

OCT 24 1986

BEFORE THE MEDIATOR-ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

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In the Matter of Mediation- Arbitration Between	:	
SCHOOL DISTRICT OF ARKANSAW	:	Case 3
and	:	No. 35441
ARKANSAW EDUCATION ASSOCIATION	:	MED/ARB-3422
	:	Decision No. 23311-A
	:	
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Appearances:

Mulcahy & Wherry, S.C., Attorneys at Law, by  
Mr. Michael J. Burke, for the District.

Mr. James H. Begalke, Executive Director,  
West Central Education Association, for the  
Association.

On March 20, 1986, the Wisconsin Employment Relations Commission appointed the undersigned as mediator-arbitrator in the above-captioned case. Mediation was attempted at Arkansaw, Wisconsin, on June 30, 1986, but was unsuccessful. An arbitration hearing was then conducted that same day. No transcript of the proceedings was made. The parties had the opportunity to present evidence, testimony and arguments. The record was completed on August 28, 1986, with the exchange by the arbitrator of the parties' post-hearing briefs.

There is only one issue in dispute in this case: salaries for 1985-86. The District's final offer would increase the salary schedule at each cell by 6.5%; the Association's final offer would increase the salary schedule at each cell by 12%. Based on the customary method of calculating cost increases using the prior year's staff cast forward, the District's offer would raise teacher salary costs 9.2%, and the Association's offer would raise those costs 14.9%.

The arbitrator is called upon by the statute to give weight to the several factors enumerated therein. Some of the factors are not at issue in this dispute and thus carry no weight in the decision. There is no issue with respect to: (a) lawful authority of the employer; (b) stipulations of the parties; (c) that part of (c) pertaining to "the financial ability of (the employer) to meet the costs of any proposed settlement;" (f) overall compensation presently

received by the municipal employees; (g) changes in circumstances during the pendency of the arbitration proceedings.

The statutory factors which are relevant to the dispute are: (c) that part of (c) pertaining to "the interests and welfare of the public . . .;" (d) "Comparisons of wages, hours and conditions of employment of the . . . employees . . . with (those) of other employees performing similar services and with other employees generally in public employment in the same community and in comparable communities . . .," (e) the cost of living, and (h) "such other factors . . . which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment . . ."

The District is part of the Dunn - St. Croix Conference. The parties are in agreement that these conference schools are a relevant group of school districts for purposes of making comparisons. The Association contends that the Somerset school district should also be used for comparison purposes. The District contends that it should not be included.

The District argues that Somerset is close to Minneapolis and is 245% larger than Arkansaw in term of number of pupils enrolled. Also, while Somerset was once in the same athletic conference (last in 1976-77), it has not been used by the parties historically as a comparable district, according to the District.

The Association cites arbitral precedent for the inclusion of Somerset. 1/ The arbitrator has read the cited arbitration cases and does not view them as compelling reasons for the inclusion of Somerset in this case. Somerset could justifiably be included as a comparison district, but it need not be. It is geographically further away from Arkansaw than any of the other conference districts. It is contiguous to one of the conference districts, St. Croix Central. In terms of school costs, state aid, equalized value and size and levy, it is comparable to the other Conference districts. The District argues that Somerset, with a size of 707 pupils, is much larger than Arkansaw with 205. The arbitrator notes, however, that five of the Conference districts have larger pupil enrollments than Somerset. Since there are enough settlements in the Conference to use for comparison purposes that both parties agree are relevant, and there is no evidence that the parties have used Somerset in recent years for purposes of making

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1/ Colfax, MED/ARB-1794; Plum City, MED/ARB-2937; Elk Mound, Dec. No. 22181.

comparisons, the arbitrator will not use Somerset in his analysis of this case. (The arbitrator notes parenthetically that this determination to exclude Somerset has no practical effect on the outcome of this case. It does not significantly affect the salary comparisons when the large difference between the parties' offers is considered).

The arbitrator has read the Association's arguments with regard to using CESA 11 schools for comparisons, as well as state-wide averages, but he is not persuaded of the necessity of using comparisons outside of the athletic conference in this dispute, since all but one of the Conference districts have settled, and the final offers in the remaining districts are known.

It should be noted, also, that the parties do not agree on some of the comparison cost figures. The District figures take into account that some of the districts in the Conference had settlements with deferred payrolls for part of the school year. The Association figures do not adjust for the deferred payrolls, and therefore the Association figures for those districts are higher than the District's figures. Because of the large difference between the parties' final offers in this case, those calculation differences are not significant, in the arbitrator's opinion. The arbitrator has principally used the Association's figures for ease of making comparisons, even though he recognizes that they may be inaccurate because they do not account for the deferred payrolls.

As mentioned above, the only issue in dispute in this case is what the salary increase for 1985-86 shall be. It should be noted at the outset that for 1984-85 the parties agreed to a salary freeze. Their "Memorandum of Agreement Amended Proposal of June 11, 1984," stated:

The parties agree that the purpose of this Agreement is to recognize the extreme and critical financial condition of the School District of Arkansas in 1984, with its high cost per pupil and tax levy rate.

