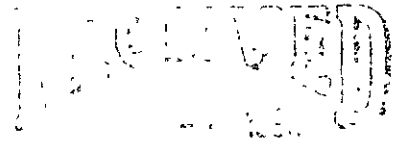


STATE OF WISCONSIN
BEFORE THE ARBITRATOR



WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the Interest Arbitration)
Between:)
BRISTOL SCHOOL DISTRICT NO. 1)
and)
SCHOOL PROFESSIONAL AND EMPLOYEES)
ASSOCIATION OF KENOSHA COUNTY (SPEAK))

Case 8
No. 46794
INT/ARB-6312
Decision No. 27580-A
OPINION and AWARD

Appearances: For the Association, Dennis G. Eisenberg,
Executive Director, Southern Lakes United
Educators, Burlington.

For the Employer, Attorney Robert W. Mulcahy,
Milwaukee.

When the Bristol School District (referred to as the Employer or the District) and the Bristol Education Association were unable to reach agreement on a successor collective bargaining agreement, the Employer filed a petition on January 3, 1992 requesting the Wisconsin Employment Relations Commission (WERC) to initiate arbitration pursuant to Section 111.70(4)(cm)6 of the Municipal Employment Relations Act (MERA). The School Professional and Employees Association of Kenosha County (referred to as the Association) became the successor to the Bristol Education Association effective December 15, 1992. On March 9, 1993, the WERC determined that an impasse existed and that arbitration should be initiated. Following notification by the parties to the WERC that they had selected the undersigned to serve as arbitrator, the WERC appointed her to so serve by order dated March 23, 1993.

By mutual agreement, a hearing was held on May 25, 1993 in Bristol, Wisconsin. A full opportunity was provided to the parties to present testimony and documentary evidence. The record was kept open by agreement to receive post-hearing exhibits. When the record was closed, the parties submitted briefs and reply briefs. The final brief was mailed on July 16, 1993.

Before the arbitrator had completed her study of the record of this case, the proceeding was halted by a July 29, 1993 letter from WERC Chairperson A. Henry Hempe addressed to the arbitrator. The letter stated that "we ask that you take no further action pending Commission determination as to whether the dispute, or a portion of the dispute continues to be subject to interest arbitration." On September 16, 1993, the parties and the

arbitrator were informed by the WERC that it had determined that all aspects of this case remain properly before the arbitrator and advised the undersigned that she could proceed with her consideration of the case.

ISSUES TO BE DECIDED

The Employer's final offer is annexed to this decision as Annex A; the Association's final offer is annexed to this decision as Annex B.

STATUTORY FACTORS

Section 111.70(4)(cm)7 of MERA states that the arbitrator shall give weight to the following factors:

- 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 employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services.
- e. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees 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 employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees 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 employees, including direct wage compensation, vacation, holidays and excused time, insurance and pension, 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 the private employment.

POSITIONS OF THE PARTIES

The District

The Employer characterizes the situation presented by the two final offers in this case as a simple one. It views its final offer as one containing an "equitable" salary adjustment with no other changes in salary structure or contract language while it views the Association's final offer as one containing a major change to the salary structure plus eight other language or economic changes.

It next contends that the Association has the burden of proof to justify its proposals by demonstrating that: a) a genuine problem exists in the District; b) the proposed change addresses that problem; c) the proposed change does not impose an unreasonable burden on the District; and d) an adequate quid pro quo is offered for the change.

On the threshold question of what constitutes appropriate comparable school districts, the Employer believes that it is correct to include the Silver Lake School District, although its policies governing wages, hours, and other terms and conditions of employment are not the result of collective bargaining. It contends that the Association's inclusion of northern Illinois school districts is inappropriate, particularly in the absence of data on size, number of teachers, tax rates, state funding, etc. It also seeks to have ten Racine County school districts considered as secondary comparables.

A. Salary Schedule Structure

The Employer rejects the Association's proposal to compress the District's salary schedule from 14 steps to 12 steps over the two year period in dispute. It notes that under both final offers many benchmark salaries are identical. It further notes that 83% of the District's teachers are on the BA lanes and that an analysis of the fifteen year career earnings of such teachers reflects earnings substantially above the comparables. It adds that there are only minor differences between the rank orders for benchmark salaries based upon the parties' final offers. Finally, the District emphasizes the point that the salary schedule was extended most recently in 1987-1988 by the addition of one step as a result of an Association proposal. Accordingly, the arbitrator should not use the arbitration process to restructure the contractual salary schedule, particularly when it provides "extremely competitive" salaries for most teachers and when total compensation as well as wage increases exceed the increase in the cost of living.

