

APR 09 1986

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

IN THE MATTER OF MEDIATION-ARBITRATION) INTEREST ARBITRATION)
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 between)
)
 Port Edwards School District) Case 8 No. 35831)
) MED/ARB - 3555)
 -and-) Decision No. 23060-A)
)
 Port Edwards Education Association) April 4, 1986)
))

APPEARANCES

For Port Edwards School District

William Bracken, Membership Consultant, Wisconsin Association of
 School Boards, Inc., Winneconne, Wisconsin
 Mike Malone, District Administrator
 Dave Reinke, School Board Member
 George W. Bartels, School Board Member

For Port Edwards Education Association

David W. Hanneman, Executive Director, Central Wisconsin UniServ
 Council-South, Wausau, Wisconsin
 Steve Day, Chief Negotiator
 Patrick McGrath, Teacher Bargaining Team
 Roger Glocke, Teacher Bargaining Team

JURISDICTION OF MEDIATOR-ARBITRATOR

On February 26, 1985, the Parties, Port Edwards School District (hereinafter "School District" or "Board") and Port Edwards Education Association (hereinafter "Association") exchanged initial proposals on matters to be included in a new collective bargaining agreement to succeed the agreement which expired on August 20, 1985; that thereafter the Parties met on six occasions in efforts to reach an accord on a new collective bargaining agreement; that on October 15, 1985, the Parties filed a stipulation requesting that the Wisconsin Employment Relations Commission (WERC) initiate mediation-arbitration pursuant to Sec. 111.70(cm)6 of the Municipal Employment Relations Act; that on November 11, 1985, Andrew Roberts, a staff member of the WERC, conducted an investigation which reflected that the Parties were deadlocked in their negotiations, and, by November 11, 1985, the Parties submitted to said Investigator their final offers, as well as a stipulation on matters agreed upon, and thereupon the Investigator notified the Parties that the investigation was closed; and that said Investigator has advised the WERC that the Parties remain at impasse.

The WERC having, on November 13, 1985, issued an Order requiring that mediation-arbitration be initiated for the purpose of resolving the impasse arising in collective bargaining between the Parties on matters affecting wages, hours and conditions of employment of all teaching personnel teaching 50 percent or more, excluding administrators, supervisors and all other employees of the School District; and on the same date the WERC having furnished the Parties a panel of mediator-arbitrators for the purpose of selecting a single mediator-arbitrator to resolve said impasse; and the WERC having, on November 18, 1985, been advised that the Parties had selected Richard John Miller, New Hope, Minnesota as the mediator-arbitrator.

A mediation session was held on Friday, February 7, 1986, at approximately 9:00 a.m. in the Y.M.C.A., Port Edwards, Wisconsin. It proved to be unsuccessful. The arbitration session convened shortly thereafter. Following receipt of positions, contentions and evidence, the Parties filed post hearing briefs which were received on March 17, 1986, after which the hearing was considered closed.

POSITIONS OF THE PARTIES

There are five essentially interrelated issues which separate the Parties.

The first issue involves the increase in pay for veteran teachers for 1985-86. The Association's offer is for 4% plus \$1,060 while the School District's offer is for 4% plus \$650.

The next issue is the adjustment to be made to miscellaneous and non-contract items as referenced on pages 28 and 29 of the 1984-85 contract. The Association's offer is to increase these items by 8.51% and the School District's offer is to increase page 29 items by 7.5% for 1985-86, and provide no change on page 28 miscellaneous items except for the School District's new approach to credit reimbursement.

On the issue of credit reimbursement and other miscellaneous items, the Association proposes that they be increased by 8.51%. The School District proposes that the credit reimbursement be 82% of the cost of approved college courses based on the current fees of the University of Wisconsin at Steven Point, but proposes no increase in the hourly salary or independent student payments.

The next issue is the duration of the successor contract in the monetary area. Both Parties have agreed that all items except credit reimbursement, pay for returning teachers and increases in pay for page 28 and 29 items, would be in effect for 1985-87.

