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STATE OF WISCONSIN WISCONSIN EMPLOYMENT BEFORE THE ARBITRATOR RELATIONS COMMISSION In the Matter of the Petition of the WISCONSIN DELLS TEACHERS ASSOCIATION Case 10 No.35773 Med/Arb 3541 For Final and Binding Arbitration Decision No. 23383-A Between the Petitioner and the WISCONSIN DELLS SCHOOL DISTRICT I. APPEARANCES For the Wisconsin Dells Teachers' Association Jim Yoder, Spokesperson Jim Murphy Peter Smet Susan Johnson Barbara Keeble Jim Brancel For the Wisconsin Dells School District Karl L. Monson, Spokesperson Fred E. Schubring Diane Jepson Bill Nehring Bob McClyman JoAnn O'Malley

II. BACKGROUND

On October 2, 1986, the Wisconsin Dells Teachers' Association, consisting of all full-time classroom teachers, teaching principals, special teachers, guidance counselors, and librarians (hereinafter called the Association) but excluding principals, assistant principals, elementary and secondary coordinators, teacher aides, substitute teachers, per diem teachers, interns, practice teachers, office and clerical employees, all other noninstructional personnel and district administrators, filed a petition requesting the Wisconsin Employment Relations Commission to initiate mediation/arbitration proceedings persuant to Section 111.70 (4)(cm)6 of the Municipal Employment Relations Act, for the purpose of resolving an impasse arising in collectivve bargaining between the Association and the Wisconsin Dells School District (hereinafter called the District) on matters affecting the wages, hours, and conditions of employment within said unit.

An investigation into the matter was conducted by a member of the Wisconsin Employment Relations Commission's staff on March 3, 1986. The investigator, finding the parties still at impasse, accepted the parties' final offers on March 3, 1986. Thereafter, the Commission's investigator notified the parties and the Commission that the investigation was closed and the parties remained at impasse. Subsequently, the Wisconsin Employment Relations Commission rendered a FINDINGS OF FACT, CONCLUSIONS OF LAW, CERTIFICATION OF RESULTS OF INVESTIGATION and ORDER requiring Mediation/Arbitration.

The parties selected Donald G. Chatman as Mediator/Arbitator on March 28, 1986. A mediation meeting was held on June 2, 1986 at 5:00 P.M.in the administration offices of the of the Wisconsin Dells School District, Wisconsin Dells, Wisconsin, in an attempt to resolve the outstanding issues in dispute between the parties. The parties were unable to reach agreement on all the issues in dispute and the Mediator served notice of the prior written stipulation to the parties to resolve the outstanding issues at impasse by final and binding arbitration. The mediation meeting was closed at 10:15 P.M. on June 2, 1986.

#### **III. PROCEDURE**

An Arbitration hearing on the above matters was held at the administration offices of the Wisconsin Dells School District on June 2, 1986 at 10:40 P.M. before the Arbitrator, under rules and procedures of Section 111.70(4)(cm)6 of the Municipal Employment Relations Act. At this hearing both parties were given full opportunity to present their evidence, testimony and arguments, to summon witnesses and to engage in their examination and crossexamination. The parties agreed to the submission of final arguments in the form of written briefs, with no rebuttal briefs. The hearing was adjourned on June 3, 1986, at 1:30 A.M. until the receipt and exchange of final written briefs. The exchange was completed on July 10, 1986, and the hearing was closed at 5:00 P.M. on July 10, 1986. Based on the evidence, testimony, arguments and criteria set forth in Sec. 111.70 (4)(cm)6 of the Municipal Employment Relations Act, the Arbitrator renders the following award.

IV. FINAL OFFERS AND ISSUES Both parties to the Agreement stipulate to the following inclusions in a successor agreement:

Change girls basketball coaching position to be the same as the boys.

2. The Board's proposal concerning pay dates is agreed to with the proviso that sick leave accumulation shall appear monthly on the check stub and secondly, that summer paychecks may be received on the June pay date with two weeks notice instead of notice by May 1.

3. A two-year probationary period is added for new teachers before the District must meet the existing just cause standard for nonrenewal. It is understood that probation does not apply to current employees.

A section is added stating that "no teacher shall be disciplined except for just cause".

The Association's final offer is attached (Appendix A). The District's final offer is attached (Appendix B). The Association and the District stipulate that no other outstanding issues are at impasse which would prevent the resolution of the 1985-1986 agreement between the parties.

