STATE OF WISCONSIN
BEFORE THE ARBITRATOR

In the Matter of the
Arbitration of the Petition of:

BELMONT EDUCATION
ASSOCIATION (a/k/a Belmont
Teachers Association)

To Initiate Arbitration
Between Said Petitioner and

BELMONT COMMUNITY SCHOOL
DISTRICT

Case 12 No. 46650
INT/ARB-6253

Decision No. 27200-A

Sherwood Malamud
Arbitrator

APPEARANCES:

Marvin A. Shipley, Executive Director, South West Education Association, P.O. Box 722, Platteville, Wisconsin 53818-0722, and Joyce Bos, appearing on behalf of the South West Education Association and the Union.

Barry Forbes, Wisconsin Association of School Boards, Staff Counsel, 122 W. Washington Avenue, Madison, Wisconsin 53703, appearing on behalf of the Municipal Employer.

ARBITRATION AWARD

Jurisdiction of Arbitrator

On April 1, 1992, the Wisconsin Employment Relations Commission appointed Sherwood Malamud to serve as the Arbitrator to issue a final and binding award pursuant to Sec. 111.70(4)(cm)6.c., Wis. Stats., with regard to an interest dispute between the Belmont Education Association, also known as the Belmont Teachers Association, hereinafter the Association, and the Belmont Community School District. Prior to the commencement of the hearing scheduled for June 10, 1992, the Arbitrator, with the consent of the parties, attempted, without success, to mediate the dispute. The interest arbitration hearing commenced during the early evening of June 10 and was completed on that date. With limited exceptions, the evidentiary record was closed, as of that date. Briefs and reply briefs were exchanged through the Arbitrator by August 17, 1992, at which time the record in the matter was closed. Based upon a review of the evidence and arguments presented, and upon the application of the criteria set forth in Sec. 111.70(4)(cm)7.a.-j., Wis. Stats., to the issues in dispute herein, the Arbitrator renders the following Award.

SUMMARY OF THE ISSUES IN DISPUTE

Both the Association and the Employer propose a two year successor agreement covering the 1991-92 and 1992-93 school years. The Arbitrator delineates five areas in dispute. The first concerns the matter of comparables. Although this is not the first interest arbitration between the parties, the parties cannot agree on the comparables which should govern the analysis of this dispute.

In addition, the dispute covers the matter of wages, insurance, extra duty pay and the voluntariness of the performance of extra duties such as bus chaperoning, ticket taker at games, scorer, timekeeper, etc., and calendar. The Arbitrator will briefly summarize the positions of the parties on each of these matters.

1. COMPARABILITY

The Board proposes that the 31 school districts that comprise CESA 3 serve as the comparables for the determination of this dispute. The Association proposes that the school districts in the Tri-County area comprise the comparables in this case.

2. WAGES

Both the Association and the Employer agree that the 1991-92 and 1992-93 Agreement will contain an additional sixth lane for teachers with a Master's degree plus 24 credits.

District Offer

The District proposes to increase the 1990-91 schedule by 5.75% per cell for the 1991-92 school year and iincrease the 1991-92 schedule by 5.5% per cell for the 1992-93 school year.

Association Offer

The Association proposes to increase the 1990-91 salary schedule by 6% per cell for the 1991-92 school year and increase the 1991-92 salary schedule by 5.95% per cell for the 1992-93 school year.

Frozen Step Increment

District Offer

The District proposes to retain the payment of $475 for the first year in which a teacher is above the top step or maximum of a particular lane of the salary schedule. Thereafter, the District proposes that for each group of three credits earned by a teacher, that teacher shall be paid a quarter of the

difference between the lane increment; i.e., the difference in pay between the lane the teacher is located and the next higher lane. For teachers whose credits are sufficient to qualify them for advancement to the new lane created under this Agreement, the MA plus 24 credit lane, they shall be placed in that lane. However, the credit increments earned by them which go to qualify them for advancement to the new lane shall be debited from the lane differential between the MA plus 12 and the MA plus 24 lane. All other teachers who have earned lane increments under the prior formula which provided $450 per grouping of three credits earned shall be grandfathered and be permitted to retain that increment under this Agreement. The maximum number of increments at the MA plus 24 lane is four (12 credits). The increment for teachers in the MA plus 24 credit lane is the one-quarter of the differential between the MA plus 12 and the MA plus 24 lane.

Association Offer

The Association proposes the elimination of the $475 payment for the first year that a teacher is at the top of a lane. In its place, the Association proposes the payment of $300 for each group of three credits earned with a maximum payment of two such $300 increments in all lanes except the MA plus 24 lane. A teacher in that lane, may earn a maximum of three such increments. The Association would grandfather all teachers, including those who have earned sufficient credits to place them in the MA plus 24 lane and permit them to keep all previously earned frozen step increments..

3. HEALTH AND DENTAL INSURANCE PREMIUM

Both the District and the Association agree that the Employer shall pay the full premium for single coverage for the term of the Agreement. The parties differ as to the amount of the Employer's contribution toward the premium for family coverage.

District Offer

The Employer proposes to pay $412.52 of the $444 combined health and dental insurance premium for the 1991-92 school year. For the 1992-93 school year, it proposes to pay 85.443% of the combined health and dental insurance premiums.

Association Offer

The Association proposes that the District pay $420 of the premium for the 1991-92 school year. It proposes that the District pay 115% of the 1991-92 premium for family coverage for the 1992-93 school year.

4. EXTRA DUTY PAY

The parties disagree as to the amount to be paid to teachers who serve in the capacity of bus chaperon, ticket taker at various school events, scorer, timekeeper, etc. The District proposes to continue to carry over the exact amounts paid under the 1990-91 agreement for these various extra duty functions. For its part, the Association proposes a 10% increase in the amount of pay stated in the agreement for each of these functions.

In addition, the Association maintains that the purpose of its proposal is to free teachers from performing these functions, if they do not desire to do so. In other words, the Association proposes that the assumption of these tasks be on a voluntary rather than on an involuntary basis. The language change which it proposes in its final offer reads as follows:

> These duties shall be offered first to staff members and then to others as the board sees fit.

