

JUL 30 1987

EDWARD B. KRINSKY, MEDIATOR-ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

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In the Matter of Mediation- Arbitration Between	:	
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PARK FALLS EDUCATION ASSOCIATION	:	Case 12
	:	No. 37688
and	:	MED/ARB-4086
	:	Decision No. 24235-A
	:	
PARK FALLS SCHOOL DISTRICT	:	
	:	
	:	

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Appearances:

WEAC UniServ Council No. 18, by Mr. Gene Degner,  
Director, for the Association.  
Drager, O'Brien, Anderson, Burgy & Garbowicz, Attorneys  
at Law, by Mr. Steven C. Garbowicz, for the  
District.

On February 24, 1987, the undersigned was appointed mediator-arbitrator by the Wisconsin Employment Relations Commission in the above-captioned matter. A brief attempt at mediation at Park Falls, Wisconsin, proved unsuccessful on April 27, 1987. Mediation was followed immediately by an arbitration hearing. No transcript of the proceedings was made. Both parties had the opportunity to present evidence, testimony and arguments. The record was completed with receipt by the arbitrator of the parties' post-hearing reply briefs on July 2, 1987.

The only issue in this dispute is the salary schedule. The parties' offers maintain the same salary structure in terms of numbers of steps and lanes. The Association offers a fixed percentage (6%) at each cell of the schedule. The District offer is to give each teacher \$1,200 and to freeze them on the schedule, i.e. to not give the teachers either vertical or horizontal increments for 1986-87.

The arbitrator is bound by statute to select one final offer or the other in its entirety. In making that decision he is bound by statute to give weight to the statutory criteria. In this dispute there is no issue between the parties with respect to several of the factors: (a) lawful authority of the municipal employer; (b) stipulations of the parties; (c) insofar as this criterion deals with "the financial ability of the unit of government to meet the costs of any proposed settlement"; (f) overall compensation; and (g) changes in circumstances during the pendency of the arbitration proceedings.

What follows is a discussion of the parties' final offers in relation to each of the remaining statutory criteria.

(c) Interests and welfare of the public:

The District argues that while it has the ability to pay the Association's final offer, an unexpected development with serious consequences makes it in the public interest to implement the lower of the two offers. That development is a decision adverse to the City of Park Falls, and hence to the District, in a lawsuit by the Flambeau Paper Corporation. Flambeau Paper succeeded in a lawsuit in which it contended that it had been improperly assessed by the City. The result was a ruling that the City had to repay taxes for the years 1982-1985 with interest. The District's share of that repayment is in excess of \$306,000. As argued by the District in its brief:

. . . The amount repaid represents approximately 13.5% of the District Levy for the 1986-87 school year. By any stretch of the imagination that is a significant amount of the budget which has to go towards a totally unexpected purpose. Although some of these funds may be recouped in a later school year by a reevaluation of the value of the District by the Department of Revenue, quite clearly that will not occur during the 1986-87 school year which is the contract year in question . . . (T)he amount which we have been required to repay . . . severely inhibits our ability to pay the amount of settlement which the Association is seeking . . .

District Administrator Peterson testified that the City of Park Falls required that the total amount be repaid in March 1987. The result is that the District will have an operating balance at the end of the 1986-87 school year of approximately \$5,000, instead of the \$320,000 it anticipated having.

Peterson testified that the District has the money to pay for the 1986-87 settlement but the remaining balance will be so reduced that it will not earn enough interest for use in the budget next year; thus, next year there will be a need to raise taxes or to borrow money to adjust for the repayment. Peterson testified also that there will be some adjustment in State Aids because of the reduction in assessed property resulting from the litigation.

In arguing that the tax repayment should not be viewed as a determinative issue in this dispute the Association states:

. . . (T)he fact remains that they can recover the following year that portion which would have been state aid in the Park Falls District. . . . (I)t would be reasonable to expect that the District should receive as a minimum around 37 percent of that money back from the state. Further, while this might cause a lower operating balance for a short period of time, there is nothing in the record to indicate that this in any way prohibits or causes a hardship on the District from meeting the Association's final offer, which is comparable with other voluntary school settlements.

The arbitrator views the District's need to make an adjustment for the unexpected loss of over \$300,000 as a serious matter. However, he does not regard it as one that should determine the outcome of this dispute. The District has the money to pay for either final offer in 1986-87. It can decide on an appropriate strategy for meeting its financial needs in 1987-88 and subsequent years in the normal course of considering its revenues and expenditures. The magnitude of the problem will also be clarified when it is determined how much in State Aids will be paid to the District retroactively. Perhaps additional taxation and/or borrowing will be needed in the short term to restore the District's reserves, but that is not a matter which must be dealt with by this arbitrator. Moreover, if the current dispute were determined by this issue, the burden of the lawsuit would fall disproportionately on the teachers when, in fact, the burden should be shared district-wide. The arbitrator is not persuaded by District arguments that the interests and welfare of the public are best served by adjusting to the financial problem in this manner.

