

OCT 26 1987

WISCONSIN DEPARTMENT OF
RELATIONS COMMISSION

STATE OF WISCONSIN

BEFORE THE ARBITRATOR

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* In the Matter of the Petition of	*		*
* MANITOWOC PUBLIC SCHOOL DISTRICT	*		*
* To Initiate Mediation-Arbitration	*	Case No. 31	*
* Between Said Petitioner And	*	No. 37606	*
* MANITOWOC EDUCATION ASSOCIATION	*	MED/ARB-4057	*
		Decision No. 24094-A	*

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APPEARANCES

On Behalf of the Employer: John M. Spindler, Attorney at Law
Nash, Spindler, Dean and Grimstad

On Behalf of the Association: Richard Terry, Executive Director
Kettle Moraine UniServ Council;

Susan Radcliffe-Cole, Director
Collective Bargaining Division
Wisconsin Education Association Council

I. BACKGROUND

On February 11, 1986, the Parties exchanged their initial proposals on matters to be included in a new collective bargaining agreement to succeed the agreement which expired on June 30, 1986. Thereafter, the Parties met on four occasions in efforts to reach an accord on a new collective bargaining agreement. On September 22, 1986, the District and the Association filed a stipulation requesting that the Commission initiate Mediation-Arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act. On November 12, 1986, a member of the Commission's staff, conducted an investigation which reflected that the Parties were deadlocked in their negotiations, and, by November 12, 1986, the Parties submitted to the Investigator their final offers, as well as a stipulation on matters agreed upon, and thereafter the Investigator notified the Parties that the investigation was closed and advised the Commission that the Parties were at impasse.

Subsequently, the Parties were ordered to select a Mediator/Arbitrator. The undersigned was selected and appointed

Mediator/Arbitrator on December 15, 1986. The Arbitrator, pursuant to a timely petition, conducted a public hearing on April 29, 1987 and thereafter conducted mediation which was unsuccessful and therefore, an arbitration hearing was also conducted. Post hearing briefs were submitted June 1, 1987 and reply briefs were received June 19, 1987. The following award is based on the Parties evidence, the Parties' arguments and the relevant statutory criteria.

II. ISSUE

The only issue is the appropriate salary schedule for 1986-87. The following was the salary schedule in place for the previous year.

<u>Bachelors</u>	<u>Masters</u>
\$17,000	\$18,200
17,745	19,500
18,928	20,800
20,111	22,100
21,294	23,400
22,477	24,700
23,660	26,000
24,843	27,300
26,026	28,600
27,209	29,900
28,392	31,200
29,575	32,500

The Employer's final offer proposes a BA Base of \$17,500 and a MA Base of \$18,700 and also proposes that all cells of the current schedule be increased by +\$1200 and thus their proposed schedule is as follows:

<u>STEP</u>	<u>BA</u>	<u>MA</u>
0.0	\$17,500	\$18,700
1.0	18,200	19,400
2.0	18,945	20,700
3.0	20,128	22,000
4.0	21,311	23,300
5.0	22,494	24,600
6.0	23,677	25,900
7.0	24,860	27,200
8.0	26,043	28,500
9.0	27,226	29,800
10.0	28,409	31,100
11.0	29,592	32,400
12.0	30,775	33,700

The Union proposes each cell be increased by 2.4% and that

<u>Step</u>	<u>BA</u>	<u>MA</u>
1	\$17,408	\$18,637
2	18,171	19,968
3	19,382	21,299
4	20,594	22,630
5	21,805	23,692
6	23,016	25,293
7	24,228	26,624
8	25,439	27,955
9	26,651	29,286
10	27,862	30,618
11	29,073	31,949
12	30,285	33,280

In terms of cost impact, the Parties respective estimates were very close. The Association contends that their final offer will cost \$6,976,850 (6.63% or \$1776/FTE), while that of the Employer will cost \$6,836,060 (4.48% or \$1200/FTE). The Employer argues a cost of \$6,974,923 (6.6% or \$1776/FTE) for the Association final offer and \$6,834,155 (4.5% or \$1200/FTE) for the Employer offer.

III. ARGUMENTS OF THE PARTIES

The following represents only a summary of the extensive arguments presented by the Parties.

A. The Association

1. Ability to Pay

The Association notes that the Employer has not raised the issue of "ability to pay" during the arbitration or any previous proceedings. However, given that the Employer, in their opinion, has expressed an unwillingness to pay, they contend that the District has a superior ability to pay. They base this on the fact that Manitowoc has a higher than equalized evaluation per student, a low levy rate and a below average cost per pupil. They also claim the District has budgeted more for wages than the Association offer would cost and that they will have a year-ending carry-over balance in excess of three million dollars.

