

JAN 27 1989

EDWARD B. KRINSKY, ARBITRATOR

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the Petition of	:	
	:	
ADAMS-FRIENDSHIP AREA EDUCATION	:	Case 28
ASSOCIATION	:	No. 40574
	:	INT/ARB-4905
To Initiate Arbitration Between	:	Decision No. 25586-A
Said Petitioner and	:	
	:	
ADAMS-FRIENDSHIP AREA SCHOOL DISTRICT	:	
	:	

Appearances:

Lathrop & Clark, by Mr. Gerald C. Kops, for the District.
 South Central United Educators, by Mr. James M. Yoder,
 Executive Director, for the Association.

On August 15, 1988, the Wisconsin Employment Relations Commission appointed the undersigned as arbitrator in the above-captioned dispute "to issue a final and binding award, pursuant to Sec. 111.70(4)(cm)6 and 7 of the Municipal Employment Relations Act, to resolve said impasse by selecting either the total final offer of the Adams-Friendship Area Education Association or the total final offer of Adams-Friendship Area School District.

A hearing was held at Adams, Wisconsin, on October 24, 1988. No transcript of the proceedings was made. Both parties had the opportunity to present evidence, testimony and arguments. The record was completed on January 10, 1989, with the exchange by the arbitrator of the parties' post-hearing reply briefs.

There are two issues in dispute in this case: the salary schedule for 1988-89 and 1989-90, and language governing notice of layoff. The parties' final offers are attached to this Award.

In reaching his decision the arbitrator is required by statute to weigh the factors listed therein. In the present dispute there is no controversy with respect to several of the factors: (a) lawful authority of the employer; (b) stipulations of the parties; that portion of (c) dealing with "the financial ability" of the unit of government to meet the costs of any proposed settlement; and (i) changes in circumstances during the arbitration proceedings. The remaining factors are discussed below.

There is also no dispute with regard to the other school districts which should be regarded as comparable to the District. Both parties cite the districts of the South Central Athletic Conference. Four of those districts have voluntary settlements for 1988-89: Mauston, Portage, Reedsburg and Sparta. None of the Conference districts have settled for 1989-90.

Salary Issue

The District's final offer is a total package increase of 6.5% for 1988-89. The Association's final offer for 1988-89 is a total package increase of 7.75%. For 1989-90 the District's offer is a total package of 6.5%. The Association's offer is 6.7%.

One of the factors which must be considered by the arbitrator is (c) "the interests and welfare of the public. . ." The District argues that on balance its final offer best reflects the interests and welfare of the public. 1/ It notes the deterioration of the farm economy, exacerbated by the 1988 drought. 2/ It cites 1986 state statistics showing that in comparison to the other Conference districts, the District has the lowest mean personal income and the lowest mean taxable income. It cites 1980 Census data to show that in relationship to the other Conference districts, the District has the highest percentage of families in poverty, the second highest unemployment rate, and the lowest median household income. It cites the fact that the District's levy rate is the second highest in the Conference and it receives the second lowest amount of state aid per pupil.

The District argues also that it has not experienced difficulty either recruiting or retaining staff. It argues:

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- 1/ In its brief the District makes arguments about Wisconsin's relatively high tax rates in relation to other states, and the relative inequity of the property tax especially for farmers. The arbitrator has not evaluated these arguments because in his view the proper context for his decision is the economy of the District in relationship to similarly situated districts within the State. The arbitrator does not view it as appropriate for him to judge the relative equity of various forms of taxation.
 - 2/ The District's exhibits include projections by the Agricultural Stabilization and Conservation Service giving crop damage projections for Adams County for a variety of crops.

The board's offer is entitled to selection because it demonstrates concern for striking a proper balance among valid competing interests. The Association demand should be rejected because it is too heavily weighted in favor of self-interest.

. . . under the circumstances present in the District, the offer of the district is consistent with the promotion of the public interest and welfare and the need to support a quality education program while recognizing the District's financial limitations. The Association demand is excessive because it neglects the interests and welfare of the public and ignores the financial capability of the District under the current conditions.

