

MAY 22 1986

EDWARD B. KRINSKY, INC.
Edward B. Krinsky, Arbitrator
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Madison, Wisconsin 53705
(608) 257-1060 or 231-1898

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

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In the Matter of Mediation-Arbitration :
Between :
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THE CASSVILLE EDUCATION ASSOCIATION : Case 4
: No. 35708
and : MED/ARB-3512
: Decision No. 23085-A
THE CASSVILLE SCHOOL DISTRICT :
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Appearances:

Mr. Paul R. Bierbrauer, Executive Director,
South West Teachers United, for the Association.
Mr. James A. Adams, District Administrator, for
the District.

On December 12, 1985, the undersigned was appointed by the Wisconsin Employment Relations Commission as mediator-arbitrator in the above-captioned matter. Mediation was held at Cassville, Wisconsin, on February 17, 1986. None of the outstanding issues were resolved. An arbitration hearing was held at the conclusion of the mediation. No transcript of the proceedings was made. Both parties had the opportunity to present evidence, testimony and arguments. The record was completed with the receipt by the arbitrator of the District's post-hearing reply brief on March 28, 1986. The Association did not file a reply brief.

The parties' final offers are appended to this Award.

FACTS:

The dispute involves two basic issues. One is the structure of the salary schedule. The other is whether or not there should be pay, as proposed by the Association, for secondary teachers assigned to more than six periods of classroom instruction in an eight period day.

The size of the salary package is not an issue. The parties' offers differ by a total of \$3,015 or about .6% and

represent an increase at or above 10%. The parties' differences are marked in terms of how they propose to distribute the salary dollars.

The District's offer raises the base salary \$1,800, while the Association's offer raises it \$1,100. The District offer reduces the number of salary steps from the existing 13 to 9 in the BA lanes and 11 in the MA lanes. The Association proposes 12 BA steps and 13 MA steps. The Association proposes an increase of \$75 in the horizontal increments to \$500 and an increase of \$75 in the vertical increments to \$525. The District proposes no change in the existing increments.

The District makes no change in the number of lanes or in their designation. The Association does not change the number of lanes, but proposes to correct what it claims was an error in the existing salary schedule by changing the MA+15 and MA+30 lanes to MA+12 and MA+24. The District disputes the Association's claim of error.

The District gives a one-time bonus of \$600 to teachers at the top of each of the BA lanes. The Association offer does not propose a bonus. Both offers contain a 2% longevity payment for those at the top of the BA lane.

The District proposes no change in the existing \$425 dollars between the BA and MA lanes. The Association proposes an increase to \$500.

The parties are in agreement about which school districts are appropriate comparables. These are the districts in CESA #3. The Association emphasizes that the primary group should be those which negotiated one year agreements in 1985-86.

The parties agree on the effects of their respective offers on the rankings of the District with the comparables at the various benchmarks commonly cited in negotiations and arbitrations.

<u>Benchmark</u>	<u>1981-82</u>	<u>1982-83</u>	<u>1983-84</u>	<u>1984-85</u>	<u>1985-86</u>	
					<u>Assn Offer</u>	<u>District Offer</u>
BA Min	2	4	7	10	9	(1)
BA 7th	2	2	9	9	8	(5)
BA Max	4	4	5	4	4	(11)
MA Min	9	9	8	11	10	(5)
MA 10th	8	8	9	11	6	(9)
MA Max	8	10	7	8	8	(12)
Sch. Max	7	9	7	9	8	(12)

The District offer and the Association offer both result in a majority of teachers getting increases in excess of 10% (16 teachers under District's offer; 15 teachers under Association's offer). The District's offer results in 7 teachers receiving increases of less than 5% but greater than the cost-of-living increase. No teacher would receive less than 5% under the Association's offer.

In evaluating the respective offers of the parties the arbitrator must decide totally in favor of one party's offer and must weigh the criteria specified in the statute. Each of the issues involved in this dispute is evaluated below against the criteria.

Some of the criteria are not at issue in this case. There is no issue with respect to criterion (a) lawful authority of the municipal employer; (b) stipulations of the parties; that portion of (c) pertaining to "the financial ability of the unit of government to meet the costs of any proposed settlement"; (g) changes in the circumstances pertaining to criteria (a) - (e) during the pendency of the arbitration hearing.

The other criteria are considered below.

