

WISCONSIN EMPLOYMENT RELATIONS COMMISSION
BEFORE THE MEDIATOR-ARBITRATOR

AUG 06 1986

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the Arbitration Between)		
GILMAN FEDERATION OF TEACHERS, Local 3309)		Case 13
WFT, AFT, AFL-CIO)		No. 35245
and)		Dec. No. 23065-A
GILMAN SCHOOL DISTRICT)		MED/ARB-3361
-----		DECISION AND AWARD

Appearances: For the Federation, Margaret M. McClosjey, Staff Representative, Wisconsin Federation of Teachers, Eau Claire.

For the Employer, Stephen L. Weld, Esq., Eau Claire.

BACKGROUND

On June 26, 1985, the Gilman Federation of Teachers, Local 3309, AFT, WFT, AFL-CIO (referred to as the Federation or Union) filed a petition with the Wisconsin Employment Relations Commission (WERC) requesting that the Commission initiate mediation-arbitration pursuant to Section 111.79(4)(cm)(6) of the Municipal Employment Relations Act (MERA) to resolve a collective bargaining impasse between the Federation and the Gilman School District (referred to as the Employer or School District) concerning a wage reopener contained in the parties' collective bargaining agreement which expired on June 30, 1986.

On November 19, 1985, the WERC found that an impasse existed within the meaning of Section 111.70(4)(cm). On December 12, 1985, after the parties notified the WERC that they had selected the undersigned, the WERC appointed her to serve as mediator-arbitrator to resolve the impasse pursuant to Section 111.70(4)(cm)(6)(b-g). No citizens' petition pursuant to Section 111.70(4)(cm)(6)(b) was filed with the WERC.

On March 12, 1986, by agreement with the parties, the undersigned met with them to mediate the impasse. When the parties were unable to resolve their dispute in mediation, the undersigned held an arbitration hearing. At the hearing, the parties were given a full opportunity to present evidence and oral arguments. Post hearing briefs were submitted by both parties.

ISSUES IN DISPUTE

The parties were able to agree upon all issues in dispute which were subject to the wage reopener except wages, the appropriate structure of the salary schedule and educational incentive bonuses. The Federation's final offer is attached as Annex A and the School District's final offer is attached as Annex B. The parties agree that the wages only cost of the Employer's final offer is 5.7%; the corresponding figure for the Federation's final offer is 8.05%. They also agree that the total package cost of the Employer's final offer is 7.05%; the corresponding figure for the Federation's total package is 9.22%.

STATUTORY CRITERIA

Under Section 111.70(4)(cm)(7), the mediator-arbitrator is required to give weight to the following factors:

- a. The lawful authority of the municipal employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal 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 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 wage compensation, vacation, holidays and excused time, insurance and pension, 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 the private employment."

POSITIONS OF THE PARTIES

The Federation

The Federation begins its arguments by justifying its use of the Cloverbelt Athletic Conference (small schools) and rejecting the Employer's inclusion of the Osseo-Fairchild School District along with the remaining (large schools) members of the Cloverbelt Athletic Conference. The Federation believes that the inclusion of these larger Conference school districts and Osseo-Fairchild (which will only join the Conference in 1987-88) has not been sufficiently justified.

The Union next notes that the Employer has not argued inability to pay in this proceeding. It points out that there has been "incredible inconsistency" in tax rates set in the past two years noting that in 1984, the rates increased 32.4% and then they were dramatically reduced in 1985. Moreover, the Federation points to increased state aid payments and the fact that the Employer is making capital improvements as relevant factors in determining what the School District can afford. While the Union states that it is not unmindful of the economic plight of local taxpayers, particularly farmers, it believes that it is also important to note the significant teacher salary improvements for 1985-86 made locally and statewide. For the Union, it is clear that Gilman teachers merit the same type of salary schedule, particularly since they have been without any salary increase for the entire school year and, at the same time, the Employer has been able to accrue interest on the amounts budgeted (but not spent) for teacher salary increases.

Addressing the statutory factors of cost of living, private and public wage increases, and internal comparables, the Federation notes first that the prevailing wage settlements in the comparables are a more reliable factor than cost of living increases alone since the comparables have already taken cost of living into account. Second, the Federation argues that private sector wage increases should be given little, if any, weight because of significant differences between the private and public sectors. Moreover, comparisons with other types of public employees is also inappropriate to the Federa-

tion and should be given little weight because of significant differences between teachers and other public employees. This is true, to the Union, not only for external comparables (except for teachers) but extends also to internal comparables although the Union underscores the fact that the Employer's support staff negotiated a voluntary settlement that provided bargaining unit members with a minimum salary increase of 6% and, in some cases, an amount as high as 20% for 1985-86. The Union believes that the School District is taking an inconsistent position in this proceeding since the same economic circumstances faced the Employer in negotiating with the support staff unit.