An examination of the parties final offers shows that under District final offer Article IX, Section 5, Payment of Salaries, the parties have stipulated to successor language under stipulation (2). Further, that under the District's final offer under Article X, Discharge, Section 7 is stipulated to by the parties with the inclusion in the successor agreement of stipulation (3). Finally, the parties have stipulated that Article XV, Extra Pay for Extra Duties, which is identical in both parties final offers shall include the additions of stipulation (1). The remaining issues are in contention between the parties.

Issue
Article XIII, Section 1- Health Insurance
The District proposes to change the language in the successor
agreement to read:
 The District will contribute a sum up to \$169.79 for a
 family policy and \$57.37 for a single policy to be applied
 to the employee's monthly health insurance premium. The
 District shall pay the deductible.
The current Agreement language reads:
 The School District will pay the \$500 single deductible
 portion and the \$1000 family deductible portion of the
 health insurance program for each person covered by the
 health insurance carrier.
 The Board of Education shall pay insurance premium for each
 full-time teaching employee as follows:
 a. Health and hospitalization: the District will pay
 100% of the premium.
The Association is opposed to this change.

Article IX, Section 13- State Teacher Retirement The District proposes the successor Agreement to read: The District will pay up to 6% of each individual Teacher's contract salary to the Wisconsin Retirement System.

contract salary to the Wisconsin Retirement System. Article IX, Section 13 currently reads: The Board of Education shall pay into the State Teachers Retirement System 100% of the teachers cost. STRS payments by the board will not exceed teachers' required contributions.

The Association is opposed to this change.

Article IX Section 3 -Calendar

The district proposes the successor Agreement to read: A committee of the Wisconsin Dells Education Association will work with Administration in the development of a Calendar for the ensuing school year. The Calendar shall include (180) face to face teaching days with students and start after Labor Day.

The School Calendar, agreed upon jointly by the WDEA Committee and the Administration, will be subject to final approval of the Board of Education.

### Article IX, Seection 3- Calendar currently reads: The School calendar shall be prepared jointly by the Board of Education and the WDTA. Final approval shall be determined by the electors at the Annual Meeting.

The Association is opposed to this change.

Salary Schedule for 1985-1986 The parties are in contention about the salary schedule. Both have proposed a schedule as part of their final offer (Appendice A,B).

#### V. CONTENTIONS OF THE PARTIES

The Association contends that the Wisconsin Dells teachers should receive dollar increases for 1985-1986 as compared to 1984-1985 consistent with the pattern of settlements among geograpically proximately sized settled school districts, and that, Wisconsin Dells teachers should at least maintain their relative placement at the salary schedule benchmarks of comparably settled school districts. The Association maintains the 1984-85 Wisconsin Dells teachers' salary schedule is devoid of logical increases between lanes or between incremental cells and that status should be changed to more nearly conform to the prevailing practices of comparable school districts. The Association asserts that the District should give credit for experience on the salary schedule consistent with the teachers years of service to the district. The Association contends the District's proposal to cap employer health insurance contributions and to otherwise modify the health insurance language currently in existence is unsupported by either evidence or a demonstration of District need. Further, the Association contends the District's proposal which substitutes 6.0% of the teachers salary to the Wisconsin Retirement System for the existing language of 100% of teachers cost is unsupported by a showing of need resulting from hardship on the District from this change. Finally, the Association contends the District's proposal to modify the calendar language of the existing agreement to require a school starting date after Labor Dayis without precedent among comparable school districts. The Association asserts that the after Labor Day starting date is not precluded by existing agreement language, and such change is unnecessary. The Association maintains its final offer serves the needs of the community, and the parties, and is in the best interest of the public.

The Association bases its argument on the wages paid to its selected comparable teacher group and cites the South Central Athletic Conference as the basic comparable group.However, since only one of the school districts in this conference has an agreement for the 1985-1986 year the Association wishes to expand the comparable group to those school districts in Adams, Columbia, Juneau, Marquette and Sauk Counties. The Association argues that there is arbitral precedent for using substitute groups when there are no settlements among existing comparable teacher groups. The Association is opposed to the District's proposed expanded comparable group because they maintain that the schools are not geographically and economically as similar as the Association's proposed comparable groups.

