

MAY 25 1988

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

* * * * *

* In the Matter of Interest Arbitration *

* Between *

* SCHOOL DISTRICT OF FRANKLIN * Case No. 43 *

* and * No. 39226 *

* FRANKLIN EDUCATION ASSOCIATION * Arb-4512 *

* Decision No. 24975 *

* * * * *

APPEARANCES

On Behalf of the District: Mark L. Olson, Attorney--
Mulcahy and Wherry

On Behalf of the Association: James Gibson, Executive Director--
WEAC Council No. 10

I. BACKGROUND

In February of 1987, 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, 1987. Thereafter, the Parties met on four occasions in an effort to reach a new collective bargaining agreement. On August 14, 1987, the District filed a petition requesting that the Wisconsin Employment Relations Commission initiate arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act. On September 15 and 16, 1987, a member of the Commission's staff, conducted an investigation which reflected that the Parties submitted to the Investigator their final offers, a stipulation selecting the undersigned as Arbitrator as well as a stipulation on matters agreed upon. Thereafter, the Investigator notified the Parties that the investigation was closed and advised the Commission that the Parties remain at impasse.

The Arbitrator was notified of his selection by the Parties on October 21, 1987. An arbitration hearing was scheduled and held on February 3, 1988. Post hearing briefs were submitted March 11, 1988 and reply briefs were exchanged on March 25, 1988.

II. ISSUES AND FINAL OFFERS

There are a total of fifteen (15) issues contained in the final offers of the Parties. However, only eight (8) of those issues are actually in dispute. Four (4) of the disputed issues have been brought forth by the District and four (4) are joint issues on which both sides have made proposals.

The common issues, or issues on which both Parties make a proposal, are summarized below:

- (1) 1987-88 Salary Schedule. Both Parties are proposing to maintain the structure of the 1986-87 teacher salary schedule. The Association is proposing to increase the BA, step 0 salary to \$18,605. This generates an average salary increase per returning teacher of \$2,001 or 6.3%. The Association also proposes a 5% increase at the maximum salary in each column. The Board proposes a base of \$18,200. This generates an average salary per returning teacher of \$1,271 or 4%. The Board's offer also provides a 3% increase for teachers at the maximum salary steps.
- (2) 1988-89 Salary Schedule. Again, neither Party proposes any changes in structure. The Association final offer would increase the average teacher salary by \$2,003 (5.9%) with a 5% increase at the maximum salary steps while the Board's final offer would increase the average salary by \$1,322 (4%) with a 3% increase at the maximum salary steps.
- (3) Hourly Rates. For 1987-88 the Association is proposing to increase the hourly rates for "driver training" and "summer school instruction" by 6.9% for 1987-88 while all other rates would increase by 4.5%. The District is proposing to increase all hourly rates by 2%. For 1988-89, the FEA is proposing to increase all hourly rates by 4.5% for 1988-89 while the District is proposing to increase all of these rates by 2%.
- (4) Loss of Alternative Insurance Coverage. Both Parties are proposing new language, which, unlike the previous contract, would assure that a teacher could immediately join the group health insurance plan in the Franklin School District if s/he lost the alternate coverage through his/her spouse due to a death, a layoff, a change of employment, or any other such reason. The Board proposes the following:

"Where both spouses are District employees, a teacher who loses alternate coverage through his/her spouse will be allowed to immediately join the group plan, if the Carrier approves. It is expressly understood that either single or family coverage will be available to the employee, and that no proof of insurability shall be required of the teacher or his/her covered dependents."

The Association proposal is as follows:

"A teacher who loses alternate coverage through his/her spouse will be allowed to immediately join the group plan if the Carrier approves. It is expressly understood that either single or family coverage will be available to the employee and that no proof of insurability shall be required of the teacher or his/her dependents."

The additional issues raised by the Board are as follows:

- (1) Health Insurance for Early Retirees. The status quo language under Article VIII, Section 18 (F) states:

"Health Insurance: For staff members who retire between ages 62-69, the Board shall pay the entire premium for health insurance coverage for which the retiring teacher is eligible for a maximum period of three (3) years or until the end of the school year (July 1 - June 30) in which the teacher reaches age seventy (70), provided, however, that the payment of health insurance benefits hereunder shall terminate automatically in the event that the employee files for unemployment compensation benefits following retirement and that claim has a financial impact on the District or in the event the employee obtains insurance coverage from another employer. For those retirees who become eligible for Medicare or Medicaid, the District shall pay the premium of any supplemental insurance plans to achieve the same level of health insurance benefits as provided to all other teachers under the District's program."