B. Health Insurance Coverage

The Employer next contends that the Association's proposal to add an Option Benefit Plan to the contract's existing benefit package is not justified because it is an extension of the already generous benefit package, it presents an unreasonable administrative burden as well as serious federal tax issues, it includes the potential for long-term additional costs and provides a disincentive for long-term health insurance cost containment, it presents a potential situation of discrimination based upon marital status, it may "lock in" the District to its present insurance carrier and thus eliminate a District option to change carriers for cost savings, and it raises difficult issues of ascertaining when there are "cost savings." Particularly since this proposal is part of an Association package which extends insurance coverage for terminated teachers through August of the school year and changes the base year for determining the minimum level of insurance benefits from 1981-1982 to 1992-1993, the Employer adamantly opposes the Optional Benefit Plan.

The Employer further objects to the Association's offer in regard to changing the date indicating the level of insurance coverage from 1981-1982 to 1992-1993 because this provision will, in the Employer's judgment, necessarily tie the District to its present carrier which unilaterally modifies coverage without Employer control. Since there has been no history of any Employer effort to change insurance carriers unilaterally, the Employer concludes that this change is unnecessary.

Finally, the Employer objects to the Association's proposal to require District insurance payments through the month of August for teachers who resign or terminate their employment. The Employer believes that this Association proposal is not supported by external comparability, is inequitable since it requires such payments for teachers retiring in the summer with little time for the Employer to find replacements, and is beyond the nine and one-half school year employment contract for teachers.

C. Grievance Procedure Changes

The Employer rejects the Association's proposal to change the present contract provision which requires that a written Step 1 grievance be presented to the principal within ten (calendar) days. It contends there is no evidence that the present time limit presents a problem and notes that prompt attention in dealing with grievances is preferable to delays.

The Employer also rejects the Association's additional proposal to modify the parties' existing grievance procedure by authorizing Association initiated grievances. It emphasizes teacher privacy concerns and expressions concerning teacher personality clashes with the Association representative. Moreover, the Association has not been precluded at any time from bringing its concerns to the District's attention. The Employer

points to a number of Association communications to the District which it believes were calculated either to support this bargaining demand or to "harass" the Employer during bargaining. Finally, the Employer rejects the Association's argument that it is appropriate in this proceeding to consider whether the current contractual provision is permissive only. Thus, the Employer concludes that the Association has failed to meet its burden on this issue since it has failed to identify a real problem and its "solution" poses an unreasonable burden on both teachers and the District.

D. Tuition Reimbursement

The Employer argues that its position on this issue is reasonable because there is a broad range of tuition reimbursement sums among the comparables. It faults the Association for not providing any cost analysis, no quid pro quo, no demonstrated need, and for failing to include a requirement found in several comparables conditioning reimbursement to a grade of C or better for undergraduate credit and a grade of B or better for graduate credit.

E. Substitute Pay

The Employer notes here that the sole difference between the parties on this issue is that the Association's offer is for \$12.50 per 45 minute class during the 1992-1993 school year while the District's offer is for \$12.00 for that year. Since this provision is seldom used and, when used, is often for thirty minutes or less (and thus amounts to \$6.25 versus \$6.00) and there is support among the comparables for the Employer's position, the Employer concludes that in the context of this proceeding and its numerous issues in dispute, this is an issue which should have been resolved by voluntary agreement. Instead, it is "the straw that broke the camel's back."

F. Total Understandings Clause

On this last issue, the Employer contends that the existing language is not covered by the WERC's 1979 Deerfield School District decision, as the Association argues. The Employer reads the language proposed to be deleted by the Association as referring solely to non-mandatory subjects or matters. It further contends that its position on this issue is supported by contractual language in other comparable school districts.

G. Additional Employer Arguments in Reply Brief

In its reply brief, the Employer emphasizes what it believes to be Association error in regard to consideration of Illinois school districts as comparables, use of mill rates alone as evidence of "tax burden," improper interpretations of arbitral precedents and incorrect total compensation data, lack of substantive support for its health insurance proposals, and the Association's unsubstantiated, offensive charge that there is a

discriminatory motive behind the Employer's salary schedule position which results in lower wages for a bargaining unit which is presumably predominantly female - in contrast to a comparable high school district bargaining unit which is presumably predominantly male. For all these reasons, the Employer concludes that the Association's final offer package must be rejected since it fails to meet the burden placed on the Association to demonstrate need for the proposed changes and a quid pro quo for changes.

The Association

The Association begins its arguments by justifying its use of nearby Illinois school districts as appropriate comparables primarily due to geographical proximity as well as other factors such as the presence of Abbott Labs in nearby Illinois as the largest single employer of Kenosha County residents.

It then proceeds to characterize the District as one of the wealthiest in the state because it does not qualify to receive general state aid, is part of the area ranked #1 in new jobs (out of 292 metropolitan areas), shares with the feeder high school area a high median household income, has a high equalized value per student and a low mill rate, and thus has the means to fund the Association's final offer.

