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WISCONSIN EMPLOYMENT RELATIONS COMMISSION
IN THE MATTER OF MEDIATION/ARBITRATION PROCEEDINGS

BETWEEN

DE SOTO EDUCATION ASSOCIATION

and

DE SOTO AREA SCHOOL DISTRICT

Case 16 No. 34316

MED/ARB 3102

DECISION AND AWARD

OF ARBITRATOR

Decision No. 22718-A

I. BACKGROUND

This is a matter of final and binding interest arbitration under Section 111.70(4)(cm)6 of the Wisconsin Municipal Employment Relations Act. De Soto Education Association (Association) is the exclusive bargaining representative of certain employees of the De Soto Area School District (District or Board) in a collective bargaining unit consisting of all regular full-time and regular part-time teaching personnel but excluding the administrators, coordinators, principals, and supervisors having evaluative responsibility over other staff members, non-instructional personnel such as nurses, social workers, and office, clerical, maintenance and operating employes and substitute teachers.

The Association and the Board were parties to a collective bargaining agreement that expired on June 30, 1984. On October 10, 1984, the parties exchanged their initial proposals on matters to be included in a new collective bargaining agreement to succeed the agreement that expired on June 30, 1984. On December 21, 1984, the Association filed a petition with the Wisconsin Employment Relations Commission (WERC) requesting the WERC to initiate mediation-arbitration proceedings.

On May 15, 1985, the parties submitted to the WERC investigator their final offers as well as a stipulation on matters agreed upon. On May 31, 1985, the WERC certified that the conditions precedent to the initiation of mediation-arbitration had been met. The parties selected Jay E. Grenig as the mediator/arbitrator in this matter. Thereafter, the WERC appointed Jay Grenig the mediator/arbitrator on June 24, 1985.

Mediation proceedings were conducted on August 21, and September 11, 1985. The parties were unable to reach

voluntary settlement and the matter was submitted to the Mediator/Arbitrator serving in the capacity of arbitrator at an arbitration hearing held on September 11, 1985. The Board was represented by Karl L. Monson, Consultant, Wisconsin Association of School Boards. The Association was represented by Thomas C. Bina, Executive Director, Coulee Region United Educators.

The parties were given full opportunity to present relevant evidence and arguments. Upon receipt of the reply brief of the Association (the Board did not file a reply brief), the hearing was declared closed on November 15, 1985.

II. FINAL OFFERS

A. THE ASSOCIATION

The Association proposes a one year contract commencing on July 1, 1984, and expiring on June 30, 1985.

With respect to "Salary Schedule Barriers," the Association proposes the following language:

Teachers will be allowed to move vertically through the salary schedule until they arrive at their column barrier. 1984-85 De Soto employees covered by this collective bargaining agreement who are six (6) or fewer years from a barrier will be allowed to pass through the barrier and advance to the former 15th step column maximum.

With respect to "Lane and Salary Advancement," the Association proposes the following:

In the event a subsequent contract is not negotiated by the start of the 1985-1986 contract year, teachers eligible for lane and step advancements under the 1984-1985 contract shall be granted said lane and staff advances for salary determination for 1985-1986.

The Association proposes a salary schedule with a base of \$13,605 and a schedule maximum of \$23,155. The average teacher salary increase would be \$1,798.13 and the percent increase of the total wage package would be 9.72%.

A copy of the Association's final offer is attached to this decision as Exhibit A.

B. THE BOARD

The Board proposes a contract from July 1, 1984, to June 30, 1985.

The Board proposes that the language in Article IXB

relating to Emergency Leave at line 318 of the prior collective bargaining agreement stating "or in cases of compelling personal reasons" be dropped.

In Article X, Paragraph 1, Line 560, of the prior collective bargaining agreement the Board proposes that the language "will not advance steps on the salary schedule" be dropped and the language "will have their salary frozen until the six credit requirement is met" be added.

In Article IV, Paragraph F, Line 212 of the collective bargaining agreement the Board proposes that the "sum of \$200.00" be changed to the "sum of \$300" and that at Line 217 the sum of "\$500.00" be changed to "750.00."

The Board proposes a salary schedule with a base of \$13,700 and a schedule maximum of \$22,850. This would result in a total wage package increase of 8.4% and an average teacher salary increase of \$1,541.18 per year.

A copy of the Board's final offer is attached to this decision as Exhibit B.

