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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

IN THE MATTER OF ARBITRATION)	
)	
Between)	
)	Marvin Hill, Jr.,
BLACK HAWK EDUCATION)	Arbitrator
ASSOCIATION (Union))	
)	WERC Case No. 37184
-and-)	MED/ARB - 3939
)	Decision No. 24032-A
SCHOOL DISTRICT OF BLACK HAWK)	
SOUTH WAYNE, WISCONSIN)	
(Employer))	

Appearances

For the Association: Mr. Kenneth Pfile, Executive Director, South West Teachers United, Route 1, Box 1, 145 West Barber Street, Livingston, Wisconsin, 53554.

For the Administration: Mr. Kenneth Cole, Assistant Executive Director, Wisconsin Association of School Boards, 122 West Washington Avenue, Madison, Wisconsin, 53703.

I. BACKGROUND, FACTS, AND STATEMENT OF JURISDICTION

The instant dispute involves negotiations for a 1986-87 collective bargaining agreement. The record indicates that bargaining for a successor agreement began in the Spring of 1986. The parties met in open session to exchange initial proposals on March 11, 1986. Thereafter, the parties met on five (5) occasions in attempts to reach voluntary settlement.

On June 27, 1986, the Black Hawk Education Association filed a petition with the Wisconsin Employment Relations Commission (WERC) alleging that an impasse existed between it and the Black Hawk School District in their collective bargaining. The Association further requested the Commission

initiate Mediation-Arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act. On August 27, 1986, David E. Shaw, a member of the Commission's staff, conducted an investigation which reflected that the parties were deadlocked in their negotiations, and, by October 15, 1986, the Investigator notified the parties that the investigation was closed; and that the Investigator advised the Commission that the parties remain at impasse.

On or about November 17, 1986, the undersigned was notified by WERC of his selection as mediator-arbitrator. A mediation and arbitration hearing was held on January 27, 1987 at the District's offices in South Wayne, Lafayette County, Wisconsin. After several attempts to mediate the dispute, an impasse was declared. Post-hearing briefs were filed and exchanged through the offices of the Arbitrator on March 3, 1987. On March 18, 1987, the Association filed a reply brief

II. ISSUE FOR RESOLUTION

All issues have been resolved except that of salary and criteria for staff reduction.

III. POSITION OF THE ASSOCIATION

A. 1986-87 Salary Schedule

The Association proposes a base salary of 15,983, an increase of 1,243 over the 1985-86 base salary. No structural change in the schedule is proposed.

According to the Teachers, its salary proposal results

in an actual cost increase to the District of 68,159 (7.04%), or an average cost increase of 1,503.95 per employee for the 1986-87 staff members. The total salary schedule cost is 1,035,730. By projecting the 1985-86 staff forward one year, the Association estimates 1,054,540 as the total cost, an increase of 86,969, or 8.99% (the large difference in actual versus projected costs results from staff turnover from 1985-86 to 1986-87)L.

In support of its offer, the Association makes the following arguments:

1. Comparability of Black Hawk to comparable districts. The Teachers point out that historically, the parties have argued that the districts comprising the State Line Athletic Conference (SLAC) are the most appropriate set of comparables. Had there been a sufficient number of 1986-87 settlements in the SLAC at the time of the arbitration hearing in the instant dispute, there would be not need to look for other comparables, argues the Teachers. However, since no districts within the SLAC had settled their 1986-87 agreements as of the hearing date, it is necessary to seek a different set of bench marks for this analysis.

In this regard the Association, in addition to historical Conference data, submits evidence from districts comprising the Cooperative Educational Service Agency District No. 3 (CESA #3) that have settled agreements for 1986-87. The teachers note that Black Hawk is wholly contained within the boundaries of CESA #3 (BHEA Ex. 4),

receives support services from CESA #3, and shares, therefore, a community of interest with other CESA #3 school districts. It is, therefore, an appropriate comparable under the statute.

Comparing Black Hawk to the five bench marks, the following summary is offered by the Association:

Black Hawk's Historical Rankings
and
Relation to Group Averages at Five Benchmarks
Among State Line League Districts

	BA Min	BA Max	MA Min	MA Max	Sch. Max
81-82 Rank	1	6	1	7	3
+ / (-) Av.	159	(468)	755	16	338
82-83 Rank	1	6	1	7	6
+ / (-) Av.	252	(359)	830	(184)	132
83-84 Rank	1	6	1	7	6
+ / (-) Av.	282	(345)	969	(192)	72
84-85 Rank	1	6	1	7	6
+ / (-) Av.	319	(310)	904	(193)	28
85-86 Rank	3	6	1	7	6
+ / (-) Av.	165	(561)	764	(492)	245

Source: Brief for the Association at 8 (Summary of Ass'n Ex. 8-1-5 through 12-1-5).