The Association argues that the District's proposal to cap employer health insurance contributions and to otherwise modify the existing health insurance language is unnecessary and unsupported by either evidence or demonstration of need by the District. The Association maintains that the health insurance premium for both the single and family plans are unchanged from 1984-1985. Further, the cost of health insurance during this period is less by 13.5% from the 1983-1984 cost figures. Thus, there is at least no monetary hardship imposed upon the District. The Association's opposition to the District's proposal to modify health insurance language is that the modification makes no reference to anything other than premium modification. The existing agreement requires conferral with the Association and consent before a change in type of insurance or carrier can be made. The Association argues the District has shown no need for such language change and the district's proposal on health insurance should be rejected as ambiguous and shows no hardship to the district.

The Association argues that the District's final offer proposal on the Wisconsin Retirement System contribution by the employer is also unsupported by a showing of need or hardship. The Association maintains that by substituting the phase "6% of each teachers salary" for the existing languages 100% of the teacher's cost is unnecessary and unwarranted. They maintain that the proposal does not change the existing financial impact for 1985-86, that no evidence or testimony was introduced by the District to show that the contribution rate was likely to be raised in the forseeable future, and therefore, the proposal should be rejected.

The Association argues that the District's proposal to modify the calendar language to require an after Labor Day school starting date is without precedent among its comparable school districts. The Association maintains that such school district starting date is not precluded under the existing agreement and the proposal is unnecessary.

The District contends the Association voluntarily settled the 1982-83 and the 1984-85 contract agreements with one of the provisions for a settlement being the freezing of the teaching staff on their salary schedule placement of the preceding school year (i.e, 1981-82 and 1983-84). The district alleges that the Association is now attempting to make up for these two years of placement freezing through interest arbitration, rather than collective bargaining. On the issue of salary the District contends that its final offer is the more reasonable and comparable with other similar school districts of the two final offers. The district maintains there is nothing significantly unique about the Wisconsin Dells School District to justify the increases demanded by the Association. The District contends its final offer exceeds the Cost of Living index by several percent and thus is in the best interest of the public.

The district proposes as comparable school districts the South Central Athletic Conference. However, since only one of the comparable school districts has a settlement for 1985-86, the district has elected to expand the comparable school districts to include the communities of Westfield, Onalaska, Viroqua, and Sauk Prairie, while rejecting the comparable list of the Association as being non-comparable in district size or economic structure.

The District proposes a change in the health insurance language. The District argues that this proposal is the District's effort to identify the amounts in dollars of the premium payments in the agreement in order to make the teachers more aware of the cost of this benefit. The District maintains the dollar amounts reflected

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in its proposal represent the full amount of premiums on health insurance in 1985-1986.

The District proposes a change in Article 9 (General Provisions), Section 13, State Teacher Retirement. The District maintains the retirement contribution represents an additional cost to the District, and is introduced into the agreement to make the Association aware of such additional costs.

The District proposes to change Article 9 (General Provisions), Section 3 (School Calendar) from:

- Section 3 The School Calendar shall be prepared jointly by the Board of Education and the WDTA. Final approval shall be determined by the electors at the annual meeting.
- Proposed: A committee of the Wisconsin Dells Teachers Association will work with the Administration in the development of a calendar for the ensuing school year. The Calendar shall include (180) face to face teaching days with students and start after Labor Day. The School Calendar agreed upon jointly by the WDTA committee and the Administration, will be subject to final approval of the Board of Education.

committee and the Administration, will be subject to final approval of the Board of Education. The District maintains that it is not proposing a change in the number of working days in this issue, but that school start after the first Monday in September (Labor Day). The primary rationale is that Wisconsin Dells is a tourist community and much of the labor is furnished by students of the School District. The District argues that surrounding States have schools that begin after Labor Day and that, it is preferable to change the starting date of school than to have unexcused absences during this period.

# VI DISCUSSION

Comparability

Both the District and the Association have presented school districts outside the South Central Athletic Conference for comparison. Both cite a rationale that there is one settlement for the 1985-86 school year, thus other settled school districts should be utilized. If the settlement figure for salary was the total criteria then any district with a settlement favorable to the party would be comparable. This Arbitrator deems that in order for comparability to have significance it must be relevant for more than one instance. The utilization of comparability is or should be the reference base from which consistent comparisons can be made for significant periods of time. The Association's expansion of alleged comparable school districts to include the five counties surrounding Wisconsin Dells is not acceptable. The inclusion of these school districts dilute the similarities of reasonable comparables and change means. The inclusion of these school districts might have merit as comparable units if they were utilized for a long term period (3-5 years) and data was furnished for this period rather than one instance because the school district reach favorable agreement first. Concurrently, the District's enlargement of comparable school districts because of the limited number of settlements, is rejected for essentially the same reasons. The comparable school districts for this arbitration remain the South Central Athletic Conference.

