

SEP 26 1985

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSIONSTATE OF WISCONSIN  
BEFORE THE MEDIATOR/ARBITRATOR

In the Matter of the Petition of

WESTON TEACHERS ASSOCIATION

To Initiate Mediation-Arbitration  
Between Said Petitioner and

WESTON SCHOOL DISTRICT

Case 17

No. 34218 MED/ARB-3072

Decision No. 22429-A

Sherwood Malamud  
Mediator/ArbitratorAppearances

Arden Shumaker, UniServ Director, South Central United Educators, 214 West Cook Street, Portage, Wisconsin 53901, appearing on behalf of the Association.

Kenneth Cole, Director, Employee Relations, Wisconsin Association of School Boards, Inc., 122 West Washington Avenue, Madison, Wisconsin 53703, appearing on behalf of the Municipal Employer.

JURISDICTION OF MEDIATOR/ARBITRATOR

On April 24, 1985, the Wisconsin Employment Relations Commission appointed Sherwood Malamud to serve as the Mediator/Arbitrator to attempt to mediate issues in dispute between the Weston School District, hereinafter the District or the Board, and the Weston Teacher's Association, hereinafter the Association. If mediation should prove unsuccessful, said appointment empowered the Mediator/Arbitrator to issue a final and binding award pursuant to Sec. 111.70(4)(cm)6.c. of the Municipal Employment Relations Act. A mediation session was conducted on June 10, 1985. The Mediation proved unsuccessful. Hearing in the matter was held on June 17, 1985. The parties presented documentary evidence and testimony at the hearing. The parties submitted briefs which were exchanged through the Mediator/Arbitrator by August 1, 1985. On August 8, 1985, the Association requested that hearing in the matter be reopened. The reason for the Association's request was to submit additional testimony and evidence with regard to the health insurance issue, in this case. The District objected to the reopening of the hearing. The motion to reopen the hearing was rejected by the Mediator/Arbitrator, in part, because of the further delay in the issuance of a final and binding award in this matter which would result should the motion to reopen the hearing be granted. Based upon a review of the evidence, testimony and arguments submitted, and upon the application of the criteria set forth in Sec. 111.70(4)(cm)7.a-h, Wis. Stats., to the issues in dispute herein, the Mediator/Arbitrator renders the following Arbitration Award.

SUMMARY OF THE ISSUES IN DISPUTE

The issues in dispute to be determined by the Mediator/Arbitrator relate to the salary schedule both in relation to its structure and the amount of money to be placed in the schedule. The second issue concerns health insurance. The final offers of the parties contain proposals for different health insurance plans. The District's proposal attempts to maintain the status quo by obligating the District to provide coverage under specifications appended to the 1983-84 Agreement. The Association proposes that the Wisconsin Education Association Insurance Trust Deluxe Health Plan be implemented and paid for by the District.

## Salary Schedule Issue for 1984-85

The Association proposes a salary schedule built upon a BA base of \$13,900. The District proposes a BA base of \$13,700. Both the Association and the District propose to change the structure of the schedule from the one included in the prior, 1983-84, Agreement. That schedule contains 13 "experience" steps; lanes which are reflective of educational achievement as established in the 1983-84 Agreement at the BA, BA+ 12 credits, BA+24 credits, as well as 2 lanes for teachers with Masters Degrees, MA and MA+12 credits.

Both the Association and the District retain the 13 experience steps. However, the Association proposes to change the lanes to: BA, BA+8 credits, BA+ 16 credits, 24 credits; Masters Degree, MA+8 credits and MA+16 credits.

The District proposes a seven lane schedule, as well. However, in the District's schedule, the lanes at the Bachelors Degree remain identical to those included in the 1983-84 Salary Schedule, namely, BA, BA+12 credits, and BA+24 credits. The District proposes to change the schedule at the Masters Degree with lanes at the MA, MA+12 credits, MA+24 credits and MA+36 credits.

