

BEFORE THE ARBITRATOR

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In the Matter of the Arbitration :  
of a Dispute Between :  
 : Case 22  
ROSHOLT EDUCATION ASSOCIATION : No. 46692  
 : MA-7046  
and :  
 :  
ROSHOLT SCHOOL DISTRICT :  
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Appearances:

Mr. Thomas J. Coffey, Executive Director, Central Wisconsin UniServ Council North, 2805 Emery Drive, P.O. Box 1606, Wausau, Wisconsin 54401, appearing on behalf of the Rosholt Education Association, referred to below as the Association.  
Mr. Gary M. Ruesch, with Ms. Jane M. Knasinski, Davis & Kuelthau, S.C., Attorneys at Law, Suite 1400, 111 East Kilbourn Avenue, Milwaukee, Wisconsin 53202-6613, appearing on behalf of the Rosholt School District, referred to below as the District.

ARBITRATION AWARD

The Association and the District are parties to a collective bargaining agreement which was in effect at all times relevant to this proceeding and which provides for the final and binding arbitration of certain disputes. The parties jointly requested that the Wisconsin Employment Relations Commission appoint an Arbitrator to resolve a dispute reflected in a grievance filed on behalf of Kay Blair, referred to below as the Grievant. The Commission appointed Richard B. McLaughlin, a member of its staff. Hearing on the matter was held on February 24, 1992, in Rosholt, Wisconsin. The hearing was transcribed, and the parties filed briefs and reply briefs by May 15, 1992.

ISSUES

The parties stipulated the following issues for decision:

Did the failure of the District to place the Grievant at MS+24 for the 1991-1992 school year violate the salary schedule contained in the collective bargaining agreement?

If so, what is the remedy?

RELEVANT CONTRACT PROVISIONS

ARTICLE 4 - GRIEVANCE PROCEDURE

A. Definition: A grievance is defined as a complaint concerning the interpretation or application of a specific provision of this Agreement.

. . .

C. Steps in Procedure: The grievance shall be processed in accordance with the following procedure:

. . .

Step 5: Arbitration

. . .

e. Decision: The decision of the Arbitrator shall be limited to the subject matter of the grievance and shall be restricted solely to the interpretation of the contract in the area where the alleged breach occurred. The Arbitrator shall not modify, add to, or delete from the express terms of this Agreement.

. . .

ROSHOLT SCHOOL DISTRICT 89-90 SALARY SCHEDULE

STEP BS BS+6 BS+12 BS+18 BS+24 MS/BS+36 MS+6 MS+12 MS+18

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ROSHOLT SCHOOL DI 1990-91 SALARY SCHEDULE

STEP BS BS+6 BS+12 BS+18 BS+24 MS/BS+36 MS+6 MS+12 MS+18 MS+24

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BACKGROUND

The Grievant is presently employed by the District as a first grade classroom teacher. She has been employed by the District for roughly twenty years. Between 1976 and the summer of 1986, the Grievant took courses for which graduate credit is given. At the time she took these courses, she was not enrolled in a program culminating in a Masters Degree. In September of 1989, she enrolled in a Masters Degree program. She was not, however, given credit toward the course requirement for the degree, for all of the graduate level courses she had taken. Twenty-two graduate credits the Grievant earned during period from 1976 until 1989 were not counted toward her Masters Degree program.

In May of 1991, the Grievant earned her Masters Degree. Sometime after receiving her degree, at the close of the District's school year, the Grievant approached Kathleen Martinsen, the District Administrator, and requested that her placement on the salary schedule grid be modified to reflect her achievement of the Masters Degree. The Grievant sought placement in the MS+18 lane of the salary schedule. She based her placement on the MA lanes of the salary schedule on her achievement of the Masters Degree. She based her requested placement in the MS+18 lane on the twenty-two credits she had earned between 1976 and 1986 which were not counted toward her Masters Degree. Martinsen responded that she the District had not awarded other teachers lane advancement until credits had been earned after achievement of the Masters Degree. The Grievant pointed out that this had not been the case one other teacher, and Martinsen responded that she would research the point and report back to the Grievant before the close of the summer.

During the summer of 1991, the Grievant completed six more graduate credits worth of course work.

During that summer, Martinsen researched the District's placement of teachers on the Masters Degree lanes of then-applicable agreements. She discovered, among other things, that the Grievant's file indicated she had earned nine graduate credits for which the Grievant had neither sought, nor received, tuition reimbursement.

