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JUN 23 1986

STATE OF WISCONSIN  
BEFORE THE MEDIATOR/ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

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In the Matter of the	:	
Mediation/Arbitration Between	:	Case 12
	:	No. 35864 Med/Arb-3579
BROWN COUNTY SPECIAL EDUCATORS	:	Decision No. 23115-A
ASSOCIATION	:	
	:	
and	:	Sharon K. Imes
	:	Mediator/Arbitrator
BROWN COUNTY HANDICAPPED	:	
CHILDREN'S EDUCATION BOARD	:	
	:	
	:	

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APPEARANCES:

Lawrence J. Gerue, Program Director, Bayland Teachers United, appearing on behalf of the Brown County Special Educators Association.

John C. Jacques, Assistant Coporation Counsel, Brown County, appearing on behalf of the Brown County Handicapped Children's Education Board.

ARBITRATION HEARING BACKGROUND AND JURISDICTION:

On January 2, 1986, the undersigned was notified by the Wisconsin Employment Relations Commission of appointment as mediator/arbitrator in the matter of impasse identified above under Section 111.70(4)(cm)6 of the Municipal Employment Relations Act. Pursuant to statutory requirement, mediation proceedings were conducted between the Brown County Special Educators Association, hereinafter referred to as the Association or the Unit, and the Brown County Handicapped Children's Education Board, hereinafter referred to as the Board or the Employer, on February 27, 1986. Mediation failed to resolve the impasse and the parties proceeded immediately to arbitration. During the hearing, the parties were given full opportunity to present relevant evidence and make oral argument. The Association mailed a copy of its brief to the Employer on March 27, 1986 and the Employer's brief was transmitted to the Association through the arbitrator on March 31, 1986. Notice was received on April 2 and April 3 that the parties did not wish to file reply briefs.

THE FINAL OFFERS:

The remaining issues at impasse between the parties concern the salary schedule and a change in language regarding retirement compensation. The final offers of the parties are attached as Appendix "A" and "B".

STATUTORY CRITERIA:

Since no voluntary impasse procedure was agreed upon between the parties regarding the above-identified impasse, the undersigned, under the Municipal Employment Relations Act, is required to choose the entire final offer on the unresolved issues of one of the parties after giving consideration to the

base salary will be less than the average for the comparable schools. It continues, however, that the Board's offer will cause much greater deterioration in position.

Asserting the benchmark comparisons also support its position, the Association analyzes the offers as they relate to the average among the comparables in seven benchmark positions. Based upon this comparison it concludes its offer will result in an erosion in position at every benchmark and that the Board's offer will cause even more severe erosion. Given this factor, it asserts its offer is more reasonable.

The Association continues that when rank is considered, both offers maintain the historical pattern which has been established in five of the seven benchmarks. It asserts its offer is more reasonable, however, even though rank would improve at the MA Maximum benchmark and drop at the BA Base under its offer, since less deterioration in compensation occurs under its offer. It argues the Board's offer, while maintaining rank, will "substantially deteriorate the Association's position" relative to the comparables because of the serious deterioration in compensation.

Continuing with a comparison of dollar increases per full time equivalency, the Association posits its offer is again more reasonable since it would result in the "fifth lowest dollar per FTE" but yet be within \$22 of the average compared to a decrease of \$362 below the average under the Board's offer. It adds that if the Association's offer is accepted in Pulaski, one of the comparables in arbitration, the difference would be even greater.

Finally, the Association concludes "little or no credence" should be given to the Board's cost-of-living information. In support of its position, it states the Board has used a consumer price index which is not typically used and argues further (citing several arbitration decisions) that arbitrators have given little weight to consumer price index increases "when both parties costs exceed the cost-of-living for a particular year" and the pattern of settlements also exceed the CPI.

The Board rejects the Association's effort to include the Green Bay School District as a comparable. Contending they are not similar, the Board states it employs only 32.28 full time equivalent teachers and operates only one school facility. Comparing this to the size of the Green Bay School District, the Board declares it is more appropriate to use the feeder schools since they are coterminous with the area served by the Board and the population base served by the Board comes from the feeder school districts' population.

In regard to the retirement contribution issue, the Board asserts that although its offer changes the existing contract language, the dollar effect is the same. It declares the change is sought in order to establish internal equity among all the county's bargaining units but adds that since the fringe benefit is such a small part of the total compensation package, it should not weigh as heavily as the actual salary comparison.