For its part, the District proposes no language change on this issue.

5. CALENDAR

The Association proposes new language which provides for the makeup of snow days at the end of the school year. At present, the parties negotiate when those snow days are to be made up.

The Employer proposes that the status quo on this issue be retained.

STATUTORY CRITERIA

The criteria to be used to resolve this dispute are contained in Sec. 111.70(4)(cm)7, Wis. Stats. Those criteria are:

a. The lawful authority of the municipal employer.
b. Stipulations of the parties.
c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
d. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services.
e. Comparison of the wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with

the wages, hours and conditions of employment of other employes generally in public employment in the same community and in comparable communities.

f. Comparison of the wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes in private employment in the same community and in comparable communities.

g. The average consumer prices for goods and services, commonly known as the cost-of-living.

h. The overall compensation presently received by the municipal employes, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

j. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

BACKGROUND

The Belmont Community School District lies almost entirely within LaFayette County. Agriculture dominates the economy of LaFayette County. More than half of the District's citizens who reside in the Belmont Community School District are employed in farming or agriculture related businesses or the processing of agricultural products. There are approximately 450 students in the Belmont Community School District who are taught by 35 FTE teachers in the bargaining unit.

The parties presented extensive documentary evidence in support of their respective positions. The District generated a large number of exhibits. Its brief is 76 pages in length. The parties presented a total of 126 pages in briefs to the Arbitrator.

The Employer costs the dollar difference over the two year term of this Agreement to total approximately $16,000. In this case, the Arbitrator is asked to select between two reasonable offers. Each offer reflects the constraints and needs of each of the two parties.

In light of the length of the arguments presented, the Arbitrator will not summarize the positions of the parties in a separate section. Rather, those positions are set forth in the discussion of each of the issues in this case, as necessary, to explicate their arguments with the purpose of providing a better understanding of the Arbitrator's analysis and the determination made in the application of the statutory criteria to the issues in dispute, herein.

With regard to the organization of this Award, in the discussion section which immediately follows, the Arbitrator first addresses the comparability issue. Then, each of the issues denoted above are addressed seriatim. The applicable statutory criteria are analyzed and applied to each of the issues in dispute. However, many of the criteria either were not argued by the parties and/or do not serve to distinguish between the final offers of the parties. Accordingly those criteria are not included in the Discussion, below. At the conclusion of the Award, the Arbitrator weighs the determinations reached on the issues in dispute, and on the basis of the application of the statutory criteria to the issues in dispute and the weight accorded to each of these issues, the Arbitrator selects the final offer of the Association or the Employer for inclusion in the successor Agreement.

DISCUSSION

COMPARABILITY

In his interest arbitration Award between these parties for the 1988-89 and 1989-90 school years, Arbitrator Marvin Hill, Jr. confronted the comparability issue. He established that the most appropriate group of school districts to which the wages, hours, and conditions of employment of teachers in the Belmont Community School District are to be contrasted and compared are those school districts located in the Blackhawk Athletic Conference which include Belmont, Benton, Bloomington, Cassville, Highland, Potosi, Shullsburg and West Grant. Neither the District nor the Association dispute the appropriateness of Arbitrator Hill's identification of the Blackhawk Athletic Conference as the grouping of school districts most comparable to Belmont. However, at the time of the hearing in this matter, only three of the eight athletic conference schools had settled for the 1991-92 school year. None had settled for the 1992-93 school year. Arbitrator Hill confronted a similar situation in which an insufficient number of districts, four, had settled for the 1989-90 school year in dispute. Arbitrator Hill, at page 12 of his award, states that:

> As noted by the Administration, Belmont's student full-time equivalent (FTE) and teacher FTE is much closer to the average of the Blackhawk Athletic Conference than it is to either of the Association's comparison groups. Board Exhibits 14a and 14b illustrate with specificity the size disparity between Belmont and many of the schools in the Association's primary and Tri-County comparison groups. Analysis of this data indicates that for 1988-89, the Athletic Conference is indeed a better comparable for evaluating the parties' final offers than the Association's bench-mark jurisdictions.

Arbitrator Hill then concludes on the basis of a benchmark analysis that the Association offer was to be preferred. The significance of the statement of Arbitrator Hill at page 17 of his Award is the basis of the dispute in this proceeding. The Association maintains that Arbitrator Hill selected the Tri-County school districts as comparables to Belmont. The pertinent language of the Hill Award is as follows:

> The record reveals that the Association makes the better case with regard to comparability while the Administration arguably makes the better argument with regard to the interest and welfare criterion.

It is apparent to this Arbitrator that Arbitrator Hill's use of the term comparability is to the comparability criterion rather than to the comparables; i.e., the school districts to which Belmont is to be contrasted and compared. If any doubt remains as to Arbitrator Hill's determination as to the composition of the comparability grouping to be used in the application of the statutory criteria in an interest arbitration dispute, his comments at page 11 of the Award are most enlightening:

> As argued by the Teachers to use the District's proposed athletic conference, and no other bench-marks, the Arbitrator would be limited to just four settlements for comparison in the 1989-1990 portion of the instant dispute. Further, the Administration's proposed comparability group would require the Arbitrator to selectively adopt comparable school districts from within the same economic/geographic/job market region set forth by the Association. The legislative intent encompassed in the 1986 modifications would accordingly be lost.
>
> My ruling is that while both parties' comparable benchmarks can be considered under (cm)7(d-f) (especially when there are few settlements for

> 1989-90), under this record the primary comparison group is the athletic conference. . . .

This Arbitrator does not read Arbitrator Hill to establish any primary group of comparables other than the Blackhawk Athletic Conference schools. Where the data from those schools is lacking, Arbitrator Hill looked to the data presented by both the District and the Association to consider which offer to select on the basis of the comparability criterion.