The Board action on May 14, 1984, to reduce the following 1984-85 teaching contracts . . . will be rescinded and the above people will receive full-time teaching contracts for the 1984-85 school year. . . . For the 1985-86 . . . school year only salary is to be negotiated. The 1983-84 staff will not be laid off or have their positions reduced for the 1984-85 . . . school year.

Comparisons:

The following tables show the relationship of the District and Association final offers in comparison to the Conference districts at the salary benchmarks commonly used in arbitration of teacher disputes.

% Increase from 1984-85 to 1985-86

	Conference Average	District Offer	Association Offer
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BA - min	7.0	6.5	12.0
BA - max	6.8	6.5	12.0
MA - min	7.2	6.5	12.0
MA - max	7.0	6.5	12.0
Sched - max	7.5	6.5	12.0
BA - 7	6.9	6.5	12.0
MA - 10	7.1	6.5	12.0

\$ Increase from 1984-85 to 1985-86

	Conference Average	District Offer (Compared to Conference)	Association Offer (Compared to Conference)
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BA - min	1029	845 (-184)	1559 (530)
BA - max	1413	1276 (-137)	2355 (942)
MA - min	1171	886 (-285)	1636 (465)
MA - max	1773	1333 (-440)	2461 (688)
Sched - max	1989	1339 (-650)	2472 (483)
BA - 7	1240	1008 (-232)	1861 (621)
MA - 10	1565	1152 (-413)	2127 (562)

It is clear that viewed in percentage terms, the wage increase offered by the District, while lower than the increase given to the other Conference schools, is much closer to the Conference average than is the Association's offer which exceeds the pattern of settlements by 4 - 5%.

Because of the low position of the District prior to the 1984-85 salary freeze, which was reduced further by the freeze, the Association urges the arbitrator to consider the effect of the offers in dollar terms. As shown above, the District's teachers lose ground compared to the Conference average ranging from \$137 at BA-max to \$650 at Schedule-max. The Association's offer results in improvement, or some catch-up in relation to the Conference, ranging from a \$483 improvement at Schedule-max to \$942 at BA max.

Thus, the arbitrator must choose between deterioration of an already very low salary structure and improvement generated by an offer several percentage points over what the pattern of settlements is in the Conference.

The tables shown above indicate the differences between the increases generated by the parties' offers and the increases generated by the Conference districts. It must be noted also that the salaries of Arkansas teachers are far below those paid to teachers in the other Conference districts. They are below the Conference average by more than \$1,000 at BA-min; more than \$2,000 at MA-min; more than \$3,800 at MA-max; more than \$5,000 at Schedule-max; more than \$1,00 at BA-7 and more than \$3,600 at MA-10. These figures are calculated based on the Association's final offer. The differences are much greater if the District offer is implemented.

Based on salary comparisons for 1985-86 in relationship to 1984-85, it is the arbitrator's opinion that the District's offer is closer to the pattern of settlements than is the Association's offer. The Association's offer is preferable only if a determination is made that in 1985-86 there should be limited "catch-up" awarded to the teachers to bring their salaries more into line with those paid in the comparison districts. That is discussed further, below.

The District presented comparison data for other employees. It notes that it gave its custodians a 4% increase, and it gave no increase to administrators. Arkansas is located in Pepin County. The District introduced data showing other collectively bargained settlements in the County. These settlements were in the 3% range for 1985 and lower than that for 1986.

The statute calls upon the arbitrator to give weight to settlements with other public employees "in the same community and in comparable communities." The data presented for non-teacher employees are supportive of the District's offer more than of the Association's offer. However, the arbitrator views the comparisons with other teachers as more meaningful comparisons and will give them greater weight in reaching his decision.

### Cost of Living:

The evidence concerning cost-of-living increases indicates that from August 1984 to August 1985 the U.S. City Average index rose 3% and the All Urban Consumer index rose 3.4%. Both final offers are significantly higher than the cost-of-living increase. The District's offer is much closer to the increase than is the Association's offer. The Association cites arbitration cases in support of an argument that the pattern of settlements in similar school districts is a better measure of how the cost of living has affected bargaining than use of the consumer price indices. Even if this argument were accepted, the District's 6.5% per cell offer is much closer than the Association's 12.0% per cell offer to the pattern of Conference settlements. Thus, the cost-of-living factor clearly favors the District's offer.

### Interests and Welfare of the Public:

As noted above, there is no argument raised concerning the ability of the District to pay either final offer. The arbitrator notes that the salary freeze made on June 11, 1984, was in recognition of "the extreme and critical financial condition of the School District of Arkansas in 1984, with its high cost per pupil and tax levy rate." There is no suggestion in this case that a wage freeze is needed again. However, the question is whether the situation has improved so markedly as to persuade the arbitrator that limited catch-up to the other Conference districts is now warranted, as the Association argues is the case.

The Association views the interests and welfare of the public as favoring its position, because it believes that the public has an interest in retaining quality teachers for its children, and this will not be possible with further deterioration of teacher salaries. It cites the fact that in 1984-85 five teachers left the district, three of them at the Masters degree level. It views its offer as providing some limited catch-up to the other districts and avoiding the further erosion of salaries that will result from implementation of the District's offer.