#### Salary

An examination of the salary data provided by both the Association and the District for the South Central Athletic Conference from 1981 to 1986 shows that Wisconsin Dells is above the median increase for the conference. At the benchmark levels the salaries are above the median with one exception. The data indicate that both the District's and Association's final offers on salary would appear to maintain position within the conference. The data would also indicate that a majority of the teachers within the District are in a relatively fixed position on the salary schedule even with an incremental lane change. The final offers on salaries as expressed by the parties salary schedules are less than 1.0% apart (ex retirement additions) and are not in and of themselves determinative of acceptance of either party's total final offer.

#### Health Insurance

The District proposal on health insurance and language change appears to be little if nothing more than the insertion of a dollar cap within the agreement. While the District may argue that its proposal is informative for the teachers, this Arbitrator is not persuaded that information cannot be better conveyed in a myriad of other ways. This proposal as presented also does not make consideration for the joint selection and determination procedures previously enjoyed by the parties. While the health insurance proposal does not present harm, increased cost, or benefit reduction to either Association group member or District at this time, it could represent such reduction of present benefit in the future. On it own merits the District's proposal on health insurance is not justified on the evidence and testimony presented at this hearing.

#### Teacher Retirement System

The District's proposal to change existing Article 9, Section 13, (State Teachers Retirement) appears to be an insertion of a retirement payment cap by the District on a benefit that the District heretofore paid exclusively. The District's argument that such a final offer was made to show that the 1.0% increase in payment to the retirement system represents a real dollar cost to the District is noted by the Arbitrator. The merit given this argument is that District final offer costs must be viewed as higher than stated. On it own merit the insertion of the percentage amount represents a dollar cap within this portionm of the agreement. While this cap represents no reduction of benefit to the employee, it is barely justified by the evidence and testimony presented at this arbitration.

#### School Calendar

The District's proposal on the school calendar appears to be much more than that school begin after the first Monday in September. This proposed agreement officially inserts the school administration into the calendar setting process and changes the relationship of the Board of Education from conferee to final decision maker. The District's argument in support of this change is not impressive. The Association contends that this is a nonissue which could be implemented under the present agreement. The Arbitrator deems that while the proposal is innocuous at the present time it represents a marked change in relationships between the parties. The Arbitrator also deems this to be over reaching on the merits of the proposal.

There are two significant issues to be resolved since the Arbitrator "shall adopt without further modification the final offer of one of the parties on all disputed issues under subd. 6". The first is whether the District has overreached in the submission of language changes in the agreement. If so, is the merit of the District's salary proposal strong enough to carry other final offer proposals that have little or no merit? The other significant issue in this Arbitrator's opinion is the Association's final offer proposal on salary. In this final offer proposal the language "Instructors are placed in the cell reflecting their appropriate creditable experience as recognized by the District" is noteworthy. The Association argues that its salary proposal increases are more comparable with other school district salary increases. The District argues that the Association voluntarily accepted a freezing of the teaching staff on their salary schedule placement of the preceding school year not once but twice (1981-82 and 1983-84). The Association does not contest or refute this argument, nor present any evidence or testimony as to why these extraordinary events occurred. In this Arbitrator's opinion, when there is a radical departure from the norms generally found in Wisconsin teaching agreements there is usually an explanation of some kind. In this instance no explanation was presented by the Association. Secondly, the freezing of teaching staff occurred twice and in both instances was voluntary. These instances strongly suggest that the parties were well aware of these deviations and initiated them at their discretion. In this Arbitrator's opinion, decisions derived from the joint voluntary negotiations of the parties should not be set aside by Interest Arbitration or third parties without a major presentation and demonstration of harm to one or both the parties. In this instance the Association voluntarily agreed to a schedule freezing twice. The data presented by the Association and the District show that for this period the District was at or above the mean for the Athletic Conference in salary. The Association presented no argument other than a lack of comparability with similar school districts.

The District is prehaps overreaching in its attempts to place caps and change conferral relationships under the the premise of conveying information. However, on the basis of Sec. 111.70, where the total final offers of one party is accepted with out modification, this Arbitrator deems it unacceptable to award issues to parties which the parties have voluntarily eroded through their own negotiations. It is this Arbitrator's opinion that the voluntary placement freezing agreement the Association twice made is of such gravity as prevent its restoration through interest arbitration alone. The final offers of the Association are denied.