Citing the above data, the Association contends that because of its unique (compressed) salary schedule, Black Hawk has historically been relatively high at the salary minimums and low at the maximums. Clearly, Black Hawk salaries have not kept pace with the districts in the preferred comparability group, the athletic conference.

2. Comparability of parties' offers in relation to final offers in two conference districts, Barneveld and Belleville.

These comparisons, notes the Union, offer a limited view of what those two boards and associations believe to be reasonable for 1986-87 salary levels. The data presented in BHEA Exhibits 8-12 is summarized as follows:

State Line League
Board and Association Final Offers
Compared with
Black Hawk Board and Association Final Offers

	BA Min	BA Max	MA Min	MA Max	Sch. Max
BHEA Rank	1	4	1	3	3
+ / (-) Av.	787	(527)	1,726	(89)	26
Dist. Rank	2	4	1	4	3
+ / (-) Av.	424	(1,004)	1,305	(669)	(576)
BHEA \$ Inc.					
Rank	1	4	1	3	3
+ / (-) Av.	372	(575)	516	(566)	(401)
Dist. \$ Inc.					
Rank	2	4	2	4	4
+ / (-) Av.	9	(1,052)	95	(1,146)	(1,003)
BHEA % Inc.					
Rank	1	3	1	3	6
+ / (-) Av.	2.3	(3.6)	2.6	(3.2)	(2.2)
Dist. %					
Increase Rank	2	4	3	4	4
+ / (-) Av.	(1.1)	(6.0)	.2	(5.6)	(4.6)

Source: Brief for the Association at 10.

Measured against an average of other District and Association final offers, the Association asserts that there is at least some preliminary evidence that BHEA's offer is more reasonable than the District's final offer.

3. Comparison of Black Hawk to CESA #3 districts that have settled contracts for 1986-87. Here, the Teachers

submit data showing a summation of historical bench-mark rankings and Black Hawk's dollar relationship to the group average.

BHEA and District Final Offer Rankings
and
Relation to Group Averages
at Five Benchmarks
Compared with Prior Years

	BA Min	BA Max	MA Min	MA Max	Sch. Max
81-82 Rank	3	10	1	5	6
+ / (-) Av.	230	(801)	1234	357	285
82-83 Rank	3	11	1	1	6
+ / (-) Av.	200	(978)	1110	54	(74)
83-84 Rank	3	10	1	7	7
+ / (-) Av.	178	(1122)	1114	(47)	(261)
84-85 Rank	4	9	1	8	9
+ / (-) Av.	157	(1207)	1111	(148)	(602)
85-86 Rank	7	10	1	9	8
+ / (-) Av.	34	(1465)	1026	(545)	(1023)
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BHEA 86-87 Rank	4	9	1	8	7
+ / (-) Av.	233	(1308)	1356	(216)	(835)
Er. 86-87 Rank	8	11	1	10	10
+ / (-) Av.	(130)	(1785)	935	(796)	(1437)

Source: Brief for the Association at 12 (Summary of Ass'n Ex. 13-1-5 through 17-1-5).

The Association points out that a study of historical bench-mark rankings shows a pattern similar to that previously noted with regard to the athletic comparisons: Relatively high minimums, low maximums, with substantial erosion over the five-year period. (Brief at 12). The Association submits that Black Hawk teachers' salaries have

suffered severe erosion of position with respect to both the athletic conference districts and the CESA #3 districts that have settled salaries for 1986-87. In the Union's eyes, the District's offer would continue that erosion, at least when compared with the settled CESA #3 districts, while the BHEA's final offer would only partially restore the losses suffered in 1985-86 alone. BHEA accordingly maintains that its final offer for 1986-87 salaries is the more reasonable offer.

4. Dollar and percent increases among comparable employers. The Teachers submit evidence showing that Black Hawk's 1985-86 salary increases were extremely low, by both dollar and percentage measures, in comparison with the CESA #3 group. Increases at every bench mark were below average, ranging from 85 below the MA minimum to 421 below at the schedule maximum, and from 0.9 below the average percentage increase at the BA Maximum to 1.7 below average at the MA Maximum. (See Table #4, cited at Brief at 15).