The Federation, therefore, focuses upon comparable school district data, including historical rankings, and concludes that a "catchup" is needed for Gilman teachers since Gilman has lost ground in its comparative ranking over the years. The Union further notes that the School Board's final offer changes the basic structure of the salary schedule by varying the traditional differential paid at the various steps from 3% - 7% while the Union's final offer maintains the integrity of the structure by adding a 7% increase throughout. The Union is particularly concerned that the Board's proposal provides greater economic rewards for those with the least amount of service, particularly noting that there are few teachers at that end of the schedule (only three teachers with less than six years of District service). The Board's schedule also provides teachers in the advanced education lanes with a smaller increase than that received by teachers with less educational credits, with one major exception. The major "losers" in the Board's proposal are those teachers who are at the top end of the BA lane (and there are a significant number of teachers in that category) who will be receiving only a 3% increase. In contrast, the additional advanced credit lane being added under the board's proposal, MA+15, will probably benefit only a single teacher who will be able to move to that lane in the next two years. The Federation believes that these structural defects in the Board's offer are not in line with the percentage salary settlements to be found in the appropriate comparables.

Turning to the Employer's insurance costs, the Union notes that the School District pays only 90% of health and dental premiums while other school districts typically pay the entire premium. Since Gilman medical and dental premiums are very low, the Federation concludes that this is an unfair situation where the Employer "has been enjoying the best of two worlds at the expense of the teachers".

The Union further contends that the Employer's economic compensation proposal is unfair because the Employer unilaterally increased teacher-student contact time by 14 minutes per day during the 1985-1986 school year. According to the Union's calculations, this represents a 4.54% increase in teaching time. This point makes it even more urgent to the Union that its final offer be selected in order to prevent teachers from losing ground due to the increased contact time with students.

Finally, the Federation criticizes the Board's proposed bonus for teachers who qualify to change lanes because of completion of additional credit hours. While the Federation believes that it is possible to bargain a mutually satisfactory bonus plan, it rejects the Board's present proposal as seriously flawed because it varies depending upon which lane is involved and because of the difficulties which will be experienced by Gilman teachers in qualifying for the bonus by June 1988, a date when the bonus offer expires, according to the Union's interpretation. The Union argues that this expiration date presents especially difficult problems for those teachers at the top of the BA lane, the group particularly targeted by the Board, since few will be able to earn the needed credits in only one summer.

In reply to the Employer's arguments, the Union objects to the School District's basing any of its arguments on existing contract language contained in Section I(C). It contends that the language was previously negotiated for completely different circumstances and is expressly limited to the situation where the Employer

requests that a teacher return to school for additional certification. The Union believes that unless this point about credit reimbursements is clearly understood it is possible to assume erroneously that this is newly proposed language applicable to all teachers who return to school. In the Federation's view, such an assumption needs to be corrected.

For all the above reasons, the Federation concludes that its offer is more reasonable and, therefore, should be adopted.

The Employer

The School District begins by noting that its costing of its offer does not include the cost of additional credit reimbursements, the educational incentive bonuses, and the new MA+15 lane which the Employer proposes to add to the salary schedule.

Turning to the specific statutory criteria, the Employer argues that its final offer is more responsive to the interests and welfare of the public than is the Federation's final offer because it is sensitive to the serious economic problems faced by the District's taxpayers, particularly those who are part of the faltering farm economy which affects the entire economic scene in Taylor, Rusk and Chippewa counties. The Employer further argues that the cost of living factor supports its final offer even though it exceeds cost of living increases. The Employer also notes that teacher salary increases in Gilman from 1977-78 to the present also outstrips the increases in the cost of living.

The Employer next looks at wage increases received by other public employees and private sector employees. It concludes that its final offer is in excess of the average settlement for county employees in Taylor, Rusk and Chippewa counties which range from 4.3% to 5.2% and specifically it is in excess of the increases received by social workers in these counties. As for private sector employees, the Employer notes that many local private sector employees did not receive any wage increase; some lost their jobs.