Addressing the salary issue, the Board, using the settled feeder schools as its comparables, asserts its offer is more reasonable than the Association's since its offer would result in compensation for its teachers which would exceed compensation granted in four of the five comparables. It declares the Association's offer would result in greater compensation for the Unit than that granted in all of the comparables. Further, stating that a comparison of base salary increases in dollar or percent is "misleading and without probative value," the Board argues that since the actual placement of individual teachers can be easily computed, it is the "best and perhaps the only valid method of comparing the two final offers."

Analyzing the offers by placing each of its teachers on the comparable districts' salary schedules, the Board posits its offer would grant each teacher a "highly competitive salary" and notes this is partially the result of its salary schedule index which remains unchanged under either offer. It rejects the Association's use of "benchmarks" to compare the final offers stating that benchmark comparison, as a theory, may or may not contain actual salary payments depending upon staff placement within the schedule. Continuing, the Board states that if a benchmark comparison analysis is used, close scrutiny will reveal the Board's final offer will grant a higher salary at three of the seven benchmarks.

Stating that a comparison of dollar variation from the average is a misleading comparison, the Board posits actual dollar amounts offered and actual dollar amounts payable should be considered in determining the reasonableness of the offers. It continues that if the absolute dollar amount of the cell on the salary schedule is considered, its offer is greater than the average dollar amount in three of seven cells. Adding that the Association's use of "dollar increase per FTE" and "average dollar increase per FTE" is less relevant than actual amounts paid each teacher, the Board posits average dollar increases are meaningless without looking at where teachers are placed on the schedule.

Considering rank among the comparables, the Board states its offer, together with the existing schedule index not only maintains the actual teacher's rank but maintains the gap which exists between the actual salaries and the lower salaries paid in the comparable districts. In making this assertion, it rejects the Association's position that the Board's final offer would erode historical rankings by stressing its offer maintains an already high ranking.

Comparing its offer to the pattern of internal settlements and the increase received by State of Wisconsin teachers employed at the Reformatory, the Board declares its offer is reasonable. Stating the range of settlements within the County was from 4% to 5% and that the settlement for State teachers was 6%, the Board rejects the Association's position asserting it seeks a salary increase more than double that granted to the County's bargaining units and much higher than that paid state teachers. The Board continues there is no need for "catch-up" with other bargaining units and cites as support its contention that the gap will widen between its teachers' salaries and the lower feeder school ranking of teacher salaries.

Finally, the Board argues its offer is also more reasonable based upon the cost-of-living criterion. Declaring the Association's salary offer is more than double the most recent cost-of-living increase and that when package percents are considered, the disparity is even greater, the Board concludes its offer, which also exceeds the most recent inflation rate, is clearly more reasonable.

#### DISCUSSION:

For purposes of this decision, it has been determined the comparables shall consist of the schools to which the Brown County Handicapped Children's Education Board provides services, less those districts which are not yet settled. Although the Association has proposed the Green Bay School District as a comparable, the feeder schools were selected as the appropriate set of comparables since the Handicapped Children's Education Board was established to meet the exceptional education needs for these school districts. While the Green Bay School District is geographically near, the size of the district, together with the fact that it provides its own staff to meet these exceptional education needs make it less similar for purposes of comparison. The State of Wisconsin's teachers were also not included because the method by which salaries are determined for state employees is significantly different from the method by which salaries are determined for local units of government.

After reviewing the evidence and considering the arguments of the parties it was decided the Association's offer should be implemented. In reaching this decision, it was concluded the Board's offer was more reasonable as it relates to the CPI and the internal settlements but that the Association's offer on the wage issue was supported by the evidence. The Association's position regarding the retirement issue also prevailed.

Relative to the Consumer Price Index increases which occurred during the period when the parties should have reached agreement, it is concluded that while both parties' offers exceed the cost-of-living increases represented by the CPI, the Board's offer more closely approximates that increase and as such is more reasonable. The conclusion is the same whether the CPI-Milwaukee index or the CPI-All Urban index is used. Further, the offer extended by the Board is quite similar to the offers it has extended to the other bargaining units within the County and as such is quite reasonable. Although the average increase for the teachers under the Board's offer is calculated at 7.76%, this increase reflects a cell increase of 4.9% and an increase in salary reflected by experience and education increments. The 4.9% cell increase is quite similar to the 5% wage increases agreed upon by the other employees within the

County. Consequently, it is concluded the Board's offer is preferable when it is related to the CPI or to the internal settlements.

