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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

In the Matter of the Petition of the
CHEQUAMEGON UNITED TEACHERS
For Final and Binding Arbitration
Between the Petitioner and the
SCHOOL DISTRICT OF WASHBURN

Case 18
No. 34269 MED/ARB-3088
Decision No. 22430-A

I APPEARANCES

For the Chequamegon United Teachers, Non-Certified Personnel
Barbara Bachand,Witness
Winifred Day,Witness
Immy Kalmon, Witness
Vivian Swanson, Witness
Barry Delaney,Chequamegon United Teachers,Representative

For the School District of Washburn
Donald Kolek, District Administrator
Donald Swedberg,Washburn School Board Member
Michael J. Burke, Attorney and Spokesperson

II BACKGROUND

On December 12,1984 the Chequamegon United Teachers, Washburn, Non -Certified personnel unit consisting of all regular full-time and regular part-time non-certified employees,excluding supervisory, managerial,confidential employees of the Washburn district(hereinafter called the Association) filed a petition requesting the Wisconsin Employment Relations Commission to initiate mediation/arbitration persuant to Sec. 111.70(4)(cm) 6 of the Municipal Employment Relations Act for the purpose of resolving an impasse arising in collective bargaining between the Association and the School District of Washburn (hereinafter called the Employer) on matters affecting the wages,hours and conditions of employment of bargaining unit membership in the employ of the School District of Washburn.

An investigation into the matter was conducted by a member of the Wisconsin Employment Relations Commission's staff on January 7,1985. The Investigator, finding the parties still at impasse, accepted the parties' final offers and stipulations on all matters agreed upon. Thereafter, the Commission's staff investigator notified the parties and the commission that the investigation was closed, and the parties remained at impasse. Subsequently, the Commission rendered a FINDING OF FACT, CONCLUSION OF LAW,CERTIFICATION OF RESULTS OF INVESTIGATION,and ORDER requiring Mediation/Arbitration.

The parties selected Donald G. Chatman as Mediator/ Arbitrator on April 3,1985. A mediation meeting was held on May 10,1985 at the Employer's offices of the Washburn School District at 1:30 P.M. in an attempt to resolve the outstanding issue in dispute. The parties were unable to reach agreement over the issue in dispute and the Mediator served notice of the prior written stipulation to the parties to resolve the dispute by final and binding arbitration. The mediation meeting was closed at 6:00 P.M. on May 10,1985.

III PROCEDURE

A hearing on the above matter was held on May 10,1985 at 6:10 P.M. at the offices of the Washburn School District, Washburn, Wisconsin before the Arbitrator, under the rules and procedures of Sec.111.70(4) of the Municipal Employment Relations Act. At this hearing both parties were given full opportunity to present their evidence,testimony and arguments,to summon witnesses, and to engage in their examination and cross-examination. The parties agreed to the submission of final arguments presented in the form of written briefs, with no rebuttal briefs. The arbitration hearing was adjourned on May 10,1985 until receipt of the written briefs. The exchange of written briefs was timely completed on June 10, 1985 and the hearing was closed at 5:00 P.M. on June 10, 1985. Based on the evidence, testimony and arguments and the criteria set forth in Sec.111.70(4)(cm)6 c-h of the Municipal Employment Relations Act, the Arbitrator renders the following award.

IV. FINAL OFFERS AND ISSUES

The parties are in agreement on all issues necessary for a collective bargaining agreement for the year beginning July 1, 1984 to June 30, 1985, with one exception,and have stipulated to such agreement. The exception is the salary schedule for the Non-Certified employee group. The Employer's final offer is attached as Appendix A. The Association's final offer is attached as Appendix B. The Employer and the Association stipulate that no other outstanding issues are at impasse which would prevent resolution of the 1984-1985 agreement between the parties.

The issue is defined by the Arbitrator as follows: Shall the 1984-1985 agreement between the Chequamegon United Teachers, Non-Certified Employees, and the Washburn School District contain the salary schedule of the Association or the salary schedule of the Employer.

V. CONTENTIONS OF THE PARTIES

The Association contends that a fundamental restructuring of a salary schedule should await the give and take of the collective bargaining process, rather than as an arbitrator's decision. The Association contends that since the first collective bargaining agreement between the parties in 1982-1983, the manner in which the salary schedule was composed was instigated by the employer and accepted by the association. The 1983-1894 Agreement between the parties contains the same language on salary schedule and neither party proposed change. The Association contends that the Employer's final offer disregards the bargaining history since 1982. The Association contends that these are factual agreements between the parties, that the document labeled "Washburn Public School Guidelines, Non-Certified Personnel(Union Exhibit 26) is in actually an agreement with a non-specified ending date. The proported agreement contains the salary schedule which the Association maintains is the relevent schedule, and the 1984-1985 salary adjustment should be made on Step 1 of this schedule as has been the past practice of the parties.