The Tri-County school districts proposed by the Association as those most comparable to Belmont are included in the CESA 3 list of comparables proposed by the District. There are 17 school districts in the Tri-County list of comparables. There are 31 in the CESA 3 group. In the analysis which follows, the Arbitrator finds that the use of the District or Association list of comparables provides the same result. This Arbitrator believes that the parties, in the first instance, should establish their own framework for bargaining. Since the parties have been to arbitration on a number of occasions, a strong argument can be made for this Arbitrator to identify for the parties the appropriate comparability pool of school districts. However, since the precise identification of that pool is not necessary to the determination of this dispute, the Arbitrator refrains from establishing that comparability pool, in this case.

CESA 3 inclusdes those districts proposed as comparables by the Association; it provides a broad range of salary levels and increases at the benchmarks: The District proposal of 31 comparables provides a database so broad that, even in the 1992-93 school year, there are 8 settlements which provide an excellent comparability base for the application of the comparability criterion. The Arbitrator employs the District's data and exhibits, specifically, those contained in Board Exhibits 24 and 26 for the analysis which follows. However, the Arbitrator's use of that data is not for the purpose of identifying a comparability grouping other than the Blackhawk Athletic Conference; rather it is for expedience, given the evidentiary status of this case.

The school districts which comprise CESA 3 in addition to the Belmont Community School District are: Argyle, Barneveld, Benton, Black Hawk, Bloomington, Boscobel, Cassville, Cuba City, Darlington, Dodgeville, Fennimore, Highland, Iowa-Grant, Ithaca, Kickapoo, Lancaster, Mineral Point, North Crawford, Pecatonica, Platteville, Potosi, Prairie du Chien, Richland, River Valley, Riverdale.

WAGES

Introduction to the Wage Issue

The parties presented evidence and argument concerning the seven traditional benchmarks which are the BA base, BA seventh step (or sixth

step if the first step is step zero), MA base, MA tenth step (ninth step if the first step is step zero), MA maximum and Schedule maximum. In Reedsville School District 22935-A (3/86), this Arbitrator stated the following concerning the traditional benchmarks at page 8, footnote 1, as follows:

> This Arbitrator employs an eighth benchmark at the BA Lane Maximum in his benchmark analysis. This Arbitrator finds that an analysis of a matrix salary schedule limited to the BA Lane at its base, at the seventh step and at the Maximum provides little insight into the kinds of increases received by teachers moving through the schedule. Accordingly, the Mediator/Arbitrator insisted that the parties provide sufficient data and argument relative to the lane immediately preceding the MA Lane in which a teacher with a BA plus whatever number of credits are identified (but without a Master's Degree) may achieve at the maximum step of that lane. For example, under the Reedsville schedule, that is the BA plus 30 credits lane. In this manner, it is possible to obtain some picture as to the progress of a teacher through the BA plus 6 credit, plus 12 credit, plus 18 credit, plus 24 credit, and plus 30 credit lane of the salary schedule. Often, the parties either increase the experience increment or educational increment at the master's lanes. The BA lane maximum benchmark provides, at least, some picture of what has occurred in the various BA lanes of the schedule. Furthermore, the BA lane maximum benchmark provides balance to the analysis. For in the MA portion of the analysis it is the benchmark schedule maximum. The BA lane maximum is the counterpart to that benchmark in the BA portion of the salary schedule.

In the years since, this Arbitrator is of the view that it is inappropriate to overemphasize the BA base column of a matrix salary schedule. To do so, not only ignores the emphasis today on continuing training for teachers, but it prevents a careful analysis and tracking of the progress of a teacher through the salary schedule as the teacher obtains additional credits towards a Master's degree and beyond to the Schedule maximum.

This Arbitrator believes that the traditional benchmarks have served the parties well. However, to meet the realities of continuing teacher education and to more accurately track a teacher's progress through the salary schedule, the following benchmarks would be more appropriate: the BA base; the BA lane prior to the Master's lane where the Bachelor degree credits do not overlap with Master's degree credits-- at the seventh step;

the BA lane maximum which would be again the maximum salary paid at the lane prior to the Master's degree lane; the MA base; the MA tenth step in the lane before the Schedule maximum, and then the Schedule maximum.

However, the Arbitrator did not advise the parties of his feelings with regard to the benchmarks. Consequently, in the analysis of the evidence, the Arbitrator has employed the BA base and BA Maximum, MA base and MA tenth step and MA Maximum, as well as, the Schedule maximum as the benchmarks which are determinative of this case. The Arbitrator has not employed the BA seventh step and has provided less emphasis to the BA Maximum step. The emphasis on continuing teacher training requires that the BA base lane maximum, which is above the seventh step, should be de-emphasized. By the seventh or eighth year of teaching, a teacher should be in a lane other than the BA base lane.

The District argues that at least 6 of the 31 school districts in CESA 3 have made some adjustments in the course of the history of their collective bargaining, specifically in the 1980s up to 1991-92 so that the salary schedules employed by these districts do not accurately reflect years of service with placement on the salary schedule. These districts have employed such devices as frozen increments, midyear splits, etc. in order to achieve a settlement during these years. The District puts forth this argument in support of its position that the Belmont Community School District salary schedule understates the salaries paid to its teachers. The District provides a longevity step and it has provided a $450 credit increment for units of three credits obtained by teachers who are at the maximum of a particular salary lane. As a result, teachers are paid $1,000 or in excess of $2,000 above the maximums which appear in the salary schedule. The group of CESA 3 settled districts for 1991-92 is 21. The use of these districts and the distortions reflected in their schedules do not substantially impact upon the data generated by the computation of the average salary paid at a particular benchmark for 1991-92. For the 1992-93 school year, since only eight school districts are used as the base of comparison to Belmont, the Arbitrator has deleted Darlington and Seneca school districts which are two of the six districts which have settled for 1992-93 and which have employed one or more of the devices for settlement referred to by the District, in the course of their bargaining history.

The Arbitrator uses, six rather than eight settled school districts for the 1992-93 school year, as a basis of comparison to Belmont in response to the District's legitimate argument concerning the level of understatement contained in the salary structure in Belmont. However, it is important to note that even if districts employ devices to achieve settlements which result in a teacher with "x" number of years of service appearing at step "y" rather than at step "x" of the salary schedule, the agreement by a union and an employer to the payment of a specific salary for a certain number of years experience and training is an agreement on an "ought" statement. In other

words, that employer and union are agreeing that a teacher with "x" number of years of service and training should be paid "x" number of dollars. Then for the duration of that agreement, that particular district may not pay "x" number of dollars. But the identification of the appropriate level of salary is noteworthy and in and of itself provides a basis for use of the salary schedule for purposes of comparability analysis.

