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STATE OF WISCONSIN  
BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

\*\*\*\*\*

In the Matter of the Petition of

ARGYLE EDUCATION ASSOCIATION

Case 14

No. 46368 INT/ARB-6171

To Initiate Arbitration  
Between Said Petitioner and

Decision No. 27259

ARGYLE SCHOOL DISTRICT

\*\*\*\*\*

**APPEARANCES:**

**On Behalf of the Employer:** David R. Friedman, Attorney - Friedman Law Firm

**On Behalf of the Union:** Ellen LaLuzerne, UniServe Director - Capital Area UniServe South

**I. BACKGROUND**

On January 25, 1991, the Parties exchanged their initial proposals on matters to be included in a new collective bargaining agreement to succeed the agreement which expired on June 30, 1991. Thereafter the Parties met on three occasions in efforts to reach an accord on a new collective bargaining agreement. On October 10, 1991, the Association filed a petition requesting that the Wisconsin Employment Relations Commission initiate arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act. On January 29 and March 12, 1992, a member of the Commission's staff conducted an investigation which reflected that the Parties were deadlocked in their negotiations, and, by May 4, 1992, the Parties submitted to the investigator their final offers, written positions regarding authorization of inclusion of nonresidents of Wisconsin on the arbitration panel to be submitted by the Commission, as well as a stipulation on matters agreed upon. Thereafter

the investigator notified the Parties that the investigation was closed and advised the Commission that the Parties remain at impasse.

On May 12, 1992, the Commission ordered the Parties to select an Arbitrator. The Parties selected the undersigned, and his appointment was ordered June 4, 1992, A hearing was scheduled and held on October 8, 1992. The Parties submitted post-hearing briefs and reserved the right to submit reply briefs within 12 days of the receipt of the opposing briefs. Briefs were exchange on November 30, 1992. On December 11, 1992, the Arbitrator received advise that the Parties agreed to waive the filing of reply briefs. The record was closed thereafter.

## II. ISSUES

There are two issues before the Arbitrator. The first relates to the resignation fee set forth in Article VI - Employment, Section 5, which states:

### F. Resignation

1. Any staff member who resigns after having signed an individual contract for reasons other than health or conditions deemed acceptable by the Board of Education shall forfeit an amount to help cover the district costs for seeking a replacement according to the following schedule:

July 1 to July 31	\$150.00
August 1 though the remainder of school term	\$250.00

2. The Board reserves the right to waive the aforementioned conditions in the event of extenuating circumstances.

The Board proposes to retain this language. The Association proposes to modify it by amending "Article XII - Layoff/Reduction in Time." They propose the following language be added as Section K.

"Employees on layoff or reduced hours shall not be required to pay the amount specified under the recognition clause in this agreement."

The second issue relates to the salary schedule. The Parties not only disagree on the dollar amounts to be found within the schedule, but also differ as to how to calculate the vertical experience increments. The District claims

its method is consistent with past practice. In the past they assert that the experience increment was calculated by multiplying the base by 4%. The resulting amount becomes the vertical increment in every column; each step was increased by that much. Under the Association's proposal, they calculate a different increment for each column by multiplying the base figure in each column by 4%. The resultant figure becomes the vertical increment for that column; each step in that column is then increased by that amount.

The proposed salary schedules by the Parties yield the following amounts at the benchmarks:

	<u>91/92</u>	<u>92/93</u>
<u>BA Base</u>		
Board	\$20,650	\$21,500
Association	20,550	21,650
<u>BA Max</u>		
Board	27,258	28,380
Association	22,605	23,815
<u>MA Max</u>		
Board	33,453	34,830
Association	34,360	36,199
<u>Schedule Max</u>		
Board	34,279	35,690
Association	35,609	37,515

The Parties stipulated to the costing of their offers. The following reflects the average per teacher increases in dollars and percentages:

