

JUL 09 1986

STATE OF WISCONSIN  
BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

In the Matter of the Petition of	*	
	*	
PORTAGE COMMUNITY	*	Case 26
SCHOOL DISTRICT	*	No. 35998
	*	Med/Arb #3638
To Initiate Mediation-Arbitration	*	Decision No. 23310-A
Between the Petitioner and	*	
	*	
PORTAGE EDUCATION ASSOCIATION	*	
	*	

APPEARANCES:

James Yoder, Executive Director, South Central United Educators,  
on behalf of the Association

Barry Forbes, Staff Counsel, Wisconsin Association of School Boards,  
on behalf of the District

INTRODUCTION

On March 3, 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 Portage Community School District (hereinafter the "Employer" or "District" or "Board") and the Portage Education Association (hereinafter the "Union" or "Association"). On May 14, 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 June 13, 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

1. Should the contract be amended to incorporate the District's language relating to bereavement leave?
2. Should the salary structure contained in the contract reflect the final offer of the District or that of the Association?

I - BEREAVEMENT LEAVE

THE DISTRICT'S POSITION

The District concedes in testimony and in its brief that the existing bereavement leave language has never been abused by members of this bargaining unit. However, abuses which occurred in another bargaining unit have resulted in inclusion of this language in the labor agreement of that unit. This language is proposed here to achieve uniformity among the various bargaining units of the District.

THE ASSOCIATION'S POSITION

The Union's position is that it is unnecessary to fix something that isn't broken. Further, the suggested language gives more discretionary power to the District Administrator than is warranted. The power placed in the Administrator to determine the length of leave will cause a teacher, already shocked by a loss, to have to bargain with the Administrator who would be the sole judge of the reasonableness of the length of leave. The Association therefore resists the proposed change absent some showing that the present language does not work within this bargaining unit.

## DISCUSSION

It is clear from the briefs and from the arbitration hearing that this issue is not of over-riding importance to the parties. Standing alone, some merit can be found in the Board's desire to have uniform language in its labor agreements. Had abuses been found or even alleged by the District, a foundation for change would have been laid. Without such a foundation, the Association's position must be supported.

Since the outcome of this issue is clearly of relatively minor importance as compared with the salary issue, its resolution will depend upon the answers found on the salary issue.

### II - THE SALARY SCHEDULE

#### THE ASSOCIATION'S POSITION

##### COMPARABLES

It is fair to say that the fact every district in the Athletic Conference is still in bargaining for the 1985-1986 school year has created problems with comparables for both parties. The Union argues that this requires the arbitrator to go beyond the conference to find settled districts in near-by conferences or in geographical proximity to the Portage District.

Two sets of comparables are offered by the Union. They are the schools in the adjoining Dual County Conference, where seven of ten districts are settled, and adjoining school districts, where five of eight districts are settled. (One unsettled district, Montello, is included in both comparable sets. Three settled districts, Pardeeville, Westfield and Poynette, are included in both comparable sets.)

In support of the Dual County Conference, the Association notes that 70% of the districts are settled, offering a valid basis for comparison. It is acknowledged that the districts in the conference are not comparable to Portage in size. Important differences also appear in pupil teacher ratios and annual school cost. Nevertheless, four of the school districts are contiguous to Portage and testimony was given at the arbitration hearing that Portage is the commercial, economic and governmental center for Columbia County.

As secondary comparables, the Association urges consideration of the five districts which adjoin Portage. As noted above, three of those districts are members of the Dual County Conference. However, the Union believes contiguous districts are worthy of analysis and has offered information to the arbitrator relating to them.

##### TEACHERS' SALARIES

The Union rejects an analysis of total package costs as being subject to local differences and too uncertain of computation to be an accurate basis of comparison. Total package costs in districts with an experienced staff will be higher than in a district with a less experienced work force. Therefore, an award which would satisfy the less experienced staff would work an injustice upon the older staff in another district. In the same way, a settlement that is just to experienced teachers might result in a windfall to the younger staff in the comparable district.