The District proposal contains a total package increase of 8.61%. The Association offer contains a total package increase of 9.57%.

With regard to the health insurance proposals of the parties, the District proposal would maintain expenditures at the 1983-84 level for the District by fixing the District's contribution to \$64.74 per month for singles and \$164.20 for family coverage. The Association proposes that the new health insurance plan be implemented 30 days subsequent to this Award.

### STATUTORY CRITERIA

The criteria to be used for resolution of this dispute are contained in Sec. 111.70(4)(cm)7, as follows:

Factors considered. In making any decision under the arbitration procedures authorized by this subsection, the mediator/arbitrator shall give weight to the following factors:

- a. The lawful authority of the municipal employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and the 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 employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services and with other employes 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 employes, including direct wage 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, fact-finding arbitration or otherwise between the parties, in the public service or in private employment.

#### BACKGROUND

The Weston School District is located both in Richland and Sauk Counties. The District's School Building is located just south of Cazenovia, Wisconsin. Weston is a rural school district. There is no commercial center in the District.

In the course of bargaining, the parties agreed that for costing purposes, they would use a teacher full-time equivalency (FTE) of 31.5 teachers. In fact, the District was staffed with 27.5 teachers during 1984-85. The pupil population of the District as measured by its average daily membership is approximately 430 students.

The District is included in the 8 member school Ridges and Valley Athletic Conference which in addition to Weston includes: De Soto, North Crawford (Gays Mills), Kickapoo, Seneca, Ithaca, Wauzeka and La Farge School Districts.

#### POSITIONS OF THE PARTIES

##### The Association's Argument

The Association recounts several facts in its brief in support of its final offer, with regard to its proposal to change health insurance plans and carriers. During the 1982-83 school year, the Association recounts that the District unilaterally purchased a new health insurance policy from WPS which contained a larger deductible and different specifications than the policy then in effect with Blue Cross/Blue Shield. This unilateral change in health insurance coverage became a serious issue in the negotiations leading to the 1983-84 Agreement. The parties resolved this issue in that Agreement by providing that the District shall reimburse teachers for their medical bills which would be included and covered under the Blue Cross/Blue Shield policy and the specifications underlying that policy set forth in Appendix C to the 1983-84 Agreement, but which are not compensable under the policy purchased by the District from Wisconsin Physicians Service for the 1983-84 school year. This change in language put the District in the health insurance business, the Association asserts. The District hired an individual, David Massey, to review the claims made by the District's teachers for reimbursement under the different deductibles. The District purchased a policy from WPS providing a deductible of \$250, whereas, the specifications contained in the collective bargaining agreement at Appendix C provides for a \$50 deductible. The Association notes as well, that the District's policy with WPS provides coverage to new employees 30 days after their employment. The Association claims that the specifications contained in the collective bargaining agreement mandate coverage upon the first day of employment. As a result, the employer is totally self-insuring the first 30 days of coverage for new employees.

On the basis of these factual assertions, the Association premises its arguments on the health insurance issue. The Association maintains that its offer is preferable to that of the District on this issue for the following reasons:

1. The Association asserts that the machinations of the District to effectuate a savings on health insurance premiums are short run, at best. The Association asserts that the program adopted by the District by reimbursing employees the difference between the two deductibles would not generate long term savings in premiums.

2. The Association argues that the District's partial self-funding of the deductible and more importantly the self-funding of the first 30 days

of coverage is illegal under the case law established in the Madison Metropolitan School District Case, Circuit Court, Dane County, 83-CV-3432.

3. The Administration of employee claims by a consultant employed by the District violates the right to privacy of individual teachers.

4. The Association asserts that its proposal for insurance with the Wisconsin Education Association Insurance Trust Deluxe Health Plan places employee health insurance and the administration of the health insurance benefit in the hands of a traditional health insurance carrier. The Association disparages what it views as the District's feeble attempt at the hearing to discredit the WEAIT Insurance Program and the Trust as an insurance carrier.

