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WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

Arbitration \*  
of \*  
AUGUSTA SCHOOL DISTRICT \*  
and \*  
WEST CENTRAL EDUCATION ASSOCIATION \*  
AUGUSTA UNIT \*  
re \*  
WERC Case 33, No. 44052 \*  
INT/ARB - 5679 Dec. No. 26616-A \*  
\* \* \* \* \*

ARBITRATION AWARD

INTRODUCTION

The Augusta School District, hereinafter called the Board or the District, and the West Central Education Association - Augusta Unit, hereinafter called the Association or the Union, were unable to reach agreement on a contract for '90-'91 and '91-'92 in negotiations starting February 19, 1990. On May 24, 1990, the Association petitioned for arbitration pursuant to Section 111.70(4)(cm)6 of the Wisconsin Statutes. An investigator found that the parties were at impasse after two meetings with them and received their final offers on August 30, 1990. On September 10, 1990, the Wisconsin Employment Relations Commission, WERC, issued an order requiring that arbitration be initiated, and, on September 14, 1990, having been advised by the parties that it had selected the undersigned to arbitrate this dispute, issued an order on September 20, 1990 appointing him as the arbitrator.

No request for a public hearing was made to the WERC and the arbitration hearing was held on December 10, 1990 in Augusta, Wisconsin. Appearing for the Board was Steven Holzhausen, Membership Consultant, Wisconsin Association of School Boards, Inc., WASB; appearing for the Association was R.F. Gilligan, Executive Director, West Central Education Association. Exhibit Books were

explained and testimony of witnesses were presented. Post hearing briefs were exchanged and sent to the arbitrator on January 18, 1991. Rebuttals were exchanged and received by the arbitrator by February 15, 1991.

#### ISSUES

SALARY SCHEDULE: The Board proposed that salary rates for each cell in the schedule be increased by \$1,175 in '90-'91 and by \$1,275 in '91-'92. The Association proposed that salary rates for each cell in the schedule be increased by 4.5% in '90-'91 and by 5.0% in '91-'92.

HEALTH INSURANCE: The Board proposes to pay \$275 plus 50% of the family premium in excess of that amount in '90-'91 ( $\$275 + [\$370.22 - \$275] / 2 = \$322.61$ ) and in '91-'92 to pay \$325 plus 50% of the family premium in excess of that amount. The Association proposes that the Board pay \$370.22 in '90-'91 (the full family premium), and 50% of the increase in the '91-'92 family premium.

DENTAL INSURANCE: The Board proposes to pay \$29.50 per month plus 50% of the increase in the family premium coverage in '90-'91 for a total of \$30.59 of the \$31.68 premium and to pay 50% of the increase over \$29.50 for the following year. The Association proposes that the Board pay the full \$31.68 family premium in '90-'91 and 50% of the increase in the '91-'92 family premium.

CHILD REARING LEAVE: The Association proposes that a clause be added to the contract providing for an unpaid leave of absence for up to one semester following child bearing and that this family leave shall also be governed by the Wisconsin Family and Medical Leave Act (Wis. Stat. 103.10).

#### BACKGROUND

The Augusta School District had been a member of the Dairyland Athletic Conference until 1990 when it joined the Cloverbelt Athletic Conference. The

Board argues that the Dairyland Conference is still the primary comparable, while the Association argues that the Cloverbelt Conference is the proper comparable. The Board argues that the contiguous districts of Cadott, Fall Creek, Osseo-Fairchild, Stanley-Boyd and Thorp, all members of the Cloverbelt Conference, are also comparable and considers that the Dairyland Conference and these contiguous districts comprise a secondary set of comparables.

The Board notes that Arbitrator Krinsky accepted the Dairyland Conference proposed by the Board in its arbitration in 1987 (MED/ARB-4239) and added to it the contiguous districts. The Board uses these same districts as its secondary list of comparables in this dispute. The Association argues that now the District has moved to another conference, the new conference, which includes the contiguous districts, should be used as the basic comparable.

The arbitrator notes that he has paraphrased the issues in dispute rather than use the exact terminology in the final offers. He does so in order to clarify the issues in dispute and believes that these are the issues described in the exhibits, briefs and rebuttals of the Board and the Association. The arbitrator also has disregarded the longevity issue because the Board states in its brief that "both parties have proposed to increase the longevity step by \$54 in each year of the agreement" (Bd. Br. p. 18) while the Association states in its brief that "Although not clear, the Employer final offer position appears to be the same as the Association's" (Assoc. Br. p. 10).

