

IN THE MATTER OF ARBITRATION) INTEREST ARBITRATION
)
 between)
)
 Independent School District) Supervisory Unit
 No. 390, Lake of the Woods,)
 Baudette, Minnesota)
)
 -and-) BMS Case No. 13-PN-0433
)
 American Federation of)
 State, County and Municipal)
 Employees, Greater Minnesota)
 Council 65) November 27, 2013
))

APPEARANCES

**For Independent School District No. 390, Lake of the Woods,
Baudette, Minnesota**

Margaret A. Skelton, Attorney, Ratwik, Roszak & Maloney, P.A.
Jeff Peura, Superintendent
Douglas Nosan, School Board (Member)
Tom Eaton, School Board (Chair)
Terry Waibel, School Board (Treasurer)
Tim Pelach, School Board (Member)

**For American Federation of State, County and Municipal
Employees, Greater Minnesota Council 65**

Teresa L. Joppa, Staff Attorney
Chris Kapella, Labor Representative
Nancy Olson, Administrative Assistant/Office Manager
Reed McFarland, Transportation/Buildings & Grounds Supervisor
Cecelia Charlton, Community Education/Lunch Coordinator
Brenda Wahl, Head Cook

JURISDICTION OF ARBITRATOR

American Federation of State, County and Municipal
Employees, Greater Minnesota Council 65 (hereinafter "AFSCME" or
"Union") is the exclusive representative for a newly formed
bargaining unit consisting of six non-certified confidential,

supervisory, and department head employees (hereinafter "Supervisory bargaining unit") employed by Independent School District No. 390, Lake of the Woods, Baudette, Minnesota (hereinafter "School District" or "Employer").

This interest arbitration concerns the initial collective bargaining agreement between the Union and School District (hereinafter referred to as the "Parties"). Prior to being certified as a Supervisory bargaining unit, each of the six employees had individual contracts with the School District, which they negotiated individually.

The Parties entered into negotiations for a new two-year (2013-2014 and 2014-2015 school years) collective bargaining agreement. The Parties were unable to during bargaining and mediation to resolve all of their outstanding issues. As a result, on June 5, 2013, the Bureau of Mediation Services ("BMS") received a written request from the Union to submit the unresolved issues to conventional interest arbitration. On June 28, 2013, the BMS determined that the following items were certified for conventional interest arbitration pursuant to Minn. Stat. § 179A.16, subd. 2 and Minn. Rule 5510.2930:

1. Hours - Normal Work Week - Article 6, Section A
2. Hours - Compensation for Meeting Attendance - Article 6, Section B
3. Hours - Work on Days of Inclement Weather - Article 6, Section C
4. Longevity - Amount of Longevity Payments - Article 6, Section D

5. Vacation - Accrual Rates and Maximums - Article 8, Section A
6. Sick Leave - Accrual Rates and Maximums - Article 9, Section A
7. Severance Pay - Amount of Severance Pay - Article 10, Section A
8. Health Insurance 2013-2014 - Employer Contribution 2013-2014 & Plan Options - Article 11, Section C
9. Health Insurance 2014-2015 - Employer Contribution 2014-2015 & Plan Options - Article 11, Section C
10. Dental Insurance 2013-2014 - Employer Dental Insurance Contribution 2013-2014 - Article 11, Section D
11. Dental Insurance 2014-2015 - Employer Dental Insurance Contribution 2014-2015 - Article 11, Section D
12. Salaries - Pay Cycle, Timing of Pay Days - Article 18, Section A
13. Salaries 2013-2014 - Establish Salary Schedule and Create Appendix 2013-2014 - Article 18, Section B
14. Salaries 2014-2015 - Establish Salary Schedule and Create Appendix 2014-2015 - Article 18, Section B
15. Salaries - Granting Steps, If Any, Prior to Securing a Successor Agreement - Appendix A

NOTE: This is a first contract, Article Numbers are proposed and subject to modification to align with awards, if any.

The Arbitrator, Richard John Miller, was selected by the Parties from a panel submitted by the BMS. A hearing in the matter convened on November 4, 2013, at 9:00 a.m. at the School District Building, Baudette, Minnesota. The Parties were afforded full and ample opportunity to present evidence and arguments in support of their respective positions.

The Parties' representatives elected to file electronically post hearing briefs, with an agreed-upon submission date of November 15, 2013. The post hearing briefs were submitted in accordance with those timelines, and exchanged electronically by

the Arbitrator on that date, after which the record was considered closed.

BACKGROUND

The six School District employees who are in the new AFSCME Supervisory bargaining unit occupy the following titles, with name of employee and their hiring date: Administrative Assistant/Office Manager (Nancy Olson, October 15, 1979); Community Education/Lunch Coordinator (Cece Charlton, May 23, 1994); Transportation/Building & Grounds Supervisor (Reed McFarlane, August 31, 1995); Pool Coordinator/Lifeguard (Lisa Beckstrand, September 24, 1998); Head Cook (Brenda Wahl, August 31, 2000); and Technology Coordinator (William Chambers, July 23, 2012).

This is a first official collective bargaining agreement between the Parties. Each individual employee (now in the new Supervisory bargaining unit) had a direct individual contract with the School District covering their position and their salary and benefits prior to the group organizing a Union and beginning to collectively bargain with the Employer.

While the Arbitrator has extensive experience dealing with first contracts between parties, the fact that each of the individual contracts contained some similar and some dissimilar terms and conditions of employment compared to the other individual contracts makes for a lengthy and complex challenge

to attempt to standardize wages and benefits into one bargaining unit. For example, Transportation/Buildings & Grounds Supervisor McFarlane elected not to receive salary and longevity increases for several years, but rather placed those increases into the payments for his health insurance premium. Thus, the School District's contribution for health insurance premiums to Mr. McFarland greatly exceeds those premiums previously paid to the other employees in their individual contracts.