With regard to the salary issue, the Association argues that the District's proposal to restructure the salary schedule has little or no impact on the teachers presently employed in the District. Only three teachers are in the MA lane. Twenty-three of the 31+ FTE are in the BA lane. There are but three teachers in the BA+12 lane and 2 teachers in the BA+24 lane.

The Association emphasizes that its proposal, on the other hand, encourages teachers to return to school. By establishing the second lane at the BA+8 credits, a teacher may move from the BA lane to the BA+8 lane by taking a full load of 8 credits in summer school. Thus, under its proposal, a teacher may begin to move across the schedule and may see immediate results in her/his returning to school under the salary structure schedule proposed by the Association.

The Association's benchmark analysis is premised on the notion that all the districts in the southwest corner of the state, lag far behind in the level of salaries paid by them as compared to the level of salaries paid to teachers in the remainder of the state. The Association urges the Arbitrator to use statewide comparisons or comparables in evaluating the final offers of the Association and the District. The Association asserts that a failure on the part of the Arbitrator to use state wide comparisons, will cause the continued erosion and growing disparity in salaries paid to the teachers at Weston as compared to the salaries paid to teachers in the balance of the State of Wisconsin. A comparison of the proposals of both the Association and the District as compared to salary levels at the benchmarks reflects a significant difference of up to \$6,000 in the level of salaries paid at the schedule maximum.

With regard to the Association analysis at the benchmarks, it limits its analysis to the four districts contiguous to the Weston School District. The Association notes the effect which each offer would have on the rankings of the Weston School District among the four contiguous school districts. The Association details the dollar increases generated by the final offers of the District and the Association at each of the benchmarks as compared to the settlements and/or final offers in effect in the four contiguous school districts of Reedsburg, Richland Center, River Valley (Spring Green) and Ithaca. The Association argues that since two-thirds of the teachers employed by the District are located in the first lane of the salary schedule, i.e., the BA Column, that is the most important column to be weighed in evaluating the final offers of the Association and the District. The Association notes that the District in its BA base offer of \$13,700 which provides for an increase of about \$800 in the base, is less than the increase in the base proposed by any other athletic conference school with the exception of both the Association and District in De Soto.

The Association argues that the cost-of-living figures tend to support its position, as well. If the C.P.I. is to be used, then the impact of the cost-of-living should be examined as to its effect over a period of time which includes both low and high inflationary periods. In its brief, the Association adjusts the teacher's salary schedule at the benchmarks over a 10-year period from 1974-75 to the 1984-85 level. The figures thus

generated reflect that both the Association and the District offers are much lower than the salary levels generated by inflation over a ten year period from 1974-75 to 1984-85. The Association also notes that Arbitrators normally deal with the inflationary factor by looking at the level of salaries achieved through voluntary settlements. In that way, Arbitrators have expressed the view that the level of voluntary settlements are the best indicators of the effect to be given to inflationary forces. The Association concludes that both on the salary and on the health insurance issues, its offer is the more reasonable and the one that should be selected by the Arbitrator.

### The District's Argument

The District notes that given the local economic conditions prevalent in the communities serviced by the District as reflected by the unemployment, the rate of increase in delinquent taxes and the relatively low increase in cost of living, its total package offer of 8.61 % vs. the 9.57% increase demanded by the Association is not only more reasonable but it is generous. The District notes that the delinquency rate in the payment of property taxes has increased from \$179,875 to \$576,809 from 1980 to 1983 in Richland County. The unemployment rate in Richland County increased from 9.4 to 10.8%, and the unemployment rate in Sauk County has increased from 11.7 to 14.0% from 1984 to 1985. The District notes, as well, that the C.P.I. is running at 4%; the District's offer is more than double the C.P.I. The District notes that Association Exhibit #51 demonstrates that if the BA base, as it existed in 1980, were simply adjusted for inflation through 1984-85, the base would be \$13,608 rather than the \$13,700 offered by the District.