Each party views its salary proposal as more in the interests and welfare of the public than the other. The Association emphasizes the importance of maintaining the relative pay of experienced teachers and of not reducing their pay in favor of higher salaries given to teachers at the lower end of the schedule. The District emphasizes the need for it to be in a strong, competitive position in hiring new teachers in the face of an anticipated teacher shortage. Both of these arguments have some merit, and neither is persuasive in determining where the interests and welfare of the public are greatest in the arbitrator's opinion.

- (d) Comparisons 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 . . . in comparable communities:

Both parties cite the relevance of salary comparisons with the other districts in the Lumberjack Athletic Conference. The Association also cites CESA comparisons, and comparisons with districts within a 75-mile radius of the District.

Given the fact that the parties agree on the athletic conference as providing suitable comparables, and that six of those districts have settled for 1986-87, the arbitrator believes that those districts constitute an adequate basis for making salary comparisons without the need to look to other sets of comparisons.

The parties have presented data showing the comparisons of their final offers at salary benchmarks. Those rankings are as follows:

	<u>Rank of Park Falls</u>		
	1985-86	1986-87	
		Board Offer	Association Offer
BA-base	4	4	6
BA-7	2	3	4
BA-max	3	5	5
MA-base	4	4	4
MA-10	5	5	5
MA-max	7	7	7
MA-Sched. max	7	7	7

Both parties' offers either produce no change in ranking or the same change in ranking at five of the seven benchmarks. At BA-base the District maintains the prior year's ranking while the Association's offer drops it two places. At BA-7 both offers reduce the relative ranking, but the Association reduces it further. Thus, solely based on rankings, the District's offer would be preferable.

The parties also produced data with respect to the dollar and percentage increases given in their final offers relative to those in the other settled conference districts. The arbitrator has put together the following tables indicating the relationship of the final offers to the median dollar and percentage increases in the other districts.

	Median Dollar Increase in Comparison Districts 1985-86 to 1986-87	Relationship to the Conference Median Increase of	
		District Offer	Association Offer
BA-base	1085.50	+ 114.50	- 165.50
BA-7	1268	- 68	- 108
BA-max	1488	- 288	- 88
MA-base	1190	10	- 150
MA-10	1530	- 330	- 112
MA-max	1764	- 564	- 178
Sched-max	1968	- 768	- 282

	Median Percentage Increase in Comparison Districts 1985-86 to 1986-87	Relationship to the Conference Median Increase of	
		District Offer	Association Offer
BA-base	7.65	+ .15	- 1.65
BA-7	6.7	- .5	- .7
BA-max	6.35	- 1.15	- .35
MA-base	6.95	+ .05	- .95
MA-10	6.55	- 1.45	- .55
MA-max	6.45	- 1.85	- .45
Sched-max	6.6	- 2.3	- .6

These figures demonstrate that in relationship to the increases given in the other settled districts, the District's offer is preferred at the low end of the salary schedule. The Association has not demonstrated why the starting rates should be allowed to decline in relation to the competition.

By the same token, however, the District has not demonstrated why the rates at the upper end of the schedule should be allowed to decline in relationship to what is being offered by the settled districts. Moreover, the extent of the relative decline at the top of the schedule is much greater under the District's offer than it is at the bottom under the Association's offer. Why should experienced teachers in Park Falls be offered salary increases of 300 to 500 dollars or more below the increases being offered to experienced teachers in the other districts of the athletic conference? It is the case also that 50 of the 68 teachers

are above step 6 of the schedule and thus directly feel the impact of the relatively small increases for experienced teachers.

On balance, the Association's offer is more competitive with the offers of the other districts in the conference than is the District's offer in both dollar and percentage terms at the benchmarks.

- (d) Comparisons . . . with other employes generally in public employment in the same community and in comparable communities:

The District introduced data showing that the wage rates of the public works employees of the City of Park Falls increased forty cents an hour in 1987 compared to 1986. In percentage terms this is an increase of approximately 4.3 - 4.7%.

City of Park Falls patrolmen received increases of \$36 bi-weekly in 1987 over 1986 rates. In percentage terms this is an increase of approximately 4.4 - 4.8%.

Price County Deputies received 1987 wage increases of \$48.65 per month, or 2.8%.

The Association did not present data for non-teacher public employees. These non-teacher wage figures presented by the District are of a magnitude closer to the District's offer than to the Association's offer.