DISCUSSION OF SALARY ISSUE:

Part of criterion (3) is the "interest and welfare of the public." While both parties may feel that their final offers best serve the interest and welfare of the public, the arbitrator is not persuaded that the public will be served either markedly better or worse by either final offer. The main issue in this case is salary distribution. No doubt the public is served when quality teachers are attracted to the district and continue to teach there. The parties' differences in this dispute involve the relative dollar increases to be put into the beginning steps of the schedule versus the more experienced steps. There is no question but that the District offer will make the salary schedule for beginning teachers more attractive than will the Association's offer, but the effects of the offers on more experienced teachers and on the attractiveness of the overall schedule to new and less experienced teachers is more difficult to determine. The arbitrator does not view either offer as more or less favorable in terms of criterion (c).

The next criterion to be considered is (d), comparability. The first comparison referred to in the statute is to other employees performing similar services.

The comparisons of the final offers with pay to teachers in the comparable districts at the salary schedule benchmarks

are shown above. Compared to 1984-85, the District's offer would vastly improve the District's ranking at BA min (from 10th to 1st), at BA 7th (from 9th to 5th), at MA min (from 11th to 5th) and at MA 10th (from 11th to 9th). The ranking of the other benchmarks under the District's offer would result in relative deterioration for the District: BA max (4th to 11th), MA Max (from 8th to 12th), Schedule Max (from 9th to 12th).

The Association's offer would result in improvement, though not as dramatic as the District's, at five benchmarks, and maintenance of the status quo at the other two.

While the District has presented arguments for improving the lower end of the salary schedule, it has not given an adequate explanation for allowing the upper end of the salary schedule to deteriorate relative to other districts. While, as discussed below, all teachers get increases of at least the increase in the cost of living, and thus no teacher is losing money in relationship to that index, that is not justification in the arbitrator's view for giving senior teachers markedly lower increases than their junior colleagues. It also is not justification for the arbitrator to sanction a deterioration in salaries of senior teachers in the district relative to their counterparts in other districts. The arbitrator is in agreement with the Association's summary argument in its brief, as follows:

The Union's proposal more evenly distributes the salary schedule money, is consistent with the distribution of money among the comparable employers, and works no hardship on the senior teachers which is contrary to the effect of the District's proposal.

The District rightly points out that the Association's comparisons do not factor in longevity payments in comparable districts. While that is so, it is also the case that the District has not shown that when longevity is accounted for, its position improves sufficiently to make its offer more favorable than the Association's offer.

The District argues that it offers:

. . . a salary schedule that would meet CEA criteria of improving the base, meet total salary and package dollar requests; and at the same time, give to the members as close to a CPI increase as possible.

The District is correct that its offer accomplishes the stated purpose. Its problem is that it does not treat senior teachers, relative to newly hired and junior teachers, as equitably as the Association's offer both within the school district and in comparison to other districts.

The District argues also that its offer restores its position relative to other districts closer to what it was in the early 1980's, and achieves this more than the Association's offer does. The relative rankings in the intervening years are a result of the parties' collective bargaining. The Association has not acted unilaterally in the past, thus making it appropriate for the District to act unilaterally now. The District wants to reverse the trend it sees having occurred in the bargaining. It cannot do that unilaterally even if it substantially improves the position of a majority of its teachers, if it does so in a manner that is not equitable to many of its teachers. The parties' jointly can strive to change their relative position. The arbitrator does not view it as imperative to change or correct the results of their years of bargaining if in making the alleged "correction" he sanctions what he views as clear inequities to a substantial number of teachers without substantial justification for doing so.

Criterion (d) also refers to comparisons with other employees generally in public employment in the same community, and with employees in private employment in the same community.

The District presents salary increase data from St. Charles School, a private school located in Cassville showing that each teacher's increase for 1985-86 was \$960, far below the average offered by the District, and showing also that the salaries at the various years of experience there are much lower than comparable salaries paid by the District.

The District also presents data showing the increases it gave to its custodians, office employees, school lunch employees and teacher aides. The former two groups got an average package increase of 2.79% and the latter two groups got an average of 1.77%, if the arbitrator interprets the exhibits correctly. These employees are not represented in collective bargaining units. These wage increases are far less than what the District is offering to the teachers.

As stated above, however, it is not the average size of the District's offer that is in dispute here. There is no size issue, and both offers are much greater than what is given to the private sector teachers or to the District's non-represented employees. Rather, it is the distribution that is the issue.

It is the arbitrator's conclusion that based on the comparability criterion, the Association's salary offer is preferred.

Criterion (3) is the increase in the cost of living. The District presented the Consumer Price Index data showing that the increase during the preceding year was between 3 and 4%. Both offers are almost identical in the size of the package and thus, in the arbitrator's opinion, the increase in the cost of living does not favor either offer. While the District offer provides increases to all teachers in excess of cost of living, the arbitrator is not persuaded by the District's arguments in providing basically a cost-of-living increase to many of its senior teachers, while giving substantially greater increases to new and junior teachers.