With regard to the comparability factor, the District asserts that the Ridges and Valleys Athletic Conference encompasses all the comparable districts. Nonetheless, the District observes that the athletic conference School District of LaFarge has granted large increases for 1984-85 in order to bring its salary schedule to a competitive level with other conference schools.

With regard to the balance of the Districts in Southwestern Wisconsin, the Weston School District notes that between 13 and 20 of these school districts have settled their collective bargaining agreements with increases in their salary schedules at each of the benchmarks at sums lower than those offered by the District, in this case. The District emphasizes that the Arbitrator must conclude on this evidence that the Weston School District is not in a catch up situation. Therefore, its offer is the most reasonable.

On the health insurance issue, the District asserts that its position represents the status quo. The District asserts that the Association has failed to demonstrate the need for a change in insurance programs or carriers. The only evidence proffered by the Association with regard to the administration of the District's health insurance program is the misgivings of one employee concerning the manner in which claims were processed. The District argues that claim processing is a perennial complaint which appears under any insurance program. The District concludes that its offer on health insurance and on salary schedule issues is preferable to that of the Association's.

### DISCUSSION

The Mediator/Arbitrator first addresses the salary schedule issue and then analyzes the offers of the parties relative to the health insurance matter and the many issues inherent in determining that part of this dispute. The discussion then concludes with the selection of the final offer of either the Association or the District by the Mediator/Arbitrator.

## Salary Schedule

The factors of "the lawful authority of the municipal employer"; "stipulation of the parties"; "the interests and welfare of the public", etc.; as well as, "changes in any of the foregoing circumstances", etc. and "such other factors, not confined to the foregoing", etc. were not argued by the parties nor are these statutory criteria referred to by the Mediator/Arbitrator in selecting the preferable offer on the salary schedule matter. The comparability factor is the one emphasized in the briefs of both the District and the Association.

The difficulty in this case with regard to the comparability factor is that at the time the parties presented their cases, very few Ridges and Valley Athletic Conference Schools had achieved settlements for the 1984-85 school year or had concluded the mediation/arbitration process. As a result, the Association urges the Arbitrator to add to the comparable districts the contiguous school districts of River Valley (Spring Green), Richland Center and Reedsburg, as well as, Hillsboro and Wonewoc. The District, on the other hand, suggests that the Arbitrator refer to the 20 school districts located in the Southwest corner of Wisconsin. In Chart A, the Arbitrator has included the contiguous districts of Hillsboro and Wonewoc to the athletic conference schools as additional comparables. These two districts share the rural character of the Weston School District and they are similar in size based on their average daily membership and the size of their respective teaching staffs. Unfortunately, these districts have not settled their agreements for 1984-85, nor have the parties been able to submit any useful bargaining data such as final offers certified by the WERC which may be used in this case. In its brief, the Association suggests the use of the contiguous districts of Reedsburg, Richland Center, and River Valley. The District suggests Richland Center as a comparable, as well. However, these districts are much larger in size than Weston as measured in average daily membership and the size of teaching faculty. Furthermore, these districts contain a commercial center in the District, and are not wholly rural in character as is Weston.

The large number of school districts suggested by the Board as comparables and which are located in Southwestern Wisconsin are proffered, because the Board recognizes, as does the Association, that there are few settled districts on which a decision of the Mediator/Arbitrator may be based.

In the discussion below, in order to provide meaning to the data available from the comparable districts for 1983-84 and 1984-85, the Arbitrator contrasts the impact the offers of the Association and District for the 1984-85 school year have on the margin of difference from the average salary paid at the benchmarks among the comparables, as compared to the margin between the Weston salary levels in 1983-84 and the average salaries paid by the comparable districts at the benchmarks. This relationship not only measures the size of the salary increase proposed by each side, but it also measures the amount of change brought about by the proposal of each party.