A. Salary Schedule Structure

The Association looks to adjacent unionized school districts for support for its salary schedule restructuring proposal (to reduce the 14 step schedule to 12 steps over the 1991-93 period). It points to support in making such a structural change by citing Arbitrator Vernon in his 1985 Waupun decision and Arbitrator Kerkman in his 1990 Rio decision. The Association also emphasizes the need for catch-up in the middle of the salary schedule starting with Step 6. It presents data on package increases for Brighton, as well as salary and package increases in Silver Lake and Paris to supplement comparability data offered at the hearing to support its proposal of 6.57% teacher salary increase and 6.41% package increase for 1991-92 and 6.37% teacher salary increase and 6.64% package increase for 1992-93. (The Association calculates that the Board's 1991-92 teacher salary increase is 6.13% with a 6.02% package increase and the Board's 1992-93 teacher salary increase is 5.97% with a 6.28% package increase.)

In addition to traditional comparability, the Association believes that the arbitrator should take into consideration the delayed implementation of salary increases for 1991-93. It argues that some adjustment needs to be made for this long delay which not only disadvantaged Bristol teachers but enriched the District.

Turning more specifically to its salary structure proposal, the Association concentrates its analysis on data concerning the

MA + 0 lane with 10 years experience and the MA + 30 lane to establish the need for the Association's restructuring. It also compares Bristol teacher salaries beyond step 5 with the teacher salaries at the high school which Bristol students attend and with teacher salaries at three points on the salary schedule in eleven Illinois school districts which are within 18 miles from the District. Finally, it notes that, except for Randall, all other Kenosha County school districts either have a ten step salary schedule already or are in arbitration where an issue is a reduced salary schedule format.

B. Health Insurance Changes

There are three changes proposed by the Association in this area. The Association addresses first its proposal to change the base year referred to in the contract for the level of mandated benefits from 1981-82 to 1992-93. It supports this change by noting there is one other comparable district where there is a non-contemporary reference and that is currently an issue in dispute in that district and in another district there only is a life insurance benefit limitation of this type. It also refers to extensive testimony about the many changes in insurance benefits from 1981-82 to the present time. In addition, the Association points out that the District has been unable to provide the 1981-82 certificate of insurance policy and thus it is an impracticable standard - in addition to being obsolete.

The Association then addresses a second proposed change it supports covering continuation of insurance benefits during the summer. The Association's proposal includes clarification that such benefits of non-renewed employees stop at the end of the month they terminate their employment if they leave during the school year. The Association's proposal also requires the District to pay premiums for coverage through August for teachers who complete the term of their individual contract. It contends that such payments are merely deferred compensation. The Association's proposal also recognizes the needs of those starting new teaching jobs elsewhere in September for health insurance during the summer. Finally, the Association points to the waste of the current situation where the District makes insurance premium payments at the end of June for July but then cuts off benefits as of July 15th for those not returning.

The third part of the Association's proposals for insurance changes concerns an Option Plan (Maintenance of Insurability) for teachers who qualify and voluntarily waive District health insurance coverage. In exchange for this teacher waiver, the District becomes obliged to provide the equivalent of a single health insurance premium to the WEA Insurance Group's Tax Sheltered Annuity plan for that teacher. The teacher is guaranteed reentry rights to the insurance plan. The Association's proposal is conditioned upon the District saving money through its implementation. This Option Plan is already provided in all the feeder school districts to Bristol's high school district (except Bristol). There are additional

Association comparables to support this Plan, including CESA employees who have an option to be paid on the Bristol schedule but have fringe benefits provided through CESA which has an Option Plan in effect. Thus, the District is already indirectly participating in an Option Plan for those CESA employees who have chosen that option while denying the same benefit to its own employees, argues the Association.

C. Grievance Procedure Changes

Turning to the first of the two sub-issues under this category, the Association contends that comparability supports its proposal to give to the Association the explicit right to initiate a grievance. It further argues that it should not be required to pursue a proceeding for a declaratory ruling or prohibited practice to establish its right in this matter. Accordingly, the Association has chosen to raise this matter in this arbitration proceeding.

To support its proposal to change the period for presenting a written Step 1 written grievance from ten (calendar) days to fifteen (calendar) days, the Association reflects that its members need an opportunity to seek advice about possible grievances and that little harm results from this modest extension of time. In fact, the Association notes that many comparable districts provide even more time (when school day periods are converted to calendar day periods).

D. Tuition Reimbursement

The Association objects to the District's status quo position on this issue because of comparability data, increasing tuition costs, and the modesty of the Association's proposal to raise the District's very low reimbursements by \$5 per year.

E. Substitute Pay

After noting that the District had unilaterally raised the pay from the stated contractual amount for at least two years and only belatedly (at the arbitration hearing) agreed to incorporate the \$12 per 45 minute class rate into the parties' contract, the Association contends that its proposal for the second year - an increase to \$12.50 per 45 minute class and 50% that amount for a shorter class - is more reasonable when compared to those comparables employing teachers in such situations.

F. Total Understandings Clause

The Association supports its proposed deletion of most of the second paragraph of this contractual provision by arguing that the present language waives the Association's right to demand bargaining on the impact of the Board's implementation of non-mandatory subjects of bargaining. Moreover, all the comparables favor the Association's position on this item, the Association notes.