The Arbitrator now turns to apply the statutory criteria to the wage issue.

The Association proposes a 6% per cell increase; the District proposes to increase each cell on the 1990-91 salary schedule, which was established through a one year voluntary agreement, by 5.75%. The difference between the parties in the first year of this two year successor Agreement is a quarter of 1%. Although there is not much of a difference between the parties on this issue, both parties dedicate a great deal of evidence towards establishing the preferability of their respective proposals.

d. Comparability-1991-92

There are two perspectives to the salary issue. First, and in the opinion of this Arbitrator foremost, is the identification of the salary level paid at a particular benchmark and the relationship of that salary level to the average salary level paid by comparable school districts. Second, the salary proposals proffered through final offers provide for a change in salary from one year to the next; the salary increase generated by each proposal may be compared to the salary increases provided by other school districts, and other public and private employers under the other criteria of the statute.

The Arbitrator referred Board Exhibits 24 and 26 in reaching the following conclusions.[1] For calendar year 1991-92, the District proposes a BA base of $21,426. The average salary of the 21 CESA 3 school districts is a BA base of $21,248. The Association proposes a BA base of $21,477. At this benchmark, the District offer is not only above the average but closer to it. Its offer is to be preferred at this benchmark.

At the MA base, the District proposes a base of $23,356. The average among the 21 CESA 3 settled school districts for 1991-92 is $21,600. The Association proposes a MA base of $23,411. Again, the District offer is $1,756 above the average. That is a substantial amount above the average.

[1] There is a dispute between the parties as to the percentage and dollar increase in 3 of the districts common to the position of both parties, especially Boscobel. The District submitted the settlement report sheets from the Districts in question. The Association presented no documentary evidence on this point. The Arbitrator relied upon the District figures in this discussion.

The Association offer would extend the differential above the average. Accordingly, the District offer at this benchmark is much preferred.

At the Master's tenth step (or ninth step as calculated by the District due to its counting from zero step), the average of 20 districts among the comparables with salaries at that step is $31,085. The District proposes a salary level at that benchmark of $29,229. The Association proposes a salary of $29,298. The District offer is $1,856 below the average. The Association offer is $1,787 below the average. The Association offer maintains the salary level at this benchmark at substantially below the average but closer to it. The Association offer is preferred at this benchmark.

It is important to note at this juncture that the notion of comparability drives salaries to the mean. Unless agreement of the parties establishes salary levels far above or below the average, in interest arbitation proceedings, salaries substantially above average are driven towards the average, and salaries below average are driven up towards the average.

At the BA maximum, the District proposes a salary level of $27,299. The Association proposes a salary level of $29,364. The average among the 21 settled CESA 3 school districts is $29,466. The differential is substantial. However, the Arbitrator gives less weight to this benchmark.

At the MA Maximum, the District proposes a salary level of $30,595. The Association proposes a salary level of $30,667. The average salary level at this benchmark among the 21 settled CESA 3 school districts is $34,517. The District offer is $3,922 below the average. The Association offer is $3,850 below the average. It is at this benchmark that the Arbitrator has taken into account Board Exhibit 30b-30e. In this exhibit, the District details the impact of the frozen credit increment and longevity payment on incumbent teachers who are on the schedule. At the MA maximum benchmark, even if one were to apply the maximum amount of frozen credit increment plus longevity achieved by any teacher at the BA 40/MA Lane; e.g., Zita Harrison, who receives $1,350 above the maximum at that lane, the result is that the District offer remains $2,572 below the average. Stated another way, if the $1,350 were added to the proposed salary level at this benchmark of the District, $30,595, it would result in a salary level of $31,945. Only the Highland School District would have a salary level below that of Belmont. The Arbitrator concludes that the Association offer, which is closer to the average, is to be preferred.

At the Schedule maximum benchmark, the District proposes a salary of $31,882. The Association proposed salary is $31,957. The average among the 21 settled school districts is $36,761. The Arbitrator employed the chart included at page 30 of the District's brief concerning the salaries which would be paid to two named employees, Miller and Lorentz, as a result of their movement to the new MA plus 24 credit lane, as well as, their retention of the frozen credit increment under the Association proposal and

the salary level they would receive under the District offer. Again, the average of the 21 CESA 3 school districts at the Schedule Maximum is $36,761. Miller would be paid $33,962 under the District offer and $34,704 under the Association offer. That salary level would still be in excess of $2,000 below the average of the CESA 3 districts.

Lorentz would be paid $31,970 under the District offer and $32,067 under the Association offer. Again, that salary level would be substantially below the average paid by CESA 3 schools at this benchmark.

The above benchmark analysis clearly indicates that the Association offer is preferred at the MA maximum, Schedule maximum and MA tenth step, as well as at the BA maximum benchmark. The District offer is preferred at the BA and MA Base. The benchmark analysis of the actual salary levels paid to teachers at these benchmarks provides strong support to the adoption of the Association offer.[2]

At page 20 of its brief, the District includes a table detailing the average salary increase per returning teacher of the 21 settled CESA 3 school districts and contrasts those settlements to the offers of the District and the Association for 1991-92. The Association average salary increase per returning teacher is $44 above the average. The District offer is $33 below the average. The one-quarter of 1% differential in the salary proposals of each is reflected in this chart. The $11 differential from the average increase per returning teacher provides some small support to the selection of the District offer. However, the benchmark data with regard to salary levels far outweighs the data identified by the table on page 20 of the District's brief.

Frozen Step Increment

To the extent that there is a substantial issue between the parties on the wage issue, it is on frozen step increment. During negotiations, the District identified a problem in the salary structure whereby teachers could actually reduce their earnings by advancement to a higher lane in the salary schedule. This distortion could occur as a result of the payment of $450 frozen step increments for those at the top step of a particular lane. Movement to the next higher lane could provide a salary below that paid to that teacher at the lower salary lane. The Association recognizes the validity of the District's argument. As a result, both made proposals concerning this issue.

