

RECEIVED

MAY 02 1986

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

In the Matter of the Petition of	*	
NORTHWEST UNITED EDUCATORS	*	Case 17
To Initiate Mediation-Arbitration	*	No. 35230
Between the Petitioner and	*	Med/Arb #3354
	*	Decision No. 23124-A
CLEAR LAKE SCHOOL DISTRICT	*	
	*	

APPEARANCES:

Alan D. Manson, Executive Director, Northwest United Educators,
on behalf of the Petitioner

Mulcahy & Wherry, S.C., by Stephan L. Weld, Esq.,
on behalf of the District

INTRODUCTION

On January 8, 1986, the Wisconsin Employment Relations Commission (WERC) appointed the undersigned to act as Mediator-Arbitrator pursuant to Section 111.70(4) (cm) 6b of the Municipal Employment Relations Act (MERA) in the dispute existing between the Clear Lake School District (hereinafter the "Employer" or "District" or "Board") and the Northwest United Educators (hereinafter the "NUE" or "Union" or "Association"). On February 5, 1986, mediation proceedings were held between the parties pursuant to statutory requirements. Mediation failed to produce a voluntary resolution of the dispute. Accordingly, an Arbitration hearing was held that same day and the parties agreed to submit briefs and reply briefs. Briefing was completed on April 11, 1986. This arbitration award is based upon a review of the evidence, exhibits and arguments, utilizing the criteria set forth in Section 111.74(4) (cm), Wis. Stats. (1983).

ISSUES

There is no substantive difference between the dollar amounts contained in the parties' final offers. The sole issue is how these dollars are to be applied to the 1985-1986 salary schedule.

THE ASSOCIATION'S POSITION

The final offer of the Association seeks to preserve the pattern established in previous bargaining between the parties. That is, that salary adjustments be applied to each cell in the salary schedule on an equal percentage basis. In its final offer, the Association seeks a 7% increase in each cell of the schedule, beginning with BS-0 through Ms+16. Teachers will also be entitled to a longevity payment of \$350 if they have been at the schedule

To rebut the District's assertion that other public employee bargaining units have settled for wage packages substantially below those under consideration here, the Association again reminds the Arbitrator that both final offers appear to exceed the settlements of other public employees and further argues that the standard for comparison must be "apples to apples", or settlements arrived at in other teacher wage bargaining, not other public employee settlements. The NUE believes the manner of allocation of wages contained in its final offer more accurately reflects these settlements than does the District's.

The Association agrees with the Board's assertion that salaries paid beginning teachers are too low. It also feels that all teachers' salaries are too low. The NUE agrees that higher beginning salaries are desirable but that once a teacher is engaged he or she looks to potential wage increases in deciding whether or not to go into the profession. The impact of disproportionately high increases in beginning salaries is lost when teachers are faced with dis-incentives to increase professional qualification or to become experienced teachers.

The NUE position is that it is as important to keep qualified and experienced staff as it is to bring them into the system in the first place. It asserts that the District has made no showing that it has had difficulty recruiting teachers at opening levels and that, absent such a showing, this argument must fail.

The Clear Lake School District is a member of a 15 school athletic conference. At the time the arbitration hearing was held and exhibits exchanged, contract settlements for the 1985-1986 school year had been made in only six of the member districts. In accordance with an agreement between the parties, they have supplied the Arbitrator with information concerning settlements subsequent to the hearing. In that time, an arbitration award was handed down for the Shell Lake District, a conference school. An award was also made in the neighboring, but non-conference, Menomonie District.

NUE argues that the Arbitrator should not rely on athletic conference comparables owing to the paucity of settlements. Of the six conference settlements, four are flawed to such a degree that they should not be considered as comparables.

The Birchwood settlement is for the second year of a two-year contract. The Association points out that arbitrators give less value to such agreements than to more contemporaneous settlement.

The parties bargained a 13.4% per cell increase for the Birch District. In an obvious attempt to reduce the economic impact of the increase, all teachers other than those at the top of their lane were reduced by one step. Teachers at the top of their lane were reduced by two steps. The result of these adjustments resulted in real increases of 7.1% at the BA top and 7.4% at the Schedule Max.

The Clayton District has been subject to a significant financial crisis which has resulted in multiple layoffs. The total full time equivalent staff has been reduced by ten percent. Clayton is the only conference or area school to report such layoff activity.

In Northwood, the parties appear to have negotiated an agreement especially suited to their staff, with each cell being treated separately and no fixed dollar or percentage per cell factor being used. Nonetheless, there were no frozen increments and the NUE agrees the benchmark figures may be used directly when comparing individual teacher wage rates to Clear Lake.

The Association maintains that when appropriate comparables are not available within the athletic conference, an arbitrator may properly look outside the conference. It therefore submits two sets of settlements "en gross" to be considered. They are the 33 school districts in the Northwestern one-quarter of Wisconsin that have settled and the 166 school districts state-wide that had settled as of January 1, 1986. Although many, if not most, of the settlements might not qualify as comparables if considered individually, together they represent a sufficiently large sample to be useful. Taken together with the six conference settlements, they then offer a set of comparables to which the NUE and the Board Final Offers can be compared.