G. Additional Association Arguments in Reply Brief

In its reply brief, the Association emphasizes that: a) the changes proposed by the Association in this proceeding should be viewed on their merits and in light of the District's bargaining rigidity; b) the District's arguments that contractual changes must always be considered in light of a quid pro quo are incorrect; c) the stipulations of the parties covering 15 "substantive" changes include a number of minor changes or codifications of practices; d) data from Silver Lake School District should not be given much weight because it is not unionized; e) the parties have agreed upon sufficient comparables and thus the Board's secondary Racine County school districts should be rejected; f) the District's emphasis on maximum salaries at BA + 6 through BA + 30 lanes is flawed as is its fifteen year career earnings analysis; g) the Association's proposal to compress the salary schedule is supported now by comparables as was its earlier 1987-88 proposal to increase the salary schedule from 12 steps to 13 steps; h) issues raised by the District in opposition to the Option Plan have not been real obstacles in implementing the Plan in other school districts and that the District's interests are protected by the proposal's savings language; and i) the District's arguments opposing other Association proposals are similarly incorrect.

DISCUSSION

As both parties note, this is their first impasse arbitration proceeding. Although the Employer characterizes this case when reduced to its essence as a simple one, the undersigned notes that there are six different topics in dispute with several topics containing distinct sub-issues. Moreover, the parties are in disagreement about some of the comparables as well as the burden of proof which the Association must demonstrate if it is to prevail on a particular issue.

On the latter issue, the undersigned agrees with the position taken by many of her fellow arbitrators that, when comparability is at issue, there is no requirement to demonstrate a quid pro quo. As Arbitrator Yaffe stated in his 1992 Delavan-Darien decision addressing the District's argument that the Association had not offered an adequate quid pro quo for the benefits it proposed:

the undersigned believes that said concept is applicable where a union seeks exceptional or unusual benefits or where an employer seeks concessions from its employees in the form of take backs. It does not apply where, as here, an Association is simply asking that employees be brought into the comparable mainstream.

On issues of comparables, the undersigned does not believe that sufficient evidence was presented in this proceeding by the Association for her to conclude that the nearby Illinois school

districts are appropriate comparables. Therefore, Illinois comparability data will not be considered. As for Silver Lake, a non-unionized school district, the undersigned believes that data from the Silver Lake School District is relevant but should be given less weight than the unionized comparables agreed to by the parties. Finally, while it may be generally appropriate to consider Racine County school districts as relevant secondary comparables where sufficient data is presented to establish standards for selection of these comparables, in this proceeding there is a significant number of agreed upon primary comparables to look to and a paucity of information about the new secondary pool comparables. Accordingly, little weight will be given to the Employer's ten identified Racine County school districts.

A. Salary Schedule Restructure

While the arbitrator has received numerous documents, charts, and graphs dealing with the parties' final salary offers and she has spent significant time studying the record, she cannot easily discern a clear path through the thicket of information and advocates' analysis on this issue. On the one hand, the Association makes a strong comparability argument in support of its position which reduces the number of salary steps from 14 to 12 over the two year period. On the other hand, the Employer makes a significant argument when it notes that the existing salary step structure was a result of an Association proposal for 1987-88 when the Association argued that the additional step was necessary because there were a number of teachers at the maximum steps of the salary lanes. The Board also makes another important argument when it emphasizes that at the end of the 1992-93 school year, 60% of the teachers' unit are at the maximum step in their salary lanes and most teachers (83%) are on the BA lanes. Any compression of the salary schedule with so many teachers at the maximum step will necessarily increase pressures to address that problem in the near future while the heavy concentration of teachers in the BA lanes present some challenges not addressed by a traditional benchmark analysis.

Although it is unfortunate that the parties' 1991-1993 contract will not be finalized until months after its expiration date, the undersigned does not believe that this unfortunate circumstance is a relevant factor to take into account in her analysis of the merits of the parties' salary offers, as argued by the Association. This is particularly true here where the long delay is not due to the fault of either party.

Since this arbitrator believes that total package data is more important than only salary data, she notes that the parties are not far apart. It appears that the parties are separated by approximately \$4,227 for 1991-92 and by approximately \$8,621 for 1992-93 total package, including agreed upon insurance increases, for the bargaining unit of 26.05 FTEs. Because there is only a modest difference in the economic "bottom line" and because both sides have presented relevant arguments to support each party's position, this issue presents a very close call. Accordingly,

the arbitrator believes that she should proceed to consider the other issues in dispute and consider this issue further in light of each party's total offer.

B. Health Insurance Coverage

There are three sub-issues here. The first is the Option Plan which is part of the Association's proposal. The Association has presented some comparability support, including CESA teachers and aides who provide services within the District and have this Option already. Although the Employer views this benefit as an extension of an already generous package and raises many questions about its operation, the proposal is written to be one without a price tag (implementation must "result in the district saving money"). The Employer had the opportunity to raise these concerns at the bargaining table and consult with other school districts which have had experience implementing such a Plan. It chose to make no counteroffer incorporating its concerns. On this sub-issue, the Association's proposal appears more reasonable in light of experiences in other close-by school districts.