	<u>1991/92</u>		<u>1992-93</u>	
	<u>Salary Only</u>	<u>Total Package</u>	<u>Salary Only</u>	<u>Total Package</u>
Board	\$1,546/ 6.01%	\$2,057/ 6.05%	\$1,772/ 6.88%	\$2,329/ 6.85%
Association	\$1,629/ 5.97%	\$2,418/ %6.70%	\$2,000/ 7.27%	\$2,865/ 7.88%

### III. ARGUMENTS OF THE PARTIES

#### A. The Association

The Association first argues that its offer more closely compares to other athletic conference schools' settlements. The athletic conference in question is the State Line League (SLL), which consists of the following districts: Albany, Barneveld, Black Hawk, Argyle, Pecatonica, Belleville, Juda, and New Glarus. The Association submits that its offer is only .12% for 1991-92 and .04% for 1992-93 less than the average settlement. In contrast, the District's offer is 1.99% and 1.34% lower than the average settlement. When comparing actual dollars per returning teacher, again, the Association's offer is much closer to the settlement pattern in the area. For the proposed two-year contract period, the Association's offer is \$236 dollars less than average for the SLL while the District's offer is \$833 less.

Regarding its structural change, the Association also believes it is justified on two counts. First, the structure of their proposed salary schedule more closely resembles other athletic conference schools' salary structures. Second, they suggest that it also provides relief for a depressed maximum salary. The Association notes that Argyle's schedule is similar to others in many respects. However, most of the schools' schedules contain dollar differences between the base steps and lanes which reflect increasing compensation toward the top of the schedule. In addition, the amounts proposed by the Association are clearly within the ranges of amounts in place for other SLL schools. They point to data which shows that in 1991-90 the ratio between the BA Base and Schedule Max on average in the SLL was 1.731. In other words, the Schedule Max was usually 1.731 higher than the BA Base, In Argyle it is only 1.660. Thus if the Employer's offer is accepted,

the ratio will remain at 1.660, which is substantially below the SLL averages. Moreover Argyle's wage schedule's maximum lane requires a MA plan an additional 18 credits. Six of the nine SLL schools only require an MA plus 12 credits.

It is also argued by the Association that benchmark comparisons also favor its final offer. They submit the following data:

	1990-91 (Base Year)	1991-92	1992-92
<u>BA Base</u>			
SLL Average	\$19,429	\$20,328	\$21,387
Association Offer	\$19,850	\$20,500	\$21,650
Employer Offer		\$20,600	\$21,500
<u>Schedule Maximum</u>			
SLL Average	\$34,112	\$35,643	\$37,772
Association Offer	\$32,951	\$35,609	\$37,515
Employer Offer		\$34,279	\$35,690

They also note that the rankings for Argyle under the District's offer fall off toward the top of the schedule. They suggest this is because seven of the nine SLL districts contain schedules which increase value amounts to the top of the schedule. Thus, they conclude, if the salary structure is not modified to accommodate for greater increases at the maximum of schedule, the District with either (a) fall further and further behind at the upper end of the schedule if the schedule minimum keeps up with the SLL comparables; or (b) the BA Base will need to be increased at a higher rate than area schools to reflect other SLL comparisons. They also note that in terms of overall average benchmark increases, not only is Argyle slightly below average for SLL, the SLL is below average for other area districts in surrounding athletic conferences.

Regarding the resignation fee issue, the Association notes that it is common that when employees are reduced significantly, they usually resign when they can find full-time employment. With little protection in the agreement language, they suggest that the waiver of resignation fees provide a tiny bit of protection for employees who can no longer support their families on a reduced income. In addition, the District Administrator AEA President

indicated the fee was waived in recent memory. They maintain this indicates that providing a fee waiver would not provide undue hardship to the District.

The Association offers a variety of other arguments. These are in response to economic data and cost-of-living data presented by the Employer. None of this justifies, in their opinion, Argyle's relatively meager offer. They conclude that the Argyle School District faces the same economic conditions as other area schools and, as such, should be able to afford a comparable wage increase. Moreover, they contend that other area settlements should reflect cost of living.

