BEFORE THE ARBITRATOR

In the Matter of the Petition of

RICHLAND SCHOOL DISTRICT

To Initiate Arbitration Between
Said Petitioner and

RICHLAND CENTER EDUCATION ASSOCIATION

Case 43
No. 56961
INT/ARB-8586
Decision No. 29596-A

Appearances:

Lathrop & Clark, LLP, Attorneys at Law, by Mr. Kirk D. Strang, 740 Regent Street, Suite 400, P.O. Box 1507, Madison, Wisconsin 53701-1507, on behalf of the District.

Ms. Joyce Bos and Mr. Marvin Shipley, Executive Directors, South West Education Association, P.O. Box 722, Platteville, Wisconsin 53818-0722, on behalf of the Union.

ARBITRATION AWARD

Richland School District, hereinafter referred to as the District or Employer, and Richland Center Education Association, hereinafter referred to as the Association, having met on several occasions in collective bargaining in an effort to reach an accord on the terms of a new collective bargaining agreement to succeed an agreement, which by its terms was to expire at the end of June 30, 1997. Said agreement covered all regular full-time and regular part-time certificated teaching personnel including Chapter I teachers, but excluding casual and/or temporary teachers, the school psychologist, the Chapter I coordinator, principals, and other supervisory, confidential, managerial, or

executive personnel. Failing to reach such an accord, the District, on November 6, 1998, filed a petition with the Wisconsin Employment Relations Commission (WERC) requesting the latter agency to initiate arbitration per a voluntary impasse procedure agreed to by the parties, pursuant to Section 111.70(4)(cm)6 of the Municipal Employment Relations Act, and following an investigation conducted in the matter, the WERC, after receiving the final offers from the parties on April 7, 1999, issued an Order wherein it determined that the parties were at an impasse in their bargaining, and wherein the WERC certified that the conditions for the initiation of arbitration had been met, and further, wherein the WERC ordered that the parties proceed to final and binding arbitration to resolve the impasse existing between them. In said regard the WERC submitted a panel of seven arbitrators from which the parties were directed to select a single arbitrator. After being advised by the parties of their selection, the WERC, on May 6, 1999, issued an Order appointing the undersigned as the Arbitrator to resolve the impasse between the parties, and to issue a final and binding award, by selecting either of the total final offers proffered by the parties to the WERC during the course of its investigation.

Pursuant to arrangements previously agreed upon, the undersigned conducted a hearing in the matter on August 30, 1999, at Richland Center, Wisconsin, during the course of which the parties were afforded the opportunity to present evidence and argument.

The hearing was transcribed. Initial and reply briefs were filed and exchanged, and received by December 4, 1999. The record was closed as of the latter date.

FINAL OFFERS:

The final offers of the District and Association are attached and marked Exhibit A and B, respectively.

BACKGROUND:

At the hearing, each party presented one witness to address certain aspects of its final offer and to provide background information. In addition, each party presented exhibits in support of their positions. Representatives for each side reviewed and explained their exhibits to the Arbitrator. Also, the representa-tives were allowed to ask each other questions for the purposes of clarification.

Rachel Schultz, Business Manager and Acting District Administrator, testified on behalf of the District. Ms. Schultz has been an employee of the District since 1984. Since that time (except for a three-year period 1987-1990), her duties have included participation in negotiations and the costing of the District's proposals in bargaining. She testified that the current basic salary schedule was voluntarily agreed to and has been in existence since at least 1985. The testimony of Schultz is that the parties have always used the cast-forward method of costing their proposals and settlements. She explained that money

would be applied to the schedule by putting an agreed-upon amount of increase on the base which, in turn, would trickle through the salary schedule changing each cell amount. She explained that the current schedule incorporates 4% vertical increment steps and horizontal lane increases of $550, $550, $650, $650 and $650. According to Schultz, the parties, since at least 1985, have preserved the integrity of this basic salary schedule.

Schultz testified that the total cost of the District's final offer for 1997-1998 and 1998-1999 using the cast-forward method is 3.8% each year. She testified that the District was able to give teachers a greater increase, than required by QEO, the second year because money budgeted for health insurance premiums for 1998-1999, but not needed, was added to wage increases. She further testified that under the State's revenue limitation the District's revenues rose 2.6% each year. Further, in recent years enrollment has been declining and consequently staff is being reduced through attrition.