The Parties must realize that collective bargaining is here to stay with this Supervisory bargaining unit, and future demands by either Party should be achieved at the bargaining table and not by rushing them to interest arbitration. One year of collective bargaining is not long enough to establish a meaningful relationship between the Parties. Interest arbitration should be the last resort rather than the first resort after the Parties have had the opportunity to bargain over issues for many years.

There are four well-established factors that experienced arbitrators apply in interest arbitration. Those factors are: 1) the employer's ability to pay; 2) internal equity; 3) external or market comparisons; and 4) other economic or non-economic factors.

The first factor for consideration is the School District's ability to pay the Union's economic proposals for the two year

period in the 2013-2014 and 2014-2015 school years, the duration of the new contract.

The evidence pertaining to the financial condition of the School District establishes that the District's general fund, revenues including State Aid, property taxes, levies, and expenditures have been adequate to meet the District's needs over the last several years. This data establishes that the School District's finances have been hampered (like most school districts in the State), but not devastated to the point of insolvency, despite cuts in State Aid and declining student enrollment.

To the School Board's credit, they have been diligent by making tough budgetary decisions in these difficult economic times. They have made prudent decisions that allow their limited resources to be used in the most efficient and effective manner. The School Board's responsible spending and reduction in expenditures has allowed the School District to stay in the black each year. In fact, the School District's financial condition is better than in year's past since student enrollment (which determines State Aid) has stabilized, and the District is anticipated to receive \$177,823 more in State Aid than what was projected or budgeted for. This is because the State's tax revenues in the fall of 2013 have been higher than expected and any new revenue is pledged by the legislature to be paid back to

schools due to past funding shifts by the State. This is a windfall of sorts for the School District and certainly places it in a better financial condition to pay for the economic demands made by the Union.

As a result of the School District's current financial condition, it never alleged the inability to pay for the Union's economic proposals. However, having the ability to pay does not automatically mean that the Employer must be compelled to pay for every economic demand being made by the Union. To the contrary, the other three recognized factors (i.e., internal and external comparisons and other economic or non-economic factors) have a great bearing on the outcome of each of the outstanding impasse issues.

With respect to the factor regarding internal equity, the School District's teachers, represented by Education Minnesota, and non-certified employees (bus drivers, paraprofessionals, secretaries, and assistant cooks) represented by Minnesota School Employees Association ("MSEA") also have bargaining units that negotiate with the School District. The custodians are in the process of forming a bargaining unit to negotiate their first contract with the School District. As of the hearing in this case, the MSEA contract was settled for 2012-13 and 2013-14, and the teachers were in negotiations for the 2013-2014 and 2014-2015 school years. The School Board had also negotiated an

employment contract with the Superintendent of Schools for the 2013-14 and 2014-15 school years.

For the current school year, 2013-2014, the members of the MSEA bargaining unit received a 2.5% pay increase versus a 0% increase in the 2012-2013 school year. The Superintendent received a 2% wage increase for 2013-2014 and a 2% wage increase for 2014-2015. The teachers are still in negotiations for 2013-2014, but they received a 1% pay increase the prior school year, 2012-2013, while the six members of the new Supervisory bargaining unit have not received a wage increase for the last four years, since the 2009-10 school year.

As this interest arbitration involves an initial collective bargaining agreement, there is no precedent regarding the applicable external comparison group. The School District proposes an external comparison group consisting of other school districts that are members of Minnesota State High School League Region 8A that have student populations that are plus/minus 100 students from the District (484 students). This group consists of: Ada-Borup (496 students); Clearbrook-Gonvick (440 students); Greenbush-Middle River (447 students); Fertile-Beltrami (457 students); Marshall County Central (405 students); Nevis (542); Warren-Alverado-Oslo (438 students); Waubun-Ogema-White Earth (554 students); and Win-E-Mac (425 students). For the Pool Coordinator/Lifeguard position, the School District's

proposed comparability group consists of: International Falls (1,216 students); Roseau (1,238 students); and Warroad (999 students). The reason for using the larger schools for the Pool Coordinator/Lifeguard position is that these are the only school districts that qualify for the Swimming Pool Levy under M.S. 126C.455.

In contrast, the Union proposes a comparability group consisting of: Park Rapids (1,538 students); International Falls (1,216 students); Roseau (1238 students); Warroad (999 students); Blackduck (614 students); and Greenbush-Middle River (447 students).

With the sole exception of Greenbush-Middle River, which was the one common comparability school proposed by both Parties, the vast difference in greater size between the Union's and School District's proposed comparability groups severely limit the usefulness of any comparison. The direct link between student enrollment and state funding highlights the importance of ensuring that the external comparison group is limited to similarly-sized schools. The School District's proposed group intentionally accomplishes this goal by setting its parameter based upon student enrollment. In contrast, by the Union using the considerably larger schools in Park Rapids, International Falls, Roseau, Warroad, and Blackduck skews the data because larger schools receive more State Aid. This results in a

greater revenue stream, which generally produces higher salaries and benefits due to their larger student enrollments compared to schools of smaller enrollment. Thus, extremely larger schools, as proposed by the Union, are not the best comparability group.

A note of caution is needed in using external comparison in this case. Unlike teachers in the School District, who have similar or same teaching duties and responsibilities, the Supervisory bargaining unit consists of six individuals with specific and diverse job titles, duties and responsibilities. Thus, it is extremely difficult to compare the Supervisory bargaining unit with other external schools because little is known whether the job duties and responsibilities are the same, similar or different compared to other school districts.

To illustrate this point, there is the case of Transportation/Buildings & Grounds Supervisor McFarlane who also is required, as part of his duties and responsibilities, to run a bus route. How his duties and responsibilities compare to others in the external marketplace with the title of Transportation/Buildings & Grounds Supervisor is unknown. The same holds true for many of the others in the Supervisory bargaining unit, where their title may be the same or similar to those in other school districts, but little is known about whether their duties and responsibilities are the same, similar or different to those in the school districts. The one

exception might be the Pool Coordinator/Lifeguard position, where it would be reasonable to assume that the duties and responsibilities of this position would be similar to all schools with pools.

