

OCT 08 1986

STATE OF WISCONSIN  
BEFORE THE MEDIATOR-ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

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In the Matter of a Mediation-Arbitration :

between	:	Case 6
LANCASTER EDUCATION ASSOCIATION	:	No.35652 MED/ARB-3493
	:	Decision No. 23246-A
and	:	
LANCASTER SCHOOL DISTRICT	:	

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Appearances:

Karl Monson, Consultant, Wisconsin Association of School Boards, appearing on behalf of the Lancaster School District:

Paul Bierbrauer, Executive Director, South West Teachers United, WEAC, appearing on behalf of the Lancaster Education Association.

Arbitration Award

On February 25, 1986 the Wisconsin Employment Relations Commission, pursuant to 111.70(4)(cm)6b of the Municipal Employment Relations Act appointed the undersigned as Mediator-Arbitrator in the matter of a dispute existing between the Lancaster Education Association, hereafter referred to as the Association, and the Lancaster School District, hereafter referred to as the District. A public meeting was conducted on April 24, 1986 following a petition for same from five citizens of the District. An effort to mediate the dispute following the public meeting failed. On June 12, 1986 a hearing was held at which time both parties were present and afforded full opportunity to give evidence and argument. No transcript of the hearing was made. Briefs were exchanged through the Arbitrator the last of which was received on July 31, 1986.

Background

The District and the Association have been parties to a collective agreement the terms of which expired on June 30, 1986. On April 3, 1985 the parties exchanged initial proposals pursuant to a limited reopener provision of the Agreement and thereafter met on four occasions. Failing to reach an accord, the Association filed a petition on September 18, 1986 with the Wisconsin Employment Relations Commission to initiate Mediation-Arbitration. After duly investigating the dispute, the WERC certified on December 5, 1985 that the parties were deadlocked

- d. Comparisons 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 private employment in the same community and 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 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.

#### Final offers of the Parties

##### The Association's Final Offer

The Association proposes to change the contractual relationship between the parties in the following manner (See Appendix A):

##### Salary Schedule

The BA base salary would increase to \$15,000, an increase of \$1,125 over the BA base salary for 1984-85 of \$13,875.

Horizontal (educational) increments would be set at \$300; an increase of \$50 at the BS, BS+12 and BS+24 levels.

Vertical (experience) increments would be 3.8%, 3.85%, 3.9%, 4.0% and 4.0% of the base in the respective vertical lanes.

##### Long-term Disability Insurance

The Association proposes a 90% benefit plan

Vertical increments proposed by the District would be \$550, \$560, \$570, \$650 and \$660. Existing vertical increments are 3.8%, 3.8%, 3.8% 4.0% and 4.0%.

Long-term Disability

The District proposes a 67% benefit plan.

Costing of the Parties' Respective Offers

	<u>Association</u>	<u>District</u>
Salary Increase	10.19%	8.90%
Total Package Increase	9.84%	8.64%
Average Salary Increase Per Teacher	\$1,945	\$1,731
Average Package Increase Per Teacher	\$2,442	\$2,144

Application of the Statutory Criteria

I. The Interests and Welfare of the Public and the Financial Ability of the Unit of Government to Meet the Costs of the Proposed Settlement

Counsel for the District expressly declined to argue inability to pay. Instead the District offers a "difficulty to pay" premise in challenging the Association's final offer. The District begins by noting that Lancaster is a rural school district. Thus, asserts the District, "The Board cannot in good conscience agree to burden the already hardpressed taxpayer with a significant expenditure increase to cover the Association's excessive 10.2% wage increase." It argues further, "The overriding concern has to be on the public's difficulty to pay given the tremendous declines in farm incomes over the past several years. Also, modest increases in the public and private sector have lessened other people's abilities to pay 9.84% increase to the teachers. The Board believes that this criterion must receive more weight or at least as much weight as the comparability criterion."

In further support of its position the District quotes extensively from a large number of recent Mediator-Arbitrator awards including: Burlington Area School District, (Arbitrator Zeidler), Decision No. 17135-A, 12/79; School District of Kewaskum, (Arbitrator Rothstein), Decision No. 19881-A, 8/82; New Holstein School District, (Arbitrator Yaffe), Decision No. 22898, 3/86; Wittenberg-Birnamwood School District, (Arbitrator Haferbecker), Decision No. 23130, 4/86; Fort Atkinson School District, (Arbitrator Krinsky), MED/ARB-3397, 6/86; School District of Slinger, (Arbitrator Grenig), Decision No. 22913, 5/86; Colby School District, (Arbitrator Kessler), Decision No. 23055, 5/86; and Taylor School District, (Arbitrator Gundermann), Decision No. 22927, 4/86. Arbitral reasoning on this point is exemplified by Arbitrator Grenig when he declared in Evansville School District, Decision No. 22930-B, 4/86:

"While the Board may have the ability to pay the Association's offer, the interests and welfare of the public are an important factor here. It is difficult to support a total compensation increase in excess of nine percent in a rural school district at a time when the equalized valuation in the District has declined and the prices received by farmers who pay a substantial portion of the District

taxes have dropped. So long as a large portion of public school funding comes from local tax sources, these local economic conditions must be given considerable weight."