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 ASSOCIATION

1. COMPARABLES

The Association asserts that the appropriate comparables for this arbitration consist of the settled schools in the Ridge and Valley Athletic Conference plus the non-conference contiguous schools (Westby, Viroqua and La Crosse). It points out that in resolving the 1982-83 bargaining dispute between the parties at a time when only three schools in the athletic conference had settled, Arbitrator Malamud concluded it would be appropriate to include Westby and Viroqua as comparables. The Association points out that 29 of the 51 De Soto teachers live outside the District and that District residents must travel to La Crosse for basic goods and services. According to the Association, the salaries paid teachers in larger, contiguous districts cannot be ignored because of the Board's need to attract and retain teachers.

2. SALARY INCREASE

Comparing the salary rankings at seven benchmarks (BA Base, BA Step 7, BA Max, MA Base, MA Step 10, MA Max, Sched Max) of the five settled conference districts, the Association contends that the rankings either remain unchanged or the changes that do occur are parallel except two locations where the Board's proposal would give the District higher ranking. The Association believes the District's rankings at the maximums of the columns are inflated because the District generally has two to three additional steps in each column.

The Association says its offer results in column increments closer to the average increments in the five settled schools than the Board's offer. It claims that if the schedules remained unchanged for 12 years, the teacher in the average conference school would have received an accumulative income \$9,048 more than the District teacher using the Board's increment.

The Association argues that the Board's average benchmark increase is below that of the settled schools in the conference while the Association's offers are below average in all cases with the exception of the column maximums. The Association says a more accurate reflection of the District's standing is shown using the 13th step for comparison purposes.

The Association states that the District has the seventh lowest tax rate out of the eight athletic conference districts. Its farm income is the second highest in the conference. The District has one of the lowest percentages of working farm households in the conference. Total household income in the District was second in the athletic conference.

Turning to the salary schedules in La Crosse, Viroqua and Westby, the Association notes that these schedules have substantial incentives for professional growth (columns for each six credits earned) they have increments that start \$100 higher than the highest in the District and go to almost \$200 higher.

3. PROFESSIONAL GROWTH

With respect to the salary schedule barrier, the Association explains that under its proposal all employees who are six or fewer years from the barrier would be allowed to pass through and advance to the former 15th step column maximum and that teachers who are more than six years from the barrier would be frozen when they reach the barrier until such time as they earn enough credits to advance horizontally across the salary schedule.

The Association contends that its proposal meets the Board's objectives of moving people across the schedule and the Association's objectives of making the salary schedule more in keeping with those of other comparable schools. It claims that its proposal gives teachers advance notice that they have a six-year period either to earn twelve credits or to be held at the barrier.

According to the Association, the Board's proposal would freeze teacher salaries without reasonable advance notice to allow teachers to avoid this new, more severe penalty. The Association argues that it is unfair to increase the penalty when it is too late to avoid its application on some employees. The Association asserts that the withholding of a step increase penalty is new to the contract and has never been applied. The Association states that most of the conference schools have no professional requirement in the first place and none have a salary freeze.

4. DURATION

The Association has proposed a modification in the duration clause which would state specifically that, in the event contract negotiations are not completed for a subsequent contract, the salary schedule would remain in effect and teachers who had an entitlement would advance in vertical steps, or if they had earned credits to qualify for lane advancements, they would increase that advancement on the existing salary schedule.

The Association says its proposal would allow what is the practice in the District and the teaching profession to continue during the hiatus between contracts. It points out that recent WERC decisions indicate the status quo must be maintained during the hiatus between the expiration of one contract and the resolution of the subsequent agreement. According to the Association, it is more reasonable to include language in the contract consistent with these decisions rather than have the issue disputed through the WERC and courts at substantial cost.

5. EMERGENCY LEAVE

According to the Association, the language the Board proposes to delete is no more ambiguous than "serious illness" or "immediate family." Asserting that those clauses are intended to be vague, the Association says it is impossible to spell out all of the various and sundry obligations a human being might be subject to. If the Board's proposal were granted, the Union claims there would be a gap in the protection presently afforded employees.

6. BREACH OF CONTRACT

The Association does not believe the Board's proposal to increase the liquidated damages for a teacher's terminating his or her employment with the District during the term of the teacher's contract is reasonable. Noting the Board indicated it had lost three teachers for the 1984-85 school year, the Association asserts the three teachers that left during the term of their contract would have their severance penalties increased should the Board prevail.

B. THE BOARD

1. COMPARABLES

The Board contends that two-year settlements should be given less weight than voluntary settlements made during the school year in question. It points that the Viroqua settlement was for a two-year term. It also notes the Westby settlement was the result of an interest arbitration award won by the district.

