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STATE OF WISCONSIN

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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RELATIONS COMMISSION

In the Matter of Mediation/
Arbitration

between

The Manitowoc County Educa-
tion Association

-and-

Manitowoc County Handicapped
Children's Education Board

OPINION & AWARD

Interest Arbitration

WERC Case No.: 35313

MED/ARB - 3376

Decision No. 22945-A

Before: J. C. Fogelberg
Mediator/Arbitrator

Appearances -

For the Association:

Richard Terry, Executive Director

For the School Board:

John Spindler, Attorney

Henry E. Donatell, District Administrator

Preliminary Statement -

The County Handicapped Children's Education Board, located in Manitowoc, operates a special school (known as the Riverview School) for handicapped and disabled students situated in Manitowoc County. The students come from five separate school districts within the geographic proximity of Manitowoc. They consist of Manitowoc, Mishicot, Reedsville, Two Rivers and Valders. The Association (MCEA) is the duly recognized and exclusive bargaining agent for all regular

full-time and part-time professional employees at the River-view School.

On April 22, 1985 representatives of the Association and the Education Board exchanged proposals for negotiations for the 1985-86 Master Agreement. Subsequently, the parties met on a number of occasions in an effort to reach an agreement on a new contract. Failing this, the parties stipulated to a petition for mediation/arbitration with the Wisconsin Employment Relations Commission pursuant to Section 111.70(4)(cm)6 of the Wisconsin Statutes, on July 2, 1985. Thereafter the Commission conducted an investigation which indicated that the parties were still deadlocked in their negotiations. Consequently, final offers were exchanged by the parties and submitted to the investigator on September 24, 1985, and on October 2nd the Commission notified the parties that the investigation was closed and ordered them to select a mediator/arbitrator. On October 14, 1985 the undersigned was notified by the Chairman of the Commission of his selection by the parties as the neutral. Accordingly, on Thursday, January 16, 1986 the mediator/arbitrator met with the Association and the District whereupon efforts were undertaken by the neutral to reach a settlement through mediation. When it became almost immediately apparent that the matter was not going to be settled voluntarily, the parties moved directly to

an arbitration hearing on that same date. At the hearing, evidence was received and testimony taken relative to the outstanding issues, at the conclusion of which the parties indicated a preference for filing post-hearing briefs and also requested the opportunity to file a reply brief within a set time following receipt of the initial written summations. The original briefs were received by the neutral on or before February 1, 1986. Thereafter additional correspondence was received and ultimately the hearing was closed on February 6, 1986.

The Issues -

The following issues remain at impasse between the parties and have been certified as being at impasse by the Commission:

- 1) Salary increases for school year 1985-86
- 2) Salary structure
- 3) Workday definition

Position of the Parties -

Association's Position: For the term of the 1985-86 Contract, the teachers seek an increase in wages which they estimate to be 8.66%. Additionally, the teachers are proposing a formal salary schedule consisting of 12 steps and two lanes. The specific structure of the schedule and the

salary allotted for each cell on the grid is set forth in Appendix A, attached.

Further, the bargaining unit members are seeking new language in the Agreement relative to a workday definition to read as follows:

"5.8 Employee Workday.

The employees assigned to participating districts shall be governed by that district's workday.

Employees at Riverview shall have workday equivalent to 8 AM to 4 PM.

On Fridays and days prior to scheduled recess periods, the employees are permitted to leave twenty (20) minutes after student dismissal."

Board's Position: The School Board, on the other hand, has proposed no salary schedule per se, but rather has offered individual teacher increases for the 1985-86 school year totalling 7½%. This final position is more fully set forth in Appendix B, attached.

The Employer opposes the Association's proposal to include formal language defining a teacher's workday.

Analysis of the Evidence -

In arriving at the decision that has been made here, the arbitrator has given careful consideration to each of the criteria enumerated in Section 111.70(4)(cm) of the Wisconsin Statutes, as

they relate to the documents, testimony and written arguments submitted by the parties.