The Association response on this line of reasoning is to begin by presenting statistics comparing the financial condition of Southwestern Wisconsin farmers to that of the average for the rest of the state. Covering such matters as prevalence of real estate loans, debt-asset ratios, farm income and delinquency of loan payment the Association concludes "Clearly, southwestern farmers are in better economic condition than other parts of the state. And clearly, farmers as a whole are not as debt ridden, not as delinquent on loans as has been reported by the media."

The Association concludes on this point by asserting that while Southwestern farmers are better off financially than their counterparts in other regions of Wisconsin the same can not be said of the area's teachers.

### Discussion

First, the Arbitrator has carefully examined the arbitral authorities commended to him by the District. As Arbitrator Grenig's statement quoted above suggests, it is clear that the awards evince a growing concern among Mediator-Arbitrators for balancing the interests of the public with those of employees. To the extent that proposed settlements by either party are excessive or unreasonable as judged by the statutory criteria such final offers seem to be consistently rejected.

Second, close reading of the awards also indicates that the basis for such arbitral judgments, of necessity, lies within the supporting evidence and fact offered by the Parties to support their positions. Thus in the quoted statement of Arbitrator Grenig in Evansville cited above he concludes expressly, "It is difficult to support a total compensation increase in excess of nine percent in a rural school district at a time when the equalized valuation of the District has declined and the prices received by farmers who pay a substantial portion of the District taxes have dropped." (My emphasis). Similar statements are to be found in New Holstein School District where Arbitrator Yaffe found the District's offer preferable under circumstances in which the District's tax levies were relatively high among its comparables and "at a time when the citizens in the District who are dependent upon the farm economy are experiencing such difficult economic times." Finally, in Taylor School District, Arbitrator Gundermann concludes "The evidence (my emphasis) indicates that this District does not have the same financial resources that other districts in the conference enjoy."

In reply to the Association's statistics relating to the issue of the public interest in the instant case, the District responds as follows, "The Association's use of statewide and Southwestern Wisconsin data of the Agricultural Finance Survey has no meaning for this dispute as the condition of the Lancaster School District can only be determined by implication, and not by

ii. Comparison of Wages, Hours and Conditions of Employment of the Municipal Employees involved in the Arbitration Proceedings

The Comparables to be Employed

The first matter to be resolved at this point is the selection of the relevant group of "comparables." On the one hand, the Parties are in general agreement that the primary group to be applied would be the Southern Eight Athletic Conference which is composed of the following school districts: Cuba City, Darlington, Dodgeville, Iowa-Grant, Mineral Point, Platteville, Southwestern Wisconsin and Lancaster. Of these eight districts only Cuba City and Lancaster remain unsettled for 1985-86.

In addition to the school districts of the Southern Eight Athletic Conference the Association also proposes CESA #3, the employer, be included any set of comparables established. In support of this contention, the Association points out that, as a political subdivision, the CESA #3 office is

"tied to school districts within its region by statutory provision, Department of Public Instruction policy, and by the program and financial arrangements it has with the school districts. It is a public employer. It employs certified professional staff who are represented for collective bargaining under 111.70 Wis. Stats. Its employees work in each of the school districts within its region."

The District rejects the contention that CESA #3 be included in any set of comparables established. Among other points raised, the District argues that Cooperative Education Service Agency #3 is not a public school in the same sense as the school district members of the Southern Eight Conference. Thus, Cesa #3 offices, as set out in Wisconsin legislation, have a different mission from regular school districts. In support of this position the District relies heavily on the award of Arbitrator Imes in Dodgeville School District, Decision No. 23091-A, 6/15/86. In Dodgeville Arbitrator Imes concluded, ". . . the differences in how CESA districts are governed (represented by a small number of school board throughout a multi-county area), causes the CESA districts to be somewhat less similar than school districts for the purposes of school districts' comparisons and should not be considered when sufficient comparables already exist."