The Association proposes to retain this language.

The Board proposal to revise the language reads as follows:

"For staff members who retire under this section of the agreement, the Board shall pay the entire premium for health insurance coverage for which the retiring teacher is eligible for a maximum period of four (4) years, provided, however, that the payment of health insurance benefits hereunder shall terminate automatically in the event that the employee files for unemployment compensation benefits following retirement and that the claim has a financial impact on the District, or in the event the employee obtains insurance coverage from another employer. For those employees who become eligible for Medicare, the District shall pay the premium of any supplemental insurance plans to achieve the same level of health insurance benefits as provided to all other teachers under the District's program."

In effect, the Board is proposing to modify the existing early retirement provision by making the Board-paid health insurance benefit available only to teachers who take the

"pay-out" early retirement option while proposing to increase the number of years of Board-paid health insurance for early retirees from three (3) years to four (4).

- (2) Evaporation of Early Retirement Benefits. In effect, the Board is proposing that the existing "payout" early retirement option will "evaporate" from the Agreement in the event that the Wisconsin Legislature adopts legislation similar to that proposed in 1987 as Assembly Bill 462, otherwise known as the "rule of 85". The operative language is proposed as follows:

"It is specifically agreed between the Parties that, in the event that the Wisconsin Legislature adopts an alternative early retirement plan which applies to members of this bargaining unit such as that proposed in 1987 as Assembly Bill 462, according to which teachers can retire at age 55 with 30 years of teaching service; age 56 with 29 years of teaching service; age 57 with 28 years of teaching service; etc., with full pension benefits, the non-insurance related benefits described hereinabove shall no longer (be provided) by the District. However, all insurance benefits described hereinabove shall continue in full force and effect, and shall be made available to District teachers in addition to the benefits provided through the revised State plan.

- (3) Tuition Reimbursement. The present contract provides for tuition reimbursement in Article X, Section 4 as follows:

"Additional salary awards shall be given at the beginning of the September term for approved university credits earned during the previous term and summer session. This applies to continuing teachers.

1. Bachelors Degree Status - \$55.00 per approved credit hour earned toward a higher degree but limited to the Bachelors Degree plus 15 credits.

2. Bachelors Degree +15 Credits - \$55.00 per approved credit hour earned toward a higher degree but limited to the Bachelors Degree plus 30 credits maximum.

3. Bachelors Degree +30 Credits - \$55.00 per approved credit hour earned toward a higher degree but limited to the Masters Degree.

4. Masters Degree Status - \$55.00 per approved credit hour but limited to the Masters Degree plus 15 credits maximum .

5. Masters Degree + 15 Credits - \$55.00 per approved credit hour but limited to the Masters Degree plus 30 credits.

6. Masters Degree + 30 Credits - \$55.00 per approved credit hour, but limited to the Masters Degree plus 45 credits.

7. Masters Degree + 45 Credits - \$55.00 per approved credit hour."

The Association proposes to maintain this language. The Board proposes to replace it with the following:

"Credit Reimbursement. Full tuition reimbursement shall be provided to the teacher in question upon receipt, by the District office, of a transcript or other document(s) notifying the District of completion of the course and grade obtained by the teacher (see below). Said tuition reimbursement shall be provided for approved university credits and/or equivalency credits earned during the previous terms and/or summer session. The payment of such tuition reimbursement shall be subject to the following conditions:

1. Prior approval must be given under Section 1.F. of this article.
2. Each teacher is limited to claim a maximum of 12 credits per year.
3. The teacher must obtain a grade of "A" in order to receive full tuition reimbursement. The teacher in question shall be reimbursed 90% of tuition where the teacher receives a grade of "B". Where courses can be taken in a graded or ungraded option, the teacher shall take the course for the graded option.
4. Teachers who have obtained a Master's Degree plus 45 credits, and are in the MA+45 lane, are not eligible for tuition reimbursement. However, such teachers shall remain eligible for credit reimbursement."