5. Ability-to-pay considerations. According to the Teachers, the District has "considerable" new money in the form of state aids and property tax credits coming in 1986-87. The BHEA estimates that 781,011 is a realistic figure of total state aid, or an increase over 1984-85 of 235,958 (State property tax credits were not available in 1984-85). DPI estimates for 1986-87 gives a total aid and credit figure of 1,086,595 for Black Hawk, an increase of 305,584 or 39.1 percent relative to 1985-86.

The BHEA argues that its projected total package increase is approximately nine percent (9%), or about

115,700, which would leave 62.1 percent of the total new state funding (189,858) for other District expenses.

With respect to the state of the agricultural economy in southwest Wisconsin, BHEA submits evidence that shows a very different picture than that provided by the District's exhibits. (Brief at 21). In the eyes of the Union, the data indicates that farms and farmers in the southwest Wisconsin reporting districts are doing better financially than farmers generally in Wisconsin.

B. Reduction-in-Staff Criteria

The current agreement between BHEA and the District, at Article V, Section E, Reduction in Staff, part 2, lists four (4) criteria "to be used for reduction in staff" as follows:

1. Years of District Service
2. Certification
3. Educational Needs of the District
4. Teacher's Relevant Teaching Experience.

The Teachers propose the addition of a single sentence immediately following the listing of reduction-in-staff criteria, stating as follows: "The criteria are to be used in the order listed." The intent of the proposal is to assure that the criterion--"Years of District Service"--will be considered first by the District should the need for a reduction in staff arise.

The Association submits that its proposal arises from the District's assertion, in connection with proposed teacher layoffs in the spring of 1986, that it could apply the criteria in any order, and that it intended to base its

layoff selections primarily upon the third criterion--
"Educational Needs of the District."

In further support of its proposal, BHEA offers contract language regarding layoff/staff reduction from the other State Line Agreements. According to the Association, seniority is the predominant standard (along with appropriate certification) for layoff selection among the preferred set of comparables. Indeed, six of eight conference agreements clearly provide that seniority (assuming certification and discounting attrition) will be the first criterion considered in a determination of layoff. Only Argyle (along with Black Hawk) lists layoff criteria without a clear indication of the order of consideration. (Reply Brief at 1).

IV. POSITION OF THE ADMINISTRATION

It is the position of the Administration that the Association has not provided sufficient evidence to sustain its position with respect to the staff reduction modifications and, furthermore, the Association cannot justify its position of a nine percent increase in teaching salaries based upon existing settlements among appropriate comparable school districts or the economic conditions confronting small rural school districts in Southwest Wisconsin. With respect to both issues, the Employer makes the following arguments:

A. 1986-87 Salary Schedule

The District proposes a base salary of 15,620, an

increase of 880 (5.97%) over 1985-86, with no change in the current salary structure. The Employer submits that its offer totals 6.7 percent, a two percent difference in the positions of the parties.

1. Comparables. Similar to the BHEA, the Employer asserts that the athletic conference constitutes the appropriate set of comparable school districts. The District further points out that, since the close of the arbitration hearing, the school district of New Glarus reached a settlement for the 1986-87 school year. The New Glarus data reveals that the settlement includes a BA Base of 15,600. In 1985-86, New Glarus had a base of 14,800 which was 60 higher than Black Hawk's base.

The Board argues that the adequacy of maximum salaries in Black Hawk is clearly indicated by the number of incremental steps that are required to reach the maximum salary levels in the various conference schools. The following summarizes the Board's contention: Albany (12 steps to maximum); Argyle (13); Barneveld (15); Belleville (15); Juda (12); Monticello (13); New Glarus (12); Pecatonica (12); Black Hawk (7). The Employer asserts that teachers in Black Hawk attain higher salary levels far sooner than teachers in all other conference school districts. The fact that higher salary levels are attained sooner means that the ultimate earning capacity or "career earnings" of teachers in Black Hawk are higher than teachers in other districts. The Board believes that this argument supports its offer and provides

sufficient reason to reject the Association's proposal.