Teacher Jane Kintz testified on behalf of the Association. She has been employed with the District since 1978 and served on the Association's negotiating team for the contract in dispute. She testified that the concept of placing more money at the end of the salary schedule was discussed; that the Board was not opposed to the concept; that the Board proposed a dollar amount for the Association to place on the salary schedule; but that settlement was not achieved because the parties could not agree on how to

cost the package. Kintz testified that the Association's two-year final offer is based on the cast-forward costing method for the first year and actual cost for the second year in an effort to reward teachers at the top of their schedules.

POSITIONS OF THE PARTIES:

Both parties filed extensive, well-reasoned briefs and reply briefs in support of their positions. The briefs are lengthy and detailed. What follows is a general statement of the parties' positions and is not intended to be a detailed account of all arguments made by the parties. The parties, however, should assume that the Arbitrator has read, reviewed, and studied their briefs in detail.

District's Position:

It is the District's position that one of the primary issues in this case involves the method used by the parties in costing the second year of the parties' two year proposals.

It is argued that the Association's proposed changes in the salary schedule structure and its unprecedented approach to costing final offers is contrary to longstanding practice between the parties and contrary to established norms in negotiations involving teachers. The District argues that the Association's method of costing must be rejected because (1) it represents a change from the status quo and that the Association has not shown a compelling need or offered a quid pro quo, as required, for its

proposed change; (2) the current salary schedule which the District maintains is one developed voluntarily by the parties and used since at least 1986 and has served the parties well; (3) the Association's proposal would destroy the structure of the current 4% salary schedule by giving those at the 13th step a "bonus" for no supportable reason; and (4) the Association's costing method not only deviates from the parties' longstanding practice of using the cast-forward costing method, but is inconsistent with WERC regulations; the method traditionally used in teacher negotiations and the method used by all of the parties comparables.

Additionally, it is the District's position that its offer is more favorable based on the statutory factors governing interest arbitration cases. In this regard, it argues that (1) the greatest weight factor favors the District's offer because even though its revenue is less due to declining enrollment and its funding is only 2.6%, each year, its offer represents a 3.8% increase each year; (2) the interest and welfare of the public supports its position because the District is able to successfully recruit and retain comparable teachers and that even though the economic conditions in the District are less favorable than in prior years, its final offer maintains benchmark rank and exceeds the comparables in salary and total package increases; (3) the stipulations of the parties favor the District because the District agreed to many proposals that benefited teachers including reducing two full contact days from the calendar; and

(4) the District's offer is supported by every recognized component of a comparability analysis including a comparison of total package, wage only increase, and benchmark comparisons, which the District claims maintains the historical benchmark position at each rank and increases rank at the BAO, BA+7 and BA Max positions.

Association's Position:

The Association argues that the major issue herein is the parties' methodology for costing their respective offers. In this regard, the Association argues that the District's reliance on the forms developed by the WERC for QEO measurement is misplaced because this case does not involve QEOs and, therefore, said artificial measurement need not be used. The Association proposes using an actual cost formula because it views the "greatest weight" criterion as essentially an "ability to pay" factor.

In support of its position, the Association contends that an analysis of the District's Annual and Budget Reports for 1996-1997 and 1997-1998 establishes that it does not have an "ability to pay" argument in meeting the Association's proposal. In its analysis the Union looked at the Fund 10 Balance, local revenues, State revenues, instruction-related expenditures, and support services expenditures which taken together does not establish an inability to pay. Further, the Association contends that benefits have consistently been over-budgeted as well as other instruction-

related expenses and that expenses for regular classroom instruction remained flat.

The Association acknowledges that the budget is tight, as argued by the District, with a surplus of only $27,839 last year. But, the Association argues that its overview of the budget shows that the District cannot make an "inability to pay" argument. Further, it is argued, the Association is not asking the District to spend any more than what they have budgeted for. In actual dollars, the District will still spend a 3.8% total package using the Association's costing method.

It is the Union's position that the cast-forward costing method used by the District overstates the cost of their package while the Association's offer represents the actual cost. It argues that by costing forward the old staff, the District pretends to pay an additional $214,938 towards those employees who are no longer employed by the District in the year 1998-1999.

The Association argues that its costing is more accurate for purposes of establishing whether the District can actually afford a proposal. It concedes that traditionally they have used a cast-forward method of computation when bargaining with the District, in those instances, the parties were seeking to establish the "worth to returning teachers" and not its "budgetary impact." It is argued that because the examination required in the "greatest weight" analysis addresses budgetary impact in the fact of laws limiting revenues and expenditures, the worth of the schedule must

take a subordinate position to actual costs. The Association contends that a standard which requires the Arbitrator to consider the impact of laws which restrict a district's finances is, in effect, an ability to pay standard.