In its selection of external comparables, the Employer urges selection of the school districts which comprise the Cloverbelt Athletic Conference (with the exception of Altoona and Mosinee) regardless of whether they are members of the small or large school district division because demographically they are similar to Gilman. It cites a recent decision by Arbitrator Kessler in Colby School District (5/86) in which the arbitrator chose these same comparables. The School District also urges the inclusion of the Osseo-Fairchild School District since it will be joining the Cloverbelt Athletic Conference in 1986-87, a conclusion supported by Arbitrator Kessler's Colby decision. It rejects the Federations inclusion of Eau Claire and Chippewa Falls because of their demographic dissimilarities and distance.

Having determined what are the appropriate comparables, the School District explains the reasons for the particular form of its final salary offer since it incorporates several monetary incentives for teachers to obtain additional education. First, the BA base salary is increased by \$1100 and the MA base by \$1200. Then, an additional \$20 has been added to each lane increment and a new MA+15 lane has been added. Lastly, the last step of the BA lane has been deleted and educational incentive bonuses ranging from \$800 to \$1000 are included. These changes have been proposed by the Employer because it does not want to have a majority of its teaching staff on the BA lane. Presently 58.7% of Gilman teachers are on the BA lane while only 10 teachers (or 15.2%) are on the MA lane. In addition, the Employer is concerned that 17 teachers (or 37%) are at the maximum step of the BA lane and members of this group have gone from 12-35 years without taking any additional educational credits. This is "unacceptable" to the Employer since it believes that failure to take

additional, advanced courses has a negative impact upon the quality of education in Gilman. The Employer candidly argues that if a teacher at the top of the BA lane decides to remain there, that is the teacher's choice but the teacher then foregoes the salary advancement possibilities contained in the Employer's final offer for a minimal salary increase which approximates the cost of living increase.

In constructing its final offer, the School District contends that it kept in mind the prevailing wage patterns in the comparable school districts. This was one reason that it added the MA+15 column and increased the ratio between the beginning BA salary and the maximum MA salary. It acknowledges that the educational incentive bonus is not found among the comparables (this is also true of the provision for credit reimbursements), but it notes that such features break the pattern of rewarding teachers for merely "hanging on" instead of improving their teaching skills. In further support of its innovative approach, the Employer cites a recent arbitration award by Arbitrator Haferbecker in Peshtigo School District (2/86) in which the arbitrator was critical of a salary schedule proposed by the local union which encouraged teachers to remain at the BA maximum instead of increasing their educational qualifications. It notes that teachers who choose not to obtain additional credits will receive a reasonable salary increase (with the exception of those at the maximum step). In contrast, the Employer points to the "excessive" increases for those teachers moving through the salary schedule under the Federation's offer ranging from \$1515 to \$2050 (or from 9.4% to 10.7%).

Finally, the School District clarifies one feature of its educational incentive plan which the Federation has attacked. For the Employer, the proposal's inclusion of a statement that the plan will remain in existence until June 1988 is not to be understood as notification of the plan's termination at that time but a commitment that the plan will not evaporate and will be maintained until at least 1988.

Accordingly, the School Board concludes that adoption of its final offer will improve the District's comparative benchmark rankings, encourage teachers to improve their educational qualifications, and take into account the serious economic conditions facing the District. It believes that its offer is consistent with the approach articulated by Arbitrator Kessler in Colby and Arbitrator Rice in Cadott Community School District (3/86) where the employers' final offers were selected as more reasonable in the face of union arguments similar to the arguments raised by the Federation in this proceeding.

DISCUSSION

One of the first issues that must be resolved in this proceeding is the selection of the appropriate comparables. Both parties agree that the small school districts which are members of the Cloverbelt Athletic Conference (with the exception of Altoona, for the Employer) are comparable. The Employer also includes the remaining members of the Conference (with the exception of Mosinee) and Osseo-Fairchild; the Federation also includes Chippewa Falls and Eau Claire. There is vigorous disagreement about these additional comparables. Reviewing the demographic data submitted by the parties and their arguments as well as the arbitration awards of Arbitrator Boyer in a prior case involving the same parties, School District of Gilman (12/83), and Arbitrator Kessler, Colby School District (5/86), the undersigned believes that the Employer's selection of comparables is appropriate. Therefore, the entire Cloverbelt Athletic Conference, with the exception of Altoona (primarily suburban) and Mosinee (primarily industrial), will be considered. Osseo-Fairchild is also included because of its similarities to the Conference districts (indeed, it will be joining the Conference beginning 1986-87). This approach in selecting school districts with similar