Since the Parties are agreed that the schools of the District's athletic conference should constitute the primary set of comparables and six of these school districts are now settled for 1985-86 the Arbitrator sees no reason to go expand the set or use different comparables. The significant differences between

relationships as measured by the dollar deviations from the comparables' benchmark salary averages. Finally, the District maintains that an examination of average dollar and percent increases at the salary benchmarks indicates that its offer is closer to the conference averages and is therefore to be preferred.

The Association begins with a primary set of comparables which contains the six settled districts of the Conference to which it adds CESA #3. The Association also proposes a secondary group of comparables based on size and geographic proximity to the Lancaster District. This set would consist of the seven employers from its first group expanded now to a total of sixteen. Finally as further points of comparison the Association urges on the Arbitrator statewide average salaries as well as those for the other eleven CESA regions.

As an analytical tool, the Association maintains that given no structural changes proposed salary schedule increases are appropriately evaluated by reference to measured changes at seven salary benchmarks/cells. Using this method, the Association concludes whether you employ the primary or secondary groups of comparables its offer is more reasonable. Thus, for example for the primary group the Association is nearer the average in nine measurements while the District is closer in five. In the secondary group the "score" as the Association totes it up is District seven, Association six and one tie. In terms of statewide averages the Association also asserts that Lancaster is not competitive with the "larger geography" of the employment market.

After reviewing the arguments and data the Arbitrator finds no reason to go beyond the primary set of comparables proposed by the District. With six of the seven other districts of the Conference settled for 1985-86 there exists a sufficient basis for judging the Parties respective final offers. Under other circumstances it might well be necessary to resort to a secondary group or to statewide averages. However, we find that unnecessary here.

The Arbitrator agrees that a relevant method of analysis would be comparative examination for the Parties' salary final offers on seven salary structure benchmarks: BA base, BA + 7 credits, BA maximum, MA base, MA + 10 credits, MA maximum and Schedule maximum. The following tables show the results of the undersigned's analysis.

TABLE 1

Ranking of Lancaster School District for Seven Salary Benchmarks

N=6

	BA Base	BA+7	BA Max	MA Base	MA+10	MA	MAX	Sch Max
1982-83	3	2	2	5	4	4		3
1983-84	3	3	2	5	3	5		5
1984-85	3	3	2	4	3	3		5
1985-86								
Board	2	2	1	4	3	3		4
Assoc	2	2	1	3	3	4		4

TABLE 2

## Deviation from Dollar Average, Settled Conference Districts

N=6

	BA Base	BA+7	BA MAX	MA Base	MA+10	MA Max	Sch Max
1984-85	+230	+237	+1377	-90	-52	-26	-453
1985-86							
Board	+236	+119	+1233	-143	-10	+54	-432
Assoc	+311	+314	+1548	+7	+14	+22	-362

TABLE 3

## Dollar and Percent Increases, Settled Conference Districts

1985-6 Over 1984-85

N=6

	BA Base	BA+7	BA MAX	MA Base	MA+10	MA Max	Sch Max
Conference							
Dollar Ave	1044	1306	1469	1128	1599	1814	1932
Percent Inc	7.7	7.8	7.8	7.6	8.0	8.1	8.1
Board Offer							
Dollar Inc	1050	1188	1326	1075	1642	1894	1954
Percent Inc	7.6	7.0	6.6	7.3	8.2	8.5	8.4
Assoc Offer							
Dollar Inc	1125	1383	1641	1225	1666	1862	2024
Percent Inc	8.1	8.1	8.1	8.3	8.3	8.3	8.7

The salary benchmark analysis presented above produces consistent results. In Table 1 the Board's salary offer causes the least deviation from the position held by the Lancaster School District Conference rankings as they existed in 1984-85. In Table 2 The Board's offer approximates most closely the salary average benchmarks for Conference settlements at five of the seven levels. Finally, as Table 3 reveals, the dollar and percentage increases which result from the Board's offer are closer to the Conference averages for four of the seven salary benchmarks than would be the case if the Association's offer were adopted. On its face, therefore the Board's salary offer would be more reasonable as judged by the comparables criterion.

The Association has raised two points, however, which require consideration at this juncture. First, it argues that the benchmark figures are affected by the "inordinately" low salary increase of the Mineral Point School District settlement. Specifically, asserts the Association, the Mineral Point Association was offered significant incentives to settle which "substantially enhance the salary increase per teacher."