VII AWARD The 1985-1986 Agreement between the Wisconsin Dells Teachers Association and the Wisconsin Dells School District shall contain all stipulations mutually agreed upon by the parties and incorporated as part of this Award and the final offers of the Wisconsin Dells School District.

Dated this **21** th day of August, 1986, at Menomonie, Wisconsin.

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Donald G. Chatman Mediator/Arbitrator non or case: 1 to. .. Metheral (1) dec.

The following, or the attachment hereto, constitutes our final ofter 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 timel offer of the other party. Each page of the attachment hereto has been initialed by me.

(Date)

(Representative)

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Final Offer 3-3-86 The Wiscousin Dolls Education Association proposos the current Master Agreement along with the tentative agreements and the following amendments; 1. Salary See attached 2. Article DIIT, Section 2, Last sentance Add", "discipline," after "No teacher shall be .r. " 3. Aleater Susanne 3, Duration Article XIII Term of Agreemant Section 1 Change & July 1, 1885 and game 30, 1886 Section 2 Change Jan. 15, 1885 To Hay. 15, 1886 H. Extra Duty Schedule (See Attached) Investigator Corr

2: LeapFrog8Bage 1 3/3/86

# posed Salary Schedule for 1985-86:

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3	15360 16560	15500	16960	17260	17560	16160	18560	18960	19360
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Article XV - Extra Pay for Extra Duties

D) .	Music	Swing Choir Director Choreography Director High School Instrumental High School Vocal Junior High Instrumental Junior High Vocal Christmas Programs-Elm	\$625.00 400.00 600.00 500.00 350.00 30.00
n.	Audio-Visual	High School	\$400.00
ο.	Photography:		\$240.00
р.	Forensics:	High School Asst. High School Junior High	\$475.00 350.00 175.00
q.	Annual:	High School	\$500.00
г.	Newspaper:	High School	\$250.00
s.	Student Council	: High School	\$240.00
t.	Drama:	Head High School Asst. High School	\$456.00 342.00
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AUG 22 1986

WISCONSIN EMPLOYMEN RELATIONS COMMISSIO Dolla > ) incomen int. Name of Case:

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.

Burnd

(Date)

(Representative)

On Behalf of:

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# ARTICLE IX, Section 5 - Payment of Salaries

Payment of salaries shall be in 24 installments. The Board of Education shall determine the actual dates of payment. A Teacher may receive their June, July, and August pay checks all on the June pay date, if they so desire. To do so a written request must be made to Superintendent and the payroll office prior to May 1.

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Article XIII, Section 1 - Health Insurance

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The District will contribute a sum up to \$169.79 for a family policy and \$57.37 for a single policy to be applied to the employee's monthly health insurance premium. The District shall pay the last \$50.00 on the deduct-ible.

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# Article IX, Section 3 - Calendar

A committee of the Wisconsin Dells Education Association will work with Administration in the development of a Calendar for the ensuing school year. The Calendar shall include (180) face to face teaching days with students and start after Labor Day.

The School Calendar, agreed upon jointly by the WDEA Committee and the Administration, will be subject to final approval of the Board of Education.

FAX.

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Article X, Section 7 - Discharge

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All new teachers will serve a three (30) year probationary period. After completing a three year probationary period, no teacher shall be dismissed, non-renewed or disciplined except for just cause.

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ARTICLE IX, Section 13 - State Teacher Retirement The District will pay up to the of each individual Teacher's contract salary to the Wisconsin Retirement System.

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Article XV - Extra Pay for Extra Duties

Coaching

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b.	Basketball-Boys:	Head Coach Assistants 9th Grade 7th & 8th Grade	\$2,000.00 1,250.00 950.00 550.00
с.	Basketball-Girls:	Head Coach Assistant J.V. Coach Junior High	\$2,000.00 1,250.00 1,250.00 550.00
d.	Wrestling:	Head Coach J.V. Coach 9th Grade 7th & 8th Grade	\$2,000.00 1,250.00 950.00 550.00
е.	Baseball:	Head Coach Assistant	\$1,150.00 650.00
f.	Volleyball:	Head Coach Assistant	\$1,150.00 650.00
g.	Cross Country:	Head Coach	\$1,150.00
h.	Track-Boys & Girls:	Head Coach Assistant	\$1,150.00 650.00
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r.	Newspaper:	High School	\$250.00
s.	Student Council	: High School	\$240.00
t.	Drama:	Head High School Asst. High School	\$456.00 342.00
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8	20050	20270	20490	20710	20930	21350	21570	21790	22010
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