2. Interest and Welfare of the Public

First, in this respect, they note that the District presents evidence on the economy in the Manitowoc area. However, the Union doesn't believe the economy is depressed. They note construction is up and that sales at the largest private Employer are up.

They also argue that the interest and welfare of the public are best served by the adoption of the Association's final

offer. In this regard, they direct attention to a number of studies and commission reports that conclude in part that higher teacher salaries are in the national/public interest.

They also note that if "poverty" exists in Manitowoc it wasn't reflected in the administrator's salary increases.

3. Cost of Living and Other Public and Private Settlements

Based on extensive citations of arbitration decisions, the Association believes that other teacher settlements are the best indicator of the cost of living. They also cite a number of cases where arbitrators have indicated that comparable teacher settlements when they exist deserve more weight than private sector or other public sector settlements.

4. Comparable Settlements and Total Compensation

They believe the comparable districts are the athletic conference schools, namely Fond du Lac, Green Bay, Manitowoc and Sheboygan. Because each of these schools is settled there is no need in their opinion to rely on Two Rivers as did Arbitrator Kerkman in 1984. They note he relied on Two Rivers because there were no other settlements. However, even if a comparison is made to Two Rivers, they argue their offer compares more favorably. They also make back-up comparisons to other area schools and schools statewide.

Concentrating on the athletic conference schools, they direct attention to the following data:

Average A/C \$ increase	\$1707	6.02%
Association Offer	\$1776	6.63%
Board Offer	\$1200	4.48%
Deviation:		
Association	+ 69/FTE	+0.61%
Board	-507/FTE	-1.54%

This, in their opinion, clearly favors their offer. They suggest the data shows similar results when the final offers are compared to the other groups. Moreover, their ranking won't significantly change in the athletic conference group under their offer.

They recognize that a disparity in a relative wage increase could be justified if there was a dramatic difference in benefits or total compensation in Manitowoc over other athletic conference schools. However, they suggest there is not. The pupil/teacher ratio is highest, they have no paid holidays (the athletic conference schools have three paid holidays), while they all teach 180 days and Manitowoc has fewer

release days. Also, they believe it is most significant that all the athletic conference schools have longevity provisions for teachers at the top of the schedule. Manitowoc has none.

Also significant in terms of comparables are the levels of past settlements. For instance, for the 1984-85 school year the average settlement among the comparables was \$1974/FTE or a 7.6% wage rate increase. The Manitowoc teachers received \$1072/FTE or a 4.4% increase. In 1985-86 the average of the voluntary settlements for 1985-86 was \$2170 or 8.3%, while the Association's final offer which was selected by Arbitrator Fleischli amounted to \$1898/FTE or 7.49%. Thus, they conclude that presently and historically their offer is most reasonable. They also ask the Arbitrator to give some consideration to the fact that the Manitowoc teachers have been without a wage increase for a considerable period of time. This is because no increment was granted.

5. The Nature of the Employer's offer and Changes in the Salary Schedule

First, they contend the Employer's offer is flawed because it grants flat increases across all steps resulting in more experienced teachers receiving less of a percentage increase than less experienced teachers. Additionally, they argue the Employer's final offer is further flawed because the vertical movement, or increment, is frozen.

They observe the District's offer on increments as an attempt to change the status quo and what could be described as a "give back." They note the great reluctance of arbitrators to change the status quo or to delete language benefits from contracts. The burden to justify this change is on the District and they don't believe they have justified the change. They note all the comparables have increments. Further, they note that the Employer's final offer, by imposing a salary structure which increases each cell by \$1200 and freezes employees' salaries at their 1985-86 step, increases the number of years required to reach the top of the schedule. It also lengthens the schedule from twelve to thirteen steps.

They believe the District has chosen to structure their increase this way so it appears their schedule looks good. But, in reality, they suggest it is not and argue the Employer has failed to prove a need for changing the current salary schedule structure.

B. The District

1. The Local Economy

The most important factor in the District's opinion for the Arbitrators to consider is the local economy. The hard times in Manitowoc go back to 1982. 4000 jobs have been lost since that time, about 1600 at the Manitowoc Company, one of the areas

biggest employers. They note that in June of 1984 in a MED/ARB dispute between the parties, Arbitrator Kerkman recognized the differences between Manitowoc and Brown, Sheboygan and Fond du Lac counties and recognized the state of the economy and the settlement in Two Rivers in awarding for the District. They also note that Arbitrator Richard J. Miller in the MED/ARB proceedings between Manitowoc County Handicapped Children's Education Board and the Manitowoc County Education Association recognized the economic distress in Manitowoc County. Thus, this supports their contention that conditions in Manitowoc are no better today than they were in 1984 when Mr. Kerkman made his award. In fact, unemployment in the City of Manitowoc is 5% to 6% higher than in the historically comparable districts of Sheboygan, Green Bay and Fond du Lac. Moreover, they note tax delinquencies have doubled since 1981.