It is clear from an analysis of all the relevant evidence, that the principal dispute between the parties lies with the dual question of the most appropriate monetary adjustment to be granted to the bargaining unit members, as well as the method of granting wage increases; i.e., whether or not a formal salary schedule should be included in the new Agreement. Upon reviewing the evidence, one quickly becomes cognizant of the initial disagreement between the parties concerning the method of computation of the wage increase itself. In this regard, the District has relied upon the traditional "roll-up factor" whereby the 1984-85 staff is used as the basis for the computation, and they are then advanced to the 1985-86 school year for purposes of assessing the percentage increase in salaries based upon each side's final offer. Conversely, the Association wishes to measure their final position in terms of dollars per Full-Time Equivalent (FTE) yield, a figure they estimate to be \$1,792, or 8.66% over the previous year. Favoring one method of computation over the other in this instance is somewhat significant inasmuch as the resulting percentage increase in salaries for the teaching staff in 1985-86, varies substantially. Using the Employer's analysis of the Association's final position (the

roll-up factor) the Association's final offer translates to a 10.08% increase, rather than the 8.66% as calculated by the bargaining unit representative.

Both methods of computing salary increases have been utilized in the past when analyzing wage data in the public sector. In the instant dispute, however, the neutral favors the Association's approach as it is more realistic given the existing circumstances. Historically the roll-up method advanced by the School Board has been useful while the parties are in actual negotiations. Ideally calculations for any wage increase made at the bargaining table are in advance of the school year which they are intended to cover. Naturally the only data available to the parties under these circumstances is the existing teaching staff - hence the need to project them into the ensuing school year for purposes of calculating costs. The facts in the instant dispute however, are quite different. Here the time frame which the parties seek to cover with a new agreement has nearly expired. Given the delay attendant to the existing impasse procedure, an examination of the relevant conditions is not so much prospective as it is retrospective. The 1985-86 teaching staff at River-view is a known commodity. The number of instructors and their respective teaching experience can be readily ascertained for purposes of calculating any wage increase. While

seven teachers left the school prior to the commencement of classes in the fall of 1985, they were replaced by an equal number, but with people who possess different experience levels and formal education. The real monetary consequences to the School Board is not the 1984-85 staff "projected" to 1985-86, but rather the current collection of teachers now on the payroll. Accordingly the figures utilized by the Association are deemed more realistic under the existing circumstances and their total payroll estimate, based upon their final position, shall be utilized for comparison purposes. That figure (\$1,152,310) fairly represents the actual salary costs that would be incurred by the Board in 1985-86 should the teachers' final position prevail here.

Unlike many other impasse disputes, the parties do not disagree regarding the relatively important criterion of comparability. Essentially they concur that the so-called "feeder districts" of Manitowoc, Mischicot, Reedsville, Two Rivers and Valders form a solid basis for comparison purposes which has historically been utilized when testing the reasonableness of any proposed salary adjustment at Riverview. The logic of this agreement can be readily comprehended. These five districts are geographically clustered in the same area of the state, share similar socio-economic conditions and indeed the student population at Riverview is

comprised of children who would otherwise be attending schools in one of these five districts. At the hearing, it was demonstrated that among the comparable grouping, three districts have settled their teaching contracts for 1985-86: Mischicot, Two Rivers and Valders. Based upon the data submitted by the Association (the accuracy of which is not truly challenged by the Employer) the average salary increase among these settled districts amounts to \$2,123 as Association Exhibit 14 demonstrates. This amount exceeds the teachers' final position by \$331 and the Districts' by \$571. Additionally, were the final offers in the school districts of Manitowoc and Reedsville (the two districts who have not yet settled for 1985-86) considered, the resulting dollar average would increase to \$1,942 - an amount that still exceeds either final position here. Similarly, the data presented indicates that the percentage increase in salaries at Mischicot was nearly 10%, over 9% at Two Rivers, and in excess of 11% at Valders. Again these percentages exceed either final certified position in the instant dispute when calculated based upon dollars/FTE. In each instance of course, the departure is greater adopting the Board's final offer versus the Association's.