The final issue is the 1986-87 returning teacher salaries and page 28 and 29 items. The Association proposes to reopen the contract to bargain only these items while the School District proposes no change in page 28 items, a 7.06% increase for page 29 items and returning teachers' salaries of 4% plus \$650.

ANALYSIS OF THE EVIDENCE

The mediator-arbitrator evaluated the final offers of the Parties in light of the criteria set forth in Wis. Stats. 111.70(4)(cm)7, which includes:

- 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 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 the 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 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.
- A. The lawful authority of the municipal employer.

This factor is not an issue in the instant proceeding. The lawful authority of the School District permits it to grant the final offer of the Association. No contrary evidence was introduced by either Party that would estop the arbitrator from considering the final offers of the Parties. As such, the arbitrator concludes that the final offers are within the authority of the School District.

B. Stipulations of the parties.

Except for the issues at impasse, the Parties have agreed to all other contract items for the 1985-86 and 1986-87 school years. None of the original stipulations of the Parties are in dispute. The arbitrator, therefore, shall include the stipulations as part of the final award in this matter.

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.

The Parties spent considerable time during the negotiations process in verifying costing figures so that both Parties could be assured of their accuracy. The School District agrees that the Association's method of costing is a fair representation of the total cost associated with each Parties' final offer. Thus, on a dollar increase basis, the Board's offer in 1985-86 amounts to \$1,590 or 6.77% while the Association's offer is \$2,000 or 8.51%. In 1986-87, the Board's offer, on a dollar increase basis, is \$1,654 or 6.59%. On a total package basis, the Board's offer in 1985-86 amounts to a \$2,248 per teacher increase or 7.28% while the Association's final offer amounts to \$2,744 or 8.89%. In 1986-87, the Board's final offer amounts to \$2,278 on a total package basis or 6.88%. In 1985-86, the Parties are \$496 per teacher apart or \$20,444. (Association Exhibits #8-#10).

The Association presented exhibits that Port Edwards is a wealthy School District, capable of funding the Association's final offer. (Association Exhibits #55, #57, #59). In addition, the Association offered numerous exhibits dealing with the economy. (Association Exhibits #61-#79). The general thrust of all of these exhibits is that the national and state economies are improving and predicted to improve. In fact, since Port Edwards is a paper dependent community in Wood County, which is

experiencing economic growth, the specific economic factors applicable to the Port Edwards School District are very bright.

The Board has presented certain economic statistics regarding a comparison between Port Edwards and the 15 other schools in the Central Wisconsin Athletic Conference of which the School District is a member. Even though Port Edwards is one of the smallest school districts in the conference, ranking 12th out of 16 schools, its tax levy rate and total cost per student rank first among the schools. (Board Exhibit #12). Port Edwards' property taxes for the latest year ranks first by a significant margin. (Board Exhibit #10). Over two-thirds of the budget in the School District must be generated by local taxpayers. (Board Exhibit #11). In terms of the education related per pupil expenditure, Port Edwards ranks third in the state and second in the conference. (Board Exhibit #14).

The Board also presented several exhibits to illustrate that the Wisconsin economy is lagging behind the national growth rate. (Board Exhibit #32). In addition, because of Wisconsin's \$340 million shortfall, Governor Earl has pleaded with all school districts to hold the line on any increases in their budgets. (Board Exhibits #34, #35, #45). Wisconsin is already one of the highest taxed states in the nation. (Board Exhibit #46).

All of these facts show that Port Edwards, while being one of the smallest districts, is willing to spend an enormous amount of money to ensure quality education in times when the current economic conditions in the state need improvement. However, none of these exhibits, nor any other Board exhibits, prove that the Port Edwards School District does not have the ability to pay the Association's final total package offer which amounts to approximately \$20,444 more than its own final total package offer. Therefore, it must be concluded that there are adequate finances available to fund the final offers of the Parties.