While the Association's contention regarding the Mineral Point settlement may have merit the Arbitrator is unpersuaded that this would be sufficient to warrant an adjustment in the benchmark analysis presented above. On the one hand, the Association points out, an economic value for these non-wage

gains can not be determined. Thus, we are at loss to know how much or in what way the salary benchmarks should be adjusted. On the other, and perhaps more importantly, if the Mineral Point figures are to be adjusted then to be consistent all of the figures for the comparable school districts should also be adjusted. Trade-offs are the essence of all negotiations and no doubt would be reflected in all the settlements we have considered here. In the case of Darlington School District, for example, salary benchmark increases were in the range of 10 percent thereby placing it on the opposite end of the continuum from Mineral Point. What was given up in the Darlington negotiation? Would it raise or lower the final value of that settlement? The Association has not included other districts in its arguments on this point so the record is devoid of a factual basis by which adjustments could be made properly for all districts in the comparables group much less one single case such as that of Mineral Point.

As a second point, the Association also argues that the value of the Wisconsin Retirement Fund should be factored into the settlement costs for each of the Districts in the comparables set. That is, since Lancaster teachers must pay the additional one percent employees' contribution now required by the State of Wisconsin while in other districts the cost is picked up by the Employer, again a numerical adjustment in salary figures must be made. The Association estimates this to be worth 0.67 percent or \$140.70 on a salary of \$21,000. As with the earlier point there may be some merit to this argument. The District contests this, however, maintaining that it has no knowledge of how the figure which the Association uses to measure the value of the contribution was derived and that there is no evidence in the record to support such a figure. The Arbitrator is in agreement that the record is not sufficiently complete to make such an adjustment meaningful. However, in so far as the WRS benefit affects the total package cost of the Parties' final offers its value would still be appropriately considered in any comparison with other school districts. As a consequence the Arbitrator sees no basis to alter the salary benchmark figures considered in the above analysis.

A related salary structural issue in dispute between the Parties is the basis by which vertical increments in salary lanes would be computed. Under the Master Agreement in force for 1985-85 a percentage index was employed which varied from 3.8% to 4% depending on the salary lane. The Employer proposes to delete the index and merely use dollar figures which would be negotiated with each contract change. It defends this approach in part by maintaining that teachers would receive more increase in dollars under the District's method than would be forthcoming if the former percentage index were retained. Therefore, this is no take-back argues the District.

The Association, never-the-less, labels the District's effort to delete the index a take-back position. In this vein, it asserts further that the District must make a persuasive case by trend or circumstance. There being none, concludes the Association, therefore the District is either posturing for arbitration or putting more money into lanes where there are fewer teachers.

Salary structures including the one in question change almost yearly thus showing great variation from one district to the next and often even between contracts within the same school district. First of all, it would be important to ascertain whether one section of the Lancaster teachers would suffer unreasonably by the imposition of one or the other of the final offers. In the case of some school districts have sought to raise BA salaries at the expense MA and higher levels with important negative consequences for senior and more highly trained teachers. This has been a general trend in many districts



in the State of Wisconsin during 1985-86. Examination of the respective salary schedules, and as acknowledged by the Association herein, indicates that this is not the case with the Employer's final offer. The dollar amounts it proposes would effectively provide higher percentage incremental increases for senior teachers than if the present index were to continue. Immediate adverse impact is not in question therefore.

The Association also contends that dropping the index constitutes a change from local practice which without adequate justification is generally not supported by arbitrators. The undersigned agrees with the Association in this regard. The index is in fact a significant departure that carries with it a burden to justify the change. Paraphrasing Judge Kessler, to justify the change the proposing party "must show that a legitimate problem exists and that the proposal is reasonably designed to effectively address the problem." (Dane County, Decision No. 21824-A). The salary percentage index is an integral and longstanding requirement of the Parties' contractual relationship. The District has provided no factual or evidentiary basis to justify its removal. Therefore in this regard, the Arbitrator would find the Association's salary offer preferable.

### III. The Cost of Living Criterion

The Board calculates that during the period July 1, 1985 to May 21, 1986 the cost of living as measured by the Consumer Price Index of the U.S. Department Labor increased 0.4 percent. It then states that "it is obvious that the total increase offered by the School District (8.64% - See Board Exhibit No. 2h) is above that required to keep even with the Consumer Price Index. The Association's final offer can only be termed excessive and unjustified by comparison."

The general line of arbitral reasoning, to which the undersigned subscribes, is that the cost of living measure considered most significant is that established through the settlements of comparable school districts. The record contains no evidence that inflationary pressures are greater within the Lancaster School District than elsewhere in the Southern Eight Athletic Conference nor has the District sought to argue such.