demographics is directly supported by the decision of Arbitrator Kessler in Colby, one of the Conference school districts. It is also consistent with Arbitrator Boyer's prior decision in Gilman where additional comparables were considered (beyond the small Cloverbelt school districts) in the light of few small district settlements at the time of the arbitration proceeding. The same situation confronts the arbitrator in this proceeding where there are few settlements or arbitration awards at the time of the writing of this award. The Federation, particularly in light of its opposition to the large school districts within the Cloverbelt Athletic Conference, has not justified inclusion of Eau Claire and Chippewa Falls, two large districts.

The next issue that requires resolution is the change in structure of the salary schedule proposed by the School District. If such a change cannot be justified, the School District's final offer must be considered seriously flawed. In the judgment of the arbitrator, the Employer has sustained its burden in this regard by arguing persuasively that it is a high priority for this School District to encourage teachers, particularly those at the top of the BA lane, to take additional educational credits to qualify for lane changes. While the School District has not necessarily justified each and every particular of its schedule change, it has provided a substantial rationale for the need to change the status quo. It has further acknowledged that it is prepared to bargain about some of the implementation details, including assuring sufficient time for teachers to earn additional credits for lane changes and, thus, bonuses.

In scrutinizing comparability data to determine whether they favor the Employer's final offer or the Federation's final offer, there are several methods which have been used. The undersigned believes that the most significant approach is to compare total compensation percentage increases. Utilizing this method, the Federation's final offer of 9.22% total compensation is supported by the settlement of 9.6% in Owen-Withee while the Employer's final offer of 7.05% total compensation is supported by settlements of 4.78% in Auburndale, 6.7+% in Osseo-Fairchild, and 8% in Fall Creek and arbitration awards of 7.4% in Colby and 7.92% in Cadott. (No settlement or arbitration award data were submitted on Cornell, Greenwood, Loyal, Neillsville, Stanley-Boyd, and Thorp.) There was no explanation of the unusually low figure for Auburndale. Even if this latter school district were to be excluded from consideration because of an atypical settlement, the outcome of this analysis would not be affected. The Employer's final offer is, accordingly, supported by the comparable total compensation data even though the Employer's package of 7.05% (in contrast to the original costing of 7.7%) is on the low end. The undersigned believes that it is not productive to analyze further the comparability data using a benchmark analysis or historical rankings analysis because even if these alternative approaches produce different results, she believes that the total compensation approach is sounder and should be given greater weight. Low rankings standing alone do not necessarily justify "catchup" when they result from collective bargaining.

For several reasons, it is unfortunate that the Employer's original costing estimate of 7.7% total compensation was inadvertently incorrect. If the Employer's total package did equal 7.7%, then it would be in complete accord with its recent settlement with the Gilman School District's support staff unit for 1985-86. It would also be more in line with the total compensation settlements and arbitration award noted above and very close to the Stanley-Boyd School District's final offer of 7.6%. It would also offer some recognition of the increased student contact time which the Employer unilaterally mandated for 1985-86 (although it should be noted that the Federation apparently did not insist upon impact bargaining in response to this unilateral decision by the Employer); at least bargaining unit members would be less dissatisfied on this point.

New negotiations for a successor agreement will provide the Federation with another opportunity to justify appropriate salary increases and greater insurance contributions, It will also

provide the Federation with an opportunity to clarify existing contractual language in Section I(C) to conform to the School District's stated position in this proceeding that credit reimbursements to teachers will be routinely granted and will not require a special Employer "request" that a teacher return to school "for additional certification." Finally, the next round of negotiations will permit further negotiations about the new salary schedule structure. It was regrettable that there has been so little negotiations on the Employer's salary schedule restructuring since mutually agreed upon improvements may have resulted. However, it is significant that the Employer has stated that it is prepared to negotiate further about its educational incentive plan and further stated that the 1988 date is not intended to be a deadline for eliminating the plan. Thus, there are significant signs that an opportunity for Federation input remains