The Association maintains the schedule was proposed by the Employer in an effort to treat employees fairly, on a schedule that encompassed a wide range of work experiences. The Association contends that the rationale for the ten step schedule in 1982-1983 are still applicable to the collective bargaining agreement between the parties. The Association argues that the employer's final offer creates great disparities between positions within the bargaining unit with no justifiable basis for such action. It is the Association's position that such a marked change in the "Salary Schedule" as proposed in the Employer's final offer should be bargained or at least accompanied by a buyout provision.

In representing its position on the salary schedule the Association argues that one of the primary considerations utilized in reaching a decision should be the schedule of comparable units. In this instance the Association argues that the primary comparable units should be the internal comparison groups of Washburn Teachers and the Administrative Secretary.The Association argues that the Washburn teachers have a fifteen Step,fourteen year experience ladder salary schedule. The employer has settled with this bargaining unit for 1984-1985 agreement with no change in the status quo of the salary schedule. The non certified staff salary schedule was similar to the teachers' in the past,and alludes to an agreement between the parties to maintain this similarity between the two units.

With regard to the Administrative Secretary,the Association contends that when this position was within the bargaining unit there was a $0.06/hr. differential between this position and the Principal's secretaries for the same work experience life. Now, under the Employer's final offer the principal's secretaries who remain in the bargaining unit would be paid $1.35/hr. less with no corresponding change in the duties of any of the parties.

The Association argues the next most important comparison should be how the employers in the same community pay similar employees. The Association has selected the Bayfield County Employees for this comparison,citing the close proximity of the

County Offices. Conspicuously absent is the comparison with the municipality of Washburn, The Association offers evidence and documentatioin that the maximum hourly salaries paid by Bayfield County exceeds the Employer's final offer by 14.3%($1.22) to 21.9%($1.76).

When comparisons of other school districts are made, the Association contends they ought to be confined to Bayfield County. Their rationale was that the Employer initiated use of Bayfield County Schools,and had proposed offers with the Bayfield county schools as a base reference up to the time of the Arbitration hearing. The Association contends the change to the Indianhead Athletic Conference is "foul play" in that the association had no time to acknowledge or properly respond to the changed criteria. Second, the association contends that comparisons between school districts should be between districts of the same relative size. The Association maintains it has no information on the relative size of other schools in the Indianhead Athletic Conference.Yet counsel for the association was knowlegable enough to question which districts were not organized and what positions existed or did not exist in these schools. The Association contends the rationale for using Bayfield County Schools is they are closer in proximity,share a common pool of employees,have a common economic base. Finally, the Association contends that past bargaining has established the position of the association bargaining unit relative to other comparable districts(ranked#1),and the Employer's final offer erodes these positions. The Association's final offer maintains this status and is within the guidelines for a cost of living increase.

The Employer contends that this 1984-1985 agreement is the initial Agreement between the parties. The prior terms and conditions of employment governing these working relationships were set forth as guidelines. The Employer maintains its three step salary schedule and placement of employees above the step schedule maximums is common in first collective bargaining contract agreements. The Employer contends that in comparing its final offer with other comparable school units, the "Indianhead Athletic Conference is the appropriate comparable pool....",that schools in this conference display similarities in geographic proximity,full value tax rates and equalized value, and are similar with respect to student enrollment. The Employer contends its final offer is more reasonable when compared with the salary schedules and wage rates for what the Employer considers comparable districts. Thwe employer maintains the average number of steps in comparable districts salary schedules is four, that the average number of steps for Bayfield County districts is 2.75, and in comparable districts with collective bargaining agreements the number of steps is 3.5. Thus, the Employer maintains that its final offer of three steps is within comparability of Indianhead Athletic Conference schools. In contesting the Association's proposal the Employer argues it is out of line with the Indianhead Athletic Conference,and results in wage rates at the schedule maximums that are far in excess of what comparable districts pay for comparable positions. The Employer asserts that its final offer including those who receive a four percent increase still provides for over one dollar ($1.00)/Hr. more than the Athletic Conference average at the schedule maximum. The Employer's proposal to compress the salary schedule is a response to an inequitable salary structure.

The Employer contends its final offer is more reasonable when considered in terms of public interest. In support of this position the Employer refers to Section 111.70(4)(cm) 7,c "The interests and welfare of the public and financial ability of the unit of government to meet the costs of any proposed settlement." The Employer maintains that the percentage of unemployed persons in Bayfield County is twice the State average and is higher than the unemployment rate in surrounding Athletic Conference Counties. The Employer states that Bayfield County's 1970 median family income was $6,962/year,per capita income was $4,665/annum, and the average weekly wage for the first quarter of 1984 were less than any of the surrounding counties. The employer argues that in view of these economic externalities the employer's final

offer provides an equitable wage increase for all employees during the contract period,and the compression of the salary schedule will insure that district employees have comparable wages in future years.

The Employer contends its final offer is more reasonable when compare with increases in the Consumer Price Index for the same period. The Employer argues that because the CPI. measures increases (decreases) in all classes of consumer goods and services that the total package costs of both parties final offers ought to be considered. In this situation the final offer of the Employer is closer to the CPI for Urban Consumers. For this and other arguments advanced by the Employer it is the Employer's opinion that its final offer should prevail.