The Board states that the voluntarily-settled schools in the Ridge and Valley Athletic Conference are Ithaca, La Farge and Wauzeka. The Wauzeka settlement was the result of a consent award that gained the district one more face-to-face teaching day (resulting in two more teaching days than the District had in 1984-85).

According to the Board, the La Farge situation is different than the situation here since La Farge has been at, or very near, the bottom in statewide salary ranking for each of its benchmark salary positions and is in a catch up situation.

Contending that no conclusive result is obtained by comparing benchmarks of the settled schools since each final offer is preferable to the other at an equal number of benchmarks, the Board argues that the Arbitrator should consider the districts in CESA #3 (the District is in CESA #4). It says the number of pupils and teachers in the District are the same as the average district in CESA #3.

2. SALARY INCREASE

The Board believes its final offer, since it costs \$14,970.28 less than the Association's, best satisfies the interests and welfare of the public in this predominantly rural school district.

With respect to the cost of living, the Board states that its final offer exceeded the cost-of-living index by several percentage points.

According to the Board, the District employees apparently are satisfied with the current status of such issues as vacation, holidays, excused time, insurance pensions, medical and hospitalization benefits, and the continuity and stability of employment as none of these matters are at issue in this dispute.

Comparing benchmarks (BA Base, BA Step 7, BA Max, MA Base, MA Step 10, MA Max, Sched Max) in the athletic conference (excluding La Farge), the Board concludes it is slightly more comparable at BA Base, MA Base and MA Max, while the Association is slightly more comparable at BA Step 7, BA Max, MA Step 10 and Schedule Maximum.

3. PROFESSIONAL GROWTH

The Board asserts the purpose of the professional growth language is to encourage teachers to gain education credits, to improve their knowledge in their teaching areas, and to reward teachers by advancing them to new salary lanes.

It is the Board's position that the present language has no effect on those people who are at the tops of their particular salary lanes since they cannot advance on the salary schedule in any event. The Board believes this type of provision should apply equally to all teachers and therefore proposed the language change.

The Board points out that, as of June 30, 1985, five teachers at the tops of their salary lanes could be frozen at their salary since they have not gained the required number of credits.

4. DURATION

It is the Board's position that there is no support among the comparables for the Association's language guaranteeing lane and step advancement.

5. EMERGENCY LEAVE

The Board argues that the current language creates an ambiguity and causes confusion as to intent. The Board believes the labor agreement would be improved if such excess and unnecessary language were eliminated. Noting that the collective bargaining agreement already has provisions for emergency leave and personal leave, the Board contends that the teachers will not be losing any leave benefits by such elimination.

6. BREACH OF CONTRACT

In 1984 three teachers resigned after July 1 after each had earlier indicated to the District they would be returning to teach in the fall of 1984. The Board asserts these resignations caused the District considerable problems in locating replacement teachers at such a late date.

The Board argues that its intention in increasing the monetary amounts of the liquidated damages for breach of contract is to make the teachers more conscious of their obligations. By increasing the monetary amount of the liquidated damages, the Board believes it will cause those teachers who are to resign to do so in a more timely fashion so the District has sufficient time to locate replacements.

The Board also points to testimony regarding the costs of finding replacement teachers in terms of time and money as justification for the increase in the liquidated damages rates.

IV. DISCUSSION

A. COMPARABLES

Arbitrator Malamud was faced with a similar situation

in 1984 when only three of the eight conference schools had settled. Although Viroqua and Westby are twice the size of the District, Arbitrator Malamud found that the District's equalized value tax base and rural-agricultural nature were similar to Viroqua's and Westby's.

Arbitrator Malamud determined La Crosse was not comparable to the District, pointing out that La Crosse is an urban/industrial city, its source of funds to pay teacher salaries differs substantially from the tax and political base which support the payment of teachers' salaries in the District. While acknowledging that the economic life of many of the District's teachers revolves about the La Crosse economy, Arbitrator Malamud concluded there was no similarity between the La Crosse District and the De Soto District.

Although the Arbitrator in this proceeding is not bound by Arbitrator Malamud's selection of comparables, neither party has presented a compelling reason for adding to or subtracting from the comparables used by Arbitrator Malamud in 1984. In the absence of a compelling reason for using different comparables, the parties would be better served by using the same comparables in order to provide some stability and consistency in their collective bargaining relationship.