Martinsen ultimately met with the Grievant and with Mike Roberts, the President of the Association, concerning the results of her research. Martinsen informed the Grievant that with the submission of appropriate documentation, the District would afford her \$450 in tuition reimbursement. The balance of Martinsen's conclusions are summarized in a letter to the Grievant dated August 22, 1991, which reads thus:

I have reviewed your request to be placed at the MS +18 lane on the salary schedule for the 1991-92 school year. You recently completed your master's degree with 49 graduate credits and you have indicated on your request form that you have MS +22 credits with this degree. However, it is necessary for you to complete additional coursework after receiving your master's degree in order to move to past the MS/BS+36 lane on the salary schedule. I have reviewed the records of eleven other teachers who have their master's degrees and find that this has been the practice in the district in all but one instance. In that case, we will be correcting the error that occurred in allowing that person to advance to the MS+6 lane without having taken additional coursework after completing the degree. Therefore, I must deny your request at this time. You will remain at the MS/BS+36 lane for the 1991-92 school year unless the 1991-93 collective bargaining agreement changes the provisions of the contract as it relates to the interpretation of advancement on the salary schedule and graduate coursework . . .

The District ultimately placed the Grievant in the MS+6 lane, to reflect the six credits she earned during the summer of 1991.

The "error" referred to in Martinsen's letter concerned the District's placement of Roberts in the MS+6 lane after his achievement of a Masters Degree in August of 1988. Roberts testified that he had, prior to August of 1988,

earned six graduate credits which were not counted toward the course requirements of his Masters Degree program. He stated that in August of 1988 he approached Orland McCollum, the then incumbent District Administrator, and asked whether those six credits would be counted by the District in placing him on the salary schedule. He stated McCollum replied they would be so counted. Roberts was placed in the MS+6 lane. The parties stipulated that "were Dr. McCollum to testify, he would testify that he has no recollection of the conversation with Mike Roberts concerning placement on the salary schedule." 1/ The "Credit Reimbursement and Salary Schedule Advancement Form" filed by Roberts on August 25, 1988, was not signed by McCollum. Martinsen testified that the District's Bookkeeper was responsible for placing Roberts' in the MS+6 lane. Roberts testified that he thought McCollum intended to credit him with his non-Masters Degree program credits, and that this decision constituted a precedent for the future.

Martinsen testified that she met with Roberts and the Grievant on August 22, 1991, and informed them that she could find no precedent for the placement the Grievant sought, and that she believed Roberts' schedule placement was in error. She showed them the documentation she had developed to reflect her research. That documentation indicated that Linda Mezich had not been given credit for any course credits earned prior to her receiving a Masters Degree in May of 1983. Roberts felt Mezich's situation was precedent to his own, and asked only if the District was going to seek reimbursement of the salary he had earned while placed in the MS+6 lane. Martinsen responded that the District would not, and Roberts advised her he did not plan to grieve the matter.

It is undisputed that teachers must earn graduate credits to make any lane movement on any salary schedule in effect at any time relevant to this matter. It is also undisputed that the twenty-two credits earned by the Grievant but not credited toward her Masters Degree program are relevant to her teaching duties, and resulted in movement through the BS lanes of the salary schedule.

District records indicate that Carlene Schanck; Helen Adams; Dan Kaczmarczik; Joe Rocco; Elaine Bunczak; Dennis Joy; Linda Mezich; Charlotte Showalter; Jim Grygleski; Susan Groshek; Shary Walkush; and Jim Lautenbach each have either moved from the Bachelors Degree to the Masters Degree lanes of the salary schedule, or moved through the Masters Degree lanes. None of these teachers received credit for coursework earned prior to their attainment of a Masters Degree. Roberts is the only teacher who received such credit. The District's records do not, however, indicate which, if any, of these teachers had received graduate credit for courses not included in their Masters Degree program.

Martinsen testified that in July of 1990, Groshek approached her to determine if, upon her attainment of a Masters Degree, the District would place her beyond the MS/BS+36 lane. Martinsen informed her that the District did not move teachers beyond that lane until the teacher earned post-degree graduate credits. Groshek did not grieve this point. The District did not inform the Association of its response to Groshek.

Martinsen has been Administrator since July of 1989. She has served the District in various capacities since 1970. She started as a Kindergarten Teacher and became a Reading Specialist then a Principal before assuming the duties of District Administrator. While a teacher, she was a member of the

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1/ Transcript (Tr.) at 106.