The Association rebuts the District's emphasis on the problems of the agricultural economy by citing 1980 Census data that in the District 9.4% of employment is agricultural employment, 8.7% of the population live on farms, 8.4% of household income is derived from farming, and 2.3% of the total income in the District is derived from farming. Moreover, the Association argues:

. . . 73% of eligible acres are enrolled in the Farmland Preservation Program from which those farmers receive a tax credit of 46% of their property tax. This suggests that the property tax obligation of farmers in the area is not excessively burdensome or at least they have received extensive reductions in them.

The Association argues that the District is no worse off than its neighbors with respect to the farm economy and therefore the District should pay salaries that are competitive with those districts.

The data suggest that the economic burden on the District's taxpayers is not substantially greater than is the case in the other settled Conference districts although there is a relatively high levy rate and cost per member, and low state aid per member. The agricultural economy has suffered, but there is no showing that it is disproportionately bad in the District. Data presented by the District with regard to crop losses indicate that although the losses in Adams County were great, they were not worse than the losses suffered in the counties in which the comparable settled districts were located. Data presented by the Association indicate that the number of farms and the total farm acreage in Adams County are much less than exists in these comparable counties.

Regardless of the question of relative hardship of Adams County farmers, there is no doubt that the effects of the drought on the local economy and many local taxpayers has been negative. It is significant also that these negative effects were not a factor in the negotiations of the settlements in the comparable districts. This is so because those settlements were part of multi-year settlements which were reached prior to the occurrence of the 1988 drought. The economic data presented by the parties do not show positive developments in the local private or public sector economies which might arguably offset the negative developments in the agricultural sector.

It is the arbitrator's opinion that although the farm sector is relatively quite small in relationship to other counties, the recent changes in economic conditions in Adams County weigh in favor of the lesser of two reasonable salary offers. For this reason, assuming a conclusion by the arbitrator that the District's salary offer is a reasonable one, the interest and welfare factor favors the District's position at this time. Moreover, the Association has not demonstrated why its offer is in the interests and welfare of the public to a greater degree than is the District's offer.

The next factor (d) is "Comparison of wages, hours and conditions of employment with . . . other employees performing similar services." The parties have agreed that the relevant comparisons are the other settled districts in the Conference. The only data available for those schools are for 1988-89 since none have settled for 1989-90. The data are as follows for the benchmarks BA-min, BA-7, BA-max, MA-min, MA-10, MA-max and Schedule-max.

(See Pages 5 and 6 for data.)

	BA-min		BA-7		BA-max	
	87-88	88-89	87-88	88-89	87-88	88-89
Portage	18,300	20,000	21,240	23,060	23,200	25,100
Reedsburg	18,300	20,000	21,175	22,875	23,175	24,875
Mauston	18,025	19,490	21,175	22,640	24,325	25,790
Sparta	17,770	18,827	21,100	22,277	25,645	27,102
Median	18,163	19,745	21,175	22,758	23,763	25,445
Adams- Friendship rank	3	Bd 4 Assn 4	5	Bd 5 Assn 5	1	Bd 1 Assn 1
Adams- Friendship salary	18,090	Bd 18,903 Assn 19,120	20,369	Bd 21,285 Assn 21,529	26,194	Bd 27,378 Assn 27,686
Adams- Friendship salary in relation to median	(-73)	Bd (-842) Assn (-625)	(-806)	Bd (-1,473) Assn (-1,229)	+2,431	Bd +1,933 Assn +2,241