Accordingly, it is concluded that the appropriate comparable school districts for use in this proceeding are the eight school districts in the Ridge and Valley Athletic Conference and the adjoining school districts of Viroqua and Westby.

B. SALARY

1. STATUTORY CRITERIA

a. LAWFUL AUTHORITY OF THE EMPLOYER

The lawful authority of the employer is not at issue.

b. STIPULATIONS OF THE PARTIES

Prior to the initiation of mediation/arbitration, the parties reached agreement on a number of issues including the 1984-85 calendar, evaluation forms, payment for class overload, reimbursement for educational credits, and extracurricular payments.

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

There is no claim the District lacks the ability to pay either offer. While Board's offer may be in the interests and welfare of the public because it is less (nearly \$15,000 less), the public also has an interest in keeping the District in a competitive position to recruit new employees

and to keep competent experienced employees now serving the District. Presumably the public is interested in having employees who are treated fairly. What constitutes fair treatment is reflected in the other statutory criteria.

According to the Department of Public Instruction, the District's levy rate for 1984-85 of 11.51 was third out of the eight conference school districts. In 1983-84 its levy rate was 10.8. The cost per pupil in the District is \$3,095, which places it third among the eight conference school districts.

d. COMPARISON OF WAGES, HOURS AND CONDITIONS OF EMPLOYMENT

The school districts in the Ridge and Valley Athletic Conference are as follows:

DeSoto
Ithaca
Kickapoo
La Farge
North Crawford
Seneca
Wauzeka
Weston

As discussed above, these districts plus Viroqua and Westby constitute the appropriate comparables. The Viroqua settlement was the first year of a two-year contract. Westby was the result of an interest arbitration award. In the Athletic Conference, Ithaca, La Farge and Wauzeka settled voluntarily. Kickapoo and Weston contracts resulted from interest arbitration awards. Because North Crawford and Seneca had not settled at the time the record was closed, their 1984-85 wages, hours and conditions of employment cannot be compared with the District's.

Because of the complexities of teacher salary schedules, arbitrators in public education interest arbitrators have generally found a comparison of salary schedule benchmarks to be an appropriate method for evaluating the reasonableness of the parties' offers.

By comparing BA Base, BA 7, BA Max, MA Base, MA 7, MA Max, and Sched Max, an arbitrator may obtain a relatively accurate comparison of beginning salaries, middle level salaries, and top salaries of teachers with bachelor degrees and masters degrees. A comparison of teachers at the thirteenth steps would not be helpful since such a comparison would virtually negate the fact that, while the thirteenth step is the maximum or near maximum step on the salary schedule of many of the comparable districts, teachers in De Soto with the same education may be able to earn a higher maximum salary at the fifteenth step.

TABLE NO. 1 BA BASE

DISTRICT	SALARY	DOLLAR INCREASE	PERCENT INCREASE
Ithaca	\$13,750	\$1,000	7.8%
La Farge	13,200	1,100	9.1%
Kickapoo	13,745	1,110	8.8%
Viroqua	14,518	822	6.0%
Wauzeka	13,600	1,000	7.9%
Westby	14,355	955	7.1%
Weston	13,700	800	6.2%

Median Salary	\$13,745
Average Salary	\$13,838
Median Dollar Increase	\$1,000
Average Dollar Increase	\$970
Median Percent Increase	7.8%
Average Percent Increase	7.5%

BOARD

Salary	\$13,700
Dollar Increase	\$700
Percent Increase	5.4%

ASSOCIATION

Salary	\$13,605
Dollar Increase	\$605
Percent Increase	4.6%

TABLE NO. 2 BA SEVENTH STEP

DISTRICT	SALARY	DOLLAR INCREASE	PERCENT INCREASE
Ithaca	\$17,050	\$1,240	7.8%
La Farge	15,780	1,400	9.7%
Kickapoo	16,655	1,260	8.2%
Viroqua	18,002	1,019	6.0%
Wauzeka	16,480	1,210	7.9%
Westby	17,872	1,189	7.1%
Weston	16,988	992	6.2%

Median Salary	\$16,988
Average Salary	\$16,975

Median Dollar Increase	\$1,210
Average Dollar Increase	\$1,187

Median Percent Increase	7.8%
Average Percent Increase	7.5%

BOARD

Salary	\$16,340
Dollar Increase	\$880
Percent Increase	5.7%

ASSOCIATION

Salary	\$16,425
Dollar Increase	\$965
Percent Increase	6.2%

TABLE NO. 3 BA MAXIMUM

DISTRICT	SALARY	DOLLAR INCREASE	PERCENT INCREASE
Ithaca	\$19,800	\$1,440	7.8%
La Farge	19,220	1,800	10.3%
Kickapoo	20,050	1,435	7.7%
Viroqua	22,467	1,272	6.0%
Wauzeka	18,400	1,350	7.9%
Westby	21,640	1,439	7.1%
Weston	20,276	1,148	6.2%