The parties have also addressed the economic conditions in Manitowoc County as being both relevant and supportive of

their respective positions. Here the Employer asserts that the private business sector as well as the agricultural economy statewide (and in the County as well) is economically depressed, thereby militating against the higher wage increases sought by the Association. Conversely, the bargaining unit claims that the "doomsday" picture that the Board seeks to paint, is "simply not true." Exhibits have been introduced by both sides which support their arguments in this regard. Giving weight to these documents however, tends to favor the WCEA's argument -- though by relatively narrow margin. For example, the Association has cited the Employer's Exhibit 17 concerning Manitowoc Company - a large private sector employer in the county - as being supportive of its (the Association's) arguments that things are not as bad as the Employer would have the arbitrator believe. The bargaining unit representative then goes on to quote the first paragraph in the exhibit (a letter to the shareholders from Management) as indicating that sales during the first quarter of 1986 were markedly higher by some 25%. This analysis however, ignores the fourth paragraph in the same letter which states as follows:

"While this year's first quarter crane and excavator sales were almost double the very depressed levels of a year ago, there's still no real indication of a turnaround in the large liftcrane and excavator market. We are continuing our efforts to bring down our operating losses in this product area."

Other data submitted by the School Board indicates settlement rates in the 3-4% range for wages in the private sector within the County as well as an historical pattern of above average unemployment. This evidence must be necessarily offset however, by the fact that the County (as rated by the DILHR) ranks twentieth among the state's 72 counties in per capita personal income. Moreover, as the Association points out, the five feeder districts are receiving substantial new state aids for the 1985-86 school year as a result of the new funding bill (Union Exhibit 42). In addition, the arbitrator has taken into consideration the general economic conditions within the agricultural industry both in the county and statewide. Clearly the economic decline experienced by the family farmer in today's market has an adverse impact on this school board as well as the feeder districts themselves. Yet at the same time, there was no evidence advanced which distinguishes the situation at Riverview School from any of the other feeder districts nor the collection of "group II" comparables cited by the Association (Exhibits 18-21). Certainly the commonality of experience among the various relevant districts - which necessarily includes Riverview - requires greater weight to be given to the settlements reached within this comparable grouping.

The foregoing evidence standing alone tends to favor

an adoption of the Association's final offer. However, it is the attendant wage issue concerning the proposed structured schedule which, in the arbitrator's view, is dispositive in this case. Here the bargaining unit has made a thorough and instructive presentation urging the return to a "single salary schedule" for the teachers. Indeed the MCEA cites noted authorities and historical patterns concerning compensation methods within public education in general, as well as a strong set of comparables (i.e., the feeder and geographically proximate districts) which lend credence to their position. Throughout their presentation regarding this issue at the hearing and in their written summary as well, the bargaining unit representative makes repeated reference to "objectivity" and "consistency" and the need to regain an "internal equitable pay environment" at Riverview. The MCEA is also critical of the existing method of compensation practiced at the School and cites the Board's final wage offer as evidence of inconsistencies and disparate pay adjustments, motivated (in part) by suspected personal favoritism on the part of management. Association Exhibit 9 was cited as being demonstrative, as the Employer's final wage offer reveals increases ranging from 3.91% to 9.97%.

The argument of the teachers would tend to further support the Association's position which, to this point, has been

preferred by the arbitrator. However, there is a critical flaw in their final position which precludes its adoption: the total lack of consistency within the schedule as proposed.

If the purpose of a salary grid is to enhance consistency and objectivity, then that schedule needs to reflect these virtues in its structure. Consistent increases in steps and lanes - whether through a set dollar amount or a percentage adjustment - is most desirable. Indeed many schedules themselves are symmetrical. In the instant matter, the schedule proposed by the Association is anything but consistent. A

careful analysis of their position reveals increases ranging from \$290 between steps 10 and 11 to \$2,311 between steps 9 and 10, the latter being nearly eight times greater than the very next step in their proposal. Nowhere in their presentation was there any explanation for these variances.