"Additional Salary Awards: All teachers shall continue to receive credit reimbursement payments (Article X, Section 4 of the 1986-87 Agreement) in the amount of \$55.00 per credit. Accrual of such credit reimbursement shall cease effective July 1, 1988. However, this additional salary shall continue to be received by teachers for whom credits were earned prior to July 1, 1988, until such time as the teacher(s) affected advance to the next salary lane. Thereafter, no further credit reimbursements will be approved in the District except to those teachers earning credits beyond the Master's degree +45 lane, who are not eligible for tuition reimbursement."

- (4) Masters Degree Bonus Payment. The Board is proposing to implement a one-time \$500 bonus payment to teachers who earn their Masters Degree after July 1, 1987. The Association is proposing that such a provision not be included in the Agreement. The Board's proposal reads as follows:

"Master's Degree Bonus Payment: Effective July 1, 1987, teachers who earn a Master's degree in any field shall receive a \$500 bonus from the District in recognition of the educational achievement represented by attainment of a Master's degree. Teachers shall be eligible for such a bonus for each Master's degree earned by the teacher. The \$500 bonus shall not be a part of the teacher's base salary."

III. ARGUMENTS OF THE PARTIES

A. Comparables

1. The District

The Board comparable pool consists of the 8 districts in the southern part of Milwaukee County: Cudahy, South Milwaukee, Oak Creek, St. Francis, Greenfield, Greendale and Whitnall. They contend this is the appropriate comparable pool because it is the one which has traditionally been accorded the greatest weight by arbitrators in determining the resolution of disputes within these districts. In this regard, they rely on Arbitrator Zeidler's award in South Milwaukee School District, contending that since Mr. Zeidler's award the similarities between the "South Shore" districts have strengthened and the distinction between them and other Milwaukee County schools have increased. They also argue that the recent legislative expansion of criteria which control the Arbitrator's decision would further diminish the viability of comparisons with remote Milwaukee area comparables, since factors other than school district comparability must now be given substantial weight.

2. The Association

The Association believes the appropriate group of comparison districts should include twenty-two (22) districts in the Milwaukee metropolitan area. They split these twenty-two (22) districts into three levels of comparability. The Franklin, Greendale, Greenfield, and Whitnall districts are, in their opinion, most comparable to one another. Those four districts along with the Cudahy, South Milwaukee, St. Francis and Oak Creek districts represent the second most useful level of comparability and should be considered regionally comparable to one another. Finally, these eight (8) south suburban districts along with fourteen (14) other Milwaukee metropolitan area districts represent the third most useful level of comparability and should be considered generally comparable to one another.

These fourteen other schools include: Brown Deer, Elmbrook, Germantown, Menomonee Falls, Muskego, New Berlin, Nicolet, Shorewood, Wauwatosa, West Allis, Whitefish Bay.

They too rely on Arbitrator Zeidler's decision in South Milwaukee arguing the three levels of comparability are still valid. In fact, they note the District utilized this group in the 1980-81 arbitration. Then the District thought it was perfectly justified to look at the larger Milwaukee metropolitan area settlement picture "in view of the paucity of 1980-81 settlements." In the Association's opinion, since there is only one arbitrated settlement among the eight (8) "regionally comparable" districts for 1987-88 and none for 1988-89, it makes just as much sense today as it did in 1980-81 to look at the entire metropolitan area settlement picture especially when nine (9) of the other fourteen (14) area districts have reached voluntary settlements for 1987-88 and 1988-89 and where the overall settlement pattern is clear and consistent over many months.

B. Salary Schedules (1987-88 and 1988-89)

1. The Association

First, the Association addresses the criteria which directs the Arbitrator to consider the interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement. Generally speaking, the interests and welfare of the public are best served when the public education institution within a community can continue to provide a high quality education to the students within that community. Relevant to quality education are the salaries and morale of teachers. These factors would be adversely affected under the District's offer since it will cause the comparative value of Franklin teachers' salaries to decline compared to salaries paid to their colleagues in the area. They reference several studies supporting the need for quality education. Moreover, they argue the District has not presented any credible evidence that the District is unable to afford the costs of the FEA final offer if it is awarded. In fact, they argue, the evidence shows they can afford to meet the Association's offer.

Next, looking to settlements with comparable employees, the Association submits that the one settlement (Whitnall) which was arbitrated for 1987-88 among the four "most comparable" districts and among the eight "regionally comparable" districts is of great importance in this case. This is because it is contiguous and since it has been a wage leader.