In the attached chart, the Arbitrator has established the relationship between the salary paid by the Weston School District in 1983-84 as compared to the average salary paid by the comparable school districts in that year. That relationship is then compared to the relationship between the final offers of the Association and the District for 1984-85 and compared to the average salary paid by comparable Districts at each of the Benchmarks. The Districts of De Soto and Kickapoo are in the stage of the Mediation/Arbitration process where their final offers are certified. The Arbitrator used the Union final offers in the calculation of the average salary. Obviously, the average will show a distortion as a result of using the Union's rather than the Employer's final offers. Nonetheless, that distortion will have no impact on the outcome in this case.

For what is apparent from Chart A, is that the District's offer at the BA base maintains the same relationship to the average as the base period in 1983-84 relates to the average BA base paid by comparable districts in 1983-84. In 1984-85, the District offer is \$120 above the average. In 1983-84, it was \$121 above the average. The Association offer, on the other hand, increases the margin above the average at this benchmark by an additional \$200 to \$321. Similarly, the District offer in 1984-85 at the BA or first lane of the salary schedule 7th Step reduces the margin above the average relative to the margin above the average paid by the District in 1983-84 at the BA 7th Step benchmark. In 1983-84, that margin was \$604 at the BA 7th Step; in 1984-85, the margin is \$510 above the average at that benchmark. The District offer reduces the margin above the average by \$94. The Association's offer increases the margin above the average by \$254 to \$758 above the average.

At the top step of the BA lane, the District paid teachers at this benchmark \$854 above the average in 1983-84. In 1984-85, the District offer reduces the margin paid by Weston above the average by \$203 to \$651 above the average. The Association offer increases the margin above the average by \$93. At this benchmark, the District offer brings it closer to the average, but it does so with a significantly larger change of almost 2 to 1 over that of the Association offer.

Neither the Association nor the District suggested the top step in the highest BA lane as a benchmark in their salary schedules. However, the Arbitrator believes that the BA plus lane maximum serves as a counterpart to the schedule maximum, the well accepted benchmark in the master's lanes of teachers' salary schedules. The District offer in this lane continues its position above the average salary paid at this benchmark from 1983-84 to 1984-85. The Association's offer would place the District even further above the average salary at this benchmark than that paid by the comparables inclusive of the final offers of the Union in De Soto and Kickapoo. Here the District offer reduces the margin above the average which it pays its teachers by \$29 between the 1984-85 and 1983-84 school years. The Association offer, on the other hand, increases this margin above the average by \$178.

The above data clearly demonstrates that the Association offer increases the margin of Weston salary levels at the BA benchmarks over the average paid by comparable Districts at the benchmarks. Except for the top step of the BA lane, the Association offer produces a larger movement from the average than that produced by the District offer when the 1984-85 and 1983-84 school years are contrasted.<sup>1</sup>

The Association urges that the Mediator/Arbitrator compare its final offer to the average salary paid at the benchmarks by all the school districts in the state of Wisconsin which are settled for 1984-85. The Association asserts that this comparison convincingly demonstrates how far behind the teachers of Weston are to their counterparts who teach in districts outside of the Southwestern corner of this state. The Association argues that the Arbitrator's failure to employ this comparison shall forever relegate the teachers of Weston to salary levels inferior to their counterparts in the balance of the state.

The Association does not cite the decision of any other Arbitrator who has employed state-wide averages to reverse the conclusion which is clearly supported by the use of traditional comparability figures. This Arbitrator finds that the statutory criteria at Sec. 111.70(4)(cm)7.d. contemplates

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<sup>1</sup> This relationship is unchanged, except for the BA benchmark, if the final offer of the Union in Reedsburg and the salary schedule figures in the settlements of the contiguous school districts of Richland Center and River Valley are included in the computation of the average salary at the benchmarks. At the BA base, the district's offer is \$50 below the average with the Association's offer \$150 above the average if the other districts are included.