The District proposes to retain the longevity payment in the first year that a teacher is off the schedule, so to speak, at a particular lane. Then, the

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[2] If the parties are to deal with the salary schedule problem, they must take into account that salary levels at the "base" benchmarks are above average, but at the "maximum" benchmarks those levels are below average.

teacher would be paid one-quarter of the lane differential for each group of three credits which a teacher took. The District does not limit the number of such three credit groupings that a teacher could accrue. However, the salary schedule is structured in such a manner so that by obtaining four such increments, the teacher will have achieved twelve credits which will qualify that teacher for movement to the next higher lane in the salary schedule. In the MA plus 24 lane, the calculation of the increment is based upon the differential between the MA plus 12 and the MA plus 24 lanes. In the MA plus 24 lane, the District limits the number of such increments to be paid to four.

The Association argues that the reduction is too severe under the District proposal. It does not compensate teachers sufficiently to pay for the additional credits they are to obtain. The Association would front-load the payments under its frozen increments proposal. Teachers would be paid $300 for the first two groupings of three credits which they obtain. In other words, the first three credits, the teacher would receive $300. The second three credit grouping the teacher would receive $300. Since the lane differential approximates $680, the remaining six credits which a teacher must obtain to qualify for advancement to the next lane, the teacher would only receive a total of approximately $80 in the course of obtaining those credits.

The Arbitrator finds that the Association proposal exaggerates the front loading. It removes the necessary incentive for teachers to obtain sufficient credits to move through the schedule. The Arbitrator believes a $200 differential with a limit of 3 increments would provide a teacher with 9 credits before the reduced $80 payment would kick in. The teacher would be closer to 12 credits for movement to the next lane.

Although the Arbitrator finds that the District proposal is too low, it is closer to the $200 frozen step increment. The Arbitrator understands that under the Association offer, the longevity increment would be deleted. Nonetheless, the Arbitrator finds that the front loading is too severe.

When the two proposals on frozen step increment, however, are placed in the context of the comparability issue and the large differential which exists at the MA maximum and Schedule maximum of the salary schedule, the Association's higher frozen step increment proposal is to be preferred.

Comparability: 1992-93 School Year

The District proposes a BA base salary of $22,604 for the 1992-93 school year. The Association proposes a salary level of $22,755. The average among the six settled CESA 3 school districts which have not adopted any devices to distort the accuracy of teacher placement on a salary schedule, is $22,580. The District offer at the BA base is $124 above the

average. The Association offer exceeds that of the District's at this benchmark. This benchmark again supports the adoption of the District offer.

At the MA base, the District proposes a salary level of $24,641. The Association proposes a salary at this benchmark of $24,804. The average among the six settled CESA 3 school districts is $24,226. Again, the District offer is above the average, but closer to it than the Association offer. This benchmark supports the adoption of the District's offer. Again, as in the case for 1991-92, in 1992-93 the other benchmarks provide strong support to the adoption of the Association offer. However, in the 1992-93 school year, both the District and the Association offers begin to close the large wage differential between the salaries and the frozen step increment and longevity that will be paid to teachers in Belmont as contrasted to the average salary to be paid to teachers in the settled CESA 3 districts. For example, at the MA Maximum, the average salary of the six settled CESA 3 districts used by the Arbitrator is $36,663. The District offer is $32,277. The Association offer is $32,492. It is noteworthy that if the eight settled school districts are to be used, the average at this benchmark would be lower at $36,496 than the average when only the six districts are used.

At the Schedule Maximum, the average among the six districts is $38,279. The District offer is $33,635; the Association offer is $33,858. When the salaries of Miller and Lorentz are thrown into the calculation and applied to the offers of the District and the Association, the differential remains well in excess of $2,000.

On the basis of the above analysis, the Arbitrator finds that criterion "d", the teacher to teacher comparability criterion, provides strong support for the adoption of the Association proposal on wages and on the frozen step increment issue.

e..f. Comparability - Other Public Employees and Employees in the Private Sector

The District presents extensive data from the Bureau of Labor Statistics concerning salary increases by percentile paid nationwide to public employees and to employees in the private sector. However, the data incorporated in the exhibits of the District with regard to these two criteria do not meet the statutory condition that this data relate to comparable communities. The District fails to relate this evidence to the economy of the region in which the District is located, as required by the language of these two statutory criteria. Even the data in the exhibit which was published by the Wisconsin Association of Manufacturers does not meet the specific statutory requirement.

Similarly, the data concerning the wage gains or lack of gain, as reflected in the data from the Bureau of Labor Statistics achieved by

employees in the private sector nationally, does not meet the requirement of criterion "f" that the comparison be made to employees in the private sector in the same community or in comparable communities. Accordingly, the Arbitrator concludes that he has insufficient data to apply criteria "e" and "f" to the issues in dispute, herein.

g. Cost of Living

This Arbitrator believes that the total package cost by percent is the figure which is to be used in contrasting the final offers of the parties to settlements among comparable employers, as well as, the consumer price index.

For the 1991-92 school year, the parties are within a quarter of a percent of each other's proposals. For the 1992-93 school year, the parties are within 0.45% of each other. The level of salary increases proposed by each in terms of dollars per returning teacher or salary increases at the benchmarks, or whatever measure is employed, the District offer is slightly closer to the average. Similarly, since the District offer is 7.62% for 1991-92 and 7.44% for 1992-93, while the Association offer is 8.03% for 1991-92 and 7.85% for 1992-93, it is the District offer which more closely approximates the cost of living both as measured by salary increases granted by other districts in CESA 3 and by the change in the cost of living as measured by the CPI. For the 1990-91 school year (July through August), it was 3.2% for urban wage earners and clerical workers under the non-metro area index. For the 1991-92 school year, it was 3.1%, again, under the same index. The District offer which is lower than the Association's is closer to the level of CPI although substantially above it. This criterion supports the adoption of the District offer.

c. Interest and Welfare of the Public

The District provides extensive exhibits and argument concerning the interest and welfare of the public criterion. The District provides timely Federal Reserve Board Agricultural letters and annual studies prepared by the University of Wisconsin College of Agriculture and Extension on the Status of Wisconsin Farming. Certainly, the plight of the farmer as a result of the 1988 drought and the drop in milk prices has a disproportionately severe effect on the agricultural community which comprises the Belmont Community School District. Both the Association and the District present final offers which take into account the economic condition of the area taxpayer. This fact is reflected in the small amount which separates the salary and total package offers of these two parties. This criterion is not meant to measure a difference of 1/4 of a percent between two final offers. There is no evidence that the $16,000 will have any material impact on the finances of the District.