Further, the Association claims, citing previous arbitration awards, that arbitrators have recognized the different purposes served by different costing methodologies and that numerous arbitrators have stated a preference for using actual costs over cast-forward costs when budgetary issues are involved.

The Association submits that actual cost figures should be used in this case because the cost of each party's proposal has to be compared with actual available revenues. Therefore, Richland Center Education Association's actual costing should be preferred to the District's QEO cast-forwarding costing.

The Association notes that the statute provides that in making any decision, the Arbitrator shall give the greatest weight to any law or directive which places limitations on expenditures or revenues of a municipal employer. The Association reasons that in effect the law shapes the concept of ability to pay by requiring that above all else the municipal employer's ability to work within the budget limitations imposed on it must be given the greatest weight.

In this regard, the Association acknowledges that although the QEO provision is not mandatory, it is still a law limiting expenditures and is an expression of public policy. It is the

Association's position that this does not mean that the Arbitrator must award the offer which is closest to the 3.8% standard, but it does mean that in the "greatest weight" analysis, the Arbitrator must take that rate into consideration as an expression of public policy.

In applying the greatest weight factor, the Association contends that it has not asked the District to pay more than it has budgeted for. Therefore, the District has the "ability to pay." The Association argues that greatest weight factor favors its proposal because (1) the District's reliance upon the QEO law as the principal rationale for its proposal is erroneous, and (2) its proposal can reasonably be funded from the existing revenues and the revenues available to the District.

With respect to other statutory factors, the Association argues that (1) the interests and welfare of the public is not hurt by either proposal in that the public's interest is not only paying less money but also to attract and retain a superior teaching staff, and (2) the Consumer Price Index factor should be given little weight, but rather the cost of living should be measured by the voluntary settlement pattern among comparables which supports its position.

District's Reply Brief:

It is the District's position that the Association failed to support its final offer under the statutory factors. In this

regard it claims that the Association has absolutely no comparability analysis in favor of its position. It is argued that there is only one District in the entire comparable pool that provided a higher dollar increase to the average teacher than provided by the District's offer. Its offer is three quarters of one percent above the average. Likewise, the District claims its total package offer is about the same as the Association's the first year and is about .05% higher than the average among comparables the second year. Further, it is argued, its offer maintains or increases every benchmark and is more reasonable than the Association's offer which changes the salary schedule.

The District contends that the Association provides no support under the statutory factors for its "actual costing." No comparable school district uses such a costing method and, contrary to the Association's refusal to accept the WERC QEO costing, said costing method is the method traditionally used in teacher negotiations.

Further, the District takes issue with the Association's citing of cases in support of its costing method. It argues that even if the Association's "actual" costing were accurate, cast-forward costing of the parties' final offers is the established means of making comparisons to comparable settlements, even under the cases cited by the Association. It is simply inappropriate to compare cast-forward settlements to a purportedly "actual" offer. It is asserted that the Association's own case cites fail to

approve of the use of actual costing in these circumstances and, indeed, in most situations.

Also, it is argued, there is no statutory support for the Association's salary schedule change. In this regard, the District denies as claimed by the Association, that the District agreed to this type of modification during negotiations. It claims that in whatever proposals it may have made in negotiations, they all included provisions to preserve or restore the structure of the schedule at the end of the two-year contract. In support of its position, the District argues that in the numerous cases cited it is clear that arbitrators view unilateral attempts to change a salary schedule's structure to be a fatal flaw in a final offer.

With respect to the "greatest weight" factor relied upon by the Association, the District argues that the Association misinterprets the factor itself. In this regard, the District disagrees that said factor is the functional equivalent of "ability to pay." If this were the case, the District reasons, the only kind of a Union offer that would not automatically prevail is one that would actually bankrupt a school district. This was not the intent of the Legislature. It contends the Legislature simply wanted to insure that arbitrators did not select offers that resulted in wage increases which would pressure school districts to exceed their statutory revenue units.

Further, the District contends that the Association's budget

analysis fails to account for all the evidence relative to revenue limits. In any event, the Association agrees that the District has a very tight budget. The District argues that there is no support for the Association's position that the District should "re-prioritize expenses." The Association's offer, according to the District, puts unnecessary pressure on the District's budget and programming.