Although the amount of the longevity is not in dispute, its use in comparing settlements is disputed. The Association argues that the increase in the bench marks is the statistic to be used in determining how the Board or Association proposal stacks up against the comparables and does not include longevity in its comparisons. The Board includes longevity in computing

average salary and total compensation increases of returning teachers, and notes that over half of the teachers are on the longevity steps in '90-'91.

#### DISCUSSION

Comparables: After reviewing the District and Association arguments and the comments of Arbitrator Krinsky, this arbitrator selected, as the comparables he would use in this dispute, the districts of Cadott, Fall Creek, Osseo-Fairchild, Stanley-Boyd and Thorp. These are the only districts that both the Association and the Board listed as comparables. Also, they are the districts which are contiguous to Augusta and are in the same athletic conference as Augusta and have settled their contracts for '90-'91. Since athletic conference is regarded as the best measure of comparability, the shift from the old to a new conference suggests that districts in the new conference are either closer and/or more similar to Augusta than the districts in the old conference.

Although the average size of the five districts selected by the arbitrator as the relevant comparables in this dispute (911 members) is somewhat larger than Augusta (691), the equalized value per student of Augusta (\$109,091) exceeds the average of these districts (\$100,093). The average levy rates, school cost and state aid of these comparables of 15.01, \$4156, and \$2663 are similar to the Augusta figures of 15.21, \$4360, and \$2670. The arbitrator believes that these districts are comparable and provide sufficient information to enable him to analyze the final offers.

The arbitrator wishes to emphasize that although he chose these five districts which are contiguous to Augusta and are in the same athletic conference as Augusta, he is not suggesting that the parties should adopt such a narrow set of comparables in future disputes. Ideally, the parties should

agree on comparables and not leave this task to arbitrators. Arbitrators are forced by the process to use the data presented to them. They do not have access to all of the relevant information known to the parties but only presented to the arbitrator by either party if it supports its position. Arbitrators are not as familiar with the area as the parties and the parties can do a much better job of selecting comparables, particularly if they do it well in advance of any settlements and are truly selecting districts which are comparable rather than districts which will improve the chances of winning in arbitration.

Salary Schedules: The arbitrator decided that, since he was examining health and dental insurance separately, there was no need to examine total compensation when analyzing the proposed salary increases. Also, the arbitrator believes that, because, in recent years, the Wisconsin Education Association Council and Wisconsin Association of School Boards have emphasized the amount of money received by returning teachers as the key item to look at in comparing settlements, this variable has increased in importance since this arbitrator rendered his decision in the Albany case referred to by the Association (Albany School District, Decision No. 35262, 5/86). Therefore, the arbitrator compared the average dollar increase including longevity received by returning teachers as well as the dollar and percent increase in benchmarks.

The average dollar and percent increases including longevity in '90-'91 received by returning teachers in the comparables selected by the arbitrator (Cadott, Fall Creek, Osseo-Fairchild, Stanley-Boyd and Thorp) were \$1739 and 6.2% compared to \$1755 and 6.2% under the Board offer and \$1859 and 6.6% under

the Association offer. By the criterion of average increase of returning teachers, the Board offer is preferable to that of the Association.

Only two of the five comparables selected by the arbitrator had settled their salaries for '91-'92 and the arbitrator did not believe that these settlements provided sufficient data to enable him to make meaningful comparisons either for average increases received by returning teachers or for average increases in bench marks. Rather than select additional comparables, the arbitrator decided that since the difference in the offers in '91-'92 was essentially the same as in '90-'91, he would use the '90-'91 data to determine which salary offer for both years was preferable.