Conclusion - Wage Issue

In the above analysis, the Arbitrator concludes that the comparability criterion supports the adoption of the Association final offer. The cost of living supports the adoption of the District offer. The weight provided by the Arbitrator to the comparability criterion is far greater than that given to the cost of living.

The Arbitrator has carefully considered the District's arguments concerning the interest and welfare of the public criterion. He finds that this criterion does not provide any support for the selection of either final offer.

The District argues that since its offer is close to the average dollars per returning teacher provided by other CESA 3 Districts, then to the extent that there is any shortfall in its proposal, the Arbitrator should consider the condition of the agricultural economy in LaFayette County and the ability of the taxpayers to absorb a larger salary proposal. The Arbitrator has addressed this Employer argument under the interest of the public criterion. The Arbitrator finds that the parties are not far apart. The total dollar difference over the two years of this Agreement is $16,000. Even though this is a relatively small unit of 35 FTE teachers, that dollar differential is not substantial.

On the other hand in the above discussion, the Arbitrator notes the substantial differential which is in place for both years of the Agreement relative to the average salaries paid to teachers at the MA Maximum and Schedule Maximum benchmarks. Even when the frozen credit increment and longevity elements of the salary structure are considered, the District salary levels at these benchmarks are beginning to lose touch with the average paid by other CESA 3 school districts.

On the basis of the above analysis, the Arbitrator finds that the statutory criteria as applied to the wage proposals of each party provides strong support for the adoption of the Association's final offer for inclusion in a successor Agreement.

INSURANCE

d. Comparability

The Association argues that the Employer pays a substantially lower percentage of health and dental premiums than the comparable school districts, the Tri-County districts which it employs as comparables. The District suggests that the premiums in Belmont for health and dental insurance are much higher than in other districts. Consequently, it pays substantially larger amounts of money towards health and dental insurance than do other districts.

Where insurance is the issue, it is important to properly identify the amount of dollars consumed by insurance premiums. Percentages neglect to identify the amount of money spent on insurance premiums. Accordingly, the District argument is well taken.

In the first year, the difference between the parties is approximately $8 per month for the Employer's contribution towards family coverage. The significant difference between the parties is in the 1992-93 school year. The District proposes to pick up 85.443% of the total health and dental premium. The Association proposes that the District pay 115% of the 1991-92 premium.

In the 1990-91 school year, pursuant to a voluntary settlement, the District contributed $379.80 for combined family coverage for health and dental insurance which amounts to 85.4% of the total premium. The Arbitrator refers to Board Exhibits 31a and b and 32a and b to separately calculate the average health insurance paid by CESA 3 districts in 1990-91 (excluding Belmont), and he performed the same calculation for those districts which provide any contribution towards dental for its employees and then totaled those two figures. For 1990-91, the average contribution for health and dental was $383.16 as contrasted to the District's $379.80. The District calculates the average contribution for 1990-91 among the CESA 3 districts inclusive of those that do not provide dental. The average reflected in Exhibit 33a is $376.55. In any case, the District contribution in 1990-91 of $379.80 is slightly more than $3.00 below or above the average, depending upon which calculation is used.

For 1991-92, the Arbitrator's calculation as described above results in an average payment for health and dental among settled CESA 3 districts of $406.38. In Exhibit 33b, the District indicates that the average is $399.28. The District proposes a contribution towards health and dental insurance premiums for the 1991-92 school year of $412.52. That proposal is in excess of the average by either $6.14 or $12.24 per month. The Association proposal of $420 monthly contribution for combined health and dental insurance increases the District's monthly contribution towards combined health and dental by an additional $7.48.

It is clear that in terms of dollars expended for combined health and dental insurance, contrary to its argument, the District's payments for the 1990-91 school year and its proposed contribution for the 1991-92 school year are approximately at the average or slightly above the average of the CESA 3 school districts.

The Association argues that as a percentage of total health and dental insurance premium, the District's 85.40% contribution in 1990-91 or its proposed percentage contribution in 1991-92 of 85.44% and 85.443% contribution for the 1992-93 school year are below the average of

approximately 93.3% in 1990-91 or 92.8% contributions made by comparable districts towards the combined health and dental premiums. The data in terms of dollar and percentage contribution towards premium for family coverage, standing alone, provides some support to the Association demand.

The Association proposal to substantially increase the District participation in payment of premium for family coverage, as a percentage towards the payment of combined health and dental premiums for family coverage, is a change in the status quo.[3] The Association does not indicate any quid pro quo to support that demand. However, absent any quid pro quo, that proposal serves as a negative factor in the weighing of the two offers, on this issue.

The Association argues that its proposal of 115% or as it wants that proposal to be viewed as a demand for payment by the District of up to 115% of the Employer's contribution towards combined health and dental premiums in 1991-92 for the 1992-93 school year retains the status quo. It maintains the same dollar employee contribution towards health insurance.

The fallacy of the Association argument may be seen when that line of analysis is applied to the salary issue. Just as "cost of living" increases from year to year, whether it is measured by the CPI or by comparable settlements, an employer could argue that it wishes to retain the status quo by fixing the amount of salary it pays to a constant figure. Similarly, the Association asks to fix its dollar contribution in the face of insurance premiums which are increasing at a substantial amount. Just as that argument would be fallacious if used in the analysis of salary; it is fallacious when it is used to support a demand to substantially change the status quo relative to the contribution towards health insurance premiums. The fact is that the spiraling increase in insurance premium costs consumes dollars which are available for either salary or fringe benefits. The Association

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[3] Generally, the three pronged test for establishing a change in the status quo, is:

1. Establish a need for a change, i.e., a change in the contractual relationship between the parties on a particular issue;
2. A quid pro quo is offered for the change; and
3. That par. 1 & 2 be established by clear and convincing evidence.