For this reason, the Association asks the arbitrator to compare salaries using a benchmark analysis as the only way to compare apples to apples and oranges to oranges. Further, the teachers believe the analysis should be of salaries only, since consideration of fringe benefits in addition would result in confusion arising from variances between the districts.

By applying a salary only analysis to seven benchmarks, the Association's brief indicates that the dollar increase offered by the Board is last in six of seven when compared to Dual County districts and ranks no better than fifth when compared to contiguous districts. The Union's final offer ranges between third and sixth when compared to eight Dual County districts and is second or third when compared to six contiguous districts. The Teachers conclude that this analysis shows its final offer is reasonable and that the District's offer is obviously inadequate.

Not only that, the Association's final offer is closer to the average benchmark increase in every category in the Dual County Conference and in five of seven benchmark categories among contiguous districts.

Another measure of comparing teachers' salaries is to analyze a school district's relative ranking in each benchmark as compared to other districts. The Union's brief shows

that its final offer shows a gain in one benchmark rank, maintains the relative position in two, and would cause a drop in rank in three benchmarks. It argues that this is another clear indication of the reasonableness of its final offer, compared to the fact that the Board's final offer maintains rank in one and drops one rank in four benchmarks and drops two ranks in the last two benchmarks.

This comparison was among Dual County districts. When compared to contiguous districts, the Association's offer maintains rank in five benchmarks, drops one in one and raises by two ranks in the last. In contrast, the Board's offer maintains rank in three benchmarks and would cause a drop in the remaining four.

#### OTHER CRITERIA

This award has reviewed the Union's view of total package costs earlier. The documentation offered by the District in support of package costs clearly reflects the weakness contained in this approach, being sloppy in detail, incomplete, and not properly founded.

In like fashion, the Union attacks materials relating to wages in the Portage community as being unsubstantiated by other evidence in general and as not reflecting salaries paid to degreed employees as differentiated from non-degreed workers. Absent such information, the Association believes this arbitrator should not consider the Board's submissions.

The Union does not dispute the District's assertion that the Wisconsin farm economy has been buffeted in the recent past. Yet, no showing has been made that this adverse impact has been unusually serious in the Portage School District or more serious than in comparable districts. This failure makes the District's arguments relating to the economy irrelevant to this proceeding.

Real estate property taxes are a concern of all property owners, including most members of the Portage Education Association. The most recent State of Wisconsin budget returned property tax relief to the tax districts within the Portage School District in excess of the cost of the Union's final offer.

The arbitrator should also consider that farm income recognizes property tax as a deductible cost of doing business. All comparisons of income should take into account the fact that property taxes are deducted after income is shown for most taxpayers and before income is ascertained for farm income.

For these reasons, the Association asks this arbitrator to concentrate consideration of this dispute on issues of comparability between school districts and teacher salaries, rather than the other issues raised by the District.

#### THE DISTRICT'S POSITION

##### COMPARABLES

The District, too, laments the fact that there are no settled districts in the South Central Conference. In its brief, the District urges the arbitrator to reject comparisons and to base the decision herein on other statutory criteria. It asks the arbitrator to reject comparison with the Dual County Conference on grounds that there are so many differences between Portage and the member districts of that conference to render data derived from that conference meaningless.

The Board further argues that it is also error to consider the contiguous districts. Of the eight contiguous districts, three are unsettled and three are settled. All of these

were granted relatively small increases. The purpose was to encourage teachers to increase their professional qualifications.

However, this "skewing" of the salary structure has rendered historical comparisons for earlier years meaningless. The Board asks the arbitrator to ignore all comparisons except those between 1984-85 settlements and 1985-86 offers.