The next sub-issue is the Association's proposal to substitute 1992-93 for the year 1981-82 as the base line for minimum contractual insurance benefits. As the Association notes, the Employer has been unable to produce a certificate of insurance containing a list of 1981-82 benefits. For that reason alone, the arbitrator believes that the Association's proposal is more reasonable. In addition, the increase in the level of benefits from 1981-82 to 1992-93 has been significant. There is no reason why teachers should have to rely solely on good faith oral promises by the Employer not to reduce existing benefits which are beyond the 1981-82 level when this promise can be spelled out in the parties' collective bargaining agreement. Although the Employer has a legitimate concern that it may be unable to change carriers unilaterally in the future because of the effect of the Association's proposals, it had the opportunity to propose qualifying language addressing this and other concerns. Instead, it chose to propose no change in a stale status quo. In light of the Employer's insistence on retaining the reference to the 1981-82 level of benefits for a contract covering 1991-93, the arbitrator finds that the Association's proposal is more reasonable.

The third sub-issue covers proposed Association changes in the agreement relating to continuation of District paid insurance following resignation or termination of employment. The Association proposes to delete the confusing language in parenthesis in the second paragraph. (It is confusing because it refers to two exceptions but fails to address what is the contractual rule for teachers who are discharged or non-renewed effective before the end of the school year.) The Association's proposal to remove this confusion, if imperfect, is preferable to not addressing the problem at all. In addition, the Association's final offer changes the July 15 date to August

30th. As the Association points out, at the present time the District actually pays a premium for the entire month of July at the end of June even though the contract cuts off benefits on July 15th for a teacher covered by this provision. There is also an incentive for a teacher to resign as late as possible in the summer. This is not reasonable. The Association has presented comparability data that the common contractual date is the end of August and testimony that this is also the practice in comparable school districts where there is no contractual provision covering this point. In light of the comparability data and the Board practice of paying for coverage through July while failing to propose a change to correspond to its practice, the Association's proposal is more reasonable.

C. Grievance Procedure Changes

As for the two changes which the Association proposes to the parties' grievance procedure, the Association has presented data that its proposals have support among the comparables. Moreover, the Association's proposal to extend the time for submitting the written grievance at Step 1 from ten calendar days to fifteen calendar days does not prevent timely problem solving or processing of the grievance since it follows a prior informal step in which the teacher and principal make an "earnest effort" to settle the matter. Having a reasonable opportunity for the grievant or local grievance representative to consult with its bargaining representative is important in screening out inappropriate grievances or describing the grievance properly in terms of contract violations. It is possible that such an opportunity, when utilized, will lead ultimately to more efficient use of the grievance procedure for both parties. Since the Association's proposal extends the time limit at only one point of the process (in contrast to multiple extensions of time for processing a grievance), the Association's proposal should facilitate not impede effective grievance processing.

Turning to the second issue, whether the Association should have a contractual right to initiate grievances, the comparables support such a contractual right. Moreover, the Association has an institutional interest to enforce provisions of its negotiated contract which sometimes is distinct from a bargaining unit member's individual interest. Thus, the policy incorporated into the Association's proposal has support in the literature promoting effective collective bargaining in both the private and public sectors.

D. Tuition Reimbursement

As the District itself acknowledges, its present rate for tuition reimbursement is on the low end. Although it criticizes the Association for failing to provide any cost analysis, it also has failed to present such an analysis. Moreover, it complains that the Association's proposal fails to include a provision conditioning reimbursement based upon a stated minimum grade level. However, the District had the opportunity to include this

in a counterproposal and failed to do so. This omission is difficult to understand in view of the fact that the parties' stipulations include an agreement on five new criteria for eligibility for tuition reimbursement.

E. Substitute Pay

According to the District's arguments, this provision is seldom used and, therefore, its economic impact is de minimus. The Association has presented evidence that a combination of contractual provisions and practices among the comparables support its proposal.

F. Total Understandings Clause

For the District, the existing language of this provision is clear and unambiguous; it applies only to permissive subjects of bargaining and, therefore, the WERC's Deerfield decision is inapplicable. On the other hand, the Association interprets the provision which it proposes to delete as referring not only to non-mandatory subjects but also when the impact of a non-mandatory subject is itself a mandatory subject of bargaining. It also notes that the comparables support the Association's position.

The arbitrator believes there is some ambiguity in the disputed language. It is unclear to her whether the phrase "non-mandatory" modifies only the word which follows ("subject") or whether it also modifies the phrase "matter not specifically referred to or covered in this agreement." If the former interpretation applies, then the language proposed to be deleted covers both non-mandatory and mandatory subjects. In interpreting waiver clauses, case law has generally required clear and unambiguous language for such clauses to be enforceable. Since the existing language proposed to be deleted presents at least one substantial ambiguity, the arbitrator believes that the Association's deletion proposal has merit.