For instance, in 1986-87, a newly hired Franklin teacher with no previous teaching experience and no credits beyond a Bachelor's degree earned \$17,684. That same teacher could have earned \$17,987, or \$303 more in the Whitnall district. Under the Whitnall contract for 1987-88, a newly hired teacher is

earning \$19,687. Thus, if the Franklin Education Association's offer is awarded for 1987-88, a newly hired teacher will earn \$18,605, or \$1,082 less than in Whitnall. If the Franklin Board's offer is awarded, a newly hired teacher will earn \$18,200 or \$1,487 less than in Whitnall. Similar differences exist at the BA Base. Franklin teachers enjoyed a leadership position to Whitnall teachers in 1986-87 at the BA Maximum salary benchmark position in the amount of \$3,069. At the MA Base a similar situation exists.

The Association stresses the importance of the Whitnall settlement at the MA Maximum salary and the MA+30 Maximum salary since there are 37.5 teachers (23%) at these two steps in Franklin and there is a total of 77.5 teachers (48%) at all four of the MA lane maximums. In 1986-87, the Whitnall teacher at the MA Max was \$2597 ahead of Franklin. The FEA's offer for 1987-88 will reduce this disadvantage by a modest \$104 while the District's offer will exacerbate this negative differential by another \$689. A similar situation occurs at the Masters plus 30 credits, maximum salary benchmark position. This is all in spite of the fact the FEA offer exceeds the Whitnall settlement by \$472 over 1986-87 and 1987-88.

In the absence of other settlements in the first two comparable levels, the Association looks to voluntary settlements for 1987-88 in New Berlin, Maple Dale-Indian Hills, Wauwatosa, Germantown Nicolet, Fox Point-Bayside, Glendale, Whitefish Bay, and Brown Deer School Districts. The average salary increase under all seven voluntary settlements for this year is \$2,083. The FEA offer for a \$2,001 average increase is \$82 less than the area average while the District's offer of a \$1,271 average increase is \$812 less than the area average. Also, the range of average salary increases for the nine (9) area districts which are settled for 1987-88 is \$1,850 (Germantown) to \$2,670 (New Berlin). They draw the same conclusion regarding the offers for 1988-89. The range of settlements among the eight (8) districts which have reached voluntary settlements for 1988-89 is \$2,000 (Maple Dale, Germantown, Nicolet) to \$2,765 (New Berlin). Again, the FEA final offer of \$2,003 fits well within this range while the School Board's final offer of \$1,322 is no where near this range. The average settlement among the eight districts for 1988-89 is \$2,110. The FEA offer is \$107 below this average while the Board's offer is \$788 below the average.

The Association also engages in an extensive benchmark analysis showing the impact of the offer on the relative benchmark levels on average and to each individual settled school. It is sufficient to state in general that it is their conclusion that the Association's final offer will either maintain the many existing salary disadvantages or make them worse while the District's offer will to an even greater degree exacerbate this bad situation. This result is particularly true at the two critical benchmark positions where 23% of the Franklin teachers are currently placed, the MA Maximum and the

MA+30 Maximum. At the MA Maximum salary position, the average disadvantage of Franklin teachers to the ten (10) districts that are settled for 1987-88 was -\$1,382 in 1986-87. This disadvantage will grow to -\$1,434 in 1988-89 under the Association's final offer and to -\$2,948 in 1988-89 under the District's offer. At the MA+30 Maximum salary position, the average 1986-87 disadvantage for Franklin teachers was -\$1,527 in 1988-89 while the District's offer will increase the average disadvantage to -\$3,133.

The Association notes that the District submitted settlement data regarding wage settlements between the City of Franklin and four of its employe groups as well as Milwaukee County and six of its employe groups. They believe this information is of limited use due to the dissimilarities in the wage schedules between these employe groups and teachers in this district, the information is, nevertheless interesting. However, they do note that historically teacher settlements have exceeded the settlements in these groups. For instance, in 1986, the city of Franklin agreed to wage increases of 4% for each of its three employe groups. Despite this, the Board agreed to a wage increase of 6.4% for its teachers in 1986-87. This year, on the other hand, the Franklin School Board is placing no greater value on settling with its teachers in 1987-88 (+4%) than the City has agreed to with its employe groups (+4%). From this perspective, the FEA offer of +6.3 for 1987-88 must be considered very reasonable since, if the 1986-87 differential between the city worker increases and the increase for the teachers were to be maintained, a settlement between the FEA and the District of +6.4% could easily be justified.