Turning now to bench mark comparisons, the arbitrator finds that the average increase of the bench marks of the five comparables exceeds the increases under either the Board or Association offers (See Table 1)

	<u>TABLE 1 Increases In Bench Marks</u>					
	-- Dollars --			-- Percents --		
<u>Comparables</u>	<u>Board</u>	<u>Assoc.</u>	<u>Comparables</u>	<u>Board</u>	<u>Assoc.</u>	
BA Base	\$ 925	\$1175	\$ 740	4.9%	7.1%	4.5%
BA 7th	1140	1175	984	5.0	5.4	4.5
BA Max	1258	1175	1065	4.8	5.0	4.5
MA Base	1161	1175	896	5.6	5.9	4.5
MA 10th	1454	1175	1294	5.3	4.1	4.5
MA Max	1606	1175	1471	5.2	3.6	4.5
Sched Max	1729	1175	1538	5.2	3.4	4.5
Average of Bench Marks	\$ 1325	\$1175	\$1141	5.1%	4.9%	4.5%

Clearly the Board offer more closely parallels the increase in the bench marks of the comparables than the Association offer. Also, one notes the unusual situation in which the Association raises the conventional bench marks by less than the Board offer. This occurs because the benchmark analysis gives equal weight to each bench mark and does not take into account the fact that over half of the unit is concentrated near the top of the scale where the increases

increases under the Association offer are larger (See top three bench marks (MA Max, MA 10th and Schedule Max). In any event, the above data suggest that either offer is modest compared to the average of the comparables.

One further benchmark examination was done by the arbitrator because of the difference resulting from the fixed dollar increase of \$1175 offered by the Board and the fixed 4.5% increase offered by the Union. This results in greater increases for teachers under \$26,111 under the Board offer but less for those making more than that amount. In order to determine which type of wage increase made more sense, the arbitrator turned again to the comparables and computed how far Augusta was from the average of the comparables at five bench marks and how much further or less Augusta deviated from the bench marks under each offer. The justification for fixed dollar increases is usually that the schedule is low at the base and in the BA lanes and high at the Maximums, particularly in the MA lanes.

As can be seen from Table 2, the Augusta schedule is far below the average of the comparables at the lower end and somewhat above at the higher end, thereby lending support to the superiority of a fixed dollar offer. Also, as can be seen by inspection of Table 2, the Board offer lessens the differential more (or increases it less) than the Association offer at the low end of the schedule while the reverse is true at the high end. On the whole, therefore, the bench mark analysis, like the analysis of the average dollars per returning teacher, suggests that in so far as the salary portion of the offers is concerned that the Board offer is preferable to the Association offer.

TABLE 2 BENCH MARK COMPARISONS & DOLLAR DEVIATIONS  
(Excludes Longevity)

<u>year &amp; I.D.</u>	<u>BA Base</u>	<u>BA Max</u>	<u>MA Base</u>	<u>MA Max</u>	<u>Sch.Max</u>
'89-'90 average of Comparables	\$18,832	\$26,373	\$20,636	\$30,955	\$33,386
Augusta	16,444	23,673	19,921	32,687	34,178
+/- Av.of Comps.	-2,388	-2,700	-715	+1,732	+792
'90-'91 average of Comparables	19,757	27,631	21,797	32,561	35,115
Augusta Board	17,619	24,848	21,096	33,862	35,353
+/- Av. of Comps.	-2,138	-2,783	-701	+1,301	+228
Augusta Assoc.	17,184	24,738	20,817	34,158	35,716
+/- Av. of Comps.	-2,573	-2,893	-980	+1,597	+601

Health Insurance: In '89-'90, the employers in the five comparable districts paid an average of 93% of the family premiums. In three districts (Cadott, Stanley and Thorp), the employer still paid 100% of the premium. In '90-'91, only one employer (Stanley) continued to pay 100% of the family premium. Clearly, the trend is toward payment of some portion of the premium by the employee. Interestingly, despite the drop from full payment by two districts, the average for the five districts rose to 95%. Also, as can be seen from Table 3, the Augusta family premium is slightly higher than the average of the five districts.

TABLE 3 HEALTH INSURANCE COSTS

<u>District</u>	<u>1989-1990</u>			<u>1990-1991</u>		
	<u>Fam. Prem.</u>	<u>Bd. Share</u>	<u>Bd. Cost</u>	<u>Fam. Prem.</u>	<u>Bd. Share</u>	<u>Bd. Cost</u>
Cadott	\$260.38	100%	\$260.38	\$346.31	95%	\$328.99
Fall Creek	299.16	85	256.00	344.20	96	330.00
Osseo	331.20	82	272.28	374.04	89	331.20
Stanley	322.90	100	322.90	372.70	100	372.70
Thorp	254.92	100	254.92	339.04	96	325.48
Average	\$294	93%	\$273	\$355	95%	\$338
Augusta	324.60	85%	\$275.09	\$370.22	Bd. 87.1% Assoc. 100%	\$322.61 \$370.22



Very little data are available for '91-'92. The employer will continue to pay 95% of the premium in Cadott and will continue to pay 96% of the premium in Fall Creek (See Un. Exs. 82. & 136). If one assumes that the Augusta premium will increase by 15%, as both the Association and District estimate, the Board will be paying 82.3% of the '91-'92 family premium under its offer compared to 93.5% under the Association offer.