The Association offered several exhibits which show that the teachers in Port Edwards are significantly underpaid when compared to other workers in society and in Port Edwards who have similar training and experience. These exhibits also showed how important it is to hire and retain quality teachers in light of the lower salaries paid to teachers throughout the state and the nation. (Association Exhibits #39-#52).

In light of these exhibits, the Association argues that their final offer which rewards teachers to a higher degree, particularly career teachers who are the nucleus of a quality staff, is the offer which best serves the interest and welfare of the public because it has greater probability of increasing the retention of these quality instructors.

The Arbitrator does not argue that high quality teachers are detrimental to the interest and welfare of the public. The thrust of the argument is how to attract and maintain quality teachers. It is fair to say that in most cases a teacher will seek employment and maintain that employment in a school that pays better. These Association exhibits, however, fail to substantiate that the School District, as a result of the salaries paid to their teachers, including newly hired and career teachers, have a problem in attracting new teachers or maintaining the current career teachers. As such, the Association's argument that its offer is superior to the Board's offer from the interest and welfare perspective lacks concrete proof.

By proposing a two year agreement with an economic reopener in the second year, the Association violates a longstanding, undisputed past practice that the Parties have enjoyed since the Association's very existence. Every contract between the Parties has been of two years' duration on all contract items. (Board Exhibit #24).

The Association argues that their final offer is preferred because of economic uncertainty in 1986-87. No one knows what the economic future may bring. However, since 1977 the Parties have always been able to reach an agreement through voluntary means (except for the 1983-85 school years) on the terms of a two year contract even in the face of this economic uncertainty. Given the past practice and the fact that the 1985-86 school year is almost over, it is not unreasonable for the Board at this late date to insist upon a two year agreement.

The interest and welfare of the public will best be served by adoption of the Board's final offer on the duration issue. It is the Board's offer that continues an eight year tradition of multi-year agreements.

In summary, this criterion has been considered by the arbitrator and it is concluded from the above exhibits that the School District has the ability to pay either final offer; the School District has not experienced any problems hiring or retaining quality teachers; and the interest and welfare of the public is best served by the Board's offer of a two year agreement on all contract items.

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 the private employment in the same community and in comparable communities.

The Board proposes that the school districts which comprise the Central Wisconsin Athletic Conference are the most comparable to Port Edwards. The Association, for the most part, concurs. The Association, however, includes two other groups of comparables: 1) settled schools, statewide, with between 20 to 50 teachers; and 2) statewide average schools.

This is the second time that the Parties in the Port Edwards School District have proceeded to binding arbitration. The Parties received an arbitration award from June Miller-Weisberger over the terms of the 1983-85 contract. (Board Exhibit #5; Association Exhibit #17). In that both Parties have submitted the previous mediation-arbitration award, this is the most logical document to turn for guidance under this criterion. To ignore this previous award would only hinder the Parties' collective bargaining relationship in the future.

Arbitrator Miller-Weisberger decided two years ago that the athletic conference was the best comparability group for the purposes of comparing wages, hours and conditions of employment. Since that time, the conference has expanded to include several other school districts. Nonetheless, since both Parties have proposed the athletic conference as the best comparability group, adhering to the wisdom of the previous arbitrator, the arbitrator here, accepts this reasoning and shall only utilize the athletic conference in the measuring of comparable settlements.

The arbitrator's decision to adhere to the previous arbitrator's decision is not unusual. In fact, many arbitrators have held as a general labor relations principle that once the parties have established the comparables through arbitration, another arbitrator should not disturb it. Tomah Area School District, Dec. No. 20048-B, 6/83, p. 9; Douglas County (Sheriff's Department), Dec. No. 20765-A, 12/83, p. 6; School District of Neilsville, Dec. No. 20202-A, 7/83, p. 9; Kenosha Unified School District No. 1, Dec. No. 19916-A, 6/83, p. 4.