In order to establish a viable comparability group for future bargaining, the Parties must compare the duties and responsibilities of those in the Supervisory bargaining unit with those in other schools. While the School District's proposed comparability group is better than that proposed by the Union, the best comparability group is one negotiated by the Parties, taking into account the duties and responsibilities of those in the Supervisory bargaining unit compared with those in other school districts. Until this task is completed by the Parties, external comparability has a diminished role in deciding outstanding issues.

The final consideration in interest arbitration is an analysis of relevant economic and non-economic factors. In this case, the most relevant non-economic factor is the terms and conditions of the previous individual contracts of those employees in the Supervisory bargaining unit.

The adage, "Rome was not built in a year" applies to this case. The fact that the Parties are at impasse over several issues is not surprising and unusual in a first year contract. However, the role of the Arbitrator in this first year contract

is to establish a foundation for the Parties to bargain collectively in successor contracts to achieve their ultimate goals and aspirations. The Arbitrator is not here to take away wages and benefits previously negotiated in the individual contracts unless a quid pro quo is present, nor will the Arbitrator grant to the individuals the best wages and benefits received by other individuals or other employee groups unless justified by the evidence.

Based upon the foregoing analysis of the factors commonly used by interest arbitrators, the Arbitrator rendered his awards on those factors and their relevance to this case, where data was available and reliable.

**ISSUE ONE: HOURS - NORMAL WORK WEEK - ARTICLE 6, SECTION A
POSITION OF THE PARTIES**

The Union seeks the following language for inclusion in Article 6, Section A:

The normal work week shall be Monday through Friday, and 40 hours per week, ending no later than 5 p.m. each day; any changes in this schedule for any bargaining unit position will be negotiated and agreed to by the parties prior to implementation.

The School District seeks the following language for inclusion in Article 6, Section A:

The normal work week may be scheduled Sunday through Saturday pursuant to a schedule set by the District in order to meet the District's needs. Employees shall record their hours worked using the system provided by the District.

AWARD

The contract language in Article 6, Section A shall read as follows:

The normal work week will generally be Monday through Friday, and 40 hours per week. The School District reserves the right to make changes and adjustments in the employees' schedules and assignments consistent with the needs of the School District. Employees shall record their hours worked using the system provided by the District.

RATIONALE

The Employer's proposed language is too liberal in that it would allow the School District to schedule employees twenty-four hours, seven days a week. The Union's proposed language is too restrictive in that it would not allow the School District the needed flexibility to make changes and adjustments.

Most of the Supervisory bargaining unit employees currently work Monday through Friday and forty hours per week and additional hours as needed. They also record their hours worked using the system provided by the School District. The award simply codifies this practice.

The award is also similar to the language in the teacher's and non-certified staff contracts. The School District's ability to effectively and efficiently operate its programs and protect its resources is an accepted practice among employee groups in the School District. It is also an accepted practice among the external comparables proposed by the Parties, where

the majority of school districts expressly reserve the right to establish the employee's schedule.

**ISSUE TWO: HOURS - COMPENSATION FOR MEETING ATTENDANCE-
ARTICLE 6, SECTION B**

POSITION OF THE PARTIES

The Union seeks the following language for inclusion in Article 6, Section B:

Employees required to attend meetings after regular hours shall receive a meeting per diem of \$60.00 for a four hours or less meeting, and \$100 for any meeting longer than four hours.

The School District is opposed to any contract language pertaining to compensation for meeting attendance.

AWARD

The School District's position is sustained.

RATIONALE

The second issue concerns compensation for attending meetings "after regular hours." There are several reasons for sustaining the Employer's position. First, the only employees within the Supervisory bargaining unit who regularly attend meetings are the Administrative Assistant/Office Manager (Ms. Olson) and the Transportation/Building & Grounds Supervisor (Mr. McFarlane). These employees are required to attend meetings as part of their job duties, and therefore are already being compensated through their salary. This is clearly the case with the Administrative

Assistant/Office Manager position, as the job description expressly includes "recording and maintaining official school board minutes" among the duties of the position.

Second, the Union's position is also ambiguous, as it is not clear what is meant by the phrase "after regular hours." It must be remembered that Supervisory bargaining unit members are salaried employees who may be called upon to perform duties as needed by the School District. In reality there they have no "regular hours."

Finally, the Union's position is unsupported by the internal and external comparisons. The Union seeks a provision entitling employees in the Supervisory bargaining unit the same per diem compensation as School Board members receive for attending meetings. However, the Union fails to acknowledge that this per diem payment is the only form of compensation that School Board members receive for their mainly volunteer services. The employees in the Supervisory bargaining unit are not elected public officials. They are professional public employees who receive a salary for performing the duties of their position, whether it be before or after the "regular hours" of employment.

School District teachers attend numerous meetings and activities that occur after school hours, including parent-teacher

conferences and professional development. However, the teachers do not receive any additional compensation above their salary for attending these meetings because they are included in their job duties. While the non-certified contract does in fact provide that the employees are paid for attending meetings outside the regular work day, unlike the supervisors in this unit, the School District's non-certified employees are not salaried employees. Rather, they earn an hourly wage and are paid for the number of hours they work, including attendance at meetings.

Externally, the overwhelming majority of school districts do not have any language pertaining to payment for attending meetings. There clearly is no justification to award the Union's position based on the external marketplace.

**ISSUE THREE: HOURS - WORK ON DAYS OF INCLEMENT WEATHER -
ARTICLE 6, SECTION C**

POSITION OF THE PARTIES

The School District seeks the following language for inclusion in Article 6, Section C:

In the event that school is not held on a regularly scheduled workday due to inclement weather or another emergency, any employee not reporting for work shall be required to use a vacation day or personal day.