2. Consumer price index (CPI). Here, the Administration contends that the increases in the CPI demonstrate that the Board's offer is more reasonable since CPI increases have not exceeded four (4%) percent in any index in the last three years. An offer of 6.7 percent in an economy with an inflation rate of less than 4.0 percent, in the Employer's eyes, clearly strikes a responsible and fair balance between the public interest and the needs of the District's employees.

3. Economic status of Lafayette County and the interests of the public. The District makes numerous arguments regarding the economic status of Lafayette County and the statutory public interest criterion. The Board notes that the County is not experiencing the population growth equivalent to surrounding counties. Moreover, Lafayette County depends on the agricultural economy to a greater extent than surrounding counties. Farm land values are down and foreclosures are increasing.

In this same regard, the Employer offers numerous decisions by interest arbitrators that recognize the Board's public-interest arguments (many of which are cited and discussed below), even when the district has the ability to fund a higher settlement.

In summary, the District believes that the evidence suggests that the Black Hawk School District is confronted by a very dismal set of circumstances arising out of the

prevailing economic conditions. It is the same set of circumstances that has resulted in a lack of settlements in school districts in the immediate area. Without a pattern of settlements in the comparable school districts to rely on, it is the Board's belief that the local economy should be given more substantial consideration. It is, argues the Board, the local economy that requires that the Board's offer be selected for this dispute.

B. Reduction-in-Staff Criteria

The District proposes no change in the reduction-in-staff language. It argues that the Association has proposed a modest and possibly meaningless modification of the existing language. Nevertheless, the Board argues that there are several reasons to reject the Association's proposal.

First, the Association's evidence demonstrates that the existing provision in the Black Hawk School District is not uncommon.

Second, the Board asserts that in order to modify an existing provision, the party requesting such modification must produce evidence substantiating such a proposal. According to the Administration, such evidence is totally absent in the instant proceeding and without such evidence the Association's must not be given serious consideration. (Brief for the District at 3).

V. DISCUSSION

A. The Statutory Criteria

Section 111.70(4)(cm)7, Wis. Stats., directs the

interest neutral to "give weight" to eight factors, enumerated as follows:

- a. The lawful authority of the municipal employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services and with other employes generally in public employment in the same community and in 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 employes, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other 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, factfinding, arbitration or otherwise between the parties, in the public service or in private employment.

For the record, the undersigned has formulated an award based upon the above-cited criteria. In the instant case, however, certain criteria are deserving of the following note:

B. Comparability

There is no question that the preferred set of comparables is the athletic conference. Absent a determinable number of conference settlements, however, the Association has correctly asserted that the settled school districts of CESA #3, along with the historical data for the

athletic conference, provide an adequate basis for determining the most reasonable offer. Support for this position is found in numerous decisions. For example, Arbitrator Haferbecker, in Crandon (Dec. No. 20171-A, 1983), had this to say regarding the use of alternative comparables when the preferable districts have not settled:

Comparability with other teachers. I think the Union has made a strong case for using CESA #3 schools for comparisons, particularly since so few of the Northern Lakes Athletic Conference schools have made 1982-83 settlements. The Employer concedes that there are too few 1982-83 settlements in the athletic conference to provide useful comparables so the Employer states that the Arbitrator should turn to other criteria instead--such as the interests of the public.

Similarly, Arbitrator Ed Krinsky, in Ladysmith (Dec. No. 19803-A, 1983), found that the absence or incompleteness of athletic data should not result in the abandonment of public-sector comparisons.

The District submits that changes in the relative position of the Black Hawk teachers since 1981-82 are not necessarily relevant since all of the Agreements involving the District were achieved voluntarily. As noted above, among other considerations the Act mandates that the arbitrator consider the "[c]omparison of wages, hours and conditions of employment * * * with the wages, hours and conditions of employment of other employes performing similar services and with other employes generally in public employment in the same community and in comparable communities." There is no basis in the law for ignoring or discounting wage settlements simply because they were

voluntarily agreed to by the parties.

C. 1986-87 Salary Schedule

When Black Hawk's historical ranking in the athletic conference is examined, Black Hawk has, in fact, ranked high at the BA and MA Minimum. Specifically, from 1981-82 to 1984-85, Black Hawk ranked first in this grouping. In 1985-86, the ranking dropped to third. The MA minimum remained first from 1981-82 to 1985-86.

