CPI than the Union's.

F. OVERALL COMPENSATION

Employees in the bargaining unit receive health insurance, dental insurance, life insurance, long term disability insurance, and District payment of the employee's share of the retirement contribution.

With respect to health insurance, the District pays 90% of the health insurance premium for the months worked by regular clerical staff and aides. All of the comparables pay 90% or more of the premium for single coverage. Two of the comparable districts have lower premiums than that paid by the District. Only one comparable (Wisconsin Rapids) pays less than 90% for family coverage. Some of the comparables do not provide health insurance coverage for persons working half-time or less (Wausau, Antigo, Marshfield, and Mosinee). Aides in Mosinee are not eligible for health insurance.

The District pays 90% of the employees' dental insurance premium. Five of the comparables (Antigo, Mosinee, Rhinelander, Stevens Point and Wisconsin Rapids) do not provide dental insurance coverage. Although Merrill pays only 75% of the dental insurance premium, 75% of the Merrill premium (\$12.56) is \$9.42 which is 74 cents more than the premium paid by the District. Wausau pays 50% of the premium.

The District and the comparables generally provide equivalent life insurance benefits. However, some of the comparables do not provide life insurance for part time staff employees.

The District pays 90% of the premium for long term disability insurance. Three of the comparable districts (Stevens Point, Wausau and Wisconsin Rapids) do not provide long term disability benefits. Some of the comparables restrict coverage to full-time employees.

G. CHANGES DURING THE PENDENCY OF ARBITRATION PROCEEDINGS

No relevant changes during the pendency of the arbitration proceedings were brought to the Arbitrator's attention.

H. OTHER FACTORS

This factor recognizes that collective bargaining is not isolated from those factors which comprise the economic environment in which bargaining occurs. See *Cudahy Schools*, Decision No. 19635 (Gundermann, 1982); *Madison Schools*, Decision No. 19133 (Fleischli, 1982).

In September 1984 the unemployment rate in the immediate area of the District was three percent above the September 1983 unemployment rate. However, employment levels are better than they were during the recession. Residential building is down, but remodeling is up significantly from last year. Employees of some of the larger companies in the area have agreed to concessions in their benefits.

Prior to the mediation/arbitration, the parties had reached a tentative agreement. Although the Union ratified the tentative agreement, the School Board rejected it. The tentative agreement is exactly the same offer which the Union has presented in this proceeding.

VI. CONCLUSION

In determining which party's offer is more reasonable, arbitrators attempt to determine what the parties would have settled on had they reached a voluntary settlement. Since the parties did not reach a voluntary settlement, one of the most important aids in determining where the parties would have settled is an analysis of the wages paid similar employees by other, comparable, employers. In addition, arbitrators have given great weight to settlements between an employer and its other employees. See *Waukesha County*, Decision No. 21299-A (Fleischli, 1984); *Green Bay Public Schools*, Decision No. 21480-A (Imes, 1984); *Rock County*, Decision No. 20600-A (Grenig, 1984); *Brown County*, Decision No. 20455-A (Michelstetter, 1983); *Manitowoc County*, Dec. No. 19942-A (Weisberger, 1983); *Milwaukee County*, Decision No. 20562-A (Fleischli, 1983); *City of Brookfield*, Decision No. 19573-A (Rice, 1982); *City of Oconto*, Decision No. 19800-A (Monfils, 1982).

Both the Union's offer and the District's offer provide for a wage increase in excess of the increase in the cost of living.

Both offers would place the District at the same relative position with respect to the wages paid elementary and high school secretaries in the comparable districts. The District's offer is slightly closer to the percentage rate of increase in the comparable districts than is the Union's offer.

With respect to the internal comparables, both offers are below the median and average percentage increases for 1984-1985 in the District. However, the Union's offer of 7.37% is significantly closer to the median (7.45%) increase and the average (7.6%) increase than the District's offer (6.54%). When teacher and administrator pay increases are disregarded, the Union's offer is even closer to the average increase for staff employees (7.68%).

The Union's offer is also closer to the percentage increases in four of the six employee groupings. Only the full-time and part-time janitors are below seven percent and closer to the District's offer. Although the full-time janitors are the only other group of non-professional employees represented by a union, it would be illogical to disregard the higher increases granted the non-union employees. Ignoring the increases granted the non-union employees in determining the internal comparables would, in effect, employees for being represented by a union.

While the increase in the confidential employees' wages is partly attributable to a restructuring of the wage schedule, this does not alter the fact that the confidential employees received a total package increase during the past two years of 15.77% while the employees in the bargaining unit received a total package increase of 15.8%. Thus, for whatever reason, the confidential employees would be receiving a three-year total package increase of 28.07% compared with a total package increase for employees represented by the Union of 23.17% under the Union's offer or 22.34% under the District's offer.