The Union seeks the following language for inclusion in Article 6, Section C:

In the event that school is not held on a regularly scheduled school day due to inclement weather or other emergencies, employees are not required to report for work and leave accounts and pay will not be docked due to the school closure.

AWARD

The School District's position is sustained.

RATIONALE

The Union seeks language that expressly excuses the Supervisory bargaining unit employees from work when school is cancelled due to inclement weather or other emergencies, and also provides that they will not be required to use any accumulated leave. The School District position, on the other hand, proposes that employees not reporting to work shall be required to use either a vacation day or a personal day due to inclement weather or another emergency.

The positions included in the Supervisory bargaining unit are unique and different from other employees in the School District. The Administrative Assistant/Office Manager (Ms. Olson) and the Building and Grounds/Transportation Supervisor (Mr. McFarlane) report to work even when school is closed due to inclement weather. In fact, the Administrative Assistant/Office Manager job description requires Ms. Olson to "call TV/Radio for emergency school closings." The Head Cook (Ms. Wahl) also may be required to report to work in order to deal with food issues, such as thawing meat.

The Union's proposal is not supported by internal comparisons. There was no comparable language in any of Supervisory bargaining unit member's individual contracts. Further, the teachers and non-certified contracts contain virtually identical language pertaining to inclement weather: "If [an employee or teacher] is unable to attend school due to inclement weather, disability leave may be utilized up to a maximum of two (2) days per year (non-accumulative)." This language is quite different from that proposed by the Union, where Supervisory bargaining unit employees would not be required to use any accumulated leave due to inclement weather or another emergency. Therefore, awarding the Union's position would be unfair and unreasonable, as all other employees are subject to language requiring use of accumulated leave during inclement weather.

Externally, none of the proposed comparable schools have language nearly as generous as what the Union is seeking here. In fact, only four positions in the proposed comparability group of schools have any language pertaining to inclement weather. As such, the majority of the comparable schools adhere to the current policy being implemented by the School District.

There is simply no basis for granting the Union's position, whether using internal or external data.

**ISSUE FOUR: LONGEVITY - AMOUNT OF LONGEVITY PAYMENTS -
ARTICLE 6, SECTION D**

POSITION OF THE PARTIES

The School District seeks the following language for Article 6, Section D and for Appendix A:

This Article shall only apply to employees identified in Appendix A. Upon completion of ten (10) years of service with the District, including service prior to July 1, 2013, employees shall receive an annual longevity payment in an amount equal to \$0.10 per hour. Upon the completion of fifteen (15) years of service with the District, including service prior to July 1, 2013, employees shall receive an annual longevity payment in an amount equal to \$0.20 per hour. This longevity payment shall be payable in a lump sum, and shall be paid on the payday immediately following the employee's anniversary date. The amount of the longevity payment shall be based upon 2,080 hours for full-time employees, and pro-rated for part-time employees.

The Union seeks the following language for Article 6, Section D:

Employees hired after May 15, 2013 and any current employee who does not currently qualify for longevity will receive longevity payments as follows:

Upon completion of ten (10) years of employment with the District an employee will be paid an additional \$0.25 per hour, and upon completion of fifteen (15) years of employment the employee will be paid an additional \$0.40 per hour.

Employees receiving longevity payments prior to May 15, 2013, will maintain their current level of longevity benefit and the method of calculating the benefit will not change from that used during 2012.

The Union modified its position on longevity at the arbitration hearing, stating that the members of the Supervisory bargaining unit should continue to get the \$.10 and \$.20

longevity pay each year as the years of service accumulate, which is the same as appears in the MSEA contract and the same as these employees were supposed to receive in the past, but did not receive this payment.

AWARD

The Supervisory bargaining unit is entitled to receive the same longevity payments as those received by MSEA in Section 12, Longevity, of their 2010-2012 contract with the School District:

Employees starting their eleventh year of service with the District through the fifteenth year of service with the District shall receive ten cents (\$.10) per hour for each year of service added to the employee's regular hourly rate of pay. Employees starting his/her sixteenth year of service shall receive twenty cents (\$.20) per hour for each year of service added to the employees' regular hourly rates of pay.

RATIONALE

The reason for the longevity award is simple -- it provides internal consistency (standardization) among bargaining units in the School District, which should be the goal of the Parties now and in future bargaining. The Employer did not provide any compelling or convincing reason(s) for not standardizing this compensation payment.

Further, the award provides longevity payments that several of the members of the Supervisory bargaining unit have been receiving (or should have been receiving) under their prior individual contracts.

**ISSUE FIVE: VACATION - ACCRUAL RATES AND MAXIMUMS -
ARTICLE 8, SECTION A**

POSITION OF THE PARTIES

The Union seeks the following language for Article 8,
Section A:

All full time employees shall be entitled to the following
paid vacation accrual and use (part-time employees vacation
accrual will be pro-rated):

After one year of service	7 working days
After 2 years of service	10 working days
After three years	12 working days (1 per month)
After five years	15 working days

One additional day per year of service will be earned for
each additional year of service.

* William Chambers will earn 20 days vacation each year
until he has completed 20 years of service, at which time
he will, accrue an additional day per year of service in
addition to the 20 days annually.

The School District seeks the following language for
Article 8, Section A:

All full-time employees shall earn vacation according to
the following schedule. Vacation shall be pro-rated for
part-time employees:

<u>Years</u>	<u>Earn</u>
1-3	5 days
4-6	10 days
7-11	15 days
12+	20 days

AWARD

The School District's position with respect to this issue
is sustained.

RATIONALE

The evidence establishes that the Union's vacation schedule that appeared in the individual's contracts, except for William Chambers (Technology Coordinator) who received a greater amount of 20 days vacation annually, is closer to the former schedule especially after the second year through the eleventh year and beyond. However, the primary difference between the Parties' positions is that the Union proposal would place no cap whatsoever on the amount of vacation that employees can accrue ("One additional day per year of service will be earned for each additional year of service."). This proposed language is rarely negotiated or awarded by a neutral for the reasons that it is very costly to an employer and would cause staffing problems to fill the temporary vacancy. For example, under the Union's proposal, if the Head Cook had 25 years of experience she would earn 25 days (five weeks) of paid vacation. It is unreasonable to assume that the School District would agree to a proposal that permits the Head Cook, a nine-month employee, to attain five weeks of vacation when her job is to supervise other School District employees.