They also believe that the poor state of the economy is reflected in public and private sector settlements, which they contend in their own right support the District's offer. The settlement in the city was 4% and there were none higher than 4.5% in the county. Moreover, the District's offer is far above the private sector settlements detailed in their brief. Also, they draw attention to the obvious fact the Consumer's Price Index is well below the final offers of either party.

The District also rebuts the Association's contention that the District has a 3.6 million dollar fund balance. In actuality, rather than having a large cash surplus as the Association initially alleged, the School District had to borrow money against anticipated tax revenues to meet expenses in the amount of \$1,000,000 in the fall of 1986 and also \$1,000,000 in the prior fiscal year.

Also, in terms of their ability to pay, they assert that Manitowoc Public Schools has the highest property tax per pupil of any of the comparable districts and the lowest in state aids and they anticipate that aids will be lower for 1987-88. Although the tax levy is lower than other athletic conference schools it is similar to Two Rivers, a District with the same kind of economy. Moreover, the tax base is decreasing as demonstrated by the decrease in residential and manufacturing valuations in 1985 compared to 1984 and in 1986 compared to 1985. Thus, they conclude the evidence shows the cost of operating the Manitowoc Public School District falls upon local taxpayers more so than any of the comparable school districts. They have made other efforts to contain costs as evidenced by higher pupil/teacher ratios and lower per student cost. Increasing tax delinquencies are also a factor to consider.

2. Comparables

The most important comparison to be made in their opinion is to the Two Rivers School District. Because, in their opinion, Arbitrator Christianson erred in the Two Rivers arbitration by placing too much emphasis on distant communities,

they believe the most important thing to consider about the case is that Two Rivers Public Schools felt that an offer of 4.5% was compatible with the economy and with wage settlements in public sector employment and in private sector employment in the area. Even so, for the 1985-86 school year, Manitowoc salaries were higher than Two Rivers in each of the benchmarks shown. More importantly, even after the Association had its 1986-87 offer accepted in Two Rivers the offer of the Board in this proceeding is higher than the salary benchmarks awarded by Arbitrator Christianson.

They believe that the situation in the Manitowoc Public School District is similar to the factual situation presented to Arbitrator Sherwood Malamud, who chose the final offer of the Green Bay Public School District over that of the Green Bay Education Association, in a decision issued by him on February 4, 1987. They note the salary proposals of the two parties in Green Bay are essentially identical with the salary proposals in this arbitration. They also highlight the fact he gave credence to the interest and welfare of the public criteria, and the increases given other municipal employees and private employees as well as comments of the public. This was all in spite of the fact the Arbitrator believed Green Bay not to be in an economic recession, as is Manitowoc.

Even looking at all the schools in the athletic conference, Manitowoc compares favorably. They are somewhat better than average compared with Fond du Lac, Green Bay and Sheboygan and substantially better than the salaries being paid teachers for the 1986-87 school year in Two Rivers though the Two Rivers salaries were established by an arbitration award which chose the offer of the Association. In terms of total compensation the Manitowoc teachers have fewer contract days which offsets the lack of holidays.

In terms of actual benchmark comparisons, they offer the following. They believe the relative rankings favors the Board. The benchmark rankings under their offer are higher. They also note that the Board proposal has a higher BA minimum than the Association proposal and a higher BA maximum than the Association proposal. It also has a higher MA minimum, a higher MA maximum, and a higher scheduled maximum than the Association proposal.

The Board also anticipates that the Association will try to discount the Board's offer since it doesn't grant a step increase. In this regard, they note the fact that a step increase was offered to the Association in negotiations and that such offer was rejected by the Association. Although, there is nothing in the Board proposal for 1986-87 which would prevent the parties from agreeing to a step increase in the next contract or, as here, some other form of salary adjustment.

Additionally, they point out that regardless whether there is a step increase or not, the Parties are a total of \$169,413 apart and so far as the Board is concerned the issue here is economics and economics only.

IV. OPINION AND AWARD

Each of the Parties emphasize different statutory criteria. As a general matter, the Employer emphasizes the public welfare criteria and the Association emphasizes the comparability factor.