Arbitrators have frequently used voluntary settlements among the comparables as another valid indicator of the reasonableness of offers when compared to the cost-of-living criterion. Given the fact that percentage settlements for teachers are generally higher than settlements in other bargaining units, partially because the percentages reflect not only the cell increase but the experience and education increment increase, it is also appropriate to compare the offers with voluntary settlements among comparable teaching groups when considering the reasonableness of the offers compared to the cost-of-living criterion. Although specific percentage increases among the comparables were not submitted as evidence in this matter, the cell increases in the schedules of the comparables and the average dollar increase per teacher indicate the percents settled upon in the comparable districts are somewhat higher than the Board's offer and may be similar to the Association's offer in at least some of the districts. Consequently, based upon a comparison with teaching groups, it is concluded both offers are reasonable.

The Board seeks to change the language in the retirement article so that its contribution to the retirement system is reflected in dollars rather than in a percent which is the current practice. It argues the change is needed in order to establish internal consistency among its bargaining units and suggests that since the dollar effect remains the same, there is no reason to reject its position. The Board, however, did not demonstrate the language creates problems for it with its other bargaining units nor did it demonstrate that it agrees upon a benefit which varies from the benefit it grants other units. Further, since it agrees the dollars it pays are the same under either offer and a review of the retirement provisions among the comparable districts indicates the pattern is to pay either the "full" amount or "6%", no significant argument has been advanced for why there should be a change in the status quo.

On the wage issue, much of the Board's argument centered on looking at individual salary increases and comparing those increases with the salary they would be paid if they were placed upon the comparable districts' schedules. The Board is correct that when these comparisons are made, many individual teachers, primarily those with BA degrees, fair well. The Board states this is the result of the extraordinarily fine schedule index which exists in its schedule. The index does not function as well, however, when it is applied to the salaries paid teachers who have BA degrees with additional credits, thus it is more likely those teachers who fair well do so because of the physical structure of the schedule and not because of the index. The Board's salary schedule has only two BA lanes compared to a minimum of three and a maximum of seven BA lanes in the schedules among the comparables.

In each district, individual teachers may fair well depending upon the district's overall structure of the schedule and the degree of movement through the schedule which may occur. Since collective bargaining is not intended to make certain an individual does well but to bargain for the entire unit, a better comparison of strength of offers is to compare benchmarks since the benchmarks represent the degree of similarity in compensation for similar education and experience among the comparables. Benchmark comparisons become less indicative of the status among the comparables when the schedule has been restructured or positions have been "frozen." Since there was no indication of such activity among these comparables, it is concluded benchmark comparisons

more similar to the increases granted in other districts. A comparison of the dollar increases at both the mean and average indicates the Board's offer results in a dollar increase which is anywhere from 15% to 25% less than the mean and 17% to 36% less than the average. The Association's offer, on the other hand, results in dollar increases which more closely approximate the comparable increases, although they are slightly on the high side. The Association's offer in dollars per benchmark varies from 6.5% to 12.7% above the mean at all benchmark positions except the Schedule Maximum position, where the dollars are slightly less than the mean. In comparison to the average, however, the Association's offer is higher than the average by 5.6% at the BA Step 7 position and 10.9% at the BA Maximum position but is less than the average dollars per benchmark at the remaining benchmarks.

At a 4.9% increase per cell, the Board offers the lowest per cell increase among the comparable districts. The range of per cell increases among the comparables extends from 5.9% to 12.3% per cell with the average cell increases ranging from 5.9% to 8.75%. At 6.5% per cell increase, the Association's offer falls within the range of cell increases with three of the settled districts increasing each cell between 5.9% and 6.2% and two increasing each cell by more than 6.5%. Thus, on the basis of percent increases per cell, the Association's offer is more in keeping with the increases granted among the comparable districts.

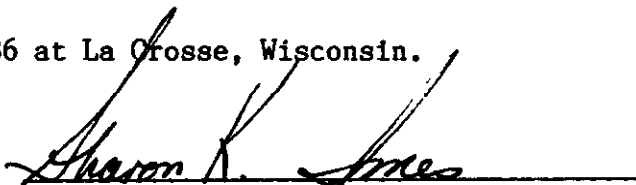
When rank established under each offer is compared to the historical position the Board has maintained, it is determined rank remains the same under both offers. However, given the fact that the Board's offer, while maintaining rank, causes greater deterioration in position, it is concluded the Association's offer is preferable.