Aside from being unprecedented due to the lack of a cap, the Union position is not warranted based on either internal or external comparisons. Internally, neither the teachers, non-certified staff nor the Head Cook receive vacation in the

traditional sense since their contracts are usually for nine months. Rather, both bargaining units receive three personal days per year, which can be accumulated to five days per school year. It is noteworthy that all of the individual contracts that contained vacation days also included a cap.

Externally, the Union proposal is clearly out of line with any of the external comparison positions, as each of those contracts contain caps. Additionally, the accrual rates under the Union proposal are far more generous than the proposed comparable schools, with the exception of only one other school. The external group, as a whole, demonstrates that the School District's position is quite generous and was so awarded by the Arbitrator.

**ISSUE SIX: SICK LEAVE - ACCRUAL RATES AND MAXIMUMS -
ARTICLE 9, SECTION A**

POSITION OF THE PARTIES

The School District seeks the following language for Article 9, Section A:

All full-time employees shall be entitled to twelve (12) days of sick leave per year, pro-rated for part-time employees, with a maximum accumulation of 80 days/640 hours. Sick leave days shall stop accruing once an employee applies for disability under P.E.R.A. and shall not accumulate in any complete month during which the employee is on leave.

The Union seeks the following language for Article 9, Section A:

All full-time employees shall be entitled to fifteen (15) days of sick leave per year, pro-rated for employees working less than 12 month schedules.

AWARD

The contract language in Article 9, Section A shall read as follows:

All full-time employees shall be entitled to accrue fifteen (15) days of sick leave per year, pro-rated for part-time employees, with a maximum accumulation of 150 days. Sick leave days shall stop accruing once an employee applies for disability under P.E.R.A. and shall not accumulate in any complete month during which the employee is on leave.

RATIONALE

There is no consistent pattern of sick leave accrual rates among the internal comparables, but there is some consistency with respect to the maximums among those comparables. The teachers receive 12 days of "disability leave" per year and can accrue a maximum of 150 days. The members of the MSEA bargaining unit and the Superintendent can accrue 1.33 days per month of sick leave (15.96 days per year) to a maximum of 150 days. The individual contracts of the Supervisory bargaining unit members were generally allowed to accrue 15 days per year of sick per year cumulative to 150 or 165 days based on full-time employment, earned on a monthly basis. The School Handbook is consistent with a maximum accrual of 150 days. The award falls within the mainstream of the internal comparables due to this inconsistency among those comparables.

There is no internal or external precedent for the Union's position that there be no cap on accumulated sick leave days, which has the potential for severe financial liability.

**ISSUE SEVEN: SEVERANCE PAY - AMOUNT OF SEVERANCE PAY -
ARTICLE 10, SECTION A**

POSITION OF THE PARTIES

The School District seeks the following language for Article 10, Section A:

Those employees identified in Appendix A, upon resignation or retirement, in good standing with fifteen (15) or more continuous years of service to the District, shall receive 45% of his/her accrued sick leave as severance pay, payable at the employee's basic rate of pay.

The Union seeks the following language for Article 10, Section A:

Upon resignation or retirement, an employee with 6 or more years of service to the District shall receive the following percentage of used sick leave and vacation accrual which will be in place in a Health Care Savings Plan:

6-9 years of service	50%
10-15 years of service	75%
16-20+ years of service	100%

AWARD

The contract language in Article 10, Section A shall read as follows:

0-5 years	0% of sick bank into the HCSP
6-10 years of service	25%
11-15 years of service	50%
16-20 years of service	75%
20+	100%

RATIONALE

Once again, there is no consistent pattern of severance pay among the internal comparables. The School District seeks to grandfather in the current employees and provide them the same severance benefit that it provides to the teachers. However, none of the internal comparables apply severance pay only to current School District employees, as sought by the District in this case.

The non-certified contract has a similar structure to the Union's proposal, but where a non-certified employee must work for 20+ years to maximize the benefit, the Union's proposal allows maximum payout after 16 years. The amount of the payout sought by the Union is also greater than both the teachers and the non-certified employees, as the Union seeks 100% payout as opposed to 75%.

The individual contracts had the most consistency in that that the Pool Coordinator/Lifeguard (Ms. Beckstrand) and Administrative Assistant/Office Manager (Ms. Olson) were entitled to severance equal to 100% of accumulated sick leave after 20 years or more of employment. In addition, the Transportation/Building & Grounds Supervisor (Mr. McFarlane) was entitled to severance equal to 100% between 16-20 years of employment. The Community Education Coordinator/Lunch Coordinator (Ms. Charlton) and the Head Cook (Ms. Wahl)

positions were entitled to a maximum payout of 75%, never reaching 100%, with Ms. Charlton reaching 75% between 16-20 years of employment and Ms. Wahl after 20 years of employment. The Technology Coordinator (Mr. Chambers) position did not have any severance language whatsoever.

Like the sick leave award, this award falls within the mainstream of the internal comparables due to this inconsistency among internal comparables.

ISSUE EIGHT: HEALTH INSURANCE 2013-2014 - EMPLOYER CONTRIBUTION 2013-2014 & PLAN OPTIONS - ARTICLE 11, SECTION C

ISSUE NINE: HEALTH INSURANCE 2014-2015 - EMPLOYER CONTRIBUTION 2014-2015 & PLAN OPTIONS - ARTICLE 11, SECTION C

POSITION OF THE PARTIES

The School District seeks the following language for Article 11, Section C:

The District shall contribute \$5,563.00 toward the cost of a single premium and \$12,696.00 toward the cost of a family premium for the following plans:

1. \$500 Common;
2. CDHP 833 WRXB; and
3. CDHP 850

The Union seeks the following language for Article 11, Section C:

The School district will contribute 100% of the cost of the single premium for the 1st dollar insurance plan and 80% of the cost of the family premium for the first dollar plan; the employee will pay 20% if they select the family plan.