Median Salary \$20,050
 Average Salary \$20,265

Median Dollar Increase \$1,435
 Average Dollar Increase \$1,412

Median Percent Increase 7.7%
 Average Percent Increase 7.5%

BOARD

Salary \$20,300
 Dollar Increase \$1,150
 Percent Increase 6.0%

ASSOCIATION

Salary \$20,655
 Dollar Increase \$1,505
 Percent Increase 7.8%

TABLE NO. 4 MA BASE

DISTRICT	SALARY	DOLLAR INCREASE	PERCENT INCREASE
Ithaca	\$14,975	\$1,200	8.7%
La Farge	14,775	1,475	11.1%
Kickapoo	15,145	1,350	9.8%
Viroqua	15,652	886	6.0%
Wauzeka	15,145	1,170	8.4%
Westby	15,105	955	7.5%
Weston	15,100	1,340	9.7%

Median Salary	\$15,105
Average Salary	\$15,128
Median Dollar Increase	\$1,200
Average Dollar Increase	\$1,196
Median Percent Increase	8.7%
Average Percent Increase	8.7%

BOARD

Salary	\$15,050
Dollar Increase	\$1,200
Percent Increase	8.7%

ASSOCIATION

Salary	\$14,835
Dollar Increase	\$985
Percent Increase	7.1%

TABLE NO. 5 MA TENTH STEP

DISTRICT	SALARY	DOLLAR INCREASE	PERCENT INCREASE
Ithaca	\$20,366	\$1,824	8.7%
La Farge	18,645	1,925	11.5%
Kickapoo	19,510	1,575	8.8%
Viroqua	21,405	1,211	6.0%
Wauzeka	19,600	1,620	9.0%
Westby	20,732	1,311	6.7%
Weston	20,590	1,822	9.7%

Median Salary \$20,366
 Average Salary \$20,121

Median Dollar Increase \$1,620
 Average Dollar Increase \$1,612

Median Percent Increase 8.8%
 Average Percent Increase 8.6%

BOARD

Salary \$19,190
 Dollar Increase \$1,470
 Percent Increase 8.3%

ASSOCIATION

Salary \$19,335
 Dollar Increase \$1,615
 Percent Increase 9.1%

TABLE NO. 6 MA MAX

DISTRICT	SALARY	DOLLAR INCREASE	PERCENT INCREASE
Ithaca	\$22,762	\$1,824	8.7%
La Farge	20,795	2,175	11.7%
Kickapoo	21,450	1,675	8.5%
Viroqua	25,631	1,450	6.0%
Wauzeka	21,580	1,820	9.2%
Westby	23,451	1,483	6.3%
Weston	22,407	1,983	9.7%

Median Salary	\$22,407
Average Salary	\$22,582
Median Dollar Increase	\$1,820
Average Dollar Increase	\$1,773
Median Percent Increase	8.7%
Average Percent Increase	8.6%

BOARD

Salary	\$21,950
Dollar Increase	\$1,650
Percent Increase	8.1%

ASSOCIATION

Salary	\$22,385
Dollar Increase	2,035
Percent Increase	10.0%

TABLE NO. 7 SCHEDULE MAX

DISTRICT	SALARY	DOLLAR INCREASE	PERCENT INCREASE
Ithaca	\$22,762	\$1,824	8.7%
La Farge	21,320	2,700	14.5%
Kickapoo	21,450	1,675	8.5%
Viroqua	26,607	1,505	6.0%
Wauzeka	22,760	2,050	9.9%
Westby	23,839	1,483	6.6%
Weston	24,627	3,759	18.0%

Median Salary	\$22,762
Average Salary	\$23,337
Median Dollar Increase	\$1,824
Average Dollar Increase	\$2,142
Median Percent Increase	8.7%
Average Percent Increase	10.3%

BOARD

Salary	\$22,950
Dollar Increase	\$2,225
Percent Increase	10.7%

ASSOCIATION

Salary	\$23,155
Dollar Increase	\$2,430
Percent Increase	11.7%

With respect to the relative ranking of the District and the districts in the athletic conference for the 1984-85 school year, both offers result in the same ranking at BA Step 7, BA Maximum, MA Step 10, MA Maximum, and Schedule Maximum. The Board's offer would result in a higher ranking than the Association's at BA Base and MA Base.