The Association also anticipates an argument from the District concerning private sector wages. They contend this data is very misleading because it calculates for comparison purposes teachers salaries as if they worked and were paid twelve months a year, which they don't. For instance, the District divided the teachers annual salary by 190 contract days to arrive at a daily salary. For comparison purposes the District then multiplied this by 260 (the work year of a regular private employe). And then divided by 12 to arrive at a monthly salary. This calculation suggests the monthly salary of the BA Maximum was \$3,468 when in reality it was \$2,535. Moreover, they note the District's private sector figures do not indicate what the maximum earnings of these private sector employes are or whether or not these represent salaries paid to workers with Bachelors degrees or with Masters degrees.

The next statutory criteria addressed by the Association is the cost of living. The Association concedes that the current cost of living as measured by the Consumer Price Index favors the District's offer since the figures for all four of the indexes cited by the District are closer to the District's proposed average wage increase of +4%. The FEA simply believes that the patterns of settlement in comparable school districts should be the controlling criteria and that the cost of living

criteria should be given little weight because all ten of the voluntary settlements to which we are comparing the two final offers in this case are in the same geographic area and the teachers in Franklin have experienced the same cost of living increases as the teachers in the ten settled districts. Moreover, they note in 1986-87 the Parties' voluntary settlement was in excess of the cost of living by 5.3%.

2. The District

At the outset, the District argues that the economic conditions in the District mandate adoption of the Board offer. They believe that Franklin has a unique and precarious financial condition. Thus it is their position that "the interest and welfare of the public," combined with a demonstrated inability of the District to finance the Association offer, merits serious weight and attention by the Arbitrator. For instance, they note that the difference between the Parties' offers over two years is \$407,157. In their opinion this is a relevant consideration given the uncontroverted fact that the District presently is operating with a \$1.2 million cash deficit.

The District traces the 'genesis and evolution' of the deficit. At the annual meeting of the school district electors in the summer of 1979, the Board was authorized to borrow money to improve and repair school district buildings. As the District subsequently prepared its final budget, the tax rate which evolved did not include the cost of the financing authorized by the annual meeting. The tax rate and levy including those costs were considered by the Board to be overly burdensome on the taxpayers. Therefore the District, hoping to recoup the necessary funds in the next year from increasing state aids, did not borrow the money but rather proceeded to attempt to cash finance, in part, the necessary maintenance and repairs. However, in the subsequent year, state aids did not increase sufficiently to cover the entire operating deficit. This created a \$310,000 deficit which was reduced somewhat in 1980-81, but it has continued to grow thereafter.

The District also outlines other events which have made it impossible to reduce this deficit. They include: (1) a growth in enrollment which has enabled the District to achieve any economies due to either rapid pupil decline (which would lead to staff layoffs or closing of schools and sale of buildings) or rapid inclining enrollment, which would lead to a substantial growth in state aids and potentially more efficient use of District resources. (2) A limited increase in equalized value of 11.2% since 1981-82 and equalized value per pupil of 5.6%. (3) An increase in funding expenditures of 56.3% since 1981-82. (4) Increased debt service cost of 11.2% since 1981-82. (5) Fund to tax levy increase of 51.4% since 1981-82 and the fact the tax levy in Franklin expressed in absolute dollars has far outstripped the average increase in comparable districts from 1980-81 to 1987-88 . . . 59.9% vs. the average growth in the

comparables of 40.1%. (7) The fact that since Franklin has the highest full value tax rate among the comparables-- \$16.93/thousand vs. \$20.70/thousand. Moreover the rate of increase in the rate in Franklin has been 9% higher than among the comparable districts. (8) The fact in 1986-87 the estimated state aids communicated to the District by the State in July, at the time the levy was adopted by the Annual Meeting of District electors, were substantially reduced after the date of the 1986 annual meeting. Therefore in October of 1986 the District found it necessary to increase the Fund 10 tax levy by nearly 27% thereby increasing the mill rate from \$16.91 per thousand to \$20.19 per thousand. (9) The fact equalization aid has increased by only 21.4% since 1981-82 vs. the 56.3% increase in fund 10 expenditures. (10) Lost revenues of \$1.5 million to the District in 1978 because of a T.I.F. (11) Limited cash flow and recommendation by private consultants and the DPI to reduce the deficit. (12) The difficulty in predicting future cost and revenue factors.