The following decision is based upon review of the evidence and arguments presented and upon the relevancy of the data to the statutory criteria as stated in the above discussion. Accordingly, the undersigned issues the following

AWARD

The final offer of the Association, attached as Appendix "A", together with the stipulations of the parties which reflect prior agreements in bargaining, as well as those provisions of the predecessor agreement which remained unchanged during the course of bargaining, shall be incorporated into the 1985-86 collective bargaining agreement as required by statute.

Dated this 19th day of June, 1986 at La Crosse, Wisconsin.



Sharon K. Imes  
Mediator/Arbitrator

SKI:ms

COMPARISON TO THE AVERAGE SALARY

<u>Max</u>	<u>MA</u>	<u>Step 10</u>	<u>Max</u>	<u>SchMax</u>
21,897	15,564	23,252	26,157	28,033
23,440	15,822	24,612	26,370	27,689
+1,543	+ 258	+1,360	+ 213	- 334
+ 7.0	+ 1.6	+ 5.8	+ .8	- 1.2
23,146	16,567	24,705	27,866	30,347
24,560	16,578	25,788	27,630	29,012
+1,414	+ 112	+1,083	+ 236	-1,335
+ 6.1	+ .7	+ 4.4	+ .8	- 4.4
24,589	17,824	26,505	29,676	32,306
25,760	17,388	27,048	28,980	30,429
+1,171	- 436	+ 543	- 696	-1,877
+ 4.8	- 2.4	+ 2.0	- 2.3	- 5.8
26,160	17,658	27,468	29,430	30,902
+1,571	- 166	+ 963	- 246	-1,404
+ 6.4	- .9	+ 3.6	- .8	- 4.3

PERCENT INCREASES AMONG THE COMPARABLES AND TO THE AVERAGE

<u>ep 7</u>	<u>BA MAX</u>		<u>MA</u>		<u>MA/STEP 10</u>		<u>MA MAX</u>		<u>SCH MAX</u>	
	<u>%</u>	<u>\$</u>	<u>%</u>	<u>\$</u>	<u>%</u>	<u>\$</u>	<u>%</u>	<u>\$</u>	<u>%</u>	<u>\$</u>
8.0	1,353	6.4	2,105	12.3	2,711	10.2	1,939	6.4	2,141	6.4
6.7	1,610	6.8	1,250	8.1	1,813	8.1	2,143	8.2	2,142	8.0
6.0	1,408	6.0	1,021	6.0	1,500	6.0	1,660	6.0	1,892	6.0
6.2	1,458	6.2	1,008	6.2	1,508	6.2	1,674	6.2	1,821	6.0
5.9	1,387	5.9	992	5.9	1,468	5.9	1,637	5.9	1,799	5.9
6.2	1,458	6.2	1,021	6.2	1,508	6.2	1,674	6.2	1,892	6.2
6.6	1,443	6.3	1,275	7.7	1,800	7.3	1,811	6.5	1,959	6.5
4.9	1,200	4.9	810	4.9	1,260	4.9	1,350	4.9	1,417	4.9
6.5	1,600	6.5	1,080	6.5	1,680	6.5	1,800	6.5	1,890	6.5

Appendix "A"

Name of Case: Brown County Handicapped Children's Ed Board  
Case # 12, NO. 035864 MED/ARB 3579

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.

December 4, 1985  
(Date)

Ronald J. Neal  
(Representative)

On Behalf of: Brown County Special Educators Association

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12/4/85

Brown County Special Education Association  
Final Offer # 3

Article XV, E.: The Board shall pay five percent (5%), six percent (6%) as of January 1, 1986, of each Teacher's salary toward the Teacher's required contribution to the Wisconsin Retirement Fund.

Base Salary for 1985-86: \$16,350



Appendix "B"

Name of Case: Brown County Handicapped Childrens Ed. Board  
Case #12, No. 035864 MED/ARB 3579

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.

12/4/85  
(Date)

[Signature]  
(Representative)

On Behalf of: Brown County HCEB  
\_\_\_\_\_

BCHCEB  
Final OFFER 12/4/85

Article XV E up to \$1841/yr effective 1/1/86

Appendix B Base salary \$16100

All other items of the 1984-85 agreement remain the same except for the attached list of tentative agreements

Thomas J. Lambert  
Payroll Clerk  
T.J.L.