Final Offer Whole Package

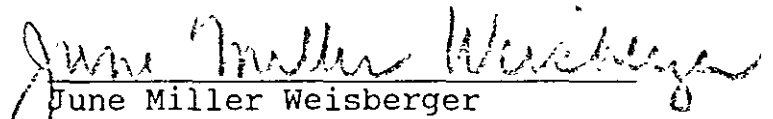
Under Wisconsin's municipal interest arbitration statute, the arbitrator is required to choose either the District's final offer whole package or the Association's final offer whole package. Aside from the salary issue where the parties' offers are close and the salary restructuring proposal of the Association where there is no clear-cut "winner," the arbitrator's analysis of the remaining issues favors the Association's positions. Accordingly, she finds that the Association's whole package final offer is more reasonable in light of an issue-by-issue analysis and consideration of each party's total offer. Although the overall effect of her selection of the Association's final offer may be to provide the Association with more favorable contractual provisions than the Association would gain through collective bargaining or in a conventional arbitration proceeding, this result occurs primarily

because of the District's bargaining position which emphasized unduly a perceived requirement for a quid pro quo in the face of comparability data favoring the Association's proposals and, of course, because of the final offer whole package form of arbitration under Section 111.70(4)(cm).

AWARD

Based upon the record submitted in this proceeding (including exhibits and briefs), the statutory factors set forth in Section 111.70(4)(cm)7, and for the reasons discussed above, the arbitrator selects the final offer of the Association and directs that it be incorporated without modification into the parties' collective bargaining agreement together with all stipulations of the parties.

Madison, Wisconsin
October 30, 1993


June Miller Weisberger
Arbitrator

RECEIVED
JAN - 7 1993

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

January 5, 1992

FINAL OFFER OF THE BRISTOL SCHOOL DISTRICT NO. 1
BRISTOL EDUCATION ASSOCIATION

1. Amend ARTICLE XIX - SALARIES AND OTHER COMPENSATION (page 23), to revise the language in Paragraph 1 to read as follows:

The salary schedules for the 1991/92 and 1992/93 school years are attached hereto as Appendixes B and C.

2. All stipulations (see Attachment A) as agreed to and initialed.
3. Status quo on the balance of the contract.

BRISTOL SCHOOL DISTRICT NO. 1

By: _____

Date: _____

Annex A

Bristol Board Final Offer 1991-92

Salary schedule	B	B 6	B 12	B 18	B 24	B 30	M	M 6	M 12	M 18	M 24	M 30
Lane												
Step												
0	24508	24858	25218	25588	25968	26358	26808	27268	27738	28218	28708	29208
1	25173	25533	25903	26283	26673	27073	27558	28043	28538	29043	29558	30083
2	25838	26208	26588	26978	27378	27788	28308	28818	29338	29868	30408	30958
3	26503	26883	27273	27673	28083	28503	29058	29593	30138	30693	31258	31833
4	27168	27558	27958	28368	28788	29218	29808	30368	30938	31518	32108	32708
5	27833	28233	28643	29063	29493	29933	30558	31143	31738	32343	32958	33583
6	28498	28908	29328	29758	30198	30648	31308	31918	32538	33168	33808	34458
7	29163	29583	30013	30453	30903	31363	32058	32693	33338	33993	34658	35333
8	29828	30258	30698	31148	31608	32078	32808	33468	34138	34818	35508	36208
9	30493	30933	31383	31843	32313	32793	33558	34243	34938	35643	36358	37083
10	31158	31608	32068	32538	33018	33508	34308	35018	35738	36468	37208	37958
11	31823	32283	32753	33233	33723	34223	35058	35793	36538	37293	38058	38833
12	32488	32958	33438	33928	34428	34938	35808	36568	37338	38118	38908	39708
13	33153	33633	34123	34623	35133	35653	36558	37343	38138	38943	39758	40583

Bristol Board Final Offer 1992-93

Salary schedule

Lane	B	B 6	B 12	B 18	B 24	B 30	M	M 6	M 12	M 18	M 24	M 30
Step												
0	25610	25970	26340	26720	27110	27510	28045	28590	29145	29710	30285	30870
1	26310	26680	27060	27450	27850	28260	28860	29430	30010	30600	31200	31810
2	27010	27390	27780	28180	28590	29010	29675	30270	30875	31490	32115	32750
3	27710	28100	28500	28910	29330	29760	30490	31110	31740	32380	33030	33690
4	28410	28810	29220	29640	30070	30510	31305	31950	32605	33270	33945	34630
5	29110	29520	29940	30370	30810	31260	32120	32790	33470	34160	34860	35570
6	29810	30230	30660	31100	31550	32010	32935	33630	34335	35050	35775	36510
7	30510	30940	31380	31830	32290	32760	33750	34470	35200	35940	36690	37450
8	31210	31650	32100	32560	33030	33510	34565	35310	36065	36830	37605	38390
9	31910	32360	32820	33290	33770	34260	35380	36150	36930	37720	38520	39330
10	32610	33070	33540	34020	34510	35010	36195	36990	37795	38610	39435	40270
11	33310	33780	34260	34750	35250	35760	37010	37830	38660	39500	40350	41210
12	34010	34490	34980	35480	35990	36510	37825	38670	39525	40390	41265	42150
13	34710	35200	35700	36210	36730	37260	38640	39510	40390	41280	42180	43090

ARTICLE XII - INSURANCE

Option Plan Coverage.