At the same time, the BA Maximum bench-mark has maintained its relatively low sixth-place ranking throughout the five-year period. In 1985-86, however, Black Hawk's bench-mark salary fell to 561 below the average, compared to 310 below the average in 1984-85. MA Maximum salaries follow a similar pattern, maintaining a low ranking. Over the five-year period, the bench-mark has declined 508 in relation to the average, from 16 above in 1981-82 to 492 below in 1985-86.

In the schedule maximum bench mark, both the ranking and the dollar value show a steady erosion of Black Hawk's position in the athletic conference. Although Black Hawk teachers attain higher salary levels sooner than teachers in all other conference schools, it is nevertheless true that Black Hawk salaries have not kept pace with those of the athletic conference.

It is noteworthy that, at the time of the hearing, ten districts in CESA #3 had settled contracts for 1986-87. (A summation of the historical benchmark rulings and Black

Hawk's dollar relationship to the group average is cited above). As noted by the Teachers, for 1986-87, BHEA's final offer would pull the BA Minimum back to 4th and almost restore the dollar differential with regard to the 1981-82 average. The District's offer, on the other hand, pulls the ranking down one more notch, to 8th, and restores only about one half of the dollar differential.

At the BA Maximum salary, Black Hawk ranked 10th, 801 below the average in 1981-82. The ranking fell to 11th in 1982-83, then rose back to 10th in 1983-84, to 9th in 1984-85, and back to 10th in 1985-86. The Association's offer would restore the 9th place ranking, but recover little of the dollar loss, at 1,308 below average. The District's final salary offer would pull the ranking to an all-time low of 11th, and drop the dollar difference to 1,785 below the average, for a loss of 984 from the 1981-82 position.

With regard to the MA Minimum, Black Hawk's salaries have maintained a high ranking (1st) throughout the period, and would remain 1st under both final offers. Dollar differences have eroded, however, from 1,234 above the average in 1981-82 to 1,026 above in 1985-86. BHEA's offer would more than restore the dollar loss, taking the 1986-87 level to 1,356 above average, while the District's offer further erodes the position, to an all-time low of 935 above the average.

Under the Employer's offer, the MA Maximum would would fall a total a total of five ranks and 1,153 in relation to the group average from its 1981-82 position. BHEA's offer

restores one rank from 1985-86, taking the placement from 9th to 8th, but restores only a portion of the 1985-86 dollar loss, rising from 545 below the average to 216 below. The District's final offer similarly exacerbates the schedule maximum problem, causing an additional loss of rank and an additional loss of 414 to the average. The Association's proposal restores the rank to 7th and recovers slightly more than half of the 1985-86 dollar loss, remaining however, at \$550 below the 1981-82 dollar relationship to the average.

Likewise, the schedule maximum has suffered similarly, dropping from 6th place to 8th, and losing 1308 to the average, from 285 above in 1981-82 to 1023 below the average in 1985-86. Again, at this bench mark the Employer's offer exacerbates the problem, causing an additional loss of 414 to the average. The Teachers' proposal restores the rank to 7th and recovers slightly more than half of the 1985-86 dollar loss.

Both parties admit that, at the BA & MA schedule maximum levels, Black Hawk has had its ranking reduced since 1981-82. The Teachers have clearly demonstrated that Black Hawk's salaries have advanced at a slower rate than those of the CESA #3 districts. When both final offers are compared to Black Hawk's historical salary-schedule standing, the Association makes the better case. However, and as pointed out by the Administration, absolute salary levels in Black Hawk may present a misleading picture since Black Hawk teachers attain a higher salary level sooner than teachers in

the other conference districts. The result is that ultimate earning capacity or "career earnings" of teachers in Black Hawk are higher than teachers in all other conference school districts.

C. Interest and Welfare of the Public

In evaluating the parties' final offers, the Act mandates that the Arbitrator weigh the interest and welfare of the public. As pointed out by the Administration, in Burlington Area School District (Dec. No. 17135-A, 1979), Arbitrator Frank Zeidler addressed this criterion and differentiated between the "general public interest" and "employee interest." The District submits that in this case the general public interest and the employee interest (as expressed in the Union's offer) are opposed.

Of special note is Evansville Community School District (Dec. 22930-B, 1986), a decision by Arbitrator Jay Grenig. In upholding the employer's offer, Arbitrator Grenig considered the "interests and welfare of the public" as follows:

While the Board may have the ability to pay the Association's offer, the interest 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.