The above discussion has given primary weight to the application of the comparability factor. The arbitrator believes that this is appropriate because the comparables have been selected to reflect similar economic circumstances and thus independent scrutiny of the cost of living factor and other factors relating to private sector employees and other public sector employees is not necessary. In examining the results of collective bargaining in the comparables, it is apparent that the parties (and in one case, an arbitrator) have already taken these statutory considerations into account. Further, since the comparability analysis clearly supports the Employer's offer, there is little need to address in detail the parties' arguments concerning the interests and welfare of the public. That factor has been invoked by both parties to support their final offers. The Employer emphasizes local economic conditions, particularly the faltering farm economy and declining farm income; according to the Employer, funding the Federation's final offer will result in increased community hardship. On the other hand, the Federation emphasizes national and state support for attracting highly qualified teachers through attractive salary schedules; according to the Union, funding the Federation's final offer is an important step in meeting the needs of the public for improved, quality education. In view of the fact that the undersigned's comparability analysis supports the Employer's final offer, it should be noted that this conclusion is also supported by the Employer's emphasis on local economic conditions. While the Federation's counter-emphasis upon the need for improvements in the quality of education through salary schedule improvements cannot be lightly dismissed, it is doubtful that the arbitration process is the appropriate forum to make substantial inroads upon this serious national and state-wide policy problem. In any case, this Federation argument does not outweigh the traditional comparability analysis discussed above which supports selection of the School District's final offer.

AWARD

Based upon the statutory criteria contained in §111.70(4)(cm) (7), the evidence and arguments of the parties, and for the reasons discussed above, the mediator-arbitrator selects the final offer of the Employer and directs that it, along with all already agreed upon items, be incorporated into the parties' collective bargaining agreement for 1985-86.

Madison, Wisconsin
August 1, 1986

June Miller Weisberger
Mediator-Arbitrator

1985-86

UNION SALARY PROPOSAL

7% applied to base

Experience	Bachelors	B + 8	B + 15	B + 23	Masters	M + 8
1	15190	15455	15720	15985	16515	16780
2	15715	15990	16265	16540	17090	17365
3	16240	16525	16810	17095	17665	17950
4	16765	17060	17355	17650	18240	18535
5	17290	17595	17900	18205	18815	19120
6	17815	18130	18445	18760	19390	19705
7	18340	18665	18990	19315	19965	20290
8	18865	19200	19535	19870	20540	20875
9	19390	19735	20080	20425	21115	21460
10	19915	20270	20625	20980	21690	22045
11	20440	20805	21170	21535	22265	22630
12	20965	21340	21715	22090	22840	23215
13	21490	21875	22260	22645	23415	23800
14	22015	22410	22805	23200	23990	24385
15			23350	23755	24565	24970
16					25140	25555
Increment	525	535	545	555	575	585

Total salary cost, including increments = \$995,470 or 8.03% increase

Corrected by agreement

Annex A

Board Offer

1985-86 Salary Schedule

Corrected by agreement

Step	<u>B</u>	<u>B+8</u>	<u>B+15</u>	<u>B+23</u>	<u>M</u>	M+8 M+8	<u>M+15</u>
1	15300	15570	15840	16110	16650	16920	17190
2	15790	16070	16350	16630	17190	17470	17750
3	16280	16570	16860	17150	17730	18020	18310
4	16770	17070	17370	17670	18270	18570	18870
5	17260	17570	17880	18190	18810	19120	19430
6	17750	18070	18390	18710	19350	19670	19990
7	18240	18570	18900	19230	19890	20220	20550
8	18730	19070	19410	19750	20430	20770	21210
9	19220	19570	19920	20270	20970	21320	21670
10	19710	20070	20430	20790	21510	21870	22230
11	20200	20570	20940	21310	22050	22420	22790
12	20690	21070	21450	21830	22590	22970	23350
13	21180	21570	21960	22350	23130	23520	23910
14		22070	22470	22870	23670	24070	24470
15			22980	23390	24210	24620	25030
16					24750	25170	25590

Annex B

I. Salary Schedule Advancement

C. When the District requests that a teacher return to school for the purpose of earning credits for additional certification, the teacher shall be reimbursed at the rate of \$50 per credit.

Teachers who are at the maximum step in a lane shall be paid a bonus upon successful completion of sufficient semester credits to move to the next lane. The bonuses shall be as follows:

BA to BA+8 Lane	\$1,000
BA+8 to BA+15 Lane	900
BA+15 to BA+23 Lane	800
BA+23 to MA Lane	1,000
MA to MA+8 Lane	900
MA+8 to MA+15 Lane	800

All courses must be approved by the Superintendent. Teachers shall be eligible for only one bonus in their career. This proposal shall remain in the contract until June 30, 1988.