This plan change shall go into effect on the first of the month following ratification or receipt of a binding award only if the implementation will result in the district saving money .

In the event that an employee's spouse has family health coverage, the employee may waive District coverage and elect the Maintenance of Insurability option. If this option is selected, the District will contribute to the Wisconsin Education Association Tax Sheltered Annuity (WEATSA) Trust non-elective 403(b) plan.

The amount contributed each month to WEATSA shall be equal to the single health rate.

District contributions to WEATSA shall be made in the same manner as contributions sent to the health insurance carrier.

A copy of the Maintenance of insurability plan amendment and limitations are incorporated herein by reference.

Insurance Change

If the District decides to change insurance plan or carrier from that currently in effect, the District shall notify the Association 30 days in advance of the date of the change and provide the specifications of benefits of the proposed new carrier or plan. There shall be no decrease in benefits or benefit level during the term of this agreement from what was in effect and provided during the 1981-82 1992-93 school year.

No employee shall make any claim against the District for coverage in addition to, or in excess of, that provided under the existing insurance plan

Long Term Disability and Life Insurance

The Board will pay the premium cost of Long-Term Disability Insurance and Life Insurance for permanent full-time employees at no cost to the employee. The Board shall have the right to designate the carrier for such insurance. Nothing herein shall obligate the Board to do anything other than pay the premium.

Stipulation: "employees working 20 or more hours per week."

*Withdrawn
by
agreement
0*

Annex B

Fringe Benefit Continuation Following Resignation or Termination

Teachers who resign or otherwise terminate their employment with the District at the end of the school year (other than discharge or non-renewal) shall receive District paid insurance through ~~July 15~~, **August 31**. Then said teacher shall be eligible, for eighteen (18) months, to purchase insurance under the District's group policy upon the teacher's proper payment of the premium. The District will not pay this insurance cost.

Further, teachers who resign or otherwise terminate their employment with the District during the school year (~~other than discharge or non-renewal~~) shall receive District paid insurance only until the completion of the last month during which they have taught. These teachers shall also have the right, for eighteen months, to be eligible for insurance under the District's policy so long as the teacher pays the premium.

ARTICLE XVI - GRIEVANCE PROCEDURE

2. Definition:

For the purpose of this Agreement, a grievance is defined as any complaint regarding the interpretation or application of a specific provision of this Agreement. "Days" for purposes of this Article shall mean calendar days. *A grievant may be a teacher, group of teachers or the Association. In the event a grievance is filed by a teacher or a group of teachers, the Association shall be given notice of the grievance and may be at all meetings.*

3. Timelines and Procedures

Grievances shall be processed in accordance with the following procedure:

Step 1.

- a An earnest effort shall be made to settle the matter informally between the teacher and the principal.
- b If the matter is not resolved, the grievance shall be presented in writing by the teacher to the principal within ~~ten (10)~~ **fifteen (15)** days after the facts upon which the grievance is based first occurred or first become known. The principal shall give his written answer within five (5) days of the time the grievance was presented to him in writing.

ARTICLE XIX - SALARIES AND OTHER COMPENSATION

7. Tuition Reimbursement

Teachers will be reimbursed up to ~~Seventy-Five Dollars (\$75)~~ **\$80** per credit *in the 1st year of this agreement and \$85 per credit in the 2nd year of this agreement* for graduate credits, with reimbursement being limited to no more than six (6) credits every five (5) years. All credits must have prior approval of the administrator. ~~Credit reimbursement will become effective June 1, 1987. The parties agree there will be no bargaining over credit reimbursement in the 1987-88 negotiations. Credit reimbursement will again be an open subject for bargaining beginning with the 1988-89 school year.~~

Teachers working less than full time shall be reimbursed **\$75 at listed rate** per graduate credit. All other provisions of this section shall apply as well as the following. Teachers working less than full time at Bristol will not be reimbursed at **\$75 at the listed rate** per credit if they also receive credit reimbursement from another school district. If the teacher receives credit reimbursement from another district, then the amount received from Bristol shall equal, but not exceed **\$75 the total reimbursement** per graduate credit. Further, this full payment shall not negate any other portions of the contract which provide for pro-rated benefits for employees working less than full time.

ARTICLE XXI - MISCELLANEOUS CONTRACT CONDITIONS

3. Substitution Requirements, Pay

Substitutes will be hired if at all possible for all specialists in the event of the absenteeism of that specialist, provided the specialist has given sufficient notice. When classroom teachers are asked to perform intrafaculty substituting, they shall be paid ~~\$40.00~~ **\$12.00 and \$12.50 respectively during the 1st and 2nd years of this agreement** for any class of 45 minutes or longer. Teachers performing this same substituting for less than that time shall be paid ~~\$5.00~~ **50% of the applicable amount** per class period.