The settlement pattern in Marathon County and the City of Schofield is not persuasive here. An examination of total package increases in the District from the 1982-83 school year to, and including, the 1984-85 school year discloses that only the part-time janitors (in 1984-85) have been granted increases equal to or less than that of the County and City employees. There is no reason to limit the employees represented by the Union by a settlement pattern established by other employers where other District employees have been not been similarly limited.

With respect to total compensation, the record shows that District employees generally receive benefits equivalent to or better than those received by employees in the comparable districts. The one comparable that pays less than 90% for family health coverage also pays the highest hourly wage. The comparable districts that do not provide dental insurance all pay a larger percentage of the health insurance premium than the District does here.

While there may be serious economic problems in the area of the District, the internal settlement pattern in the District provides the best guidance as to which of the two offers is the more reasonable. The District has not demonstrated that its economic problems are so significant as to justify a departure from the internal settlement pattern.

The fact there was a tentative agreement at one time has no bearing on the outcome in this case. This proceeding is not the proper forum for determining the propriety of the School Board's rejecting a tentative agreement agreed to by its representatives. The Arbitrator is limited to

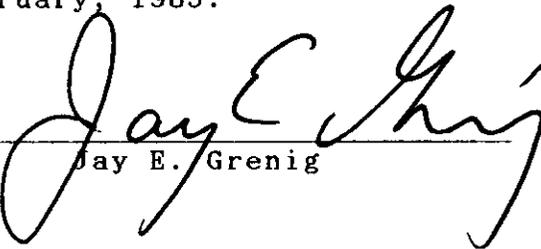
determining which of the final offers submitted to the WERC is the more reasonable. Questions of good faith are beyond the Arbitrator's jurisdiction.

Both offers will place the District at the same relative position among the external comparables but the Union's offer is closer to the settlement pattern already established in the District among the other employee groups. Accordingly, it is concluded that the Union's final offer is more reasonable than the Districts.

VII. AWARD .

Having considered all the evidence and arguments submitted in this matter in accordance with the statutory criteria, it is the Arbitrator's decision and award that the Union's final offer is more reasonable and is to be incorporated into the parties' collective bargaining agreement together with all previously agreed upon items.

Executed at Waukesha, Wisconsin, this 25th day of February, 1985.



Jay E. Grenig

David J. Buzg

EXHIBIT "A"

1984-85 SCHOOL YEAR WAGE SCHEDULE

WAGE SCHEDULE

<u>CLASS</u>	<u>START</u>	<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>
I	\$5.53	\$5.78	\$6.03	\$6.28	\$6.53	\$6.78
II	5.03	5.23	5.43	5.63	5.83	6.03
III	4.83	5.03	5.23	5.43	5.63	5.83
IV	4.73	4.88	5.03	5.18	5.33	5.48
V	4.63	4.78	4.93	5.08	5.23	5.38

- 1) Employees hired prior to January 1, shall be considered to have completed one year of service for placement on the salary schedule following July 1. Employees hired after January 1, shall be considered to have completed one year of service for placement on the salary schedule on July 1 of the following year.
- 2) Longevity pay is provided at the rate of 5¢ per hour for each year completed beginning with the 6th year to a maximum of 60¢ per hour after the completion of the 17th year.

EXHIBIT "A"

1984-85 SCHOOL YEAR WAGE SCHEDULE

<u>CLASS</u>	<u>START</u>	<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>
I	\$5.48	\$5.73	\$5.98	\$6.23	\$6.48	\$6.73
II	\$4.98	\$5.18	\$5.38	\$5.58	\$5.78	\$5.98
III	\$4.78	\$4.98	\$5.18	\$5.38	\$5.58	\$5.78
IV	\$4.68	\$4.83	\$4.98	\$5.13	\$5.28	\$5.43
V	\$4.58	\$4.73	\$4.88	\$5.03	\$5.18	\$5.33

1. Employees hired prior to January 1, shall be considered to have completed one (1) year of service for placement on the salary schedule following July 1. Employees hired after January 1, shall be considered to have completed one (1) year of service for placement on the salary schedule on July 1 of the following calendar year.
 2. Longevity pay is provided at the rate of 5¢ per hour for each year completed beginning with the sixth (6th) year to a maximum of 60¢ per hour after the completion of the 17th year.
- * The above wage schedule, Exhibit "A", represents the Board of Education's final offer. All other provisions of the contract 1982-83, 1983-84, 1984-85 will remain intact.

EXHIBIT B