Both offers would place the District in first place at BA Maximum, second place at Schedule Maximum, third place at MA Maximum, fourth place at MA Step 10, and fifth place at BA Step 7.

e. INCREASE IN THE COST OF LIVING

Both offers exceed the cost of living as measured by the Consumer Price Index by more than 100 percent.

f. TOTAL COMPENSATION

The Board's offer would result in an increase of the average total compensation received by teachers of \$1,946 and the Association's offer would result in an average total compensation increase of \$2,251.87. The difference in the cost of the total compensation of the two offers is approximately \$14,970.

g. CHANGES DURING PENDENCY OF ARBITRATION

Over the Board's objection, the Arbitrator has considered the arbitration decisions in Kickapoo and Weston, which were rendered after the arbitration hearing. The Wisconsin mediation/arbitration law expresses the legislature's clear intention that the arbitrator must consider changes in the circumstances during the pendency of the arbitration proceedings.

Second, arbitration awards are somewhat analogous to judicial opinions. It is customary for the courts to consider decisions by other courts, even if rendered after the hearing. Both arbitrators and judges frequently do their own independent examination of legal or arbitral authority when writing decisions.

Both parties have had an opportunity to comment on the significance of the Kickapoo and Weston decisions.

h. OTHER FACTORS

No additional factors have been brought to the Arbitrator's attention in this proceeding.

2. CONCLUSION

In analyzing the salary data from comparable school districts, medians as well as averages have been used in order to minimize distortions caused by extremely high or low settlements or wage rates. The salary data has been analyzed to determine how the salaries of the District teachers compare with the salaries of teachers in the comparable districts as well as how the rate of increase (both dollar and percentage) of the parties' offers compares with the rates of increase in the comparable districts.

At BA Base the Board's offer is closer to the median and average dollar increase and percentage increase. The Board's offer would result in a salary at this benchmark that is closer to the average and median salary of the comparables than the Association's.

At BA Step 7 the Association's offer is closer to the median and average dollar increase and percentage increase

(the same result is reached when only the voluntary settlements in the conference are considered). The Association's offer would result in a salary at this benchmark which is closer the average and median salary of the comparables than the Board's.

At BA Maximum the Association's offer is closer to the median and average dollar increase and percentage increase. The Board's offer would result in a salary closer to the median and average salaries of the comparables at this benchmark than the Association's.

At MA Base the Board's offer is closer to the median and average dollar and percentage increase than the Association's. The Board's offer would result in a salary closer to the median and average salaries of the comparables at this benchmark.

At MA Tenth Step the Association's offer is closer to the median salary percentage and the average and median dollar increase at this benchmark than the Board's offer. The Board's offer is closer to the average percentage increase than the Association's. The Association's offer would result in a salary closer to the median and average salaries of the comparable districts at this benchmark.

At MA Max the Board's offer is closer to the median and average dollar and percentage increase at this benchmark. The Association's offer would result in a salary closer to the median and average salaries of the comparable districts at this benchmark.

At Schedule Max the Board's offer is closer to the average and median percentage increase and dollar increase than the Association's offer. The Board's offer would result in a salary closer to the median salary at this benchmark while the Association's offer would result in a salary closer to the average salary at this benchmark.

As noted previously the two offers would result in the same relative ranking with the other districts in the athletic conference except for the two benchmarks (BA Base and MA Base) where the Board's offer would result in an improvement in the relative ranking.

As might be expected from two final offers that are less than \$15,000 apart, neither offer is clearly more reasonable than the other. Both provide increases significantly greater than the increase in the Consumer Price Index. With two exceptions both maintain the same relative ranking with the comparable districts. There is nothing in the record which would suggest that the Association's offer would increase the tax rate significantly more than the Board's.

The benchmark analysis shows the Board's offer is more reasonable at BA Base and MA Base while the Association's offer is more reasonable at BA Step 7 and MA Step 10. Neither party's offer appears to be more reasonable than the other's offer at the remaining benchmarks.

Because of the closeness of the salary offers, the outcome of this case will be determined by the reasonableness of the positions of the parties on the remaining issues.