- (d) Comparisons . . . with other employes generally . . . in private employment in the same community and in comparable communities:

The District offered data for two significant, unionized private sector employers in Park Falls. In one company, there was no wage increase for 1986-87, and that was true also in each year since 1984. The other employer gave its employees a 4.0% increase in August 1987. They had last received a 3.5% increase in August 1986.

These private sector data favor the District's position more than the Association's position.

- (e) "The average consumer prices for goods and services, commonly known as the cost-of-living:"

The relevant period for analysis of cost-of-living changes is for the year preceding the contract year being bargained here, thus from August 1985 to August 1986. Neither party presented those figures. However, the District presented published Federal government data for November 1985 to November 1986.

For urban workers and clerical workers, the indices ranged from an increase of 1.1% for small metropolitan areas, to a decrease of .2% for non-metropolitan urban areas. For all urban consumers these same indices showed increases of 1.3% and .1%, respectively.

Clearly, if only the cost-of-living factor is considered, the District's offer of a 6.7% total package increase is preferable to the Association's offer of a 9% total package increase. Both offers far exceed the increase in the cost of living.

- (h) "Such other factors . . . which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, . . . arbitration or otherwise between the parties, in the public service or in private employment."

The Association views this criterion as of great significance in this case. It argues:

In this case the Employer is seeking to change the basic salary structure which has been in place for the past several years and the District is attempting to do so by offering a flat dollar amount to each cell in a year and freezes both vertical and horizontal increments.

Because the Employer is seeking to make such a significant change, the burden of proof for the District is considerable. Since, as indicated above, there is no real evidence of difficulty in recruiting new teachers in Park Falls, there simply does not appear to be a reasonable justification for the attempt to change the structure in the manner proposed by the District.

The Association argues further that the District has not bargained these freezes in increments, has not given any persuasive arguments for its offer and has not offered any incentive, financial or otherwise, for the Association's acceptance of this restructuring of the salary schedule. In the Association's view this is a significant departure from the status quo and the burden should be on the District to justify it.

In response to the Association's arguments, the District states:

. . . the arbitrator . . . has a choice between placing the funds in question at the end of the salary schedule which contains the most educated and most experienced teachers, or at the lower end of the schedule which contains the least experienced and least educated teachers. Unfortunately in situations such as this the Association is representing the majority of its members which fall within those delineated brackets of the salary schedule. Park Falls School District has a wider concern and that is not only all of its teachers currently under contract, but its ability to retain and hire teachers in the future . . . The District would urge the arbitrator to ignore the Association's laments about the District's supposed realigning of the salary schedule and look at the actual comparability of the District in the 1985-86 school year with how it would rank were the District's offer to be accepted in the 1986-87 school years.

The arbitrator recognizes that there are situations in which districts might have to resort to freezing increments, or where the parties mutually might view it as in their best interests in a particular year to freeze increments. Such a freezing of increments is a significant change from a pattern in which the parties have previously provided increments each year. In the present dispute the parties have not agreed to such a freeze voluntarily and the District has not demonstrated to the Association or to the arbitrator the necessity for its position. It is not obvious why teachers should not continue to receive increments that they would normally expect to get for additional years of teaching experience and for taking additional educational credits. The burden is on the District to demonstrate why it should be allowed to make this change unilaterally, and it has not met that burden. For this reason the arbitrator views factor (h) as strongly favoring the Association's position.



The statute requires the arbitrator to select one final offer or the other in its entirety. The above analysis shows that the District offer is more favorable when the cost-of-living increase and wage comparisons with local non-teaching public and private employees are considered. The Association's offer is more favorable when wage comparisons are made with teachers in other districts in the Lumberjack Conference and when the District's proposed freeze of increments is considered.

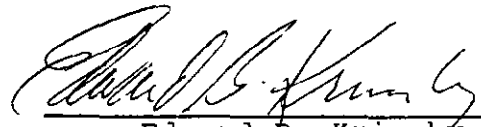
On balance, the arbitrator views the freeze of increments and the relatively significant deterioration of salaries for experienced teachers under the District's offer as the most critical factors in this dispute. The District emphasizes its need to maintain competitiveness with other districts for new teachers, and it may be correct that the Association's offer will make it more difficult to attract new teachers. Such a disadvantage may be partially offset by the salaries that prospective teachers will see on the schedule for experienced teachers under the Association's final offer, and the Association's final offer will be more likely to retain experienced teachers than will the District's final offer. The arbitrator recognizes that a 9% package settlement is a high one in the context of the relatively much lower cost-of-living increase and pay increases to non-teacher groups of employees. However, he views that package as more acceptable than the District's lower package which is flawed by the increments freeze and treatment of experienced teachers.

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

AWARD

The Association's final offer is selected.

Dated at Madison, Wisconsin, this 21<sup>st</sup> day of July, 1987.

  
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Edward B. Krinsky  
Mediator-Arbitrator