Using five benchmarks suggested by the District (BS Base, BS Max, MS Base, MS Max and Schedule Max, a total of fifteen benchmarks), NUE demonstrates that its final offer is equal to or below the final offers in eleven benchmarks and over in four. In only one (State-wide BS Max) is its final offer more than .3% above. In one (six conference Schedule Max) it is 1.1% below.

On the other hand, the District's final offer is 1.6% over the average in BS Base and 1% over the average in MS Base. It is .6% below the average in BS Max, 1.8 % below average in MS Max, and 2.3% below the average in Schedule Max. The Association's offer exceeds the average only in BS Max (by .1%) and is below the average in all other benchmarks.

For all these reasons, NUE submits that its final offer is not unreasonably high, will benefit the quality of education in the Clear Lake District, will not inflict unreasonable hardship upon the tax payers of the District, and is more reasonable in relation to other settlements than the final offer of the District.

THE DISTRICT'S POSITION

The District's brief sets forth a series of arguments based upon the statutory factors to be considered by arbitrators in rendering awards. Some factors are properly given more emphasis in argument than others. This award will set the factors forth not in order of importance but in order of perceived emphasis.

The Board takes issue with the material relating to teachers pay which the NUE included in its exhibits. Surveys included there do not accurately compare beginning teachers salaries to other entry level pay. What is more, the District's property tax payers are already doing their share to provide a competitive salary schedule. Teachers must look to the state and federal governments for major changes in the level of salaries to be paid teachers generally.

The District directs the Arbitrator's attention to wage increases granted to other district employees and to other public employees in the Clear Lake School District. These range from a final offer wage freeze in one employee group to a high of 6% among village and county employees. Non-certified employees of the Clear Lake District received wage increases of from 5.5% to 7.5%. A school principal received an 8% increase. With few exceptions, all wage increases are below that contained in the Association's final offer.

Both parties to this arbitration concede that the final offers exceed the most recent Consumer Price Index increases. The Board maintains that because its offer is lower it is more in line with the cost of living than the NUE's. Not only that, but over the years Clear Lake teachers have acquired an employee benefit package which further protects them from the impact of inflation. The District's 1985-1986 offer continues a pattern of salary adjustments that have exceeded the increases in the C.P.I. by from 8.17% to 26% since 1977-1978. The District has been fair and it has been generous to its teacher employees.

The Board has reviewed the comparables set forth in the NUE's exhibits and rejects them. Other arbitrators in the past have approved using the Lakeland Athletic Conference schools for purposes of comparison because they are geographically proximate, are of like size, and have sufficiently similar enrollments, staff, per pupil costs and equalized valuation to make them helpful and proper comparable districts.

The NUE would ask the Arbitrator to set aside all the traditional criteria for selecting comparables in favor of a broad brush approach which would include districts which have no geographic enrollment, staff or other similarities to Clear Lake. This method of selection is unwarranted and unwise and ought to be rejected by the Arbitrator.

The District feels that the Arbitrator can rely on comparables generated by the settlements and certified final offers already in place for the conference. Of the fifteen districts in the conference, only five are not yet at that stage of negotiations, leaving nine to be compared to Clear Lake. The District argues that this represents a sufficient base of data to be of assistance in comparing the Board and Association offers.

In evaluating the comparables, the Board includes all compensation for wages and fringes previously agreed to in this 1985-1986 contract. This results in a total wage increase of 8.17% under the Board's final offer and 8.72% under the NUE's. Total compensation would increase by 7.92% and 8.38%, respectively. When compared to conference settlements or final offers of 6.04% and 7.40% for wages and 7.00% and 7.81% for total compensation.

schedules to accomplish this goal. To remain in a competitive position within the comparable group, salary increases in the minimum cells are imperative.

The District feels no need to apologize for its total compensation plan. It is the only district in the conference to reward long-term employees with a longevity payment. It has paid, and will pay during this contract, 100% of the cost of retirement, health insurance, dental insurance and disability insurance. It could do no more and therefore its total compensation package provides fair and equitable benefits to its teaching staff.

The District's primary rationale in support of its final offer relates to the interest and welfare of the public. The Clear Lake District is primarily rural and its economy is based upon agriculture. It is undisputed that the farm economy has been badly battered in the last few years. Rising costs and declining markets have resulted in reduced farm income and dropping land values. All of Wisconsin has been affected, but areas where dairy farming predominates, as it does in the Clear Lake District, have been hurt most of all.

The District believes that its final offer is generous because it provides for a substantial increase in the face of the economic realities in the district. Having made that decision, the Board asks the Arbitrator to recognize the duty and the right of the Board to allocate its limited resources to places where they will most benefit the district and its school population.