CHART A

1984-85

	BA Lane	BA Lane 7th Step	BA Lane Max.	BA+ Max.
<u>Primary Comparables</u>				
De Soto Assoc. F.O.	13,605	16,425	20,655	21,925
De Soto Dist. F.O.	13,700	16,340	20,300	21,500
North Crawford		Not Available		
Kickapoo Assoc. F.O.	13,745	16,655	20,050	21,100
Kickapoo Dist. F.O.	13,600	16,420	19,710	20,610
Seneca		Not Available		
Ithaca	13,750	17,050	19,800	22,268
Wauzeka	13,600	16,480	18,400	20,500
LaFarge	13,200	15,780	19,220	20,270
Hillsboro		Not Available		
Wonewoc		Not Available		
Weston Assoc.	13,900	17,236	20,572	21,904
Weston Dist.	13,700	16,988	20,276	21,697
Average	13,580	16,478	19,625	21,213

1983-84

	BA Lane	BA+7	BA Max.	BA Lane Max
<u>Primary Comparables</u>				
De Soto	13,000	15,460	19,150	19,875
North Crawford	12,750	15,510	18,270	19,630
Kickapoo	12,635	15,395	18,615	19,485
Seneca	12,900	15,450	17,575	19,180
Ithaca	12,750	15,810	18,360	20,520
Wauzeka	12,600	15,270	17,050	18,840
La Farge	12,100	14,380	17,420	18,220
Hillsboro	13,370	15,830	18,290	19,710
Wonewoc	12,905	15,425	18,785	19,745
Weston	12,900	15,996	19,022	19,980
Average (excluding Weston)	12,779	15,392	18,168	19,467



the use of state-wide comparables by including in the comparability criterion that the Arbitrator should consider a:

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 . . .

There is nothing in this statutory scheme which provides for giving added weight and preference to state-wide averages over the more specific and carefully matched comparables reflected in the use of athletic conference schools and other districts of comparable size, geographic location, rural character and economic base available to support the district.

Accordingly, the Mediator/Arbitrator has not used nor does he rely upon the state-wide averages to contradict the clear and unequivocal preference for the offer of the District over that of the Association which is the product of the traditional comparability analysis detailed above.

It should be noted, that the Mediator/Arbitrator has not carried this benchmark analysis into the MA lane benchmarks. The Association argues, and the Arbitrator agrees, that the data provided by the benchmark analysis in the MA lane provides little data significant to the teachers in this district. There are but a handful of teachers whose educational achievement placed them anywhere in the MA lane. Consequently, any changes made in those lanes has little bearing on the present teaching faculty. Furthermore, since approximately two-thirds of the teaching faculty are situated in the first BA lane, the BA base lane, any changes made in the MA lanes are unlikely to have any impact on these teachers in the foreseeable future. Finally, neither the offer of the Association nor that of the District with regard to the changes in the MA lanes contained in their proposals for a one year agreement provide any impetus to teachers to return to school to update their teaching skills. For this reason, the Arbitrator did not consider any of the data promulgated at the MA lane in reaching his conclusion relative to the salary schedule issue.

With regard to the structure of the salary schedule, the evidence demonstrates that only three of the comparables, Kickapoo, Seneca and Ithaca maintain a BA+8 rather than a BA+12 as the second lane in their schedule. The comparables, therefore, do not dictate the change in the salary schedule proposed by the Association.

#### Total Compensation and Cost of Living

The District's proposal represents a total package increase of 8.61%. This sum is approximately twice the size of the increase in the cost of living. The cost of living as well as the total compensation criteria provide no data or any basis for altering the conclusion apparent from the analysis of the comparability factor.

On the basis of the above discussion, the Mediator/Arbitrator finds that the final offer of the District on the salary schedule issue is preferable to that of the Association.