The Board considers other factors as well. Comparing itself to other schools in its comparable groups on the basis of rank at the benchmarks between 1980-81 and 1986-87 they contend that the teachers have been catching up to or maintaining position with other area school districts. Moreover on a dollar and percentage basis they submit that Franklin teachers have made substantial progress in terms of real dollars, and at several benchmarks are paid substantially above the benchmark average vis-a-vis the comparable districts. Additionally they maintain that the position of Franklin teachers has improved overall at a faster rate than that provided to comparable area district teachers.

The District also contends that comparisons with other relevant private employee groups substantially support the Board offer. In this regard, it is their opinion that the lack of settlements within the comparable pool necessarily results in greater emphasis on private sector salary increases and wage rates. Based on their analysis, the Board concludes that based on the actual wage settlements of a number of the major employers within the District, the Board offer is far closer to the average private sector increase levels. This is consistent with the national trend which is rather modest. Moreover they note that a comparison of Franklin teacher salaries to other private sector professional salaries in the Milwaukee area shows that starting teacher salaries exceed many professions.

Looking at public employee groups, they note that increases for the city of Franklin bargaining units have reflected moderate levels of wage increase from 1986 to 1987 and 1988. Specifically, the city bargaining units received a 4% increase in 1986, between 3.75% and 4.5% in 1987 and between 3.00% and 3.75% in 1988. The Milwaukee County settlements, which include three professional employee bargaining units, also reflect levels close to the Board offer.

Next the Board argues that the total compensation factor favors their offer. This is important because in their opinion the "total compensation" criteria assumes greater importance in view of the demonstrated fiscal difficulties in the District. They also argue that Health Insurance costs are likely to increase dramatically in the near future as they did in 1987-88. Just the 1987-88 increases put Franklin above the average in Health Insurance contributions.

Last the District contends that the cost of living factor undeniably favors the Board offer. This is true on a one year basis or a cumulative basis (1980-87).

C. Early Retirement

1. The Association

The FEA certainly has no objections to the first two components of the District's proposed changes in the existing early retirement provision. The idea of applying the Board-paid health insurance benefit to the teachers who choose the "pay-out" early retirement option is a good one. Likewise, the idea of increasing the number of years which the Board will pay health insurance benefits from three years to four is also a good idea. They acknowledge both the teachers and the Board stand to gain if these two changes make early retirement more attractive to more teachers.

However, they also believe the "price" the Board is asking the FEA and its members to pay in order to make these changes is simply unfair. The District is proposing to have the "pay-out" early retirement option evaporate from the Agreement if, and when, the state legislature passes early retirement legislation such as that proposed in 1987 as Assembly Bill 462. They enunciate several strong objections to this contingency proposal.

Their objections can be summarized as follows: (1) the ambiguity of the proposal (2) the inequities since the Board's proposal would have less value to the teacher than the existing contract provision, and (3) the Board has not presented any evidence to show that any other Districts in the area have agreed to such a contingency evaporation provision or even that any other school boards are proposing such a strange provision.

2. The District

The District believes their proposal on this subject ought to be adopted since improvement in the early retirement plan has been and continues to be a high priority in the bargaining process between the parties. This is one reason the Board offer now alters the current health insurance contribution from a three-year window to a four-year window. With the additional

year of insurance coverage the Franklin plan moves to the midpoint of paid insurances among the comparable districts. The Board also submits that this issue takes on increased importance in light of pending statutory changes in the legislature.

The Board also proposes, in the event the normal retirement age is reduced and employees are able to retire without loss of pension benefits at an earlier age, that the employee will not be eligible for both the lump sum payment and full pension benefits, or "double dipping." This is necessary since retention of the current language for the full term of this two-year agreement could yield a windfall for as many as 19 teachers at a time when District resources are critically needed elsewhere.