There is little doubt that the economy in Manitowoc is less healthy than it is in the school districts of Green Bay, Fond du Lac and Sheboygan. This favors the District's offer. On the other hand, there is little doubt that the comparability factor as a whole favors the Association's offer.

In reconciling these conflicting indicators, the critical question becomes--given that the economy in Manitowoc is different than the comparable districts--is it depressed to such an extent to justify the Employer's offer, which is clearly divergent, from the pattern?

A related question is what constitutes the pattern and how divergent is the Employer's offer? In this regard, it should be noted that benchmark analysis in this case is quite limited in usefulness. This is because of the combination of the unique two-lane schedule and the fact the Employer would grant no increment under their offer. These two factors do little in assessing the appropriateness of a wage increase by a standard benchmark analysis.

Instead, a more valid indicator of an appropriate wage increase for the purposes of this case is the average teacher increase in dollars and percent. In terms of this measure, the following composite average shows -- even if Two Rivers is considered a primary comparable -- that the District offer is far off the mark.

	<u>\$</u>	<u>%</u>
Fond du Lac*	\$1960	6.87%
Green Bay#	1325	4.5
Sheboygan*	1838	6.70
Two Rivers#	1847	7.2
Average	----- \$1742	----- 6.32%

Association	\$1776(+34)	6.63(+.31)
District	\$1200(-542)	4.48(-1.84)

*Voluntary #Arbitrated

It should also be noted that even if more weight is given to the voluntary settlements on the theory they are more indicative of a reasonable settlement than a final offer arbitration award, the District's offer is further out of line. The average of the voluntary settlements is \$1900 or 6.8%. The District would be -\$700/-2.3% below this and the Association -\$124/.17%. Moreover, there seems to be some justification for discounting Green Bay as it is out of the mainstream of the other settlements and awards. On the other hand, Fond du Lac is somewhat high. Thus, the mainstream or typical settlement is probably in the neighborhood of \$1850/teacher.

Against this analysis the question still remains, "Is the economy in Manitowoc distinguished from the comparables enough to justify--relative to the Union's final offer--such a large diversion from the pattern?"

It is the opinion of the Arbitrator that the answer is no. Manitowoc is different but not so different as to justify this kind of difference. While the depressed economy was clearly a factor in the absence of settlements in the athletic conference schools before Arbitrator Kerkman, the present indications are the economy is improving relative to other counties. For instance, the 1986 average unemployment rate in the City of Manitowoc was 8.9% and in Manitowoc County it was 7.9%. In the City of Green Bay and the City of Fond du Lac the rate was 8.4% and 9.4% respectively. In Fond du Lac County the rate was 7.6 and in the state as a whole the rate was 7%. The record also reflects that many private sector employers have or are planning on giving bigger wage increases than in the past or giving increases when in recent past they have not granted any.

This isn't to suggest that the Manitowoc economy is out of the woods. However, when you consider these and other indicators of improvement along with a variety of other factors, the Union's offer, which is clearly less than the mainstream settlements and only slightly above the composite average, more reasonably balances the needs for an increase against the state of the economy.

Some of the other factors to consider are (A) the fact that in recent history the teachers settlements in Manitowoc have significantly lagged behind others¹, (B) the fact they lack significant benefits available to others such as longevity and

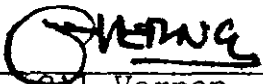
1. The average settlement in the three other athletic schools in 1984-85 was \$1974, Manitowoc was \$902 less at \$1072. In 1985-86, the average was \$2170, Manitowoc was -272 less at \$1898.

(C) the fact the Employer offer modifies the status quo at least by extending the schedule by one step and the fact the Employer grants flat dollar increases across the schedule which results in more experienced teachers receiving less of a percentage increase than younger teachers. This is inconsistent with the approach taken by other districts.

In summary, the economy in Manitowoc is not as good as elsewhere. However, it is not so bad relatively speaking to justify the Employer offer which is over 35% less than the most typical settlement (\$1200 vs. approximately \$1850 per teacher). On the other hand, the teachers' offer, while perhaps not arguably going far enough toward addressing the economy in Manitowoc, is only slightly higher than the average settlement. Additionally, it must be kept in mind the settlements historically in Manitowoc have been less than average and that the Manitowoc teachers total compensation (i.e. longevity) is somewhat less than other teachers. Thus, the Association's offer is less unreasonable than the District's and must be adopted.

AWARD

The Final Offer of the Association is Accepted.



Bill Vernon, Arbitrator

Dated this 24th day of August, 1987 at Eau Claire, Wisconsin.