	MA-min		MA-10		MA-max		Sch-max	
	87-88	88-89	87-88	88-89	87-88	88-89	87-88	88-89
Portage	19,835	21,655	26,225	28,135	29,775	31,735	31,375	33,700
Reedsburg	20,100	21,800	25,800	27,500	29,300	31,000	32,200	33,900
Mauston	19,075	20,540	24,925	26,615	28,825	30,665	30,525	32,365
Sparta	19,360	20,437	25,280	26,712	30,000	31,762	31,190	33,102
Median	19,598	21,098	25,540	27,106	29,538	31,368	31,283	33,401
Adams-Friendship rank	2	Bd 3 Assn 3	5	Bd 5 Assn 5	1	Bd 1 Assn 1	1	Bd 1 Assn 1
Adams-Friendship salary	19,863	Bd 20,755 Assn 20,994	24,421	Bd 25,519 Assn 25,812	31,893	Bd 33,388 Assn 33,709	33,919	Bd 35,443 Assn 35,850
Adams-Friendship salary in relation to median	+265	Bd (-343) Assn (-104)	(-1,119)	Bd (-1,587) Assn (-1,294)	+2,355	Bd +2,020 Assn +2,341	+2,636	Bd +2,042 Assn +2,449

In relation to the settled districts, both final offers for 1988-89 result in the same relative ranking at each of the benchmarks. Both final offers provide salary increases which result in significant deterioration in relationship to the median salary paid by the four settled districts in 1988-89 in contrast to 1987-88. The Association's offer results in approximately \$200 - \$400 less deterioration than does the District's offer depending on the benchmark. Under either offer the District's salary offer is far above the median salary paid at the BA-max, MA-max and schedule-max and in fact the District's salaries are above what is paid in each of these districts at those benchmarks. In other words, the District's offer continues to put it far ahead of the competition at these benchmarks, just not as far ahead as formerly. The deterioration is of greater concern at the low end and in the middle of the salary schedule where both of the final offers result in salaries considerably below the median salary of the other settled districts.

If salaries are viewed in percentage terms, the Association's offer for 1988-89 is about a quarter of a percent above the median increase for 1988-89 in the settled districts and that is a slight increase over the same relationship in 1987-88. The District's offer is almost a percentage point below the median for 1988-89 and represents slightly more than a percentage point deterioration in that relation when compared to 1987-88.

	% Salary Increase		%Package Increase	
	1987-88	1988-89	1987-88	1988-89
Portage	7.55	8.3	7.36	8.07
Reedsburg	6.9	6.96	7.5	8.10
Mauston	7.95	7.52	8.13	7.38
Sparta	7.89	7.2	7.96	7.57
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Median	7.72	7.36	7.73	7.82
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Adams-Friendship	8.0	Bd 6.4 Assn 7.58	7.64	Bd 6.5 Assn 7.75
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Adams-Friendship in relationship to median	+ .08	Bd (-.96) Assn +.22	(-.09)	Bd (-1.32) Assn (-.07)

Overall, the salary offers for 1988-89 favor the Association's offer more than the District's in relation to the settled Conference districts. It is significant, however, that the District's offer still maintains the first place rankings at the upper end of the schedule where the greatest numbers of teachers are placed, which continues to leave these teachers far ahead of the competition in the dollars they receive. 3/ The arbitrator cannot judge the 1989-90 salary offers based on comparisons because there have been no settlements among the Conference districts for 1989-90.

Factor (e) is "comparison of the wages, hours and conditions of employment . . . with other employees generally in public employment in the same community and in comparable communities." Neither party presented data for public sector increases given to employees in city or county government in the Adams-Friendship area. Therefore, the arbitrator does not favor either party's offer based on this factor.

Factor (f) is "comparison of the wages, hours and conditions of employment . . . with the wages, hours and conditions of employment of other employees in private employment in the same community and in comparable communities." Neither party presented data for private sector increases given to employees in the Adams-Friendship area. Therefore, the arbitrator does not favor either party's offer based on this factor.