Further, while the District agrees with the Association's contention that the District has money available in the fund balance, it disagrees that monies in said fund can be used. The District contends that it is appropriate to use the fund to pay one-time expenses but would be irresponsible to use for continuing expenses like wages and benefits.

Finally, the District takes issue with the Association's claim that its proposal represents what the District has offered, i.e., a 3.8% package. The District argues that the differences between the parties' offers are real, not merely a matter of semantics.

For the foregoing reasons, the District submits that its final offer should be adopted by the Arbitrator.

Association's Reply Brief:

The Association disputes the District's assertion that the restrictions of the QEO law should be given consideration in this case. It agrees that the QEO law gives school districts the

option of avoiding interest arbitration but districts may voluntarily exceed a 3.8% QEO and if they go to voluntary impasse procedure the parties are not limited to the QEO costing or 3.8%. Because the parties voluntarily agreed to go to arbitration, it is the Association's position that the QEO law is not a limitation on the expenditures that may be made by the District.

The Association asserts that in arbitration in applying the greatest weight factor actual costing provides the most accurate measure of the budgetary impact of a proposal and therefore should be used. QEO costing significantly overstates true costs whereas actual costing does not. The Association reasons that in order to apply the greatest weight factor, one needs to compare actual revenues with actual costs, and thus it would seem that actual costing, rather than QEO costing, would be more appropriate.

With respect to cast-forwarding costing, itself, the Association contends that it was all right in the past because it was used to measure the value of a proposal to continuing teachers. It is agreed that in an era of revenue limits, the actual budgetary implications of a proposal are more significant.

With respect to the District's ability to pay argument, the Association claims that such argument was weak and not convincing. It is agreed that the District has the ability to pay and that the interest and welfare of the public supports the Association's proposal to pay the more senior teachers which will help retain experienced teachers and recruit new teachers when needed.

The Association notes that the District claims that its offer maintains their rank in many of the benchmarks. The Association argues, however, that it is not just trying to "keep up" but is arguing for "catch up" in the salary schedule. In this regard, it proposes to improve the ranking of MA Max, which is low, and maintain the BA Max which is high. The quid pro quo for the change, it is argued, is the savings between the cast-forward method of costing and the actual cost method of costing which is not all consumed by the Association's proposal.

Only about 50% of the difference is used to fund the change in the status quo. With respect to the stipulated items, the Associ-ation argues that the stipulated issues should not be considered by the Arbitrator because they were matters voluntarily agreed to by the parties.

Lastly, the Association contends the District's argument that the cast-forwarding costing method enhances timely settlements is without merit because a settlement is reached when all items have been agreed to, not just the costing methods.

DISCUSSION:

Section 111.70(4)(cm)7 of the Wisconsin Statutes directs the Arbitrator to give weight to the following arbitral criteria:

> 7. 'Factor given greatest weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give the greatest weight to any state law or directive lawfully issued by a state

legislative or administrative officer, body or agency which places limitations on expenditure that may be made or revenues that may be collected by a municipal employer. The arbitrator or arbitration panel shall give an accounting of the consideration of this factor in the arbitrator's or panel's decision.

7g. 'Factor given greater weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors specified in subd. 7r.

7r. 'Other factors considered.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall also give weight to the following factors:

a. The lawful authority of the municipal employer.

b. Stipulations of the parties.

c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.

d. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services.

e. Comparison of the wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes in generally in public employment in the same community and in comparable communities.

f. Comparison of the wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes in private employment in the same community and in comparable communities.

g. The average consumer prices for goods and services, commonly known as the cost of living.

h. The overall compensation presently received by the municipal employes, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits received.

i. Changes in any of the foregoing circumstances

during the pendency of the arbitration proceedings.

j. Such other factors, not confined to the foregoing which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

In applying the above criteria, the Arbitrator must determine which offer is more reasonable based on the evidence presented.

Greatest Weight

The Association, in support of its proposal, primarily relies on criterion 7, "Factor given greatest weight," which requires that greatest weight be given to any State law or lawful directive, ". . . which places limitations on expenditures that may be made or revenues that may be collected . . ." According to the Associ-ation, the key to the application of the greatest weight factor, in this case, is a determination of the appropriate costing method used in assessing the parties' respective offers. The Association argues that the appropriate costing method is "actual" costing and not QEO cast-forward costing as used by the District which is neither required or an accurate reflection of cost. It reasons that actual costing is more accurate for purposes of establishing whether the District can actually afford a proposal. This, it is argued, is more important under the greatest weight factor because a ". . . standard which requires the Arbitrator to consider the impact of laws which restrict a

district's finances is, in effect, an ability to pay standard." (Union Brief p. 15)

The District contends that the Association is being overly simplistic when it asserts that the greatest weight factor is essentially an "ability to pay" factor. Greatest weight, it argues, is a reflection on limitations on expenditures and revenues of an employer. Here, it is argued, this factor involves revenue limits placed upon the District which is intended to force District's to control costs. It is not the functional equivalent of "ability to pay" as suggested by the Association.