Criterion (f) deals with the overall compensation given to the employees. Having determined above that the Association's salary offer seems more equitable based on the way it is distributed relative to the District's offer, the use of the overall compensation criterion for evaluation of the two offers does not alter the effects of the inequitable distribution.

Criterion (h) deals with "such other factors . . . which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining . . . arbitration . . . or otherwise between the parties . . ."

In this dispute both parties allege that this criterion favors their final offer. Normally, arbitrators do not favor making decisions which make fundamental changes in the parties' relationships unless these changes have been thoroughly bargained, and where the arbitrator is persuaded of the necessity or desirability of making such changes in light of the other statutory factors. Here, the District alleges that the Association is making changes in the credit value of the Masters lanes without having bargained about it, and without having demonstrated that the Masters lanes in the existing agreement resulted from a drafting error as alleged by the Association. The arbitrator agrees with the District that the Association has not shown persuasively that such an error occurred. The District cites the fact also that the Association's proposal increases the horizontal and vertical increments without any clear justification for doing so.

The Association argues that the District's salary schedule represents a radical restructuring of the existing schedule, by reducing the schedule by several steps and in a manner that is inequitable to teachers who have had long service in the District. The District notes that the Association's earlier proposals contained a reduction in the number of salary steps. Moreover, it argues that its offer is a

trend-setting one and shouldn't be governed by comparables if it results in "continued inferiority for a majority of the staff, as proposed by the CEA . . ." It also cites published bargaining goals of WEAC calling for "the long-range goal of a ten-step (or less) salary schedule . . ."

The arbitrator has already discussed the District's offer above, and he agrees with the Association that this is a restructuring of the schedule. The District has not adequately justified this restructuring in relationship to comparables, or the other statutory factors, and the result is not equitable internally, in the arbitrator's opinion, notwithstanding the District's arguments that it gives generous and/or trend-setting raises to a majority of the staff.

Since both offers do in fact contain aspects which the arbitrator would not likely support under criterion (h), the arbitrator does not view this factor as favoring either party's offer.

Based on a review of the statutory factors, the arbitrator favors the Association's final offer on the salary issue.

DISCUSSION OF CLASSLOAD ISSUE:

The second issue involves pay proposed by the Association for secondary teachers for classloads in excess of six periods of instruction. The proposal now affects just four of the teachers, three of whom have had this larger than normal load for a full school year. The statutory criteria which appear to have particular relevance to this issue are (d) comparability, and (h) such other factors normally taken into account.

The Association finds support for its offer in the fact that in a prior year the District paid a teacher extra money for an overload, and in the fact that overload payments are made in ten of the comparable districts, including three in the athletic conference. The Association argues that the language of its proposal is similar to that in the comparable districts, and does not exceed those pay provisions.

The District argues that the one-time pay arrangement between the District and a teacher did not conform to the Agreement and should not be viewed as binding precedent in any event. While not disputing the comparability data presented by the Association, the District cites the lack of any such comparability data with respect to "class size, number of preparations, number of classes taught, and type of

course involved," and it argues that there is no showing that the present arrangements with dual periods and small class sizes place any undue hardship on the staff.

The arbitrator agrees with the District's arguments that the one-time payment in a previous year to a teacher with a higher than normal load should not serve as a binding precedent in the arbitration of this issue. Also, while the Association has shown that there is justification for the type of language being sought in the language of comparable agreements, the arbitrator agrees with the District that the Association has not made a persuasive case that such language is needed in the parties' Agreement. It is undisputed that a few teachers have a higher than normal load, but that is not necessarily justification for additional pay, when all of the circumstances are considered. The arbitrator is not asserting that there is no justification for additional pay. Rather, he is agreeing with the District that the Association has not adequately documented the need for additional pay. He believes that such new provisions should be reached through bargaining and should not be imposed through arbitration.

CONCLUSION:

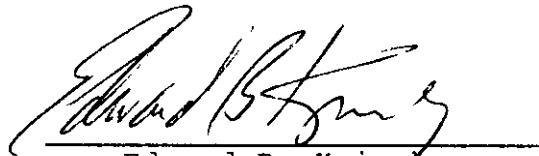
As mentioned at the outset, the arbitrator is required to select one final offer or the other in its entirety. Since, in his view, the salary issue is by far the more important of the two disputed issues, and since the arbitrator favors the Association's position on salary, the arbitrator has selected the Association's offer.

Based on the above facts and discussion the arbitrator hereby makes the following

AWARD

The Association's final offer is selected.

Dated at Madison, Wisconsin, this 15th day of May, 1986.



Edward B. Krinsky
Arbitrator

Name of Case: Cassville School District
Case 4 No. 35-708 Med/Arb - 3572

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.