VI.DISCUSSION AND CONCLUSIONS

The evidence and testimony presented by both parties in support of their positions while comprehensive,contain certain fustian elements. First, there are a number of elements presented by both sides which are not at issue. Consumer Price Index, and the Employer's ability to pay are not at issue. The actual dollar difference between the Association's and the Employer's offer is less than $2,200.00 for the total bargaining unit. The CPI for urban customers while lower in percentage, is based on a market with a considerably higher hourly wage,and has a teneous relevancy to rural Bayfield County. A second element which is not an issue is what relationship will exist between the parties in the future. For the record, this agreement and interest arbitration is solely for the resolution of impasse occuring in the 1984-1985 Agreement.

At issue is whether the final offers on salary schedule shall be the ten step schedule which currently exists, or the three step schedule proposed by the Employer.

The argument of the Asssociation that it had no knowledge of the salary schedule until impasse resulted is noted and unrefuted by the Employer. It is this Arbitrator's opinion that all the involved parties should have full opportunity explore an issue prior to reaching impasse. The Association's arguments that the parties had agreed to have similar salary structures between teachers and non-certified employees scheduled is unsubstantiated by evidence. It is also apparently the case that the Administrative Secretary, formerly a part of the of the non-certified bargaining unit, does not appear to have a salary schedule since being removed from the unit, at least from the evidence and testimony presented. The Association's arguments on comparability within the same community is flawed by the non-inclusion of the municipality of Washburn which has similar job categories.

The arguments of the Employer on Sec.11.70(4)(cm) d.,that the Indianhead Athletic Conference is the appropriate comparable group appears contrary to this Arbitrator's reading of that section:

> "comparison of wages,hours and conditions of employment of the municipal employees involved in the arbitration proceeding with the wages,hours and conditions of employment of other employees performing smilar services in public employment in the same community..."

would appear to indicate that the Municipality of Washburn, and County of Bayfield are applicable comparisons for this bargaining unit. The Arbitrator questions whether the school districts in The Indianhead Conference are similar in geographic proximity, or similar in student enrollment. The data furnished by the Employer in support of this position(Employer brief, p.6) suggests the school district in Douglas County averages 16% smaller,Ashland County averages 10% smaller, Iron County Averages 50% smaller than the average of Bayfield County Schools. While the Employer offers as evidence an alleged arbitral precedent(MED/ARB-1914, 5/83) that Indianhead Conference Schools are suitable comparables,there was no evidence presented that this arbitrator's decision related to non-certified employee bargaining units.

With respect to the Employer's argument that its final offer is more reasonable when compared with the salary schedules in comparable districts(Indianhead Conference), the Arbitrator

abstracts those which have no collective bargaining agreement. The result is seven school districts including Solon Springs. Considering these seven districts as comparables, the number of steps in the salary schedule averages 4.4 steps. When Bayfield County school districts are considered alone the number of steps equals 4.2. When the Washburn School district is removed from this group the average number of steps in the salary schedule drops to 2.75. This data would indicate that the Washburn Non-Certified unit's salary schedule steps are not comparable with others in the area.

The comparison of maximum salaries of the various bargaining groups with the maximum salary obtainable by the Washburn unit by the employer is a non sequitur. The dependent variable(time) is not similar or approaching equality in this comparison. What the Washburn unit has in reality is an "ANNUITY", the promise to pay at regular intervals in the future an increase over the present starting salary(present value) upon satisfactory job performance. An examination of the existing salary schedule shows that the increase after the employees' second anniversary is less than the rate of reported inflation,or the expected rate of inflation considered necessary for economic growth. In concept, the Employer's final offer annualized from year two to year eighteen would be far in excess of the current maximum salary scheduled proposed by the Association.

Thus, the issue before the Arbitrator is whether the Employer's schedule which would remove this annuity benefit prevail, or the Association's schedule which would maintain and enhance the status quo should prevail? There was unrefuted testimony offered at the hearing that the employer implemented this salary schedule. However, the Employer maintains there was no previous bonafide collective bargaining agreement between the parties; that the previous written statements covering terms and conditions of employment were simply guidelines, and these negotiations are to establish an initial collective bargaining agreement between the parties. The Arbitrator is not persuaded that the Employer's argument has validity, particularly since the Employer engaged in an agreement with the Association to remove the Administrative Secretary from the bargaining group. The Arbitrator deems the salary scheduled should be thoroughly explored by the parties to the full extent of all its ramifications before change in the scheduled is implemented.The final offer of the Association is preferable under these circumstances.

VII AWARD

The 1984-1985 collective bargaining agreement between the Washburn Public School and the Chequamegon United Teachers Non-Certified Personnel shall include the final offer of the Chequamegon United Teachers and the stipulations certified to the Wisconsin Employment Relations Commission and incorporated as part of this Award.

Dated this 17th day of July 1985, at Menomonie, Wisconsin.

Donald G. Chatman
Mediator/Arbitrator