Indeed the certified final offer indicates inconsistent and irregular adjustments at nearly all steps on the proposed schedule. Moreover, a comparison of this proposal to the salary schedules in effect among four of the five feeder districts (Association Exhibit 15) reveals that this is the only salary schedule which does not have consistent step and lane increases built in. In fact this same UniServ has proposed a salary schedule for the teachers in the remaining unsettled district (the city of Manitowoc) which is in keeping with

the well-settled pattern of consistent step and lane increases (Association Exhibit 16). This is the very district, according to both sides, which has historically been used as a bellwether for Riverview. Yet for reasons unexplained, the bargaining unit seeks to depart from this well-established (and most logical) pattern in the instant dispute. Absent substantiating evidence, the neutral cannot justify this position. As the clearly "prevailing practice" among the comparable feeder districts calls for uniformity in the salary schedule structure itself, the burden of proof lies with the Association to demonstrate the need to differentiate from the norm. This however, was not done in this instance.

Additionally, the ancillary (as acknowledged by both sides) third issue concerning a work day definition cannot be considered dispositive here. The evidence demonstrates that the language proposed by the Association is nothing more than the practice currently being followed by the Administration. No evidence of inconsistent application to the detriment of the teachers was produced. Moreover in light of the weight given to the evidence concerning the salary schedule itself, even a finding in favor of the MCEA here would not materially alter the final outcome of this dispute.

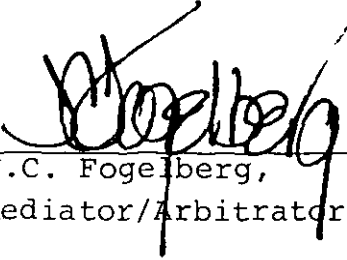
Finally, the arbitrator would address the objections raised by the Association in their letter dated January 31, 1986

concerning the additional material submitted by the School Board along with their post hearing brief. In this regard, the arbitrator finds the argument of the Association persuasive, particularly as it relates to the additional newspaper articles submitted by the District. Therefore, the supplemental documentation accompanying the Employer's post hearing brief was excluded from consideration.

Award -

Accordingly, for the reasons set forth above, any and all stipulations entered into by the parties and the School Board's final offer are to be incorporated into the 1985-86 Agreement effective July 1, 1985.

Respectfully submitted this 4th day of April, 1986.



J.C. Fogelberg,
Mediator/Arbitrator

SALARY SCHEDULE

STEP	BA	MA
	-----	-----
1.0	17500	19000
2.0	18250	19888
3.0	18750	21043
4.0	19550	21766
5.0	20322	23211
6.0	21643	24219
7.0	23211	24603
8.0	24603	25669
9.0	25092	27403
10.0	27403	28271
11.0	27693	30151
12.0	---	31438

SALARY SCHEDULE

STEP	BA	MA	TOTAL
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1.0	70000	19000	89000
2.0	36500	39776	76276
3.0	103125	21043	124168
4.0	19550	43532	63082
5.0	40644	46422	87066
6.0	132022	9688	141710
7.0	161316	73809	235125
8.0	39365	25669	65034
9.0	75276	27403	102679
10.0	19182	28271	47453
11.0	27693	30151	57844
12.0	---	62876	62876

MANITOWOC COUNTY HANDICAPPED CHILDREN'S
EDUCATION BOARD
1985-86 SALARY PROPOSAL
SEPTEMBER 20, 1985

F.T.E.	1984-85 SALARY	TOTAL COST	PROPOSED 1985-86	TOTAL COST
			17,000	
3	16,000	48,000	17,550	52,650
2	16,250	32,500	17,550	35,100
5.9	16,750	98,825	18,350	108,265
1	17,598	17,598	19,250	19,250
2	17,888	35,776	19,250	38,500
2	18,322	36,644	20,150	40,300
5	19,043	95,215	20,900	104,500
3.1	19,766	61,275	21,350	66,185
5.95	20,489	121,910	22,250	132,388
2	21,211	42,422	22,950	45,900
2	21,356	42,712	23,150	46,300
2.6	22,219	57,769	23,750	61,750
3	22,803	68,409	24,350	73,050
3	23,092	69,276	24,400	73,200
1	23,669	23,669	25,000	25,000
1.7	25,403	43,185	26,700	45,390
1	25,693	25,693	26,900	26,900
2	26,271	52,542	27,300	54,600
1	28,151	28,151	29,400	29,400
2	29,438	58,876	30,700	61,400
51.25		1,060,447		1,140,028