## **B. The District**

At the outset the District rejects the Association's attempt to rely on secondary comparables outside the athletic conference. They argue against a secondary pool for a number of reasons, including (1) the fact there is sufficient data for both the 1991-92 and 1992-93 school years in the athletic conference to preclude any necessity of looking at secondary comparables, (2) comparable shopping does not lend stability to the bargaining relationship, and (3) their belief that catch-up arguments should be based on primary comparables.

The District next addresses the resignation fee issue. It appears to the District that the Association was upset because the Board exercised its legal rights with regard to certain provisions of the prior layoff clause. In response to the Board's action, it appears the Association had to make some sort of a proposal. The problem, in the opinion of the District, is that there is no justification. The District doesn't even believe that the Association has proved that anyone has been reduced in time and subsequently left employment with the District asking them to pay the contractual amounts specified under the resignation provision. Moreover, the Association has not presented any comparables that would, in fact, justify its proposal. Finally, they note there is room in the existing language that allows the employee to plead their case to the Board if the fee is a hardship.

With respect to the salary issue, the District notes that in two prior arbitrations the Association had the opportunity to arbitrate the salary schedule which they seek to change in this arbitration; however, did not. Such a change in the status quo structure should be, they argue with citation of supporting cases, negotiated, not arbitrated. The District adamantly views the Association's proposal as a substantial change. They arrive at this conclusion

after applying the criteria set forth by Arbitrator Gundermann in School District of River Falls, Dec. No. 26296-A (7/90). They note the change here fundamentally reflects the amount of increments not just in the BA column, but in every single column of the salary schedule. Under the Association's 1991-92 salary structure instead of being an increment of \$822 in each lane, the increment would be \$822, \$838, \$885, \$871, \$888, \$804, \$920, and \$937. With 13 increments in the MA column, the difference between \$822 per increment and \$937 comes to a cumulative total of \$1,495. Moreover, the concept of using 4% of each column base has not previously been introduced in any other arbitrations, and there is no evidence that the Association has sought and had this proposal rejected through numerous bargaining proposals.

The District believes, too, that a review of the Association exhibits also fails to reveal any justification for their structure change. For instance, the benchmark rankings rise dramatically at the maximums without justification under the Association's offer. Such movement, even if needed in general terms, is not justified in such a short time, especially if there is no quid pro quo. Indeed, the District submits no trade off has been offered or agreed to. Thus, they conclude, the Association has not met its burden to justify the change.

The District anticipates that the Association will attempt to justify its proposal on some notion of catch-up. However, the District argues, this is a difficult burden when the wage relationships are the result of voluntary bargains. Moreover, the State Line League data does not show a serious erosion, or in fact, any erosion, in its rankings compared to other school districts. Therefore, in the opinion of the District, the Association is missing the justification that it needs to clearly show that catch-up, is warranted.

In contrast, the District believes its offer is justified. As background, they note that the local share in Argyle of funding the cost per student is over the average of the State Line League schools. Argyle also has the third lowest equalized valuation of the State Line League school districts, while Argyle's taxes are 97.4% of the state average. Additionally, other than Juda, Argyle receives the lowest amount of state aids and is located in the most farm dependent county in the state. Argyle also has very low income statistics, with little or no prospects for economic development in the future. They direct attention to higher-than-average unemployment and the fact that major collective bargaining settlements in the private industry in the first quarter of 1992 averaged approximately 3 percent. This all leads the District's citizens to the

point of not being able to understand increases the magnitude of the Association's offer.