D. Alternate Insurance Coverage

1. The Association

The Association suggests that the difference between the two proposals on "Alternate Insurance Coverage" is that the District would limit this right only to those teachers whose spouse is also employed in the District while the FEA is proposing to apply this right to all employees whether their spouse is employed in the District or not. They argue that of the three districts in the regionally comparable group which have such an "alternate coverage" provision in their teacher contracts, none are limited solely to teachers whose spouse also works in that district. The FEA position on this issue, then, in their opinion is more consistent with the prevailing practice among these comparison districts than is the Board's position. They also argue that only five (5) of the twenty-three (23) employees are on this list as a result of the fact that their spouse is also an employe in the Franklin School District.

2. The District

The Employer believes that its offer in this regard is favored by the comparables. Four of the seven comparable districts provide no open enrollment in the event an employee loses alternate coverage. Of those that do provide open enrollment, two specifically state that the loss of alternate coverage must be for reasons "other than a voluntary election." They note that safeguard is not included in the Association offer herein. Given the substantially above average expense incurred by Franklin for health insurance coverage and indications of future substantial increases, this open-ended provision is unreasonable. As a consequence, the Board offer is to be favored on this issue.

E. Hourly Rates

The Association presents information on similar rate increases for 1987-88 and 1988-89 in the eight (8) "regionally comparable" districts. The range of rate increases for 1987-88 is 3.9% to 5%. The FEA offer for a 4.5% increase is well within this range while the Board's offer for a 2% increase is well below this range. The average rate increase for 1987-88 is 4.8%. Again, the FEA proposal is slightly below this average increase while the Board offer is well below it. There are only two settlements on hourly rates for 1988-89 (Greendale = +3.7%, St. Francis = +5%). The FEA's +4.5% offer is more consistent with these two settlements than is the Board's +2% offer.

Regarding their proposal to increase the hourly rates for the "Driver's Education" and "Summer School" activities by an amount greater than the proposed rate increase for all of the other activities, they draw attention to the fact that the average hourly rate paid in all eight districts for the driver's education instructors in 1986-87 was \$13.15. The rate paid in Franklin, \$11.88 per hour, was \$1.27 per hour below the prevailing rate in the area. Even after the FEA's proposed 6.9% increase for 1987-88, the resulting rate of \$12.70 per hour will still be \$.72 behind the prevailing hourly rate in the area for 1987-88 (\$13.42). They believe a similar situation exists with respect to the pay rate for summer school. The 1986-87 rate of \$12.23 per hour was \$1.84 per hour below the average rate paid in all eight districts. The FEA proposal will close this gap to -\$1.48 per hour in 1987-88 while the Board's proposal will increase the differential to \$2.08 per hour.

The Board doesn't offer any argument specific to hourly rates.

F. Credit/Tuition Reimbursement and M.A. Bonus

1. The Association

The Association submits there are several important reasons why the Board's proposal is unfair. They are summarized as follows: (1) The present credit pay provision has been in the Franklin teacher contract at least since 1967-68. (2) There is no evidence in the record that the administration has had any problem administering the existing credit pay provision. (3) The evidence shows that the existing credit pay system has been effective in encouraging Franklin teachers to continue their formal education, to earn their master's degrees and to continue to earn credits beyond their master's degrees. (4) Currently there is no limit on the number of advanced credits a teacher can take for which s/he can receive credit pay. (5) There currently is no grade requirement for credit pay. The Board would require a teacher to receive an "A" in order to receive full tuition reimbursement. A "B" would result in 90% tuition reimbursement. The District has provided no justification for

this new grade requirement. (6) They are also concerned that it will cost the Board more than the present systems and make less money available for basic salaries.

Next they suggest that the Board's "Master's Degree Bonus" proposal is not necessary. The FEA has already shown that the current salary schedule/credit pay structure provides adequate incentives for Franklin teachers to continue their professional training. Moreover, the Franklin School District currently has the third highest percentage of teachers with a master's degree among the eight "regionally comparable" districts. There is also an inequity since the Board's "bonus" would only apply to teachers who earn their masters degree subsequent to July 1, 1987. That means that all of those teachers who had already earned their masters degree prior to that time (55% of the teachers) will not receive the bonus payment. Again they note the Board's "bonus" payment is going to cost the District some amount of money. That amount of money will be charged to the FEA negotiations package in future negotiations.