Existing employees will be grandfathered in with the same contribution rates (or at the above formula 100% single, 80% family, whichever is greater) as received in the past, to wit:

Nancy Olson	\$1051.84/month or \$12,622/year
William Chambers	\$650/month or \$7,800/year
Reed McFarlane	\$1,680.00/month or \$20,160/year
Lisa Beckstrand	\$715.83/month or \$8,590/year
Cece Charlton	\$715.83/month or \$8,590/year
Brenda Wahl	\$502.17/month or \$6,026/year

In the event both the employee and their spouse are employees of the District, the District will pay 100% of the single premium for both employees.

AWARD

The School District's position is sustained with respect to new hires in the Supervisory bargaining unit. Current Supervisory bargaining unit members unit will be grandfathered in with the same Employer health insurance contribution amounts appearing in their individual contracts, as noted above under the Union's proposal.

RATIONALE

The School District's proposal is the same health insurance benefit offered to its teachers. The teachers and the School District have reached a tentative agreement on this health insurance contribution for the 2013-15 contract, but their settlement is unknown. Currently, the teachers receive either \$463 per month (\$5,556 per year) for single health insurance and \$1,058 per month (\$12,696) for family coverage. The Superintendent in 2013-2014 received \$15,348 towards his health

insurance premiums. MSEA members receive \$4.05 per hour (\$8,424 per year if the MSEA member worked twelve months) to use towards their health or dental insurance under the School District's cafeteria plan. Clearly, the Employer contributions to the current teacher's health insurance is more generous than the Employer contribution to non-certified employees' health insurance (non-certified is dictated by total hours worked and does not provide different contributions for individual and family).

Externally, the comparison positions also show the School District's position to be reasonable. While there are some external positions that receive a larger employer contribution to individual health insurance coverage, none of the positions receive a more generous family contribution than what the School District contributes to its teachers and is offering to all Supervisory bargaining unit employees in this case.

The Union proposes that a new formula be established for new hires, wherein the Employer would pay 100% of a single plan and 80% of a family plan for health insurance. The Union's proposal for new hires is not present in either internal or external comparability.

The Union also seeks in their proposal to grandfather in the current employees to the Employer contribution to health insurance that they received under their individual contracts,

but only if those contributions were greater. Herein lies the dilemma in this case.

The evidence establishes no clear pattern of Employer contributions for health insurance. Four of the individuals in the Supervisory bargaining group received in their individual contracts a flat hourly amount between \$4.05-\$4.13 per hour contributed by the School District to their cafeteria plan. For a full-time employee of the School District, this would equal either \$8,424 or \$8,590 per year. The Technology Coordinator (Mr. Chambers) received a lump sum of \$7,800 per year towards his health insurance in 2012-2013.

Mr. McFarlane's situation is very unique and compounds the problem for establishing a uniform Employer contribution rate for all Supervisory bargaining unit employees. Mr. McFarlane regularly asked that his salary increases and his longevity payment of \$416 per year be paid directly toward his family health insurance premium, which was paid by the School District, with the last amount being an Employer contribution of \$20,160 per year.

Due to the internal diversity of Employer contribution rates, it is only fair that Supervisory bargaining unit employees not suffer a reduction in what they received from the School District toward their health insurance premium costs in their individual contracts. This award is also fair in that it

allows the Employer to standardize health insurance contributions for new hires in the Supervisory bargaining unit.

ISSUE TEN: DENTAL INSURANCE 2013-2014 - EMPLOYER DENTAL INSURANCE CONTRIBUTION 2013-2014 - ARTICLE 11, SECTION D

ISSUE ELEVEN: DENTAL INSURANCE 2014-2015 - EMPLOYER DENTAL INSURANCE CONTRIBUTION 2014-2015 - ARTICLE 11, SECTION D

POSITION OF THE PARTIES

The Union seeks the following language for Article 11, Section D:

The District will contribute 100% of the premium cost for either a single or family dental insurance policy.

The School District seeks no language included in the contract pertaining to dental insurance.

AWARD

The School District's position is sustained.

RATIONALE

There is no overwhelming internal or external comparability that supports the Union's position. The School District does not have any language regarding dental insurance in any contracts among their bargaining units. The Superintendent has paid dental insurance under a separate contract negotiated with the School Board.

In the external comparison positions, none receive employer paid dental insurance, which justifies awarding the Employer's position.

There is only one example, in both the internal and external comparison groups, of any employee receiving an Employer contribution to dental insurance. Once again, that was the Transportation/Building & Grounds Supervisor (Mr. McFarlane) in his individual contract. This is clearly the only exception and, therefore, there is no basis to grant the Union's unprecedented position. This would create disharmony within the Supervisory bargaining unit and within the School District's other employees, who do not enjoy this Employer paid fringe benefit.

**ISSUE TWELVE: SALARIES - PAY CYCLE, TIMING OF PAY DAYS -
ARTICLE 18, SECTION A**

POSITION OF THE PARTIES

The School District seeks the following language for Article 18, Section A:

The District reserves the right to adjust the pay cycle on a yearly basis to meet the needs of the District. The District may elect to go to two paydays per month (15th and first day) or remain with one payday per month (15th). If any payday falls on a Saturday, Sunday, or holiday, the payday shall occur on the last preceding business day.

The Union seeks the following language for Article 18, Section A:

Payday will be the 15th of each month. If a payday falls on a Saturday, Sunday, or a holiday, payday shall be the preceding work day.

AWARD

The School District's position is sustained.

RATIONALE

Currently, there is a single pay day on the 15th of each month. The School District's position seeks flexibility to adjust this practice to provide for bi-monthly pay days.