#### **IV. OPINION AND DISCUSSION**

It is apparent from a review of the settlement data in the athletic conference that the Association's offer is clearly more reasonable on the basis of the salary increase generated by the respective salary schedules. As noted earlier, the District's offer for 1991-92 yields a \$1,546 increase per teacher or 6.01%. The Association's offer yields \$1,772 or 6.70%. The average per teacher increase in the comparables was \$1,910 or 7.00%. The lowest of the settlements was \$1,816 and the highest was \$2,020. Three of the settlements were between \$1,865 and \$1,869 per teacher, suggesting a pattern at about \$1,867. The Association offer, even at \$1,772, would be the lowest of all the settlements being \$95 off the pattern and \$138 less than average. The District offer would be \$321 off the pattern and \$364 less than average. This obviously favors the Association.

For 1992/93, the settlements range from a low of \$1,967 to a high of \$2,275. Three of five settlements are in excess of \$2,000 with one settlement at \$1,999. The average is \$2,098 or 7%. The Association's offer is \$98 lower than the average. The District's offer is \$469/5.97% or 1.34% less than the average. The fact their offer is lower than the average supports the Association's position, particularly since the District offer is so dramatically off the mark.

The District argues that the economic conditions and Association's structure change militate against the Association's offer. Indeed, its citizens do have a lower-than-average income. However, they also have lower-than-average cost and slightly lower-than-average tax rate. Yet, overall, the impression one is left with is that Argyle is not as healthy as some of the other athletic conference schools. Even granting this, however, it is difficult to justify the degree to which the District's offer differs from the trend in the comparables. Totaling the two years together, the District's offer is \$833 less than the average increase. This is a most significant difference. To the extent that Argyle is different, the Association's offer being \$236 less than average for the term of the contract does provide some relief.

The District also contends that the changes in the increment structure and the resignation fee language weigh against the Association's offer. Indeed, they



do. However, the more basic issue is whether the negative influence of these issues outweighs the negatives of the District's offer. The primary negative of the District's offer is the fact that it is dramatically less than the pattern in comparable districts.

It is the conclusion of the Arbitrator that, overall, the Association's offer, even though tarnished somewhat by their proposed changes in the status quo, is more reasonable. This is primarily because the Arbitrator doesn't view the structure change to be as significant as does the District and because both the structure and resignation proposals have some intrinsic merit.

Changing the experience increment isn't as dramatic of a change as most structure changes. Moreover, a percentage indexing is already a method utilized by the Parties to generate the lane differences. In addition, the methodology of generating numbers on the salary schedule is less important than the dollars generated in each cell.

This leads into the idea of merit. There is merit in the Association's proposal because the dollars generated at the high end of the schedule under the Association's offer are much more consistent with the comparables. The methodology is also more consistent since seven out of eight schools have different and increasing experience increments in each lane. Only one out of eight (other than Argyle) employs a flat dollar experience increment. In terms of the dollars, the data shows that under the District's proposal--which generates flat dollar increments--the upper end of the schedule would fall far behind the comparables. This is no surprise since most of the comparables give higher experience increments at the high end of the schedule and lower increments at the low end. This difference is most dramatic in the last year of the contract. The average MA Max and Schedule Max in the comparables in 1992-93 are \$36,289 and \$37,023. The District's proposed MA Max and Schedule Max would be \$35,260 and \$35,690. Accordingly, if the District's offer is accepted, Argyle would be behind the average benchmarks at the MA Max and Schedule Max by -\$1,029 and -\$1,333 respectively. It is true that the Association's proposal results in these benchmarks being greater than average, but it doesn't exceed the average by nearly as much as the District's proposal falls short.

Regarding the resignation fee issue, it must first be said that the impact of this issue on the overall offers is negligible, particularly considering it hasn't been a matter of controversy. Second, it can be said that there is some merit in not penalizing a reduced teacher who, after accepting a part-time position in

Argyle may be forced to resign to accept full-time employment elsewhere. Last, with regard to the idea that there should be a quid pro quo for the resignation fee change or, for that matter, the structure change, it is noted that even in spite of these changes, the Association's offer is over \$200 per teacher less than the average comparables.

**AWARD**

The final offer of the Association is accepted.



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Gil Vernon, Arbitrator

Dated this 9<sup>th</sup> day of February 1993.