The District has decided that its primary responsibility is to attract competent staff to the school system. Since most recruiting is done at the entry BS and MS levels, the Board believes emphasis must be given at the entry level. However, the Board wants to be fair to its continuing teachers as well. To accomplish both goals, the Board has already agreed to a fair increase in non-salary benefits and is willing to grant a \$1,300 increase to all teachers in the system. The dual benefit realized by these actions and proposals will result in an increase in starting pay that will enable the District to compete for new staff while continuing teachers will receive an increase in non-salary benefits and salary that rewards them for staying with the District. This offer is comparable to increases realized by other conference districts, and is generous when compared with other public employees in the area or with farm income in the district.

DISCUSSION

This arbitration proceeding revolves around one basic issue. Will the Arbitrator allocate the dollars on a "dollar-per-cell" basis or on a "percentage-per-cell" basis? With the total dollars involved so similar and with so many questions that might have been raised in arbitration settled by the agreement already mutually bargained by the parties, the scope of analysis and the basis of decision become closely focused. The exhibits and briefs of both parties were responsive to that close focus.

One of the points emphasized by the Board is the economic health of the tax payers of the Clear Lake District. It is undisputed that those tax payers as a whole must be suffering from the state of the farm economy. Yet, the total dollar offer made to the Association is only \$4,390 less than the NUE's final offer, using the District's computations. The very closeness of the offers reflects well upon the Board's commitment to its teachers. However, this writer is not persuaded that the difference in offers is substantial enough standing alone to require an award favoring the Board's offer. This decision is further supported by the Board's statement that ability to pay is not an issue in this arbitration.

The Association believes that the best way to attract and retain teachers is to offer a career that is financially rewarding to the staff that stays with the District. The Board argues with equal fervor that a fine staff will never be recruited unless starting salaries are improved. NUE believes a percent-per-cell salary adjustment will retain experienced staff and encourage teacher upgrading. The District believes that by allocating the largest

Although the comparables urged by NUE are useful for background information, they do not meet the statutory requirement for use as comparables. Therefore, the undersigned will use the comparables urged by the District in this discussion.

Chart 3 on page 31 of the District's brief sets forth the most useful set of comparisons between the Association and District offers. Using the final offers in three districts and eliminating the five districts still in negotiation, the District has provided a useful ranking of the Clear Lake final offers.

However, the Board draws a flawed conclusion from these rankings because it uses fifteen districts for 1984-1985 rankings and ten for 1985-1986. This writer believes a more accurate comparison can be achieved by eliminating the five negotiating schools from the 1984-1985 ranking. The result would be a chart like this:

	<u>Clear Lake</u> <u>1984-1985</u>	<u>Board</u> <u>1985-1986</u>	<u>Association</u> <u>1985-1986</u>
BA Minimum	4.0 of 10	3.0 of 10	4.0 of 10
BA + 0 Maximum	10.0 of 10	9.0 of 10	9.0 of 10
BA + 0 Max. (w/Long.)	7.0 of 10	9.0 of 10	7.0 of 10
MA Minimum	6.0 of 10	5.0 of 10	6.0 of 10
MA + 0 Maximum	4.0 of 10	5.0 of 10	5.0 of 10
MA + 0 Max. (w/Long.)	4.0 of 10	5.0 of 10	5.0 of 10
Schedule Maximum	3.0 of 10	4.0 of 10	4.0 of 10
Schedule Max. (w/Long.)	3.0 of 10	4.0 of 10	4.0 of 10
Average - All Benchmarks	4.1 of 10	4.4 of 10	4.4 of 10

From this comparison, it can be seen that the Board's offer increases ranking in three benchmarks and decreases ranking in five. The NUE offer results in an increase in one, maintains the ranking in four, and would bring forth a decrease in four benchmarks. In this writer's view the remarkable showing of these comparables is that both offers bring the same result when averaged. Neither offer distorts the average. Both are in line with settlements indicated among the ten comparable districts.

As might be expected from the closeness of the final offers, this comparison does show that the Board's objective in making starting salaries more competitive would be achieved. At the same time, both offers result in similar rankings in most senior categories and in the overall average. Therefore, the undersigned finds that, based upon the chosen comparables, either offer is reasonable and might properly be selected as the basis for an award.

However, the battle joined herein does not reflect a substantive difference based upon the economy, comparables, cost of living or the other statutory criteria. The issue here is one of philosophy: i.e., Are the dollars to be allocated on a dollar-per-cell or a percentage-per-cell basis.

The issue presented here has a long bargaining history in Wisconsin. Unions have granted concessions to Districts in order to achieve their objective. School Boards have offered concessions to retain or establish their objective. Teachers hired during the "baby-boom" have benefited from a percentage-per-cell adjustment as seniority has moved them up on the schedule. Districts, faced with the eventual retirement of those same teachers, have supported the dollar-per-cell adjustment as a way to attract new staff and to control costs. This Arbitrator understands the merits of both positions and finds either worthy of

ARBITRATION AWARD

NUE's final offer shall be incorporated into the parties' 1985-1986 collective bargaining agreement.

Dated this 12th day of May, 1986, at Madison, Wisconsin.



ROBERT L. REYNOLDS, JR., Arbitrator