There is no convincing or compelling argument presented by the Union that they would suffer any harm by the School District's position. To the contrary, the School District's position is based upon feedback it has received from its payroll service indicating that it would be easier to run payroll on a rolling basis twice a month than the current practice. It is reasonable that the School District would seek to retain the flexibility to modify the pay day schedule in the event that a change serves the best interests of the District.

ISSUE THIRTEEN: SALARIES 2013-2014 - ESTABLISH SALARY SCHEDULE AND CREATE APPENDIX 2013-2014 - ARTICLE 18, SECTION B

ISSUE FOURTEEN: SALARIES 2014-2015 - ESTABLISH SALARY SCHEDULE AND CREATE APPENDIX 2014-2015 - ARTICLE 18, SECTION B

ISSUE FIFTEEN: SALARIES - GRANTING STEPS, IF ANY, PRIOR TO SECURING A SUCCESSOR AGREEMENT - APPENDIX A

POSITION OF THE PARTIES

The School District seeks the following language for Article 18, Section B:

Those employees set forth in Appendix A shall receive wages in accordance with the Wage Schedule set forth in Appendix B. The preceding provision shall sunset and cease to be

effective immediately when the employees set forth in Appendix A are no longer employed by the District in those positions set forth in Appendix A.

In the event that an employee identified in Appendix A ceases his or her employment with the District, any replacement hires shall be subject to the following salary scale, provided that the District reserves the right to work outside the salary scale in order to employ qualified employees if the need arises:

	Minimum	Maximum
Administrative Assistant	\$34,500	\$36,600
Transportation/Building Grounds	\$40,000	\$42,000
Community Education/Lunch Coordinator	\$33,000	\$36,000
Pool Coordinator/Lifeguard	\$33,000	\$36,000
Technology Coordinator	\$44,000	\$46,000
Head Cook	\$30,000	\$34,000

The District reserves the right to annually determine wage increases, if any, based upon employee performance.

APPENDIX A

EMPLOYEES EMPLOYED BY THE DISTRICT ON OR BEFORE JULY 1

<u>NAME</u>	<u>POSITION</u>
Nancy Olson	Administrative Assistant
Reed McFarlane	Transportation/Building Grounds
Cece Charlton	Community Education/Lunch Coordinator
Lisa Beckstrand	Pool Coordinator/Lifeguard
William Chambers	Technology Coordinator
Brenda Wahl	Head Cook

APPENDIX B

SALARY SCHEDULE FOR EMPLOYEES EMPLOYED BY THE DISTRICT ON OR BEFORE JULY 1, 2013

	<u>07/01/2013</u>	<u>07/01/2014</u>
Administrative Assistant	\$44,671.32	\$44,671.44
Transportation/Building Grounds	\$47,128.00	\$47,128.00
Community Education/Lunch Coordinator	\$39,273.44	\$39,273.44
Pool Coordinator/Lifeguard	\$43,307.42	\$43,307.42
Technology Coordinator	\$44,000.00	\$44,000.00
Head Cook	\$30,780.25	\$30,780.25

In the event a successor Agreement is not entered into prior to the expiration of the Agreement, employees shall be compensated according to his/her current wage on the date of the expiration of the Agreement until a Successor Agreement has been ratified.

The Union seeks the following language for Article 18,

Section B:

All current employee salaries will remain at their current rate until July 1, 2013, when each will receive a 3% pay increase. New employees will be placed on the Salary Schedule found in Appendix A.

	<u>July 1, 2012-June 30, 2013</u>	<u>+3% effective July 1, 2013</u>
Nancy Olson:	\$44,671.32	\$46,011.46
William Chambers:	\$44,000	\$45,320
Reed McFarlane:	\$47,128	\$48,542
Lisa Beckstrand:	\$43,307.42	\$44,606.64
Cece Charlton:	\$39,273.44	\$40,451.64
Brenda Wahl:	\$30,780.25	\$31,703.66

Appendix A (Annual Steps 3% apart effective July 1, 2013)

<u>Title</u>	<u>Start</u>	<u>1 Yr</u>	<u>2 vrs</u>	<u>3 vrs</u>	<u>4 vrs</u>	<u>5 yrs</u>
Office Manager/ Admin. Asst	39,512	40,734	41,994	43,293	44,632	46,012
Supervisor, Transportation- Buildings/Grounds	41,685	42,974	44,303	45,673	47,086	48,542
Community Education Coordinator/Lunch Coordinator	34,738	35,812	36,919	38,061	39,238	40,452
Technology Coordinator	41,362	42,362	43,960	45,320	46,680	48,080
Head Cook	30,753	31,704	32,655	33,635	34,644	35,683
Pool Coordinator/ Lifeguard	38,305	39,489	40,711	41,970	43,268	44,606

All employee salaries will remain at their salary until July 1, 2014, when each will receive a 3% pay increase.

<u>July 1, 2013</u>	<u>effective July 1, 2014</u>	
Nancy Olson:	\$46,011.46	\$47,391.80
William Chambers:	\$45,320	\$46,679.60
Reed McFarlane:	\$48,542	\$49,998.26
Lisa Beckstrand	\$44,606.64	\$45,944.84
Cece Charlton	\$40,451.64	\$41,665.19
Brenda Wahl	\$31,703.66	\$32,654.77

Appendix A (July 1, 2014)

(+3% on Top Step, subtract 3% from Top pay to find next 4 Yrs step
subtract 3% to find 3 Yr. step...)