Arbitrator Grenig selected the Board's 7.01 percent total package increase and rejected the Union's 9.48 percent

package "because the Board's salary is more responsive to the current economic situation in the District." His reasoning, as cited in the District's Brief at 11, is especially noteworthy:

The Board's offer does not result in a cutback in teacher wages and benefits. In fact an important new benefit would be added--long term disability insurance. Although the Board's offer would not provide as large an increase in compensation as the Association's, the Board's offer is considerably in excess of the increase in the cost of living and will improve teachers' real income. The Board's offer also provides a percentage increase greater than that received by a substantial number of employees in the private sector.

While not providing as large an increase as many teachers may wish and while costing more than many District taxpayers may like, the Board's offer strikes a reasonable and appropriate balance between the needs of the teachers and the public. Furthermore, the Board's offer meets the public interest in keeping the District in a reasonably competitive position to attract competent teachers, to retain valuable teachers now serving the District, and to give recognition to advanced degrees and training.

Similar to the situation in the Evansville case, Black Hawk's equalized valuation has declined (Dist. Ex. 8 & 10). Moreover, Lafayette County is not experiencing population growth relative to its sister counties. (Dist. Ex. 28). Further, not only does Lafayette County depend on the agricultural economy to a greater extent than surrounding counties, but the record indicates that farm land values are down and foreclosures have increased relative to 1984.

Arbitrator Robert Reynolds, in Edgerton Education Ass'n. (Dec. No. 23114-A, 1986) had this to say on final offers and the interest of the public:

It cannot be said that a lower offer is always more responsive to the welfare of the public than a higher [offer]. However, when two offers are reasonably close,

as they are here, and within the boundaries established in comparable districts, as they are here, it is possible to conclude that the lower offer of the Edgerton School District is more responsive to the welfare of the public.

In the instant case approximately two percent separate the parties' salary offers. The offers are "reasonably close" and within the ballpark relative to the districts that have settled. Given these facts, the District's final offer is arguably more responsive to the welfare of the public than the Association's offer.

D. Reduction-in-Staff

As noted, the Association's position on this item is that its proposal, while not preventing layoffs, can bring a greater measure of fairness and objectivity to the selection process by mandating that the Administration apply the criteria in the order listed. According to the Teachers, this would mean that "Years of District Service" be applied first.

According to management, the Association has proposed a modest and possibly meaningless modification of the existing language. The District is probably right on both counts. The Association's proposal says only that the first criterion, a teacher's years of service, will be considered first in the event of a reduction in staff. What is the effect of the remaining three factors? Do they only apply when seniority is equal? Can the other factors be considered regardless of a teacher's seniority? The provision does not say that teachers will be laid off in reverse order of

seniority which is, after all, the intent of the BHEA. In School District of Fort Atkinson (Dec. No. 17103-A, 1979), Arbitrator Kerkman set forth a three-fold test for change in the status quo, accordingly:

- 1) a demonstration that the existing language is unworkable or inequitable;
- 2) that there is an equivalent "buy-out" or quid pro quo; and
- 3) that there is a compelling need.

There is no evidence submitted by the Association that the present language has worked inequities in the past, nor is there any showing of compelling need. Clearly, the District asserts the better argument on the reduction-in-staff provision.

E. Conclusion

Neither final offer is unreasonable and an opinion could be drafted convincing an impartial reader that either offer is more reasonable than the other party's. This case is difficult because of the absence of conference comparables and because neither party is wrong in its salary position. The Teachers assert the better argument with respect to the CESA #3 comparables and the historical trend in Black Hawk salaries (although this argument is somewhat mitigated by the Employer's position on "steps to maximum"), while the Board makes a compelling case when the public interest and welfare of Lafayette County is considered. The Association's position on reduction in staff cannot be supported simply because there is no indication that the current language is unworkable. More important, there is reason to believe that

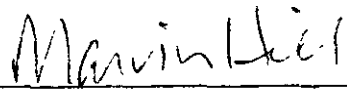
the proposal language, if adopted, will not do what the Teachers contend. When additional statutory criteria are considered, such as a four percent rate of inflation, the Board again gets the nod.

Section 111.70(4)(cm)6.c through 7.h of the Act mandates that the total final offer of the Association or the District be selected by the arbitrator. For all of the above reasons, my decision is for the District.

VI. AWARD.

The Board of Education's final offer is awarded.

Dated this 6th day of April
1987, DeKalb, Illinois.



Marvin F. Hill, Jr.
Arbitrator