See, the following Awards of this Arbitrator in which the matter of a change in the status quo is discussed: D.C. Everest Area School District, (24678-A) 2/88; Greendale School District, (25499-A) 1/89; Antigo School District, (25728) 3/89.

attempts to ignore or avert that unpleasant fact through its status quo argument.

There is another serious problem with the Association's offer on insurance. The Association fails to include the two words "up to" in its final offer.

j. Such Other Factors . . .

This Criterion mandates not only selection of the District proposal on this issue, but it also provides strong support to the adoption of the total final offer proposed by the District over that proposed by the Association. The certified final offer provided to the Arbitrator by the Wisconsin Employment Relations Commission provides that:

> Family Health insurance premiums -- 115% of 1991-92 premium

Both parties interpret the 115% as 115% of the District contribution towards health insurance and dental insurance for 1991-92.[4] In the course of its oral presentation at the hearing and in its brief, the Association asserts that it inadvertently neglected to insert the words "up to" 115% of 1991-92 premium in its final offer. There is no doubt that the omission was inadvertent. However, the Arbitrator cannot clarify what is not ambiguous. The Association's certified final offer does not include the words "up to". The Arbitrator would be altering the Association's final offer by adding the words "up to" to its final offer. The Arbitrator has no authority to alter the final offer of either party.

Without the words "up to", the Association proposal that the District pay in the 1992-93 school year 115% of the 1991-92 Employer contribution towards health and dental insurance premium, results in a substantial change to the status quo as to the amount of the Employer contribution towards health insurance premiums for family coverage. The Association premises its argument for 1992-93 on an assumption that health insurance premiums will increase 11% and dental insurance premiums 2.5% during the 1992-93 school year. Its proposal of 115% could well provide for the District's payment of 100% or close to 100% of the premium costs in 1992-93 for health and dental insurance, if there is a smaller increase in premium than it projects. The Association proposes no quid pro quo for the

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[4] The Union's proposal could be read to provide for 115% of the total premium, rather than the District contribution toward the premium for family coverage for 1991-92. Certainly, bargaining history and the positions of the parties may well serve to clarify this ambiguity. It is appropriate for the Arbitrator to take this bargaining history and identify the precise proposal which the Arbitrator analyzes and either adopts or rejects in the course of that analysis.

substantial change in the relative level of contribution of employer and employee towards health insurance premiums.

Conclusion - Insurance

The Arbitrator concludes that the statutory criteria provides strong support for the adoption of the District offer on the matter of insurance.

EXTRA DUTY PAY

d. Comparability

It appears that the Association proposal is to increase these payments effective in the first year of this two year Agreement and to keep the increased payment in effect at the same rate for both years of the Agreement. Both the District and the Association offers increase salary, generally, in excess of 10% over the two year duration of the successor Agreement. The comparability data presented by the Association in Exhibit 14b provides the slightest support to its proposal.

h.& j. Overall Compensation and Such Other Factors

The payment for extra duty pay adds little to the total cost of each final offer. The District proposes to retain the same salary levels which appear in the 1990-91 agreement for these duties. Nonetheless, it indicates an increase of $125 at this item in its calculation of total salary cost for the 1991-92 school year. It calculates that the Association demand will generate an increase at this item of an additional $312 more than the $125 in the District's offer. Obviously, this item has little impact on the total cost of either package.

The significant difference between the parties on this issue is the language which the Association seeks to introduce into the successor Agreement. The Association proposes that:

> These duties [bus chaperon, ticket taker, etc.] shall be offered first to staff members and then to others as the board sees fit.

The District argues that the above language does not transform the obligation to perform these extra duties from an involuntary responsibility to a voluntary one. In its reply brief, the Association acknowledges the accuracy of this District argument. There appears no other language which limits the District to hire only teachers to perform the extra duties such as, bus chaperon, ticket seller, etc. On the basis of the above analysis, the Arbitrator finds that the Association has failed to present evidence to justify the inclusion of the above quoted language in the successor Agreement. The

Arbitrator finds that this proposal provides a very slight negative impact against the selection of the Association's final offer.

CALENDAR

j. Such Other Factors

The Association proposes that any snow days which are to be made up, should be made up at the conclusion of the school year. The District proposes that the status quo be maintained. Presently, the District and the Association negotiate when days are to be made up in the event snow days are to be made up. The Association argues that the present procedure of negotiation is divisive. Citizens in the community and teachers differ as to whether snow days should be made up during the spring break or at the conclusion of the school year. There are those who feel strongly about having makeup days at one time or the other. The statutory criteria do not require that snow days be made up during the spring break or at the conclusion of the school year. However, the Association's argument that the current procedure is divisive is supported by common sense.

There is little doubt that in the course of a school year, either snow. ice or fog may force the closing of schools on one or more days during the school year. If it is the practice of the District to make up such days, then it is appropriate to calendar when those makeup days are to occur. No one gains from the arguments which must necessarily come forward from citizens and from teachers who have varying opinions as to when those days are to be made up. The Association must take account of varying opinions of its members in presenting one proposal to the District on the issue of makeup days. Similarly, the District must accommodate the varying views of the taxpayers of the District in establishing the dates when snow days are to be made up.