Of the 16 schools in the athletic conference, eight have settled for 1985-86: Bonduel, Marion, Manawa, Iola-Scandinavia, Menominee Indian, Tri-County, Wild Rose and Almond-Bancroft. All of the rest but one (Tomorrow River) have submitted certified final offers. None of these schools have settled for 1986-87. Consequently, this case must be decided on the 1985-86 salaries since there are no relevant settlements covering 1986-87 in the athletic conference. The arbitrator has enough settlements with one-half of the athletic conference schools settled for the 1985-86 school year to make a valid comparison in this case.

In 1974-75, there existed between the Parties a traditional grid salary schedule. In the 1975-76 school year, the Board offered and the Association agreed to, a method of payment which provided returning teachers with a percentage of their previous year's salary plus a fixed number of dollars. Thus, beginning with the 1975-76 agreement, the Parties have used a formula to adjust the salaries of teachers in Port Edwards. The formula has varied slightly over the years ranging from a low of 4% to a high of 6% and a low of \$350 to a high of \$915. (Association Exhibits #11-#16B). The salary of a new, beginning teacher has always been agreed to separately by the Parties and has been related to the salary of returning teachers. The salary of new, experienced teachers has always been jointly determined by the Parties and the salary paid would be the same salary as paid to an experienced staff person with the same training and experience. During the bargaining for the 1985-87 contract, the Parties agreed on the new base salaries but have disagreed on how much returning teachers should be paid.

All of the Association's wage comparisons at salary benchmarks in its various comparability groups rely on the salaries generated from the formal salary grids as being representative of salaries paid in Port Edwards. Association Exhibit #16 shows that in only seven cases does the Association's hypothetical salary schedule match the actual salaries being earned by individual teachers in Port Edwards. In most cases, the Association has grossly understated the actual salaries being earned by teachers in the School District in their comparability studies at various benchmark positions. (Association Exhibits #18-#37). The School District, on the other hand, uses actual salaries earned by actual individual teachers to build benchmarks. This is the only valid method to characterize the actual salaries being earned in Port Edwards in comparison to the settled athletic conference schools. The Association's method is misleading and was rejected by the previous arbitrator. The arbitrator here, must therefore rely solely on the data produced by the School District for guidance in ascertaining the best offer submitted by the Parties in comparison to the comparable athletic conference schools.

The School District suggests that the benchmarks at the BA base, BA maximum, MA base, MA maximum and schedule maximum are much more accurate than the use of the internal benchmarks of BA+7 and MA+10 as proposed by the Association. In support of the Association's position, Roger Glocke, a member of the Association

Negotiations Team, indicated his expertise in statistics and then pointed out that just using the extreme benchmarks as proposed by the School District skews the data unless the internal benchmarks on the BA+7 and MA+10 are included in the study. Attached to the Association's post hearing brief as Appendix A is the written argument of Mr. Glocke, which he was unable to fully make at the hearing.

The arbitrator has carefully reviewed the analysis made by Mr. Glocke and concludes it has some merit. However, on the other hand, the Association's data pertaining to the internal benchmarks at BA+7 and MA+10 were generated from their hypothetical salary schedule, which is misleading. From the standpoint of what does less damage, the School District's use of only the extreme benchmarks or the Association's reliance on the internal benchmarks generated from their hypothetical salary schedule, the arbitrator concludes that the former does far less damage to the statistical study. In addition, the arbitrator placed more reliance on the extreme benchmarks than the internal benchmarks because no teacher falls at those internal places on the salary schedule.

The Parties have agreed upon the BA base and the MA base for 1985-86. At the BA maximum, the MA maximum and the schedule maximum either Parties' offer will rank number one out of the settled athletic conference schools. In the other benchmarks, BA base and MA base, Port Edwards preserves its rank of fourth at the BA Base and third at the MA base out of the settled schools using either Parties' final offer. (Board Exhibits #16, #18; Association Exhibit #23). Because there is no deterioration in the ranking of Port Edwards' salaries at the benchmarks, the Arbitrator must rely upon some other means of determining which final offer satisfies this criterion.