ARTICLE XXV - TOTAL UNDERSTANDS CLAUSE

2. This Agreement constitutes the entire agreement between the parties and no verbal statements shall supersede any of its provision. Any amendment supplemental hereto shall not be binding upon either party unless executed in

* At arbitration hearing, Employer agreed to increase to \$12 per class of 45 minutes or longer effective first year of agreement.

writing by the parties hereto. The parties further acknowledge that, during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the areas of collective bargaining and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth by this Agreement

~~Therefore, the Board and the Association, for the life of this Agreement, each voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any non-mandatory subject or matter not specifically referred to or covered in this Agreement, even though such subject may not have been within the knowledge and contemplation of either or both of the parties at the time that they negotiated or signed this Agreement. Waiver of any breach of this Agreement by either party shall not constitute a waiver of any future breach of this Agreement.~~

SPEAK Bristol 1991-92 Salary Schedule

Step	B.A.	BA+6	BA+12	BA+18	BA+24	BA+30	M.A.	MA+6	MA+12	MA+18	MA+24	MA+30
1	24,508	24,858	25,218	25,588	25,968	26,358	26,808	27,268	27,738	28,218	28,708	29,208
2	25,173	25,533	25,903	26,283	26,673	27,073	27,558	28,043	28,538	29,043	29,558	30,083
3	25,838	26,208	26,588	26,978	27,378	27,788	28,308	28,818	29,338	29,868	30,408	30,958
4	26,503	26,883	27,273	27,673	28,083	28,503	29,058	29,593	30,138	30,693	31,258	31,833
5	27,168	27,558	27,958	28,368	28,788	29,218	29,808	30,368	30,938	31,518	32,108	32,708
6	27,916	28,317	28,729	29,150	29,581	30,022	30,652	31,240	31,838	32,446	33,064	33,692
7	28,664	29,077	29,499	29,932	30,374	30,827	31,496	32,112	32,738	33,374	34,021	34,677
8	29,412	29,836	30,270	30,714	31,167	31,631	32,339	32,984	33,638	34,302	34,977	35,661
9	30,161	30,596	31,041	31,496	31,961	32,436	33,183	33,856	34,538	35,231	35,933	36,646
10	30,909	31,355	31,811	32,277	32,754	33,240	34,027	34,727	35,438	36,159	36,889	37,630
11	31,657	32,114	32,582	33,059	33,547	34,044	34,871	35,599	36,338	37,087	37,846	38,614
12	32,405	32,874	33,352	33,841	34,340	34,849	35,714	36,471	37,238	38,015	38,802	39,599
13	33,153	33,633	34,123	34,623	35,133	35,653	36,558	37,343	38,138	38,943	39,758	40,583
14	33,153	33,633	34,123	34,623	35,133	35,653	36,558	37,343	38,138	38,943	39,758	40,583

SPEAK Bristol 1992-93 Salary Schedule

Step	B.A.	BA+6	BA+12	BA+18	BA+24	BA+30	M.A.	MA+6	MA+12	MA+18	MA+24	MA+30
1	25,610	25,970	26,340	26,720	27,110	27,510	28,045	28,590	29,145	29,710	30,285	30,870
2	26,310	26,680	27,060	27,450	27,850	28,260	28,860	29,430	30,010	30,600	31,200	31,810
3	27,010	27,390	27,780	28,180	28,590	29,010	29,675	30,270	30,875	31,490	32,115	32,750
4	27,710	28,100	28,500	28,910	29,330	29,760	30,490	31,110	31,740	32,380	33,030	33,690
5	28,410	28,810	29,220	29,640	30,070	30,510	31,305	31,950	32,605	33,270	33,945	34,630
6	29,310	29,723	30,146	30,579	31,021	31,474	32,353	33,030	33,717	34,414	35,121	35,839
7	30,210	30,636	31,071	31,517	31,973	32,439	33,401	34,110	34,829	35,559	36,298	37,047
8	31,110	31,549	31,997	32,456	32,924	33,403	34,449	35,190	35,941	36,703	37,474	38,256
9	32,010	32,461	32,923	33,394	33,876	34,367	35,496	36,270	37,054	37,847	38,651	39,464
10	32,910	33,374	33,849	34,333	34,827	35,331	36,544	37,350	38,166	38,991	39,827	40,673
11	33,810	34,287	34,774	35,271	35,779	36,296	37,592	38,430	39,278	40,136	41,004	41,881
12	34,710	35,200	35,700	36,210	36,730	37,260	38,640	39,510	40,390	41,280	42,180	43,090
13	34,710	35,200	35,700	36,210	36,730	37,260	38,640	39,510	40,390	41,280	42,180	43,090
14	34,710	35,200	35,700	36,210	36,730	37,260	38,640	39,510	40,390	41,280	42,180	43,090