Association, and served the Association in a number of capacities, including Treasurer and President. She served as a member of the Association's bargaining team from 1975 through 1980, and served as a member of the District's bargaining team from 1989 through the present. She testified that the parties have never discussed, during collective bargaining, how teachers should move through the Masters Degree lanes. During her tenure with the District, the parties agreed to the creation of the BS+36/MS lane. The parties implemented the MS+12 lane in the 1987-89 labor agreement. The parties created the MS+18 and MS+24 lanes during the bargaining for a 1989-91 agreement. The MS+18 lane was implemented in the 1989-90 school year and the MS+24 lane was implemented in the 1990-91 school year. Martinsen noted that the Association offered, but the District refused to agree to, a proposal which would have made the MS+6 lane a MS+6/BS+42 lane, and would have made the MS+12 lane a MS+12/BS+48 lane.

Roberts acknowledged that the parties have agreed on a scattergram to cost the parties' offers during collective bargaining. Neither he, nor Martinsen, was aware of any Association challenge to the District's placement of teachers on the salary schedule grid prior to the grievance at issue here.

Further facts will be stated in the DISCUSSION section below.

#### THE PARTIES' POSITIONS

##### The Association's Initial Brief

After a review of the background evidence, the Association asserts that its interpretation of the agreement is "consistent with the normal interpretation of how salary schedule placement occurs unless specific restrictions are found in other parts of the collective bargaining agreement."

Because the Grievant "undisputably has a Master's Degree plus twenty-four additional graduate credits", it necessarily follows, the Association avers, that she qualifies for placement at that lane of the salary grid. This central fact establishes the entitlement, the Association argues, since "(t)he collective bargaining agreement does not require a particular sequence of timing in earning the graduate credits." Since the Grievant initially received credit on the salary schedule for the credits, and since she uses the information she acquired in achieving those credits, the Association concludes that the "ordinary literal application of the salary schedule" should be given its intended effect.

Beyond this, the Association objects to District "attempts to build multiple levels of ambiguity into the salary schedule". More specifically, the Association asserts that Martinsen's testimony eliminates any ambiguity regarding quarter credits, and that no ambiguity can exist regarding the fact that "the salary schedule movement is based on graduate credits, the accepted standard of the education industry." The sole area of dispute in this case, according to the Association, is the sequence by which the Grievant earned her graduate credits. That dispute, the Association contends, must be resolved against the District, since "(t)he ordinary reading of the salary schedule does not support the District's conclusion", and since the Association's interpretation is "a standard application of a salary schedule in the education industry."

The Association asserts that even assuming the application of the salary schedule is ambiguous, the record contains no reliable evidence on past practice or bargaining history. More specifically, the Association argues that Roberts' acceptance of Martinsen's interpretation of the salary schedule was based on an erroneous assumption regarding Mezich's placement. Beyond this, the Association notes that Groshek never informed the Association about her own placement, and the District itself never put the Association on notice of its interpretation of the salary schedule. Since the "(i)ntial placement of teachers at employment is not in issue", the Association concludes that no reliable past practice evidence exists here. Even if it did, the Association views such evidence as irrelevant since the salary schedule placement cannot be considered an ambiguous point.

Nor is there reliable evidence on bargaining history, according to the Association. Prior scattergrams used during bargaining are irrelevant since a "well-established education industry standard does not use horizontal lane movement in cost comparisons for teachers' salary schedules." Nor can past proposals on a Bachelor's equivalency lane be considered relevant, according to the Association, since it is undisputed that the Grievant "has met the Master's Degree standard".

The Association concludes that the Grievant should be placed at the MS+24 lane, and that "the District should reimburse the grievant for the period of time she was incorrectly placed on the salary schedule." Any such reimbursement, the Association adds, should "also include an appropriate interest payment."

#### The District's Initial Brief

After a review of the factual background to the grievance, the District notes that it is "a basic and indeed fundamental principle of grievance arbitration that an arbitrator's authority is derived solely from the express language of the parties' collective bargaining agreement." Noting that Article 4 of the parties' agreement states a narrow definition of a grievance, and that "the Union cites absolutely no contractual provision in support of its argument", the District concludes that it is "beyond the authority of the arbitrator to consider the merits of this grievance since it is outside the four corners of the Agreement." Arbitral and judicial authority firmly support this conclusion, the District adds.

If the matter is found arbitrable, the District asserts that since "the parties never bargained any contract language to address the appropriate placement of teachers on the salary schedule, the management practice relating thereto must be followed." That practice, the District contends, requires that only graduate credits earned after attainment of a Masters Degree count toward salary schedule movement.

