Fairfield CSD/EA

2005-2006
CEO 255
SECTOR 3

IN THE MATTER OF THE INTEREST ARBITRATION BETWEEN

Fairfield, Iowa Community School District

DISTRICT

-and-

Fairfield, Iowa Community Education Association

ASSOCIATION

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ARBITRATOR: Christine D. Ver Ploeg

DATE AND PLACE OF HEARING: July 31, 2006
Fairfield High School
Fairfield, Iowa

DATE OF AWARD: August 12, 2006

ADVOCATES

For the District
Brian Gruhn
Donald Hoskins
Gary Ray

For the Association
Carol Haupert
Betty Fuller
Suzy Card

ISSUES AT IMPASSE

Wages
Personal Leave
Reductions

INTRODUCTION

This interest arbitration between the Fairfield, Iowa Community School District ("District") and the Fairfield Community Education Association ("Association") has been conducted pursuant to Iowa's Public Employment Relations Act, Chapter 20. The parties have reached impasse concerning their 2006-2007 Agreement with respect to three issues: Wages, Personal Leave, and Reduction of Staff.

At a hearing held on July 31, 2006, the parties presented their respective cases concerning each contested issue, and this arbitrator has weighed that evidence and argument against the statute's impasse criteria. Section 20.22 (3) of the Code of Iowa restricts awards of arbitrators considering teacher contracts, to the " . . . final offers on each impasse item submitted by the parties. . ." Sections 20.22 (9) and 20.22 (11) of the Code require the arbitrator to select the most reasonable offer on the impasse item submitted by the parties after considering, in addition to any other relevant factors, the following:

> a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
>
> b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classification involved.
>
> c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.
>
> d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operation.

The arbitrator has applied the preceding criteria in reaching decision in this case.

BACKGROUND

The Fairfield Community School District (CSD), located in the county seat of Jefferson County in southeast Iowa, covers most of the county. The District provides a Grade K-12 education program, along with a program for preschool handicapped students. It has four K-5 Elementary attendance centers, a Middle School Center which houses Grades 6-8, and a High School Center for Grades 9-12. The District's 2005-2006 certified enrollment of 2,025.9 students places it in the top 12% (43 out of 365 school districts) for the state.

The Fairfield Education Association represents all full and part time professional employees in the District—currently representing an FTE of 152.325. The Public Employment Relations Board certified the Association on July 30, 1975, as the exclusive bargaining representative for the Fairfield CSD professional staff employees, and the parties' first contract went into effect for the 1976-77 school year. The parties have usually settled contracts through

mediation. The last Master Contract to be settled by an arbitrator was 2000-2001.

The parties began negotiations for the 2006-2007 Master Contract December 5, 2005, at which time the Fairfield Education Association presented its initial proposal. The District presented its initial offer on December 16, 2005. Following additional bargaining sessions, the parties participated in a May 3, 2006, mediation session. However, they were unable to reach a voluntary settlement.

On May 24, 2006, the District filed a petition pursuant to PERB Rule 621-6.3(20) seeking the Board's ruling whether certain Association proposals were mandatory subjects of bargaining. On June 14, 2006, the Board issued the following preliminary ruling on Case Number 7277 indicating that the following are permissive subjects of bargaining:

> Article IV.G, Extra Assignment and Extended Contract Rate:
>
> " Employees at the Middle School and Senior High School who are assigned a regular class during their preparation period will be compensated at the rate of 15% of the Generator Base."
>
> Article XII. Employee Hours, D. Elementary Preparation Time
>
> "All teachers will have a minimum of 145 minutes of preparation time."
> "Any free time beyond the 25 minutes will be counted toward the 145 minutes. (Will only be counted if it is a 10 minute black or greater.)"
> "Recess time will not count toward the 145 minutes."
> "Recess may be counted toward the 145 minute if any associate covers or there is no responsibility on the teacher's part and the teacher agrees to this arrangement."
>
> Article XVIII. Health Provisions
> A. Physical Fitness – New Employees and Continuing Employees
>
> "Physical examinations shall be required of all certified employees upon their initial appointment. Forms for examination shall be provided by the school district. The employee shall first submit the cost for the physical to their insurance carrier for payment. Any out of pocket cost incurred by the employee not covered by the insurance carrier for the school physical will be reimbursed by the district up to $50.00.
>
> After employment, the employee shall have a physical examination and a check for tuberculosis every three (3) years and file the results with the District. The district will pay the costs as provided in paragraph one up to $50.00
>
> An examination form shall be recommended by the Superintendent of Schools and approved by the Board of Education.
>
> Personnel, whose physical well being may be in doubt in the opinion of the

administration, shall present satisfactory examination results when requested to do so."

The remaining issues at impasse have now proceeded to arbitration.