The District has presented an analysis of salaries in the athletic conference based upon the final offers made in the five districts where bargaining has reached that point, plus Nekoosa, which is in the second year of a two-year contract. This information is offered to show that this analysis, while flawed and inconclusive, shows that the Board's final offer can reasonably be expected to maintain the ranking of the Portage District within the conference.

#### OTHER CRITERIA

The Board's brief concentrates on other criteria to a much larger degree than that of the Union. This emphasis derives from its position that district and teacher comparables are so seriously flawed that the arbitrator must rely on other criteria to properly resolve the dispute between the parties.

The Portage School District lies in a predominately agricultural area. Farm income has dropped precipitously in recent years and this has impacted upon non-farm occupations. As a result, Columbia County has experienced substantial unemployment in the non-farm sector at the same time the important farm economy has been suffering.

Attempts to ameliorate the property tax burden in Wisconsin have been directed to the taxpayer, not to the tax-spending unit. Therefore, the only way this benefit can be realized by the School District is to raise taxes to pay the cost of settlement with the Teachers' Association. The Board would limit such an increase as much as possible.

Further, the final offer increase offered by the Board is in excess of the increase granted to Columbia County employees in either the public or private sectors. If the Board's 8.31% increase is generous, the Association's 10.21% increase must be found to be excessive.

Furthermore, the cost of living has not increased at the same rate as the District's offer in this past year.

Taken together with the generous vacation enjoyed by the teachers, with the resulting opportunity to improve educational qualifications, which may result in salary improvement, and other fringe benefits enjoyed by Association members, sufficient proof has been offered to require an award supporting the District's final offer.

#### DISCUSSION

Never again will this writer lament laboring over long lists of benchmark comparables where the choice is between competing comparable proposals, either of which might be selected. For this award will not be based upon comparables for following reasons:

1. The athletic conference might have been helpful had it not been for the fact that no meaningful settlements exist.
2. The Dual County Conference is simply not comparable. The Portage District does not resemble any of that conference's members in any respect.
3. Of the contiguous districts, three settled districts are in the Dual County Conference, one unsettled district is also in that conference, and two are unsettled members of Portage's own conference. Lodi has the same problems of comparability as the members of the Dual County Conference. An adequate comparable group cannot be constructed from the sole remaining district, Sauk Prairie.
4. CESA 5 might offer assistance were it not for the fact that the district is a very recent creation.

It is not helpful to complain about the quality of straw when one has the obligation to make bricks with which to erect the edifice of an award. Neither party is responsible for the fact that only one member of the South Central Conference has an agreement, however, flawed it might be for purposes of comparison.

Further, the materials submitted to the arbitrator in brief and exhibit have led the writer to conclude that neither final offer is so out of line with other salary schedules as to render either incapable of adoption.

Turning, then, to the other statutory criteria.

A lower offer is not ipso facto more reasonable in times of economic decline or stability. Nor is a higher offer more reasonable in times of economic expansion and prosperity. The Association correctly argues that its members should not be asked to bear the entire burden of economic difficulty in Columbia County. What is more, the data presented by the District does not overcome many of the difficulties pointed out by the Union in its brief. It is not clear whether increases shown properly differentiate between degreed employees as against non-degreed workers.

Yet, these deficiencies do not serve to overcome the fact that the offers herein are relatively close. Only 1.9% separates the two offers. This being true, the award in this matter must reflect the District's view that the economic and tax burdens being carried by the citizens of the Portage School District are real and pressing. Although the measure of relief granted by adoption of the District's final offer might be trifling, it is relief in fact and, under the unusual constraints placed upon the arbitrator herein, must be accepted.

#### DECISION

Based upon the foregoing discussion, the final offer of the Portage Board of Education shall be incorporated in the 1985-86 labor agreement, together with the stipulations agreed to between the parties.

Dated this 3<sup>d</sup> day of July, 1986, at Madison, Wisconsin.

  
\_\_\_\_\_  
ROBERT L. REYNOLDS JR., Arbitrator