If it is found that there are agreement provisions governing this point, the District urges that any such provisions are ambiguous and must be clarified by reference to past practice. The District contends that "significant past practice exists to support the District's interpretation of the Salary Schedule." More specifically, the District argues that "there exist at least 13 similar cases of teacher placement on the District salary schedule in the MS lanes", and that the "Grievant is the only such teacher out of 14 cases who has grieved this placement." That this practice is well-known is evidenced, according to the District, by Martinsen's testimony; by Groshek's acceptance of Martinsen's explanation of lane placement; and by the correction, without any grievance, of Roberts' salary schedule placement.

Noting that the Grievant's placement at MS+6 followed this consistent practice, the District contends that "in this case the District followed the same practice it has always followed as long as anyone can remember." The District concludes that "(t)his undisputed fact must be deemed determinative."

The District concludes that under any persuasive view of the merits, the District's placement of the Grievant must be found correct. This must follow, the District contends, either because the grievance is found "beyond the authority of the Arbitrator"; or because the District has followed, in the absence of any negotiated language, "the current management practice"; or because past practice supports the District's interpretation of ambiguous contract language.

#### The Association's Reply Brief

The Association initially asserts that the "District's argument concerning the arbitrator's authority is without merit." More specifically, the Association contends that "the Salary Schedule is a specific provision of the collective bargaining agreement." The schedule at issue here is "the standard for the education industry and is clear and specific", and is the basis of the interpretive issue posed, according to the Association. It follows, the Association concludes, that the District's concern regarding arbitral authority "defies logic and must be summarily dismissed."

The Association's next major line of argument is that the District's evidence of past practice does not measure up to the District's cited standard for establishing a binding past practice. More specifically, the Association argues that "the District provides no specific breakdown of graduate credits in addition to the Master's requirement that were earned prior to receiving the degree for the 13 teachers." The Grievant's un rebutted testimony establishes, according to the Association, that she "had 22 acceptable graduate credits in addition to her Master's Degree when the grievance was filed." That Martinsen had to research the issue of placement when Roberts and Mezich were placed on then current schedules establishes, the Association asserts, that "the District has not clearly enunciated and acted upon its alleged practice." Beyond this, the Association argues that it "has never acquiesced or accepted the District's interpretation that was presented at the hearing."

The Association concludes that the record establishes the Grievant's entitlement to be placed in the MS+24 lane, in spite of the District's "esoteric arbitral authority arguments (and) generalized past practice assertions."

#### The District's Reply Brief

The District argues initially that the grievance seeks to secure for the Association a benefit if failed to secure in collective bargaining. More specifically, the District argues that the Union failed to voice any difference

with the District's method of schedule placement, in spite of numerous opportunities to do so. The District specifically points to the Association's failure to get other teachers to review their placement after Roberts' "precedent" setting placement. Beyond this, the District asserts that the Association never objected, during collective bargaining, to the scattergram used by the District to cost offers. That the parties created new lanes during such bargaining reinforces why, according to the District, "the Union must now be estopped from asserting its most recent interpretation."

Arbitral authority and sound bargaining policy mandate that a party should not be permitted to gain in arbitration what it has failed to gain in negotiation, according to the District. Since the Association dropped, during the 1987-89 round of bargaining, "a proposal to credit all graduate credits regardless of whether or not the teacher possessed a Masters Degree", it necessarily follows according to the District, that the parties have mutually considered the placement issue the Association seeks to secure through the Blair grievance.

The District then argues that the Association's assertion that there is no mutuality of agreement manifested by past schedule placements is without record support. Martinsen's testimony viewed in light of the Association's failure to object to the District's placement of teachers establishes this mutuality, according to the District.

The District then denies that the "plain 'language' of the salary schedule supports the instant grievance." Rather, the District concludes, the plain language of the agreement supports the District's view:

The title reads simply 'MS+\_\_.' It does not read BS42 or BS48 as the Union at one time proposed at the bargaining table . . . Nor does it read '\_\_\_+MS' or '\_\_\_+MS+\_\_.'

Beyond this, the District contends that the Association "cites absolutely no support for its argument" that there is a "'standard application' or 'ordinary interpretation' of a salary schedule in the education industry."

Viewing the record as a whole, the District concludes that the unbargained interpretation sought by the Association must be "estopped" by the denial of the grievance.

#### DISCUSSION

Before addressing the stipulated issue on the merits of the grievance, it is necessary to touch on a threshold point raised by the District. The District contends that Article 4, Section A and Article 4, Section C, Step 5, e, establish that the grievance is "beyond the authority of the arbitrator". This position must, as the Association argues, be rejected.