### The Issue of Long Term Disability Insurance

As the Association states the issue it is a matter of whether the District's group policy should provide a 67 percent or a 90 percent of regular income benefit level. The District argues for the status quo which is the former while the Association proposes the latter benefit level. The Association, first of all, contends that the cost to the District of the 90% plan would exceed that which it is already paying for the lower benefit level by only \$253 or \$2.71 per year per staff member. Thus, maintains the Association, "the miniscule (sic) cost factor is far overshadowed by the highly important benefit level." Because of changes in IRS tax regulations a 67% income disability benefit really translates into about a 50 % benefit. Therefore, argues the Association, to achieve a 65% benefit level requires a 90% benefit plan.

The District's reply is to base its position on the comparability criterion. That is, it responds that as shown by the Association's own exhibits the majority of the Southern Eight Conference schools do not have a 90% level of disability payments.

As Association Exhibit 66 indicates only one of the Southern Eight Conference schools (Darlington) currently provides a 90% benefit level. Platteville School District offers a 75% level while three others including Lancaster are at the 67% level. The remaining three districts apparently do not provide LTD benefits. Thus, as the District contends, the comparables do not support the Association's final offer on this issue.

While it is clear that the 90% level is more desirable than the lower level, by itself, this argument is not a sufficient basis to disturb the status quo. The record contains no evidence that teachers covered by the current plan have suffered in any serious manner either absolutely or comparatively. The Association charges only that the District has refused through several rounds of bargaining to agree to the higher benefit level. Absent such other evidence the Arbitrator finds the District's position on the LTD issue more reasonable.

#### Summary


On balance the Arbitrator concludes that the evidence supports the District's final offer on the 1985-86 salary schedule and the Limited Term Disability insurance benefits.

In light of the above discussion and after careful consideration of the statutory criteria enumerated in Section 111.70 (4)(cm)7 Wis. Stat. the undersigned concludes that the District's final offer is to be preferred and on the basis of such finding renders the following:

#### AWARD

The final offer of the District together with prior stipulations shall be incorporated into the Collective Bargaining Agreement for the period beginning July 1, 1985 and extending through June 30, 1986.

Dated at Madison, Wisconsin this 3<sup>rd</sup> day of October, 1986.

  
Richard Ulric Miller, Arbitrator

Appendix A

Name of Case: Lincoln Sch Dist

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.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Representative)

On Behalf of: Association  
\_\_\_\_\_  
\_\_\_\_\_

VI. COMPENSATIONS -

A. Salary Schedule

Steps	B.S.	BS+12	BS+24	M.S.	MS+12
0	15,000	15,300	15,600	15,900	16,200
1	15,570	15,889	16,208	16,536	16,856
2	16,140	16,478	16,817	17,172	17,512
3	16,710	17,067	17,425	17,808	18,168
4	17,280	17,656	18,034	18,444	18,824
5	17,850	18,245	18,642	19,080	19,480
6	18,420	18,834	19,250	19,716	20,137
7	18,990	19,423	19,859	20,352	20,793
8	19,560	20,012	20,467	20,988	21,449
9	20,130	20,601	21,076	21,624	22,105
10	20,700	21,191	21,684	22,260	22,761
11	21,270	21,780	22,292	22,896	23,417
12	21,840	22,369	22,901	23,532	24,073
13				24,168	24,729
14					25,385

Columns 3.8% for B.S., 3.85% for BS+12, 3.9% for BS+24, 4.0% for MS, 4.05% for MS+12

VI. COMPENSATION

E. Insurance

4. Long Term Disability -

The school district will pay the full cost per month per teacher toward a long term disability plan, with a benefit level of 90% of wage level.

Employees who begin receiving disability payments must turn the proceeds over to the district if they continue to be paid a full salary under the "sick leave" provisions in this agreement.

Name of Case:           Lancaster Sch. Dist          

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.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Representative)

On Behalf of:           District            
\_\_\_\_\_

VI. COMPENSATION

A. SALARY

STEP	BS	BS+12	BS+24	MS	MS+12
0	14925	15175	15425	15750	16075
1	15475	15735	15995	16400	16735
2	16025	16295	16565	17050	17395
3	16575	16855	17135	17700	18055
4	17125	17415	17705	18350	18715
5	17675	17975	18275	19000	19375
6	18225	18535	18845	19650	20035
7	18775	19085	19415	20300	20695
8	19325	19645	19985	20950	21355
9	19875	20205	20555	21600	22015
10	20425	20765	21125	22250	22675
11	20975	21325	21695	22900	23335
12	21525	21885	22265	23550	23995
13	21525	21885	22265	24200	24655
14	21525	21885	22265	24200	25315