Factor (g) is "the average consumer prices for goods and services, commonly known as the cost of living." Neither party presented the consumer price index data for the Wisconsin area. The District put into evidence an October 1988 article from the New York Times which showed nationally that in calendar years 1987 and 1988 the consumer price index was rising in the 4-5% range. The total package increase offered by the District for 1988-89 is 6.5%. The Association's final offer is 7.75%. Both of these offers exceed the rise in the cost of living nationally, and the District's offer is closer to the rate of increase. For 1989-90 the District's final package offer is 6.5% and the

3/ More than two-thirds of the returning teachers are above step 10, and about two-thirds of those teachers are at the maxima of their salary lanes. Thus, for the majority of teachers in the District their salary levels for 1988-89 will remain higher than those of teachers similarly situated in the Conference under either of the final offers.

In its arguments the Association cites the fact that in terms of the average salary increase per returning teacher, the District's offer is below that given by any of the other settled districts. In the arbitrator's opinion that measure is not meaningful without an analysis of the distribution of the returning teachers on their respective salary schedules.

Association's final offer is a 6.7% increase. The most relevant period of time for looking at cost-of-living figures for the 1989-90 school year would be the period July 1988 to July 1989, the year immediately preceding the contract year. Based on experience thus far in 1988, one would anticipate that the parties' final offers will both be in excess of the cost-of-living increase. The District's offer would be slightly favored because it is slightly lower than the Association's and closer to the anticipated increase in the cost of living.

On this factor, the arbitrator favors the District's offer.

Factor (h) is "The overall compensation presently received by the . . . employees. . ." There is little difference between the parties' total package offers that is not accounted for by the increases in wages already considered above. No data are presented to suggest that the total compensation of teachers (other than salary) in the District is out of line with what is paid in the comparable districts. Therefore, the arbitrator does not favor either party's offer based on this factor.

Factor (j) is "Such other factors . . . which are normally or traditionally taken into consideration. . ." There are no other such factors which have been presented by the parties as having relevance to the salary issue.

Layoff Notice Issue

The parties' Agreement contains language as follows:

. . . The Board shall provide a final written notice of any reduction or layoff to any affected teacher within twenty-five (25) days after a preliminary notice.

The District's final offer retains this language. The Association proposes to substitute the following language:

Any notification of reduction or layoff shall be accomplished in accordance with the time frame and provisions of Section 118.22, Wisconsin Statutes.

The parties did not present any evidence about the bargaining history of the existing language, how it came about, and at whose initiative or in what context. The language has existed in the Agreement at least since 1985-86.

The Association has provided data showing the notice period specified in each of the Conference districts:

Baraboo	Contract is silent
Mauston	May 15th
Nekoosa	W.S. 118.22 timelines
Portage	Contract is silent
Reedsburg	Contract is silent
Sparta	May 1st
Tomah	Last student day of school year
Wisconsin Dells	Contract is silent

Where the contract is silent, any layoffs are governed by Section 118.22 even though that fact is not specified in the contract.

The Association argues that while "Mauston, Sparta and Tomah specify some alternate date, . . . no district in this athletic conference permits layoffs at any time based only on some arbitrary advance notice such as is done in Adams-Friendship." In making positive arguments for its proposal, the Association emphasizes "the need of the employee to have a fair opportunity to find alternative employment, which for teachers means finding a job between school years, not during the year as might occur under the Adams-Friendship Board position."

The District argues that the proposed language change is not needed, and that any such change should be bargained by the parties. District Administrator Beaver testified at the arbitration hearing that no layoffs are anticipated either during the 1988-89 or 1989-90 school years.

The Association counters the District's arguments. With regard to the fact that no layoffs are contemplated, it says ". . . this argument is devoid of merit because it asserts that someone must be harmed before change is justified." The Association argues also that if the District does exercise its right to lay off employees on twenty-five day notice during the school year, it ". . . is more likely to end up paying for extended unemployment benefits due to the inability of the teacher to get a job."

It is the case that none of the Conference districts have the twenty-five day provision that is in the parties' Agreement and five of the districts follow the statutory time lines either explicitly or because their contracts are silent with respect to date of notification of layoff. There are three other Conference districts with dates certain, and each of those dates are different from one another. Thus, the Conference comparables are not uniform, and although a majority of the districts have what the Association is seeking, there is not compelling reason for ordering a change at this time.