Section A of Article 4 defines a grievance as "a complaint concerning the interpretation or application of a specific provision of this Agreement." Step 5, e, of Section C of Article 4 mandates that an Arbitrator not "modify, add to, or delete from the express terms of this Agreement." The District's argument assumes that no express terms of the Agreement govern this grievance.

This assumption itself deletes from the express terms of this Agreement by reading the salary schedule out of existence. As the Association points out, the salary schedules for the 1989-90 and the 1990-91 school years are both expressly set forth in the parties' agreement, and thus constitute "a specific provision of this Agreement" within the meaning of Article 4, Section A. If the agreement read as the District asserts, the District could have refused to

move the Grievant from the BS lanes of the contract and the Grievant would have no recourse through the grievance procedure. As noted above, this interpretation reads the salary schedules out of existence.

The parties' stipulation of the issue underscores that the issue involved here is not one of jurisdiction, but of the application of the terms of the salary schedule.

That the agreement confers jurisdiction to an Arbitrator to interpret the salary schedule does not, however, mean that the agreement provides the Association with the basis for the remedy it seeks. In this case, the Association has not established any persuasive basis upon which the District's placement of the Grievant can be questioned.

The Association's contention that the salary schedule clearly and unambiguously authorizes the Grievant's placement in the MS+24 lane is unpersuasive. That the MS+24 reference can be read to include credits acquired before acquisition of a Masters Degree is apparent. It is not, however, apparent that this reference precludes limiting the credits to those acquired after acquisition of the Masters Degree. The reference itself points to this view. As the District contends, the reference is "MS+24" not "24+MS" or "BS+24+MS". This is not to say the reference "MS+24" points conclusively to either the Association's or the District's interpretation. Rather, this points out that the reference permits both. Because each party advances a plausible reading of the salary schedule, it cannot be considered clear and unambiguous. This is mirrored in the parties' conduct. Both Groshek and Roberts demurred to Martinsen's view of the salary schedule. This could not have been the case if that schedule admitted only the view advanced by the Association here.

Nor can it be said, on this record, that the purpose of the salary schedule is clear and unambiguous regarding the payment sought here. The grid clearly encourages teachers to acquire graduate credits. Beyond this, it is clear the salary schedule encourages teachers to acquire a Masters Degree, since only the first Masters Degree lane is stated with an equivalent "BS+\_\_". Thus, it is apparent the parties have elected to encourage the acquisition of a Masters Degree. Martinsen detailed the policy basis for this in her testimony. She testified that enrollment in a Masters Degree program places a greater focus on a student's efforts, and subjects a student to a set of requirements and experiences not duplicated by the acquisition of graduate credits outside of a degree program.

This policy is not, however, controlling on the issue posed here, which is whether graduate credits acquired before a Masters Degree translates into advancement through the Masters Degree lanes. At best, Martinsen's view of the policy basis for reimbursing credits points to a District desire that teachers enroll in a Masters Degree program as soon as possible. Even this policy is of limited applicability on the present facts. There is no dispute the Grievant would have been reimbursed for the credits she seeks here had they been earned after she received her Masters Degree. The salary schedule does not, then, seek the clearly defined focus of study highlighted in Martinsen's testimony after acquisition of the Masters Degree. Graduate credits are "generic" once the Masters Degree is earned. This is not to say Martinsen's view of educational policy is flawed. Rather, this underscores that neither parties' view of the salary schedule is illogical or implausible as a matter of policy. The purpose of the salary schedule as applied to the issue posed here is, then, not unambiguous.

To resolve the ambiguity, the Association points to the "plain and ordinary" meaning of the salary schedule and to industry practice. It cannot be determined on the basis of this record which, if any, school districts

interpret salary schedules as the Association asserts. Thus, industry practice affords no basis to resolve the ambiguity on this record. The Association persuasively contends that the contractual references to "MS+\_\_" at the head of each Masters Degree lane of the salary schedule seeks no more than a Masters Degree "plus" 24 credits. This view does not strain the reference. However, the District's view puts no greater strain on the reference. The District's view highlights that "MS" precedes "+24", thus implying first the acquisition of a Masters Degree, before the "plus" of 24 additional credits. Either view is both logical and plausible. Thus, the plain and ordinary meaning of the terms affords no clear basis to favor one view over the other.