Nov 19, 1985
(Date)

[Signature]
(Representative)

On Behalf of: Cassville Education Association

IN THE MATTER OF MEDIATION/ARBITRATION

between

The Cassville Education Association

and

The Cassville School District

Case 1
No. 35708
MLD/ARB-3512


FINAL OFFER OF THE ASSOCIATION

Submitted by:

Paul R. Bierbrauer
Executive Director
South West Teachers United

Contained herein is the Final Offer of the Association in the matter of Mediation/Arbitration. The Final Offer, stipulations of the parties, and those portions of the prior contract unchanged by these negotiations shall constitute the successor agreement between the parties.

November 19, 1985


For The Association

Cassville Education Association

The District shall determine the number and type of work assignments which teachers shall perform during the regular teacher workday. Secondary school teachers (grades 7-12) who are assigned no more than six (6) periods of classroom instruction in an eight period day shall be compensated in accordance with the provisions of the salary schedule, unless otherwise provided in this agreement.

- a. The District may assign work to secondary teachers in addition to the basic assigned workload described above. Teachers whose workloads exceed those compensated by the salary schedule, as provided above, shall be compensated, in addition to their scheduled salaries, \$700 per year or \$350 per semester.

CASSVILLE SALARY SCHEDULE 525 VERTICAL 500 HORIZONTAL
 14300 BASE SALARY

STEPS	BA	BA+12	BA+24	MA	MA+12	MA+24
0	14300	14800	15300	15800	16300	16800
1	14825	15325	15825	16325	16825	17325
2	15350	15850	16350	16850	17350	17850
3	15875	16375	16875	17375	17875	18375
4	16400	16900	17400	17900	18400	18900
5	16925	17425	17925	18425	18925	19425
6	17450	17950	18450	18950	19450	19950
7	17975	18475	18975	19475	19975	20475
8	18500	19000	19500	20000	20500	21000
9	19025	19525	20025	20525	21025	21525
10	19550	20050	20550	21050	21550	22050
11	20075	20575	21075	21575	22075	22575
12				22100	22600	23100

Experience increment is determined by the number of teaching years as granted by Board Policy. Five percent (5%) of each teacher's gross salary shall be paid to State Teachers Retirement for all full time teachers who complete the school year. Six percent (6%) will be paid as of Jan. 1, 1986.

A 2% longevity increase on the Column A, Step 0, B.S. Base, will be paid for those teachers at the top of the schedule during the preceding school year.

Name of Case: Cassville School District
Case 4 No 35708 Med/Arb - 3572

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1/14/85
(Date)

James A. Adams
(Representative)

On Behalf of: Cassville School District

IN THE MATTER OF MEDIATION/ARBITRATION

between

The Cassville Education Association

and

The Cassville School District

Case 4

No. 35708

MED/ARB-3512

FINAL OFFER OF THE DISTRICT

Submitted by:

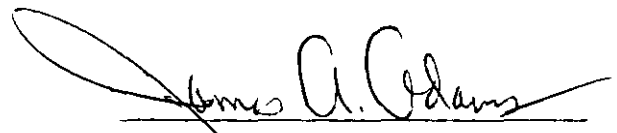
James Adams

Superintendent

Cassville Public School District

Contained herein is the Final Offer of the District in the matter of Mediation/Arbitration. The Final Offer, stipulations of the parties, and those portions of the prior contract unchanged by these negotiations shall constitute the successor agreement between the parties.

November 19, 1985


For the District

CASSVILLE SCHOOL DISTRICT
FINAL OFFER

BASE SALARY \$15,000 - \$450 Vertical - \$425 Horizontal

	A	B	C	D	E	F
	B.A.	B.A.+12	B.A.+24	MA or BA+38	M.A.+15	M.S.+20
0	15,000	15,425	15,850	16,275	16,700	17,125
1	15,450	15,875	16,300	16,725	17,150	17,575
2	15,900	16,325	16,750	17,175	17,600	18,025
3	16,350	16,775	17,200	17,625	18,050	18,475
4	16,800	17,225	17,650	18,075	18,500	18,925
5	17,250	17,675	18,100	18,525	18,950	19,375
6	17,700	18,125	18,550	18,975	19,400	19,825
7	18,150	18,575	19,000	19,425	19,850	20,275
8	18,600	19,025	19,450	19,875	20,300	20,725
9				20,325	20,750	21,175
10				20,775	21,200	21,625

+ 2% longevity at top of schedule after one year on step (Column A, Step 0 B.S. base).

+ Bonus of \$600/Teacher, one time only, for those at top of schedule in columns A, B, C for the preceding year, 1984-85.