The Association argues that the District budget contains 16.5% increase in the instructional budget and that even more money is available because the District has not replaced all of the teachers who left. It argues further that the District's failure to replace all of the teachers who left creates a greater teaching burden for those who remain, thus further emphasizing the need to improve salaries beyond that which the District is offering. The Association argues in its brief:

Despite the fact that District residents were informed of a budgeted 16.5% for teacher salary increases in 1985-86, a petition to request a public hearing on the parties' final offers was not filed, even though only five names were needed to do this. WCEA believes that District residents did not petition for a MED/ARB public hearing because of recognition that financial resources had to be committed to improving teacher salaries.

The Association argues also that teachers should not have inadequate salaries because of the District's high levy rate. This high levy rate, it argues, is attributable to high debt service costs, and not instructional costs. Also, the Association argues that all of the Conference districts are primarily agricultural. Thus, the District is not in a unique situation and the difficult agricultural economy should not allow the District to be less competitive than other Conference districts.

The Association notes also that the tax levy fell from 1984-85 to 1985-86 because of an increase in State aids, and it notes that the District will receive a 23.83% increase in State aids for 1986-87.

The District argues that a variety of economic circumstances support its offer and make it in the interest and welfare of the public. It notes that Arkansas has the highest tax rate in Western Wisconsin. It has a declining enrollment, the highest costs per pupil in the Conference, above average instructional costs per pupil, above average equalized tax rate and operating levy, and the highest property tax levy, and relatively low per capita income. While acknowledging an increase in State aids, the District argues that this is a relatively lower increase than received by several other districts in the Conference, and the State aids do not make up for the loss in equalized value.

The District notes that there are now only 215 students enrolled in Arkansas schools. The District has been seeking consolidation with the Durand school district and hoped it would be accomplished prior to the 1985-86 school year. There have been two votes by Durand school district voters which have failed to approve consolidation. One vote ended in a tie. The Department of Public Instruction has endorsed the District's attempts to consolidate with Durand or with Plum City.

The District argues that there is no justification for the Association's argument that there should be limited catch-up in salaries at this time. The wage freeze in

1984-85 was achieved voluntarily in exchange for absolute job security in 1984-85 and 1985-86 for teachers, and security of fully paid benefits in 1985-86 and 1986-87.

The arbitrator has a difficult dilemma in this case. As noted above, looked at in isolation, that is just considering the increases offered for 1985-86 in comparison to 1984-85, the District's offer is to be preferred. While it loses some ground to the other Conference districts in both percentage and dollar terms, it is much closer to the pattern of Conference settlements than is the Association's offer. It is also closer to increases being paid to other public employees in the geographic area, and the District's offer is significantly above the increase in the cost-of-living index.

The arbitrator's difficulty is attributable to the fact that the evidence shows that the results of implementation of the District's offer will be to make woefully low teacher salaries even lower, in relationship to teachers in the other Conference districts. There clearly is justification for significant adjustments in Arkansas salaries in order to bring them up to the salary levels being paid in the area. This is not a new problem, however. The evidence shows that Arkansas salaries have been much lower than the Conference averages since at least 1981-82, but the differences have been widening since that time.

When is the appropriate time to make these adjustments? The arbitrator does not know the answer to that, but he does not feel justified in ordering that catch-up begin now. This is a time in which serious but not yet successful efforts are being made to put the District out of business through consolidation. Pupil enrollments in the District are continuing to decline, and the tax levels paid by the taxpayers of the Arkansas district are relatively much higher than those of other Conference districts. The immediate need for catch-up was brought about by a salary freeze. However, it must be remembered that the freeze was entered into voluntarily in return for certain employment and benefit guarantees which would not have existed otherwise.

In the arbitrator's opinion it is unlikely that the parties would voluntarily agree to make significant upward adjustments to salaries, in order to compensate for the effects of the 1984-85 freeze, until there was significant improvement in the District's economic condition. The arbitrator does not feel that conditions have improved sufficiently for him to order an increase of the size offered by the Association at this time. The Association may be correct that the result of implementation of the District's offer will be the loss of additional teachers and deterioration of the education provided to the pupils of Arkansas. The District and perhaps the Department of Public Instruction will have to find ways to remedy that situation.



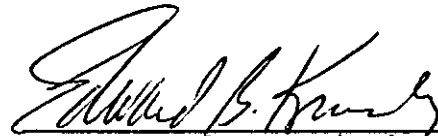
It is the arbitrator's conclusion that on balance the interests and welfare of the public are better represented by the District's offer at this time than by the Association's offer. The arbitrator has weighed the statutory factors governing mediation-arbitration decisions, and he has determined that they favor the District's final offer.

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

AWARD

The District's final offer for 1985-86 is selected.

Dated at Madison, Wisconsin, this 23<sup>rd</sup> day of October, 1986.

  
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Edward B. Krinsky  
Mediator-Arbitrator