C. PROFESSIONAL GROWTH

There is merit to the Board's position that the present language has no effect on those people who are at the tops of their particular salary lanes since they cannot advance on the salary schedule without earning additional credits. However, the Board's final offer does not give teachers who may be effected by its final offer a reasonable time to take action to prevent their salaries from being frozen. The Board's proposal would financially penalize five teachers (more than ten percent of the teaching staff).

The salary schedule barrier system proposed by the Association, has the virtue of providing teachers who do not earn additional credits a reasonable time before the effects of their failure to earn the credits are felt. However, the Association's offer does not solve the problem of teachers who reach the top of their salary lane and do not earn additional educational credits. In addition, it makes a significant change in the salary schedule structure.

Neither proposal has support from the comparables. None of the comparable districts has a barrier system similar to that proposed by the Association. None of the comparables in the athletic conference has a professional growth requirement similar to that of the District. Viroqua and Westby have professional growth requirement, but neither has a provision freezing salary for failure to comply with the requirement (both stop increment advancement and Viroqua provides that failure to comply with the requirement for the second year is just cause for non-renewal).

Neither position on this issue can really be characterized as reasonable. While the parties have identified the problem, they have failed to propose reasonable solutions.

D. DURATION OF THE CONTRACT

Both proposals are for one year contracts with the same starting and ending dates. The important difference is the Association's proposal that the duration clause state specifically that, in the event contract negotiations are not completed for a subsequent contract, the salary schedule

would remain in effect and teachers who had an entitlement would advance in vertically or horizontally.

The record provides no support from the comparable districts for the Association's proposal. If, as the Association asserts, the law requires that which the Association is proposing even without the inclusion of the Association's proposal, the Association could achieve the same result without the inclusion of its language in the contract.

The Association has not shown a compelling reason for the inclusion of this additional language. It is concluded that the Board's proposal to retain the present language is more reasonable.

E. EMERGENCY LEAVE

The Board's concern about the possible overlap between emergency leave and personal leave would have been easier to deal with if it had been considered at the time the personal leave provision was added to the contract. Because of the advance notice requirements of the personal leave provision in the collective bargaining agreement, deletion of the language as suggested by the Board could mean that persons with "compelling personal reasons" which arise suddenly would no longer be entitled to leave.

As the Board has not shown a compelling reason for deleting the language in question. It is concluded the Association's proposal to retain the present language is more reasonable.

F. BREACH OF CONTRACT

Of the comparables, only one district (Weston) has a penalty as high as \$500 for breach of a teaching contract. The penalties in other districts having penalties range from \$100 to \$400. Three of the districts (Kickapoo, Viroqua, and Westby) have no penalties. Four of the six districts with penalties provide for waive of the penalty if the reason for leaving is beyond the control of the teacher.

Since the District already has one of the highest liquidated damage provisions among the comparables, the Board has not justified increasing the liquidated damages by 50% with a maximum liquidated damage 50% higher than any other comparable district has.

It is concluded the Association's proposal with respect to this issue is more reasonable than the Board's.

V. AWARD

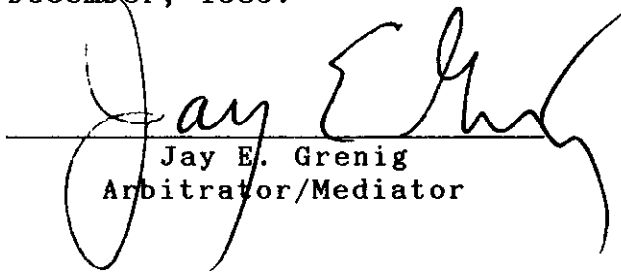
For the reasons discussed above, no preference has been expressed with respect to the salary issue or the

professional growth issue. The Board's proposal regarding contract duration is preferable to that of the Association. However, the Association's proposals regarding emergency leave and breach of contract are preferable to those of the Board.

In considering the total final offers of the Board and the Association, it is determined that the preference for the Association's proposals on emergency leave and breach of contract make the Association's total final offer slightly preferable to the Board's total final offer.

Based upon the criteria of the Wisconsin Municipal Employment Relations Act, the evidence and arguments of the parties, the Association's offer is selected to be included with the stipulations of the parties in the 1984-85 collective bargaining agreement between the Association and the Board.

Executed at Waukesha, Wisconsin, this 27th day of December, 1985.