#### HEALTH INSURANCE

In its argument, the Association attempts to convince the Mediator/Arbitrator that the health insurance program presently included in the 1983-84 agreement should not be treated as the status quo. The Association argues that this program resulted from unilateral action by the District. However, the unilateral action was memorialized in the 1983-84 contract by agreement of the parties. Accordingly, it is appropriate to treat that agreement as the status quo. In order to change the status quo, the Association must demonstrate a need for a change in health insurance programs. In this regard, the Association asserts that the District is

acting beyond its statutory authority by self insuring not only part of the deductible, but 30 days of coverage for new employees of the District.

In order to reach the conclusion pressed by the Association, the Mediator/Arbitrator must find that although the insurance program has been in effect for two years, including the 1984-85 school year, the District is violating the Agreement by not providing coverage for the first 30 days of employment for new employees. Despite this alleged violation of the agreement, the Association has failed to file a grievance over this matter. Certainly, if the grievance had been filed and an Award issued in favor of the Association, then the Association would be correct that the District is self insuring the first 30 days for new employees. However, the District asserts that it is not violating the Agreement. According to the District, it must and has provided coverage to the new employees 30 days subsequent to the first day of employment.

The Association, presented the health insurance handbook in effect under the Blue Cross/Blue Shield program. The Association asserts that the reference in the agreement to the insurance handbook is to the handbook which they presented in evidence. However, in order to find for the Association, the Mediator/Arbitrator would have to serve as the grievance arbitrator in order to reach one premise of the Association's argument. In this regard, the Mediator/Arbitrator would not only have to determine the substance of such a rights grievance, but any and all procedural issues which may attend to such a grievance where the insurance program has been in effect for two years and the alleged violation of the agreement has occurred during this two year period. The criterion, (the lawful authority of the employer) does not transform the Mediator/Arbitrator into a grievance arbitrator at one and the same time. In the absence of any grievance, settlement of the grievance, or Award on this matter, the Mediator/Arbitrator must conclude that for purposes of the Mediation/Arbitration, the program is being administered as intended. The Mediator/Arbitrator makes no finding, as such, as to whether the contract is being violated or not being violated. That is the point. Such a determination should be made in the view of this Mediator/Arbitrator under the grievance procedure rather than under the interest dispute resolution procedure provided by the Mediation/Arbitration structure of the Municipal Employment Relations Act.

The Association asserts that any self insurance program was found to be illegal by the Circuit Court of Dane County in the Madison Schools Case. That case concerned a school district's decision to underwrite a dental insurance program. The exposure of the school district is open ended under that program. On the other hand, the self insurance of part of the deductible by the district contains a built in limit on the exposure of the district. In other words, if all employees were to be reimbursed the full amount of the difference between the \$50 deductible contained in the Agreement and the \$250 deductible which the district maintains in its policy with Wisconsin Physicians Service, the maximum exposure of the district is the number of deductibles times \$200 per deductible. This insurance setup is a far cry from an open-ended self insurance program. Furthermore, the Mediator/Arbitrator notes that no declaratory ruling was filed by the Association protesting the legality of the District's final offer. Therefore, since the Mediator/Arbitrator believes that the Madison School Case does not apply to the case at hand, and since there is no other precedent cited to the Mediator/Arbitrator with regard to the illegality of the Employer's continuation of its health insurance program, the Mediator/Arbitrator finds that the Health Insurance Program now in effect is within the Employer's legal authority to implement.

The Association presented the testimony of one witness concerning a minor inconvenience caused to him in the administration of one claim. This is hardly the basis for switching health insurance programs. Furthermore, the District's administrator of the health insurance program presented un rebutted testimony, that he informed the District that it could not, and he would not disclose the medical problems of any of its employees which

came to his knowledge and attention through the administration of the District's self insurance of the difference between the \$50 and \$250 deductibles. The Mediator/Arbitrator finds, therefore, that the Association failed to meet its burden of proof that a change in health insurance carriers is necessary. Accordingly, the Mediator/Arbitrator does not reach any of the District's arguments with regard to the disadvantages inherent in the deluxe health plan offered by the Wisconsin Education Association Insurance Trust.