The Association has submitted comparability data which the Arbitrator does not find compelling. Furthermore, the common sense argument is so strong that it does establish the need for a change. It meets the first test of the quid pro quo test. However, the Association fails to identify any quid pro quo for the adoption or inclusion of this contractual change in the Agreement. The nature of the proposal which it makes is not so universal and so compelling that a quid pro quo need not be offered.[5] Some quid pro quo is appropriate in making this change. That quid pro quo may be some concession in the negotiations of calendar, itself. In the absence of such quid pro quo, the Arbitrator is reluctant to include the proposal by fiat. However, due to the strong common sense support for the inclusion of such

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[5] See, the analysis of this Arbitrator concerning the universality of a benefit and its impact on an offer in the discussion of the issue of health insurance for full-time employees, p. 19-22 in Village of East Troy, (27176-A) 9/92.

a proposal in a successor Agreement, the Arbitrator concludes that the Association's proposal on this issue neither detracts from nor adds to the weight to be accorded this issue in the analysis of the totality of the final offers of the parties.

SELECTION OF THE FINAL OFFER

In the above analysis, the Arbitrator concludes that the differential below the average salary paid by settled districts in CESA 3 in 1991-92 and 1992-93 is so great at the "maximum" benchmarks, even when taking into account the frozen step increments which are such an important part of the Belmont Community School District salary structure, that the adoption of the Association's slightly higher demand on salary is to be preferred by a substantial margin.

The Arbitrator finds that on the matter of insurance, it is the District proposal which is more in line with the status quo. The dollar contribution towards combined health and dental premiums is slightly above the average of those settled CESA 3 school districts. The fact that those dollars only pay for 85.443% of the insurance premiums in effect in Belmont indicates that the premiums in Belmont are higher than other districts. It is in the hands of the parties to come to terms with that matter. The Association omission of the words up to dramatically changes the status quo. Under its proposal which assumes an 11% increase in health insurance premiums, the District contribution toward would increase at least 4%. Under a scenario where the increase in premium were less than 11%, the 115% of the Employer's 1991-92 contribution could result in a substantial change in the relationship between the amount contributed towards insurance by employer and employee. The Association offers no quid pro quo in support of this substantial change. The comparability criterion in terms of dollar contribution towards premium and percentage contribution towards premium provides only the slightest support for the Association proposal. It does not obviate the need for the offer of some quid pro quo to effectuate the substantial change in this relationship. The Association attempts an average dollar wage increase and substantially greater dollar contribution towards health insurance in the same Agreement. That is what it attempts to do through its proposal, here.

If the only two issues presented were wages and health insurance, it would be difficult for the Arbitrator to choose one final offer over that of the other. Both are reasonable. In the final analysis, the negative effect of the Association's proposal on health insurance, primarily as a result of the omission of the language up to, would tip the balance in favor of the District's final offer. The very slight negative impact which the Association's proposal on extra duty pay has on the totality of the final offers of the parties does not alter the balance achieved through weighing the parties' proposals on wages and health insurance. Accordingly, the Arbitrator selects the final

offer of the District for inclusion in the 1991-92, 1992-93 successor Agreement.

On the basis of the above analysis, the Arbitrator issues the following:

AWARD

Based upon the statutory criteria found in Sec. 111.70(4)(cm)7.a.-j. of the Wis. Stats., the evidence and arguments of the parties, and for the reasons discussed above, the Arbitrator selects the final offer of the Belmont Community School District, a copy of which is attached hereto, together with the stipulations of the agreed upon items, to be included in the successor Agreement for the 1991-92 and 1992-93 school years between the Belmont Community School District and the Belmont Education Association (Belmont Teachers Association).

Dated at Madison, Wisconsin, this 16th day of October, 1992.

Sherwood Malamud
Arbitrator

BELMONT SCHOOL DISTRICT
FINAL OFFER
TO THE
BELMONT TEACHERS ASSOCIATION
March ~~13~~ 12, 1992

1. Replace Article XVI, Benefits, Section 1, (intro) with the following:

> Health-Major Medical and Dental Insurance: The School District will pay all the premium for the single plan and an amount up to $412.52 per month for the family premium in the 1991-92 school year for teachers enrolled in the group health-major medical and dental programs for the contract period, including the summer months. The Board family health and dental insurance contribution in the 1992-93 school year shall be increased to a stated dollar amount equal to 85.443 percent of the 1992-93 combined health and dental insurance premiums. There shall be no duplication of coverage. Insurance coverage for all teachers other than full time regular contracted teachers will be pro-rated.

2. Article XVII - Salary Schedule:

A. The Board proposes to add an MA+24 lane to the salary schedule.

B. Replace Section 4 with the following:

> Teachers who are frozen at the top of the salary schedule will, in the first year, receive $475.00. Each succeeding year, three or more credits are required to receive an additional 25 percent of the lane differential. The lane differential is the difference between the lane the teacher currently occupies and the next lane to the right. Teachers occupying the MA+24 lane may receive an amount equal to 25 percent of the difference between the MA+12 and MA+24 for each 3 credits (limited to 12 credits maximum).
>
> Teachers who have received an additional $450 per each three credits under this section in the 1990-91 collective bargaining agreement shall continue to receive that amount of compensation for those credits earned prior the settlement date or arbitration award of this 1991-92-93 agreement, except that those teachers who moved to the new MA+24 lane will receive an amount equal to the additional $450 per 3 credits earned prior the settlement date or arbitration award less ($645) (this amount represents the difference between the MA+12 and MA+24 lanes).

3. Term of Agreement. Change the contract duration to a two year

duration from July 1, 1991 to June 30, 1993.

4. Salary. Increase each cell of the prior year's salary schedule by 5.75 percent in the 1991-92 school year and 5.5 percent per cell in the 1992-93 school year. Add the following statement to the 1992-93 salary schedule.

> If cost or expenditure controls or levy limits are enacted for the 1992-93 school year by the State of Wisconsin, for every one percent (1%) that the total package increase for the 1992-93 school year is above the cost or expenditure control or levy limit, the total package increase will be reduced by one percent (1%). This will be accomplished through a reduction in the 1992-93 salary schedule, taking into account WRS and Social Security. This calculation will be based on the 1990-91 staff cast forward one year for the 1991-92 school year and cast forward two years for the 1992-93 school year. EXAMPLE: If the 1992-93 total package cost increase of this settlement is 6 percent and if the State of Wisconsin adopts a cost control limiting school spending increases to 4 percent, then the 1992-93 salary schedule will be adjusted down to obtain a 4 percent total package cost.