Jay E. Grenig
Arbitrator/Mediator

Name of Case: De Soto School District, Case 16 No. 34316 MED/ARB-3102

The following, or the attachment hereto, constitutes our final offer for the purposes of mediation-arbitration pursuant to Section 111.70(4)(cm)6. of the Municipal Employment Relations Act. A copy of such final offer has been submitted to the other party involved in this proceeding, and the undersigned has received a copy of the final offer of the other party. Each page of the attachment hereto has been initialed by me.

May 15, 1985
(Date)

Thomas C. Beria
(Representative)

On Behalf of: De Soto Education Association

De Soto Education Association Proposal:

Salary Schedule Barriers: Teachers will be allowed to move vertically through the salary schedule until they arrive at their column barrier. 1984-85 De Soto employees covered by this collective bargaining agreement who are six (6) or fewer years from a barrier will be allowed to pass through the barrier and advance to the former 15th step column maximum.

BA Base 13605
 BA Lanes 410
 To%MA Lns 410
 Inc-BA 470
 Inc-+12 500
 Inc-+24 500
 Inc-MA 500
 Inc-+12 500
 Inc-+24 500

DESOTO

Step	BA	BA+12	BA+24	MA	MA+12	MA+24
0	13605	14015	14425	14835	15245	15655
1	14075	14515	14925	15335	15745	16155
2	14545	15015	15425	15835	16245	16655
3	15015	15515	15925	16335	16745	17155
4	15485	16015	16425	16835	17245	17655
5	15955	16515	16925	17335	17745	18155
6	16425	17015	17425	17835	18245	18655
7	16895	17515	17925	18335	18745	19155
8	17365	18015	18425	18835	19245	19655
9	17835	18515	18925	19335	19745	20155
10	18305	19015	19425	19835	20245	20655
11	18775	19515	19925	20335	20745	21155
12	19245	20015	20425	20835	21245	21655
13	19715	20515	20925	21335	21745	22155
14	20185	21015	21425	21835	22245	22655
15	20655	21515	21925	22335	22745	23155

7. Article XV Paragraph A

Line 796: June 30, 1985

Line 797: July 1, 1984

Add on Line 798: In the event a subsequent contract is not negotiated by the start of the 1985-1986 contract year, teachers eligible for lane and step advancements under the 1984-1985 contract shall be granted said lane and step advances for salary determination for 1985-1986.

Name of Case: DE SOTO SCHOOL DISTRICT
CASE 16 NO. 34316 MED/ARB-3102

The following, or the attachment hereto, constitutes our final offer for the purposes of mediation-arbitration pursuant to Section 111.70(4)(cm)6. of the Municipal Employment Relations Act. A copy of such final offer has been submitted to the other party involved in this proceeding, and the undersigned has received a copy of the final offer of the other party. Each page of the attachment hereto has been initialed by me.

MAY 15, 1985
(Date)

Karl L. Monson
(Representative)

On Behalf of: De Soto Area School District

BOARD OF EDUCATION
FINAL OFFER May 15, 1985

A. Contract Language Changes:

1. Contract length/duration -
Contract period shall be July 1, 1984 to June 30, 1985
2. Article IXB Emergency Leave
Line 318 Drop: "or in cases of compelling personal reasons"
3. Article X Paragraph I Line 569
Drop: "will not advance steps on the salary schedule"

Add: "will have their salary frozen until the six credit requirement is met"
4. Article IV Paragraph F Line 212
Change "sum of \$200.00 to sum of \$300.00"

Line 217: Change "sum of \$500.00 to sum of \$750.00"

B. Monetary Offers:

1. Salary Schedule Attached
- ~~2. Appendix B - Extra Curricular Attached~~

APPENDIX A

SALARY SCHEDULE

STEP	BA	BA+12	BA+24	MA	MA+12	MA+24
0	13700	14150	14600	15050	15500	15950
1	14140	14610	15060	15510	15960	16410
2	14580	15070	15520	15970	16420	16970
3	15020	15530	15990	16430	16890	17330
4	15460	15990	16440	16890	17340	17790
5	15900	16450	16900	17350	17800	18250
6	16340	16910	17350	17810	18260	18710
7	16780	17370	17820	18270	18720	19170
8	17220	17830	18280	18730	19190	19630
9	17660	18290	18740	19190	19640	20090
10	18100	18750	19200	19650	20100	20550
11	18540	19210	19660	20110	20560	21010
12	18980	19670	20120	20570	21020	21470
13	19420	20130	20590	21030	21480	21930
14	19860	20590	21040	21490	21940	22390
15	20300	21050	21500	21950	22400	22950
LANE	0	450	450	450	450	450
STEP	440	460	460	460	460	460