In addition, the parties' language was apparently voluntarily agreed upon, rather than imposed through arbitration, and there is nothing in the record showing what efforts, if any, the parties have made to change the language and over what period of time. There is no record of what offers, if any, have been made and rejected in attempts to change the language, and thus nothing which supports any contention that the District's refusal to change it at this point should be regarded by the arbitrator as arbitrary conduct. It is the arbitrator's belief that existing contract language, voluntarily agreed to, should be changed through the collective bargaining process and not by arbitration unless there are compelling reasons for doing otherwise. No such reasons are evident in this case and the arbitrator therefore prefers the District's final offer on the layoff notification issue. In making this decision the arbitrator has weighed the relevant statutory factors of comparability and "other factors normally taken into account." The other statutory factors do not appear to be applicable to this issue.


The arbitrator is required by statute to select one final offer or the other in its entirety. The District's offer is preferred on the layoff notice issue. On the salary issue, both offers are reasonable. The District's offer is reasonable because it offers increases in each of the two years which are above the increases in the cost of living in 1987-88 and thus far in 1988-89 and does so in a period of economic adversity for significant numbers of taxpayers. Also, the offer results in the same ranking of benchmark salaries as does the Association's offer in relationship to comparable settled districts and remains far ahead of the competition at the upper end of the schedule. The Association's offer is reasonable because it results in the same benchmark rankings as does the District's offer and provides increases in both dollar and percentage terms which are closer to those given by comparable districts. The Association's offer results in less relative salary deterioration of the teachers in the bargaining unit than does the District's offer in relationship to the settled comparable districts.

The arbitrator has decided that on balance the District's offer is slightly preferable. Therefore, based upon the above facts and discussion the arbitrator hereby makes the following

AWARD

The District's final offer is selected.

Dated at Madison, Wisconsin, this 26th day of January, 1989.



Edward B. Krinsky
Arbitrator

ns and for a Final Offer submitted pursuant to section 111.70(4) in o Stats. the Adams Friendship Area School District proposes that the current Master Agreement as modified by the stipulations between the parties and the following proposals be adopted as the Successor Master Agreement between the parties for the term commencing July 1, 1988 and terminating June 30, 1990.

COMPENSATION

The School Board proposes a total package increase of 6.5% for the 1988-89 school year and total package increase of 6.5% for the 1989-90 school year. See Attached Salary Schedules.

 HOME-FRIENDSHIP AREA SCHOOLS
 SALARY SCHEDULE

88-89

BA	B+1	B+2	B+3	B+4	B+5	B+6	B+7	B+8	B+9
1	19703	19169	19111	19597	19962	20226	21755	21265	21514
2	19163	19432	19497	19968	20226	20491	21021	21549	21799
3	19422	19297	19453	20233	20491	20755	21285	21814	22064
4	19297	19712	20022	20491	20755	21020	21549	22079	22329
5	20055	20471	20735	21102	21365	21629	22159	22689	22939
6	21155	21571	21835	22202	22465	22729	23259	23789	24039
7	22255	22671	22935	23302	23565	23829	24359	24889	25139
8	23355	23771	24035	24402	24665	24929	25459	25989	26239
9	24455	24871	25135	25502	25765	26029	26559	27089	27339
10	25555	25971	26235	26602	26865	27129	27659	28189	28439
11	26655	27071	27335	27702	27965	28229	28759	29289	29539
12	27755	28171	28435	28802	29065	29329	29859	30389	30639
13	28855	29271	29535	29902	30165	30429	30959	31489	31739
14	29955	30371	30635	31002	31265	31529	32059	32589	32839
15	31055	31471	31735	32102	32365	32629	33159	33689	33939
16	32155	32571	32835	33202	33465	33729	34259	34789	35039
17	33255	33671	33935	34302	34565	34829	35359	35889	36139
18	34355	34771	35035	35402	35665	35929	36459	36989	37239
19	35455	35871	36135	36502	36765	37029	37559	38089	38339
20	36555	36971	37235	37602	37865	38129	38659	39189	39439