The remaining bases to resolve the ambiguity are past practice and bargaining history. These are the preferred bases to resolve ambiguity since each turns on the conduct of the bargaining parties, whose agreement is the source and the goal of contract interpretation. Application of these factors is difficult on this record, but does favor the District's interpretation.

The Association persuasively argues that the District has overstated the significance of the evidence of past practice. This does not, however, establish that evidence on the point is entitled to no weight. The record indicates every teacher who has moved across the "MS+" lanes of the salary schedule has done so on the basis of credits earned after acquisition of a Masters Degree. Excluding Roberts and the Grievant, the District has moved thirteen teachers, including Martinsen, through the "MS+" lanes based on post-Masters Degree credits. Only one teacher, Roberts, has ever moved through the "MS+" lanes based on pre-Masters Degree graduate credits. Roberts, however, was eventually denied that movement and acquiesced in the denial.

Two reasons make it impossible to consider past practice evidence, standing alone, to be determinative. First, it is unclear if any of the teachers, other than Roberts, had earned pre-Masters Degree credits which were not counted toward the Masters Degree. It appears Groshek may have had such credits, and it can be noted that she acquiesced to Martinsen's stated view that such credits would not be counted for "MS+" lane placement. The record is not, however, entirely clear on whether she actually had such credits. Second, the record on the mutuality of the practice is somewhat flawed. The Association notes it had no notice of the view Martinsen conveyed to Groshek. This point can be granted, but is undercut by the notice afforded Roberts, an officer of the Association. That he may not have acquiesced in Martinsen's view if he had realized Mezich was denied credit as a matter of initial placement on the "BS+" lanes at point of hire undercuts this item of evidence. However, that Roberts chose not to question Martinsen's stated view at the time of his removal from the MS+6 lane remains a significant, if not determinative, point.

What evidence there is of bargaining history supports, but does not conclusively establish the District's view. The parties have not expressly addressed the issue posed here during collective bargaining. The Association has attempted, without success, to expand the "BS/MS" equivalent lanes beyond the MS/BS+36 lane. This does not specifically address the point posed here, but does underscore the District's desire to limit payment for credits earned outside of a Masters Degree. It also underscores the District's policy decision to reward the earning of a Masters Degree, and to induce teachers not to postpone that decision indefinitely.

Beyond this, it can be noted that the parties have added the "MS+" lanes during several rounds of bargaining, and throughout that period agreed upon the placement of teachers on a scattergram for costing purposes. The Association has never challenged the District's placement of teachers in the "MS+" lanes of those scattergrams. This cannot be dismissed as insignificant. Two of the

"MS+" lanes were added after the "precedent" Roberts felt was set with his 1988 placement in the MS+6 lane. Rather than verifying the placement of teachers after this placement, the Association continued to rely on the District's placement, and Roberts, when moved to the MS/BS+36 lane, agreed to the change.

The Association accurately points out that this evidence does not necessarily establish mutual, express agreement to the denial of payment for pre-Masters Degree credits. However, this evidence does show that the Association never bargained for the result it seeks here, and failed to challenge the District's open espousal of its own view.

This poses the interpretive issue requiring resolution. The salary schedule is ambiguous regarding the impact of pre-Masters Degree credits on lane placement. Either the interpretation advanced by the Association or by the District can be said to fit within the bargained purpose of the salary schedule, for each rewards the earning of graduate credits by a teacher with a Masters Degree. Neither bargaining history nor past practice can be said to be dispositive, standing alone, although each supports the District's, not the Association's, interpretation.

Against this background, the District's interpretation must be favored. The purpose of grievance arbitration is to grant the bargaining parties the benefit of their agreement. Evidence of past practice and bargaining history does establish that the Association has never, in collective bargaining, acted to secure the result it seeks here. While it stretches the evidence to call the evidence adduced here persuasive proof of a binding past practice, the District's open application of its own interpretation cannot be dismissed as unilateral, especially in light of its unchallenged movement of Roberts from the MS+6 lane to the MS/BS+36 lane. The record affords, then, no basis to favor the Association's interpretation. What evidence there is of mutual intent favors the District's interpretation. Against this background, sustaining the grievance would afford the Association, through grievance arbitration, a benefit never secured in bargaining.

#### AWARD

The failure of the District to place the Grievant at MS+24 for the 1991-1992 school year did not violate the salary schedule contained in the collective bargaining agreement.

The grievance is, therefore, denied.

Dated at Madison, Wisconsin, this 9th day of June, 1992.

By Richard B. McLaughlin /s/  
Richard B. McLaughlin, Arbitrator