ISSUES AT IMPASSE

Issue 1. Wages – Schedule A

District Position. The County proposes to increase the salary schedule by $395 for a Generator Base (Schedule A) of $ 22,300.

Union position. The Union proposes to increase the salary schedule by $490 for a Generator Base (Schedule A) of $ 22,395.

District's evidence and argument:

The District proposes to increase the salary schedule by $395 for a Generator Base (Schedule A) of $ 22,300. District exhibit I-3C outlines the District's reasons, with supporting documentation, why it submits this arbitrator should adopt its position on wages. That exhibit states:

1. The District has lost 7% of its enrollment just since 2000/01.

2. The loss of enrollment has resulted in the receipt of low new money for funding settlements.

3. The combination of the above factors has resulted in budget pressures that have put the District into the red in 6 out of 10 of the past fiscal years.

4. The District has less new money than all but one comparison school. The District new money is below state average new money.

5. Negative Budget pressures and other demographic factors gave rise to an early retirement program which has caused the 05/06 average salary to be less than it was in 03/04.

6. The district is last in both comparison groups in every measure of budget condition.

7. The District position:
   is above the parties' BA Base settlement history.
   is above the parties' TP% settlement history.

8. The District position is above the settlements at schools with similar new

money.

9. The District position compares to settlements at schools with 3.00-3.99% new money vs. schools with 5.00-5.99% new money for the Association position.

10. The District position is most comparable to the state averages of both the ISEA and IASB settlement reports.

In summary, the District submits that its proposal meets the standards that neutrals look for in awarding a change to contract language.

Association's evidence and argument:

The Union proposes to increase the salary schedule by $490 for a Generator Base (Schedule A) of $ 22,395. It has based its proposal on the following evidence and arguments:

First, it notes that under either its or the District's comparison groups, teachers in this District are paid wages below the average. Thus, external comparisons support a greater wage increase than the District has offered. Moreover, while these employees, who teach in the 43d largest district in the state, rank 153 in average teacher wages, the District's average adminstrator wage ranks 4th, and the superintendent ranks 28. Thus, the Association submits that the internal comparisons also support a substantial increase in teacher wages.

The Association submits that the District has the ability to fund a more generous wage proposal than it is willing to acknowledge. The Association submits that the District could easily fund the Association's proposal--which it estimates would cost an additional $368,873--with a combination of turnover savings (estimated at $ 167,970), Increases for Special teachers (about 15%, for an estimated $55,330) and an increase in the Regular Program of approximately $ 145,573. The Association submits that the District's ability to absorb this increase is demonstrated by the following evidence:

1. At the end of 2004-05 the District's unspent balance (unused spending authority) was $ 487,505.

2. In recent years the District has increased its cash reserve levy, which will increase its budget ending fund balance on a cash basis, and Total Fund Equity on a modified accrual basis.

3. At the end of the 2004-05 budget year, the District's Budgetary Ending Fund Balance (money) was $ 1,963,798, and its Total Fund Equity ending fund balance (assets-liabilities) was $ 538, 444.

4. The District's Regular Program money will increase by $ 189,041 for 2006-07. It is common for settlements to exceed the Regular Program increase in dollar amount and percent for several reasons e.g., the Association's costing assumes all teachers will return for 2006-07, when in fact turnover savings will be higher than in the recent past, and the

Association's costing also includes teachers who are paid from funds in addition to Regular Program money.

Discussion and Decision

External Comparisons

In considering the merits of the parties' respective wage proposals, it has first been necessary to determine the appropriate external comparison group(s) against which to consider the parties' competing evidence. [1] The Association submits that two groups are properly compared when determining the wages appropriate for this employee group:

1) **5 Up/5 Down** in enrollment of Area Education Agency 15 (the District is located on the eastern edge) and AEA 16 (the District is located on the western edge). The Association asserts that this comparison is especially apt as both AEAs are due to merge at the end of the 2006-07 school year, and

2) **75 Mile Radius Group**. The furthest district in this group is 75 miles from Fairfield, and enrollment in the group ranges from 1,220.5 to 2,466.2. The District enrollment of 2,025.9 puts it 5th highest in this group of 11 districts, and 30 under the group's average.

I have considered this evidence but agree with the District that it is more appropriate to continue to use the athletic conference comparisons group utilized by the parties in preceding negotiations, as well as the "contiguous county seats" accepted by the neutral in the parties' most recent arbitration (2000-2001 contract). While the Association's proposed comparisons are not inappropriate, the Association failed to offer reasons why the comparisons previously used warrant a change. Thus, the comparison groups utilized in this interest arbitration remain:

1) the 5 districts in the District's athletic conference: Fort Madison, Keokuk, Mount Pleasant, Washington and Fairfield.

2) the 7 districts contiguous to the District: Ottumwa, Mount Pleasant, Washington, Davis County, Van Buren, Sigourney and Fairfield.