On the basis of the above discussion, the Mediator/Arbitrator finds that the proposal of the District is preferable to that of the Association on the Health Insurance Issue.

#### SELECTION OF THE FINAL OFFER

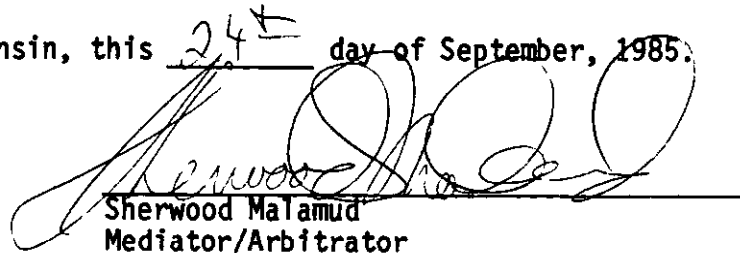
On both the salary schedule and the health insurance issues, the Mediator/Arbitrator concludes that the final offer of the District is preferable to that of the Association.

On the basis of the above discussion, the Mediator/Arbitrator issues the following:

#### AWARD

Based upon the statutory criteria found in Sec. 111.70(4)(cm)7a-h of the Municipal Employment Relations Act, the evidence and arguments of the parties and for the reasons discussed above, the Mediator/Arbitrator selects the final offer of the Weston School District, and attached hereto is the District Salary Schedule contained in its final offer which is to be included, together with the stipulations of the parties, and the health insurance program proposed by the District which is to remain in effect during the term of the 1984-85 Collective Bargaining Agreement between the Weston School District and the Weston Teachers Association.

Dated at Madison, Wisconsin, this 24<sup>th</sup> day of September, 1985.

  
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Sherwood Malamud  
Mediator/Arbitrator

JUN - 4 1985

APPENDIX A

	BA	BA+12	BA+24	MA	MA+12	MA+24	MA+36
0	\$13,700	\$14,180	\$14,660	\$15,140	\$15,640	\$16,140	\$16,640
1	\$14,248	\$14,747	\$15,246	\$15,746	\$16,266	\$16,786	\$17,306
2	\$14,796	\$15,314	\$15,833	\$16,351	\$16,891	\$17,431	\$17,971
3	\$15,344	\$15,882	\$16,419	\$16,957	\$17,517	\$18,077	\$18,637
4	\$15,892	\$16,449	\$17,006	\$17,562	\$18,142	\$18,722	\$19,302
5	\$16,440	\$17,016	\$17,592	\$18,168	\$18,768	\$19,368	\$19,968
6	\$16,988	\$17,583	\$18,178	\$18,774	\$19,394	\$20,014	\$20,634
7	\$17,536	\$18,150	\$18,765	\$19,379	\$20,019	\$20,659	\$21,299
8	\$18,084	\$18,718	\$19,351	\$19,985	\$20,645	\$21,305	\$21,965
9	\$18,632	\$19,285	\$19,938	\$20,590	\$21,270	\$21,950	\$22,630
10	\$19,180	\$19,852	\$20,524	\$21,196	\$21,896	\$22,596	\$23,296
11	\$19,728	\$20,419	\$21,110	\$21,802	\$22,522	\$23,242	\$23,962
12	\$20,276	\$20,986	\$21,697	\$22,407	\$23,147	\$23,887	\$24,627
13	\$20,580	\$21,301	\$22,022	\$22,743	\$23,494	\$24,246	\$24,997

Base \$13,700.00

12 STEP - 4% Vertical Increase

1½% STEP 13 - Longevity

7 Lanes with increments as follows:

BA		MA	\$500.00
BA+12	\$480.00	MA+12	\$500.00
BA+24	\$480.00	MA+24	\$500.00
		MA+36	\$500.00