Using the data from Board Exhibits #16 and #22, which generates the average salary paid in 1984-85 and 1985-86 for the same eight settled athletic conference schools, the amounts in Port Edwards are grossly higher than the average found among the same eight schools in 1984-85. In fact, the range is anywhere from \$367 at the BA base to \$8,842 at the schedule maximum. The Board's offer will place the Port Edwards teachers in an enviable role of ranking first at every single benchmark maximum by between 30% and 35%. At every point on the salary schedule, the Board's offer creates an improvement over the same schools in 1984-85; both in dollar terms and percentage terms. Consequently, the teachers in Port Edwards under the Board's offer will not suffer any economic slippage from the past relationships with the other comparable schools. The opposite is true; the Board's offer improves that relationship.

Using the same data and the same eight settled schools, the Board's salary offer compares more favorably to the median salaries at every benchmark. Again, the Board's offer improves the relationship at every single benchmark in absolute dollar terms and at all but one benchmark (schedule maximum) in absolute percentage terms.

If one uses the data in Board Exhibit #22, which shows a similar type of analysis as done above, but based on the 15 settled schools in 1984-85 and only the eight settled schools in 1985-86, the same conclusions may be drawn as found above.

The average salary of all of the teachers in Port Edwards is a good method to view the overall level of salaries. This takes into account the entire salary schedule and not just selected benchmarks which were a concern of the Association.

Board Exhibit #21 lists the average teacher salary and total package costs for teachers in the settled districts. Under the Board's offer, the average teacher salary in Port Edwards will be \$25,098 (Association Exhibit #9) and will exceed the other schools' average teacher salaries by \$1,269 to \$6,769. The total package costs associated with the average teacher in Port Edwards will be \$33,131 under the Board's offer. (Association Exhibit #9). This will be from \$608 to \$8,330 above the other comparable schools' total package costs.

Association Exhibit #26 clearly shows that the average percentage increase in salaries in the athletic conference for the settled schools for the 1985-86 school year is 8.36%. The Association's offer is 8.51% or 0.15% higher than the average settlement. The Board's offer is 6.77% or 1.59% below the average settlement. In most cases, the Association's offer would have more merit in that it is closer to the average percentage salary settlement. In the instant matter such is not the case. Despite the fact that the Board's offer is substantially lower than the average settlement in terms of percentage increase, the Board's final offer comes closer to the average dollar and percent increase at all of the five salary schedule benchmarks. The Board's final offer amounts to \$207 and \$576 above the going rate of increases at the benchmarks. This amounts to 0.2% to 2.2% above the going settlement rate. (Board Exhibit #22, p. 3). In addition, on a salary only basis, the average teacher in Port Edwards will receive an increase of \$1,509 under the Board's offer. This is \$58 above the average among the settled schools. The Association's offer on salary only is \$468 above the settlement average. (Board Exhibit #22, p. 4). Because the Board's final offer is above the average of the eight settled schools, this offer must be judged more comparable in meeting the dollar and percentage increases' settlement pattern established among the eight settled schools in the athletic conference.

In summary, the above evidence amply demonstrates that no matter which method the arbitrator uses to analyze the Parties' final offers in 1985-86, the Board's final offer is more comparable to the eight settled schools in the athletic conference. The Board's offer preserves and improves the existing ranking of benchmarks that the School District has enjoyed in the past among the settled schools. It also best matches the existing relationship of Port Edwards salaries compared to the median and the average. The Board's offer best matches the dollar and percentage increases at the salary schedule benchmarks exceeding the going rate at every single benchmark. For all of these reasons, the Board's offer is the best under this criterion.

Under this criterion, the arbitrator is to consider in addition to comparisons with other teachers, the salaries paid to other public employees in the same community and in comparable communities and in the private employment in the same community and in comparable communities.