Discussion and Decision

In reviewing the parties' evidence and arguments on the wage issue, the most compelling evidence that favors the District's position has been that concerning its current financial situation. Although it is true that the District has not argued that it is totally unable to fund the Association's

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[1] As noted above, Iowa law directs the arbitrator to consider—among other factors—the following: "b. Comparison of wages, hours and conditions of employment of the involved public employees *with those of other public employees doing comparable work*, giving consideration to factors peculiar to the area and the classification involved." (Emphasis added).

proposed increase, it has demonstrated that its position is the most reasonable when viewed in the context of its past budgetary problems and financial prospects for the immediate future.

With respect to budgetary problems, the District did demonstrate that it has been, and continues to be, last in every measure of budget condition when compared with every District in both comparison groups. Those measures are the General Fund, the Undesignated/Unreserved Fund Balance, the Solvency Ratio, the Unspent Balance and Interest Income. In short, the District demonstrated that the District will have to find sufficient budget cuts to fund its own proposal in this case.

In addition, although the District's proposal will maintain these employees at lower than average wages by most comparisons with the relevant comparison groups, its proposal must be viewed more favorably when compared with the amount of new money the District expects to receive for the coming school year. This year the District will receive 1.85% in new money. This is lower than the statewide average increase of 2.29%. The District's offer, which the Association estimates represents a 4.49 % increase in teacher's wages, and the District estimates as a 4.59 % increase, is reasonable when compared with the 1.85% new money it will receive. The District's position of 4.59% (or 4.49%) exceeds the settlements at schools with 3.00-3.99% new money and the over-all state average. By contrast, the Association's position (which the Association originally calculated at 4.99% and which it now calculates at 4.89%) is most comparable with the settlements at schools with 5.00-5.99% new money. The District has demonstrated that the 1.85% in new money ($ 189,041) is insufficient to cover the cost of either its wage proposal ($339,349, representing 179.5% new money) or the Association's wage proposal ($ 368,872 which, using a total package increase of 4.99% represents 195.1% of the new money).

In summary, the District has demonstrated that its proposal will maintain these employees in relatively the same position within the accepted external comparison groups, and the Association has not demonstrated internal inequities when "apples are compared to apples." The District has also demonstrated that in a time of continuing severe budgetary pressures--in which the District is last in every measure of budget condition when compared with every District in both comparison groups, and in which the District will receive a relatively low percentage of new money--it is reasonable to award a wage increase greater than the averages, but not as great as the Association seeks.

The District's wage increase is awarded.

Issue 2. Temporary Leaves of Absence.

District Position. Current Language

Union position. The Union proposes to amend the current language as follows:

A. Paid Leave
Employees shall be entitled to the following temporary, non-accumulative leaves of absence with full pay each school year.

1. Personal
Each employee may use two personal ~~business~~ days according to the

provisions provided in this section.

An employee planning to use a personal day shall make application (on Schedule E) to the Superintendent, ~~stating a general reason for such leave,~~ at least five (5) school days in advance except in the case of an emergency.

Personal ~~business~~ leave will not be allowed immediately following or prior to a school holiday or an in-service day, except in unusual circumstances. Special requests (on Schedule E) for these unusual circumstances must be approved by the Superintendent and be submitted to the Superintendent at least five (5) school days in advance with reasons for the leave.

~~Personal business leave shall not be used for recreational purposes, vacation, seeking other employment or business that can be handled outside regular school hours.~~

Association's evidence and argument:

The Association seeks to change the Personal Business Leave provisions-- which currently require that a reason be given, and which deny days for certain activities such as recreational use—to entitle teachers to personal days with no restrictions and for which no reason need be given.

Association exhibit 15 outlines the Association's reasons, with supporting documentation, why it submits this arbitrator should adopt its position on Personal Leave. That exhibit states:

1. Comparability supports the Association's proposal to modify the existing personal leave language.

2. Times and needs change. The requirement for employees to provide a reason for the leave and the restrictions on purposes for which personal leave can be taken were negotiated in the late 1970s as a quid pro quo for removal of a requirement that the Superintendent approve personal leave. No substantive changes in the language have occurred since the 1979-980 contract.

3. Employees should be permitted to use personal leave for personal reasons without being required to divulge those reasons to the District.

4. In a limited number of instances current contract language has not been equitably applied. Some employees have been permitted to use personal leave for purposes restricted by the existing contract language.

5. Repeated attempts to modify the language voluntarily have proven unsuccessful. Previous attempts to modify the language at hearing have been rejected because the neutrals viewed the proposed changes as excessive and/or

lacking in comparability.

6. A change in personal leave language cannot be attained voluntarily. The Association has attempted to bargain changes in personal leave language during the negotiation of six of the last seven contracts. Five of the six FCEA initial proposals mirror the proposal the Association brings before the arbitrator today.