In the opinion of the Arbitrator, there is no question from the language of the greatest weight factor that it is geared to prevent arbitrators from issuing awards that pressures municipal employers to exceed their statutory revenue limits. 1/ The

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1/ I agree with Arbitrator Stanley Michelstetter in Arrowhead School District (Support Staff), Dec. No. 28625 (1996), p. 9, wherein he stated the following in discussing the new statutory factors:

> ". . . The Legislature concluded that Arbitrators' awards had relied too heavily upon comparability in establishing teachers' wages without adequately considering other factors. Thus, they concluded that this had caused teachers' and administrators' wages to rise faster than other employees' wages. By emphasizing the legal authority of the Employer in these standards, it was also the purpose of the Legislature to insure that the decisions of arbitrators did not result in wage increases which unduly pressured school districts to exceed their statutory revenue limits."

greatest weight is specifically tied to and given to State laws and lawful directives placing limitations on expenditures and revenues. To this extent, at least, there is an ability or inability to pay component to this factor. Thus, if there are no such "limitations" then the employer under this factor has the ability to pay. This does not necessarily mean, however, that the greatest weight factor now favors the higher of the two final offers. The remaining factors must be considered and weighed. After all, the greatest weight factor may be the weightiest, but it is not the only factor that must be considered. Specifically, the law requires that the other statutory factors shall also be considered and given weight. (See factors 7g. and 7r.)

Application of the Greatest Weight Factor

As stated above, the Association's view of the case is that this dispute is over the appropriate method of costing the parties' respective offers and once that is decided the outcome of the case follows. It appears this reasoning is based on the premise that the parties agree that a settlement at 3.8% is appropriate and only the costing is at issue. According to the Association, since the District's 3.8% is not really 3.8% based on actual cost and the Association's is, it cannot be accepted as a 3.8% offer. The Association's believes that once the actual cost method is adopted by the Arbitrator and the District cannot establish an inability to

pay, no other statutory factors need be considered because the Association has prevailed on the "greatest weight" factor. 2/

The District, on the other hand, contends that QEO costing is appropriate not only because it is consistent with WERC regulations but because the cast-forward method is the method that has traditionally been used in teacher negotiations including in Richland School District. The District contends that its offer generates the most reasonable increases of the two offers and is supported by the criteria of greatest weight and comparability.

To begin with, the Arbitrator agrees with the Association that the QEO law does not require QEO costing in cases where the District has opted for arbitration, as here, instead of making a QEO offer and precluding arbitration. The law is silent on this point. It does not mean that a district has to cost the same way as a QEO, but it does not mean, either, that it is inappropriate to do so.

Further, I agree with the Association that to determine budgetary impact, actual cost is more helpful than the cast-forward method which does not necessarily portray the real costs of an

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2/ See the Association's conclusion reached in its initial brief. The Association concludes that its offer should be selected because the greatest weight factor favors its proposal. It cites two reasons: "(1) the District's reliance upon QEO law as the principal rationale for its proposal is erroneous, and (2) RCEA's proposal can reasonably be funded from the existing revenues and the revenues available to the District."

offer. 3/ Thus, here, actual cost more accurately reflects the "limitation" if any imposed by State laws or directives.

The Arbitrator has considered the actual cost of the Association's offer and its impact on the limitations on expenditures and revenues placed upon the District. The evidence in this regard is somewhat incomplete and hard to analyze. The District argues that it is offering 3.8% average increase for two years but its overall funding each year under the revenue limits is only 2.6%. On the other hand, the Association claims that overall expenditures for the District increased just .17% between the years 1996-1997 and 1997-1998 whereas revenues increase 1.48% for the same years. Both seem to agree that there was a surplus of $27,839 in the 1997-1998 overall budget. The Association claims there is money in the 1998-1999 budget to cover its proposal especially when the District can re-prioritize its choice of expenditures. Further, while the parties argue percentages, it is difficult to determine the actual dollar difference in the two offers and its impact on the overall budget. All in all, the Arbitrator is not convinced that the District would be unable to meet the Association's offer within the meaning of the greatest weight factor. So, assuming there are no limitations of expenditures and revenues collected preventing the District from