Both Parties offered data from the private and public sectors involving the salaries or the salary settlements received by other employees in the community and in other communities. (Association Exhibits #39-#41, #45, #52; Board Exhibits #33, #36-#40, #42, #44). If one looked just at the salary settlement trend, the Board's offer best meets this comparability criterion. On the other hand, if the arbitrator just looks at the salary received by workers at the local paper mills in Wood County, teachers in Port Edwards receive less annual salary than most paper workers. The data introduced by the Parties tend to

nullify each other and no clear consensus appears to judge which final offer is the best under this aspect of the criterion. As such, the arbitrator must rely solely on the comparison of Port Edwards teachers to teachers in the athletic conference schools.

E. The average consumer prices for good and services, commonly known as the cost-of-living.

The Association argues that if the consumer prices are considered by the arbitrator, he must examine this area as it has impacted on the Parties from September of 1975 and not the first few months of 1986. The School District contends that the relevant period to consider is July 1984 to July 1985. The arbitrator so agrees with the Board because this is the relevant period for which the Parties were bargaining the contract. The Parties are not bargaining for terms and conditions occurring in 1975 up to the relevant contract period. The Parties have already bargained during this prior time period.

The cost of living for the relevant contract period for which the Parties are bargaining shows that from July 1984 to July 1985 the Consumer Price Index (CPI) increased by 3.8%. (Board Exhibit #23). The Board's final total package offer exceeds the CPI by 3.5% and the Association's offer by 5.2%. (Board Exhibit #23). Since the Board's offer is well in excess of the CPI, it guarantees that teachers in Port Edwards will not suffer a reduction in spending power and will actually gain in very real terms. The Board's offer best meets this criterion.

F. The overall compensation presently received by the municipal employees, 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.

The total package increase is important because all of the fringe benefits are costed into what a teacher will actually receive. In this regard, the Board's total package offer is \$156 above the settlement average. The Association's offer exceeds the total package increase per teacher by over \$735. (Association Exhibit #22). However, this data is incomplete in that it does not give specifications of various fringe benefits received by teachers in the comparable school districts. Little weight, therefore, was given to this criterion.

G. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

The Parties agreed to close the record at the conclusion of the arbitration hearing. The only exception was the clarification of Association Exhibits #26 and #36 which was mailed by the Association to the School District and the arbitrator on February 12, 1986.

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.

This factor was not given great weight because such other factors normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment were already considered in the previous statutory factors.

In conclusion, the arbitrator has given consideration to all of the statutory criteria set forth in Section 111.70(4)(cm)7. As in most arbitration cases, the criterion which carries the greatest weight is 7(d). This is especially true in this case since there are no settlements for the 1986-87 school year among the comparable athletic conference schools and the Parties did not produce any compelling evidence concerning the miscellaneous and non-contract items as referenced on pages 28 and 29 of the 1984-85 collective bargaining agreement. As such, the Parties' offers, like in the last arbitration case, succeeded or failed on the comparisons in the first year of the two year agreement.

This criterion using any method of analysis, proves that the teachers in Port Edwards are compensated at significantly above average rates among the comparable athletic conference schools even with the Board's final offer. It was also shown that the Board's final offer best matches the settlement trend among the comparable school districts, with the lone exception in percentage of the average settlements.


The second most important criterion is 7(b) which concerns the interest and welfare of the public. The interest and welfare of the public will best be served by the Board's final offer which encompasses a two year agreement on all contract items. The Association's final offer represents a radical departure of the Parties' longstanding practice.

The criterion in 7(e) and 7(f) also support the Board's final offer but clearly were not as important as 7(d) and 7(b).

Based upon the foregoing and the entire record, the Board's final offer is more reasonable and should be incorporated into the 1985-87 contract.

AWARD

Based upon the statutory criteria in Section 111.70(4)(cm) (7), the evidence and arguments presented in this proceeding, and for the reasons discussed above, the mediator-arbitrator selects the final offer of the Port Edwards School District and directs that it, along with any and all stipulations entered into by the Parties, be incorporated into the Parties' 1985-87 collective bargaining agreement.


Richard John Miller
Mediator-Arbitrator

Dated: April 4, 1986
New Hope, Minnesota