District's evidence and argument:

The District vigorously protests this proposal. It argues that the conditions for exercising this benefit, which the parties negotiated in their first Agreement, must remain subject to the give-and-take of collective bargaining. There is no basis for awarding this change in arbitration. If this issue is truly important to Association members, they should be willing to offer a *quid pro quo* at the bargaining table. Moreover, the District asserts that if this "go to hell days" proposal—i.e., personal leave without restrictions or reasons--is adopted it will cost an estimated additional $ 18,600.

Discussion and Decision

All neutrals recognize that a party that seeks to change previously negotiated contract language faces a heavy burden. Neutrals are reluctant to unilaterally change contract terms. They agree that those are matters best left to the give and take of the bargaining table, absent proof of extraordinary problems and unreasonable refusals by one party to deal with those problems.

The evidence presented in this case does not meet that standard. There is no evidence that this agreed upon language has imposed extraordinary problems (unforeseeable when bargained) or has been applied inequitably (in which case the Association would be expected to file a grievance). Evidence that the District agreed to increase the number of personal days from one to two days suggests that it has been willing to bargain these terms. Indeed, the District has, unsuccessfully, sought its own proposed changes in these terms.

In short, arbitration is rarely an appropriate forum for changing negotiated contract language, and that is true under these facts.

Issue 3. Staff Reduction

District Position. Current language.

Association position. The Union proposes to amend the current language as follows:

Remove Article XIV.B(3)(d):

~~Extra duty assignments. Extra duty assignments will be a consideration where applicable in contract termination.~~

Association's evidence and argument:

The Association seeks to eliminate the provision in the Agreement whereby a teacher's extra duty assignments are considered when there is a staff reduction.

Association exhibit 16 outlines the Association's reasons, with supporting documentation, why it submits this arbitrator should eliminate this language. That exhibit states:

> 1. Comparability supports the Association's proposal to delete extra duty assignments as a criterion for staff reduction. Comparability would, in fact, support a solely seniority-based staff reduction procedure.
>
> 2. The only substantive change in the staff reduction language since the initial contract in 1976-1977 has been removal of evaluation as a reduction criterion.
>
> 3. Due to lack of evidence of problems with the existing language, previous neutrals have rejected attempts to modify Article XIV.
>
> 4. The District has refused to acknowledge or ameliorate the problems that exist with inclusion of extra duty assignments as a staff reduction criterion.
>
> 5. The Association has experienced substantial difficulty with extra duty assignments being included in the staff reduction Point System. The Association has attempted to obtain voluntarily change in the staff reduction language at the bargaining table, has filed grievances, and has taken proposed changes in staff reduction language to interest hearings. Five of the six FCEA initial proposals since the occurrence of staff reductions in March of 2002 have included deletion or modification of the extra duty points. (See The instant hearing is the parties' first appearance at arbitration since the 2002 staff reductions.

For all of the above reasons, the Association urges the arbitrator to award its proposal to delete the extra duty points from the staff reduction Point System.

District's evidence and argument:

The District vigorously protests this proposal for the same reasons it protests the preceding Association proposal concerning Personal Leave. The District argues that changing this language, which the parties negotiated many years ago, must remain the subject of the give-and-take of collective bargaining.

Discussion and Decision

Again, it must be noted that neutrals are reluctant to unilaterally change contract language absent proof of extraordinary problems and unreasonable refusals by one party to deal with those problems. Such evidence is not found in this case.

The District notes that most of the Association's complaints with respect to this provision date back to the 1991-1992 Agreement, yet it was not until 2002 that the Association sought to change this language. The Association argues that this delay means nothing, as the District never sought reductions until 2002. In any event, it is noteworthy that even after the 2002 proposed reductions (following which everyone nevertheless got jobs in the District), the Association's proposals to change the language have fluctuated from proposals to grant more points for more activities, to proposals to base reductions solely on straight seniority. The Association has sought these changes in some negotiations and before some neutrals, but not all. For example, the parties have been before two arbitrators since the 2002 proposed reductions, but have not sought the change it now proposes.

This issue remains a matter on which the evidence does not establish either an extraordinary problem (many teachers understandably like the current system) or the District's unreasonable refusal to negotiate the Association's concerns.

AWARD

For the above reasons, the following is awarded:

1. Wages – Schedule A: District's position is awarded.
2. Temporary Leaves of Absence, Article VIII,A: No Change
3. Staff Reduction, Article XIV.B(3)(d): No Change

August 12, 2006

Christine Ver Ploeg, Arbitrator

Certificate of Service

The undersigned certifies that on August 12, 2006, I served the foregoing award upon each of the parties by e-mailing a copy to the following persons:

Gary L. Ray
rayassoc@netins.net

Carol Haupert
chaupert@isea.org

I further certify that on August 14, 2006, I will serve the foregoing award upon each of the parties and the Iowa PERB by mailing a copy to:

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