So far as the dollar amounts paid toward the '90-'91 family premium under each offer, the District would pay \$322.61 if its offer is chosen which is about \$15 per month less than the average paid by the comparable districts. If the Association offer is chosen, the District would pay \$370.22 which is \$32 per month more than the average. If we assume that the average family premium of the comparables also rises 15% in '91-'92, and that the employers continue to pay 95% of the premium, the average dollar payment of the comparable employers will be \$387.84. Under the District offer for '91-'92, using the same assumption as before, the District would pay \$350.38. Under the Association offer, the District would pay \$397.99. Therefore, in '91-'92, the District would be paying about \$10 more than the average of the comparables under the Union offer and would be paying about \$47 less than the comparables if its offer is chosen.

It appears that the Association offer on health insurance is slightly preferable than the District offer because it is closer to the pattern set by the five districts with which Augusta is being compared. It is true that full payment by the District in '90-'91 exceeds the payments made by the comparables, but on a percent basis, it is still closer to the average of the comparables than the 87.1% paid by the District under its offer. Furthermore,

on the average for the two years, the Association offer is closer to the pattern than the District offer.

Dental Insurance: The difference between the Association and District offers on dental insurance is very slight with the District paying \$1.09 a month more in '90-'91 under the Association offer than under its offer. As a percent, the District offer of 96.6% is closer to the 83% average of the comparables than the 100% proposed by the Association, although three of the five comparables paid 100% of the family premium. In dollar terms, the Association proposal which calls for full payment of \$31.69 per month by the District is closer to the \$35 average of the comparables than the \$30.59 which the District would be paying under its offer. The arbitrator believes that because the offers are so close on this item and because the item is far less weighty than the other issues, he will consider that either offer on dental insurance is acceptable and will select a final offer without regard to the minor difference on this issue.

Child Rearing Leave: Although the Association claims its proposal that teachers be granted an unpaid leave for a semester for child rearing is the same as the former policy of the District, the arbitrator respectfully disagrees. The former policy stated:

Paternity Leave - Teachers may be granted an extension of maternity leave up to a maximum of one semester total for paternity leave, provided the District is able to obtain a suitable substitute. Paternity leave will be unpaid and must be approved in advance.

The teacher requesting maternity/paternity leave is expected to keep the welfare of their students in mind by arranging beginning/ending leave dates that co-incide with quarter breaks, etc. if possible. (Union Exhibit 96)

The proposal of the Association states:

Child Rearing Leave - An unpaid leave of absence for up to one semester following child bearing shall be granted to a teacher requesting such leave. This family leave shall also be governed by

the terms of Wisconsin's Family and Medical leave Act (Wis. Stat. 103.10). (Union Exhibit 4)

Clearly an "extension of maternity leave" can not apply to a male teacher in cases of natural birth, although it could apply in instances of adoption. Union Exhibit 91 shows that the extension of maternity leave for child rearing has been granted solely to females. Therefore, the arbitrator believes that the language of the former policy and the practice under it suggest that males usually were not eligible for paternity leave unless, as in an adoption, they had first taken maternity leave. The arbitrator believes that selection of the Association offer on this point would expand the rights of teachers by giving males the right to unpaid child bearing leave after the female has taken a thirty day maternity leave.

On the other hand, the new Board policy --- reflecting the new Wisconsin statute allowing both males and females six weeks of unpaid child rearing leave --- reduces the one semester unpaid leave for new mothers to six weeks. It seems to the arbitrator that the new Board policy represents a greater deviation from the past practice than does the Association proposal. Although it gives males the opportunity to take six weeks of unpaid leave, no evidence was introduced to show that males are clamoring to use child rearing leave and the arbitrator assumes that, for the most part, child rearing leave will continue to be sought by females. Therefore the arbitrator finds that, on this issue, the Association offer is preferable to the Board offer.