<u>Title</u>	<u>Start</u>	<u>1 Yr</u>	<u>2 vrs</u>	<u>3 vrs</u>	<u>4 vrs</u>	<u>5 yrs</u>
Office Manager/ Admin. Asst		41,956	43,254	44,591	45,970	47,3922
Supervisor, Transportation- Buildings/Grounds	42,935	44,263	45,632	47,043	48,4986	49,998
Community Education Coordinator/Lunch Coordinator	35,780	36,887	38,027	39,204	40,416	41,666
Technology Coordinator	42,527	43,842	45,198	46,596	48,037	49,522
Head Cook	31,561	32,538	33,544	34,581	35,651	36,753
Pool Coordinator/ Lifeguard	39,454	40,671	41,932	43,229	44,566	45,944

The Union opposes contract language that contradicts the "Contract in Effect" provisions of PELRA, as set forth in Minn. Stat. § 179A.20, subd. 6.

AWARD

All current employee salaries will remain at their current rate until July 1, 2013, when each will receive a 2% pay increase. All current employee salaries will remain at their increased rate until July 1, 2014, when each will receive a 2% pay increase.

RATIONALE

The essence of the award is a general (across-the-board) salary increase of 2% effective July 1, 2013, based on the salary being currently paid to Supervisory bargaining unit members under their individual contracts, and another general (across-the-board) wage increase of 2% effective July 1, 2014, based on salary being paid to employees as of June 30, 2014.

The justification for the general salary increase of 2% each year of the contract can be found simply among the internal comparables. For the current school year, 2013-2014, the members of the MSEA bargaining unit received a 2.5% pay increase. The MSEA bargaining unit previously received a 0% pay increase in the 2012-13 school year with a \$150 lump sum payment. The School District allege that they bought the longevity pay out of the non-certified contract. The Union alleges that longevity was placed in their salary schedule.

The teachers are still in negotiations for the 2013-2014 and 2014-2015 school years, but they received a 0% pay increase with a \$150 lump sum payment in the 2011-2012 school year and a 1% wage increase in the 2012-2013 school year. The teacher's most recent offer is a wage increase of 1.25% for the 2013-2014 school year and a 1.75% wage increase for the 2014-2015 school year. Their wage proposals have been rejected by the School Board.

The Superintendent received a 2% wage increase for 2013-2014 and a 2% wage increase for 2014-2015.

The six members of the Supervisory bargaining unit have not received a wage increase for the last four years, since the 2009-10 school year. Further, the Supervisory bargaining unit members do not have step increases, while the teachers and MSEA members enjoy this additional compensation while progressing to the maximum salary.

Based upon the current and past settlement trend for School District employees, and especially the fact that Supervisory bargaining unit members have not been granted a wage increase for four years, unlike all other School District employees, the general wage increase of 2% each year for Supervisory bargaining unit employees is more than justified.

The School District alleges that the Supervisory bargaining unit members are well-paid in comparison to their proposed external comparables, which justifies their zero percent wage increase.

The external comparability group proposed by the School District establish that most of the Supervisory bargaining unit positions are at the top or near the top of the wages being paid to comparable employees in other school districts. This is because most of the Supervisory bargaining unit members are long-term employees, which generate higher wages than employees

of short duration. However, there is no convincing proof that any of the comparable schools froze the wages of an employee group for four previous school years, in addition to two more years, as proposed by the School District. The fact that employees are well-paid does not automatically mean that wages should be frozen for six years, especially since other School District employees have received wage increases and/or lump sum payments during this time.

The Union proposes a salary schedule matrix for new employees consisting of six steps (start, one year, two year, three year, four year and five year) with a guaranteed increase at each step of 3% for each member of the Supervisory bargaining unit. The top salary under their proposed matrix is the maximum salary being currently paid to the Administrative Assistant/ Office Manager, Transportation/Building & Grounds Supervisor, Community Education/Lunch Coordinator and Pool Coordinator/ Lifeguard. The Head Cook would receive about \$5,000 more and the Technology Coordinator about \$4,000 more at the maximum (five years) than what they are currently receiving in salary.

The percentage difference between the starting salaries and those that reach the top is approximately 1.165% for most of the positions under the Union's proposal for new employees. For example, the Office Manager/Administrative Assistant position would have a starting salary of \$39,512 with a maximum pay of

\$46,012 which equals about 1.165% of the starting pay for this position.

The School District, on the other hand, proposes for new employees a salary schedule composed of a minimum and maximum salary with no steps. There is a considerable difference between the minimums and maximums under the Parties' proposals for new employees. The maximum salary for Administrative Assistant/Office Manager, Transportation/Building & Grounds Supervisor, Community Education/Lunch Coordinator, and Pool Coordinator/Lifeguard is between \$3,000 to \$8,000 less under the School District's proposal versus that of the Union's proposal. The Head Cook and Technology positions, at the maximum salary, would be greater under the School District's position by \$2,000 to \$3,220 than under the Union's proposal.

There are several reasons for the Arbitrator to not decide the status of a salary schedule matrix at this time. First, the Parties' proposals are so diverse in approach and salary amounts at the minimum (start) and maximums (top pay), it is best left to the Parties in future bargaining to negotiate a salary structure for new employees, since it appears that none of the current employees will be leaving employment in the near future other than maybe Ms. Olson (Administration Assistant/Office Manager). Second, the Parties had only limited negotiations on this matter, since they were involved with

negotiating an entire new contract. Finally, the Parties need to agree (or have an interest arbitrator rule) on what are the appropriate external school district comparables, so that a salary survey can be conducted based on the actual duties and responsibilities being performed by Supervisory bargaining unit employees versus those with similar or same titles in other school districts. In order to formulate a valid salary schedule matrix one needs to know, with certainty, whether there is "an apples to apples" comparison of the duties and responsibilities of Supervisory bargaining unit employees with those employees in other school districts.

The final issue with respect to salaries is whether the Supervisory bargaining unit employees shall be compensated according to his/her current wage on the date of the expiration of the contract until a successor contract has been ratified. This issue is moot since there will there is no salary schedule step system in existence now or will be in the future for new employees for the duration of this first contract.

The Parties are to be complemented on their professional conduct at the hearing and the comprehensiveness of their oral presentations and their written post hearing briefs.

Richard John Miller

Dated November 27, 2013, at Maple Grove, Minnesota.