 HOME-FRIENDSHIP AREA SCHOOLS
 SALARY SCHEDULE

89-90

BA	B+1	B+2	B+3	B+4	B+5	B+6	B+7	B+8	B+9
1	19823	19289	19331	20449	21064	21959	22543	23493	24347
2	19283	19552	19617	20734	21349	22244	22828	23778	24632
3	20142	20411	20476	21593	22208	23103	23687	24637	25491
4	20401	20670	20735	21852	22467	23362	23946	24896	25750
5	21260	21529	21594	22711	23326	24221	24805	25755	26609
6	22119	22388	22453	23570	24185	25080	25664	26614	27468
7	22978	23247	23312	24429	25044	25939	26523	27473	28327
8	23837	24106	24171	25288	25903	26798	27382	28332	29186
9	24696	24965	25030	26147	26762	27657	28241	29191	30045
10	25555	25824	25889	27006	27621	28516	29100	30050	30904
11	26414	26683	26748	27865	28480	29375	29959	30909	31763
12	27273	27542	27607	28724	29339	30234	30818	31768	32622
13	28132	28401	28466	29583	30198	31093	31677	32627	33481
14	28991	29260	29325	30442	31057	31952	32536	33486	34340
15	29850	30119	30184	31301	31916	32811	33395	34345	35200
16	30709	30978	31043	32160	32775	33670	34254	35204	36058
17	31568	31837	31902	33017	33632	34527	35111	36061	36915
18	32427	32696	32761	33874	34489	35384	35968	36918	37772
19	33286	33555	33620	34731	35346	36241	36825	37775	38629
20	34145	34414	34479	35586	36201	37096	37680	38630	39484

ADAMS-FRIENDSHIP EDUCATION ASSOCIATION

FINAL OFFER
JUNE 23, 1988

The Adams-Friendship Education Association proposes the current master agreement as modified by the tentative agreements and the following proposals.

Article 18 Termination of Contract.

Change 3A as follows:

3. A. In the event that the Board decides to reduce the number of teacher positions or the number of hours per day in any teacher position or the number of contract days in any teacher position, the Board shall present preliminary notices, in writing, to any affected teachers. Any notification of reduction or layoff shall be accomplished in accordance with the time frame and provisions of Section 118.22, Wisconsin Statutes.

1-12-88
 AF#EH
 Final offer

CH	DATE	DATE	DATE	DATE	DATE	DATE	DATE	DATE	DATE
0	19120	19388	19920	19920	20171	20418	20494	20494	20004
1	19388	19655	19920	20171	20418	20726	21004	21004	20320
2	19655	19923	19920	20418	20726	20994	21329	21004	20630
3	19923	20171	19920	20726	20994	21004	21777	21004	20900
4	20171	20418	19920	21004	21329	21004	22000	21004	21200
5	20418	20726	19920	21329	21777	21004	22500	21004	21500
6	20726	21004	19920	21777	22000	21004	23000	21004	21800
7	21004	21329	19920	22000	22500	21004	23500	21004	22100
8	21329	21777	19920	22500	23000	21004	24000	21004	22400
9	21777	22000	19920	23000	23500	21004	24500	21004	22800
10	22000	22500	19920	23500	24000	21004	25000	21004	23200
11	22500	23000	19920	24000	24500	21004	25500	21004	23600
12	23000	23500	19920	24500	25000	21004	26000	21004	24000
13	23500	24000	19920	25000	25500	21004	26500	21004	24400
14	24000	24500	19920	25500	26000	21004	27000	21004	24800
15	24500	25000	19920	26000	26500	21004	27500	21004	25200
16	25000	25500	19920	26500	27000	21004	28000	21004	25600