Additional Factors To be Considered Under Section 111.70(4)(cm): Factor, "g," the cost of living factor is usually assumed to be taken care of by reference to the increases granted by the comparables. Presumably, they have taken COL changes into account and there is no need to do so separately. However, the Board cites changes in the COL and suggests that its offer is

preferable based on this factor. The arbitrator disagrees on this point. Although the Board suggests the use of the small metro area index, the arbitrator will rely on the CPI(u) because he believes that the CPI(u) is the index used in most comparisons. The CPI(u) rose 4.5% between June '89 and '90 according to Board Table III. Therefore, under the Board offer experienced teachers will suffer a decline in real wages. The scattergram attached to the Board's final offer (Union Ex. 5) shows that about 58% of the unit (those in the top lane in BA+6 and above) will receive salary increases of less than 4.5%. this occurs because of the flat dollar increase.

"Status Quo" and "Quid Pro Quo" are invoked "Ad Nauseam" (The arbitrator can also use a latin phrase) by the Board and the Association in support of the proposition that various parts of their offers reflect the status quo and that the offer of the other party does not contain a quid pro quo for a deviation from the status quo. As can be detected from the above sentence, the arbitrator thinks that this argument, probably raised under factor "j" is somewhat overworked. In particular, this applies to the argument about the share of the family health insurance premium to be paid by the teacher.

The Board argues that the "status quo" was the \$275 paid by the Board toward the family health insurance premium in '89-'90 while the Association argues that the "status quo" was the fact that this \$275 payment covered the full cost of the family health insurance premium. Both are correct but the arbitrator believes that the use of the dollar figure in the Agreement was a demand put forth by managements to make unions realize that continuation of full payment of the premium involved an expenditure of additional funds.

If the contract called for full payment of the premium, the union would argue that this is something that the union already had and that it did not

need to negotiate this benefit again. By using the dollar figure, managements have forced unions to recognize that the increased cost of the premium is something that must be included in the package being negotiated, even though the cost was incurred in order to maintain a benefit---fully paid insurance. In this dispute, the Board had paid the full cost of the family premium in the first year of the previous contract and shared on a 50/50 basis the increase in cost during the remainder of the contract. That was the status quo which the union wishes to continue.

This arbitrator believes that, more important than whether it is or is not a continuation of the status quo, is whether it is justified by the patterns and trends that exist (factor "d"), and the ability of the unit of government to meet these costs (factor "c"). Also, the comparisons noted under factors "e" or "f" may be relevant. In this connection, although it is a very minor point under factor "e", the arbitrator notes that the District pays the full premium of its non bargaining unit personnel (Union Ex. 85).

The arbitrator recognizes that he may not have addressed all of the arguments raised by the Association and the Board in their briefs (57 and 52 pages long respectively) or rebuttals ( 7 and 11 pages) but assures the parties that he has considered all of them and has reviewed their extensive exhibit books containing 136 and 148 exhibits respectively, many of which were multi page.

#### SUMMARY

The arbitrator finds that the Board offer on salaries is preferable under the statutory criteria to that of the Association but that the reverse is true in so far as health insurance is concerned. The arbitrator finds that the Association offer on child rearing leave is preferable and that the difference

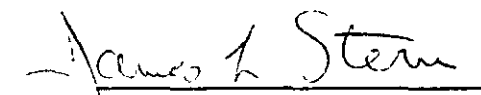
in the dental issue is small and has little weight compared to the other issues. The salary and health insurance issues are the two major issues and, as the parties acknowledge in their brief, the choice of final offers will be determined by the findings on those issues.

The arbitrator finds that although both offers are reasonable under the criteria in the statute, he finds the Association offer to be slightly preferable to the Board offer and will select the Association offer. Probably the most important reason for the selection of the Association offer is that the Board proposes to pay only 87% of the family insurance premium in '90-'91 and about 82% in '91-'92, assuming the estimate of a 15% premium increase is correct. This health insurance proposal is clearly out of line. And, although the Board salary proposal is preferred to the Association proposal, the Association proposal is not out of line with the comparables. In fact, as the bench mark analysis indicated, both proposals are modest compared to the average increases of the bench marks of the comparables.

#### AWARD

After careful consideration of the exhibits, testimony, briefs and rebuttals of the Association and the District, the arbitrator finds that the Association offer is preferable to the District offer when measured against the criteria in Wisconsin Statute 111.70(4)(cm)(7) and therefore selects the final offer of the Association and orders that it and the agreed upon stipulations be placed into effect.

3/13/91  
March 13, 1991

  
James L. Stern  
Arbitrator