2. The District

It is the position of the District that the District's offer relative to credit pay and tuition reimbursement is amply supported by the comparables. This is because no other comparable district has "credit pay" as established in the current agreement. Moreover they have offered a substantial quid pro quo in exchange for changing from "credit pay" to "tuition reimbursement"; that is, full payment of the rather substantial tuition costs charged by area colleges, coupled with a \$500 bonus upon achievement of a masters degree. They also believe the fact that tuition reimbursement is not taxable increases its value to the teachers.

IV. OPINION AND DISCUSSION

The Parties differ not only on the comparables but on the analytical framework which they believe the Arbitrator ought to employ given the fact that there are a limited number of settlements in the South Shore Eight. The District put blinders on and did not look outside this group; instead they look to other criteria. On the other hand, the Association looks to the generally comparable group (the third tier of comparables) and basically ignores the other criteria.

Neither approach is appropriate given these circumstances. On one hand, the basic comparability approach established by Arbitrator Ziedler and, more importantly, utilized by the Parties, still is valid. It is perfectly appropriate in the face of a lack of settlements in the most comparable schools to move to the regionally comparable schools to the generally comparable schools. The Parties have used this approach before

and there is no reason to depart from it now and limit comparisons to a much smaller group.

However, on the other hand, it must also be recognized that the inferences to be drawn from the generally comparable group are not as strong as inferences to be drawn from the other two levels of comparisons. In fact, in this case the vast majority of settlements come from the generally comparable group. Thus the "pattern" within this group would not be as controlling as a pattern, if one existed, in the first or second level of comparability.

Accordingly, while the basic comparable approach used in the past shouldn't change due to the fact there are a limited number of generally comparable settlements, more weight than ordinary should be given to other criteria. Thus the cost of living, private/public sector settlements and the ability to pay/interest and welfare of the public tend to play a bigger role than they usually would.

There is an additional reason that the generally comparable settlements should loom less large. This relates to the fact that the District's fiscal situation is distinguished to a degree from others, particularly the first two comparable groups, and this deserves some consideration. However, the real question here is how much weight should the 'Ability to pay/welfare of the public' along with other criteria be given relative to the evidence on the comparability factor.

It is the judgement of the Arbitrator that while there is some substance to the District's fiscal situation, it isn't as bad as the picture they paint, and more importantly, it isn't bad enough to justify a settlement as divergent from the generally comparable pattern as is the District's final offer.

As for the District's fiscal picture, the one thing that stands out concerning this is the fact that the original deficit in 1979-80 was caused in great part by the fact the Board didn't finance the building improvement program as the electors had authorized. In fact the original deficit represents a very large percentage of the difference between the Parties' present final offers. In effect, the Board is now asking the Arbitrator to finance the 1979-80 building improvement projects from the 1987-88 and 1988-89 teacher salary increases because it would have an adverse impact on the taxpayer. Yet it was School District electors--the taxpayers--who authorized the projects to be financed and repaid through the levy in the summer of 1979.

This affects the credibility of the District's pleas. Other factors affecting the credibility of their pleas are the following facts: (1) there isn't any convincing evidence that the District has or couldn't have taken other drastic cost control measures and (2) the fact the District is seeking other changes in the status quo. This fact is significant for two reasons. It is difficult enough to justify such a divergent

offer without taking on the additional burden of justifying several changes in the status quo. Additionally, the change from a credit reimbursement system to a full tuition reimbursement could actually be, especially as time goes on, significantly more costly than the credit system. It is a bit incongruous to argue basic salaries should be lower due to an inability to pay on one hand and on the other hand argue for change in the status quo which could very well increase total labor costs.

These are some of the reasons that the Arbitrator doesn't believe that the fiscal situation is as bad as the District suggests. Nonetheless, he is convinced that there are some realistic fiscal concerns which need to be addressed generally and more specifically need to be addressed in the short run by moderation in teacher salaries.

However, these public interest considerations have to be balanced against the teachers needs for a reasonable salary increase and reasonable salary levels. While the Arbitrator believes the teachers should have settled for less than the average in the generally comparable schools, which was \$3998 per teacher over two years (not including New Berlin), he also believes that \$2593 under the Board's offer over two years would increase existing wage level disparities too much. Given these disparities, the Association's proposal of \$4004 over two years is closer to a settlement which would have appropriately balanced the fiscal situation of the District, the comparability factor and the other statutory criteria.

AWARD

The final offer of the Association is accepted.



Gil Vernon, Arbitrator

Dated this 22nd day of May, 1988 at Eau Claire, Wisconsin.