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3/ Marshall School District, Case 20, No. 37358, MED/ARB-4000, Dec. No. 24072-B (Nielsen, 1987) and Deerfield Community School District, Case 26, No. 43958, INT/ARB-5664, Dec. No. 26712-A (Kerkman, 1991).

meeting the Association's 3.8% actual cost offer, it does not follow that the greatest weight factor now favors and dictates the selection of the Association's offer. This is to because the dispute herein is not just over the proper costing method but, ultimately, over the reasonableness of each party's perceived 3.8% offer. The two are intertwined. The value of a 3.8% offer depends on its assumptions and method of calculation. Thus, the Arbitrator must now consider the other statutory factors, to determine the most reasonable offer while continuing to give appropriate weight to the evidence and arguments presented by the parties relating to the greatest weight factor.

The Remaining Factors

The parties presented no evidence or arguments with respect to criteria 7r. a, e, f, h, i and j, and, therefore, said criteria are determined, as the parties have, to be non-determinative. Also, although both parties briefly addressed criteria 7g., greater weight, neither presented much evidence regarding same. Thus, while it appears the parties recognize this as an important factor, said factor emphasizing the economic condition in the jurisdiction of the municipal employer, is not determinative. Both parties addressed interest and welfare of the public and external comparables. Additionally, the District relies on the stipulations of the parties and the Association addressed the cost-of-living criteria.

Given the evidence presented and the parties arguments thereon, it is apparent to the Arbitrator the determinative factor in deciding what offer is the most reasonable is the comparability factor. In so deciding, the Arbitrator acknowledges that the stipulations of the parties favor the District, but it simply is not significant enough to help decide the case. Likewise, the factor of interest and welfare of the public is important, but, in the opinion of the Arbitrator, the public has an interest not only in a settlement that holds the line on costs, but one that retains experienced teachers and helps recruit competent and qualified teachers, if needed. As such, the interest and welfare of the public is best served by the final offer that meets the other criteria. The cost-of-living factor favors the District's proposal, but if the Association's offer is otherwise deemed to be more reasonable based on comparability or catch-up then this factor, considered in that context, will not be determinative.

The remaining factor, comparability, is one relied upon by the District and responded to by the Association in its reply brief.

There is no dispute over what constitutes the appropriate set of comparables. It consists of Boscobel, Cuba City, Darlington, Dodgeville, Fennimore, Iowa-Grant, Lancaster, Mineral Point, Platteville, Prairie du Chien, River Valley, Riverdale, Southwestern and Viroqua School Districts. Except for Viroqua, all are in the Southwest Athletic League.

It goes without saying that to make a meaningful percentage comparison of the parties' offers with settlements among comparables, there must be a common denominator. In other words, one must compare "apples with apples." It would be inaccurate to compare the Association's 3.8% proposal with the comparables without converting the Association's percentages to reflect cast-forwarding costing or without converting the settlement percentages among comparables to reflect actual cost percentages. It is clear from the record that all of the comparables use the cast-forward method of costing. Since there is no way of determining the actual cost of the comparable settlements from the record, it follows that the best way to compare the final offers of the parties herein, on a percentage basis, with the comparables is to use the same method of costing they did and not the actual cost method. Further, it more accurately reflects the actual negotiated increase. 4/ In so doing, the Association's proposal

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4/ See Deerfield Community School District, Case 2, No. 43958, INT/ARB-5664, Decision No. 26712-A, 1991 (Kerkman).

Also see Madison Metropolitan School District, Voluntary Impasse Procedure, American Arbitration Association, Case 51 390 00496 955, where the method of costing, like here, was in issue with the District using QEO costing and the Union actual cast costing. Arbitrator Nathan reasoned as follows: "Having said all of this regarding no requirement that costing under subd. 8 be used, there is another argument to be made in its defense. All other districts use the QEO costing techniques. . . . most of the wage districts in Wisconsin settled their impasses with QEO-type offers. Very few actually imposed QEOs although they all used its costing methodology. Thus, if any assessment of comparability is to be made, and comparability does remain a marginal factor in

is equal to a total package of 3.76% the first year, 5.04% the second year, and an average of
4.40% for the two years. This compares with the District's 3.8%, 3.8% and 3.8%, respectively. The two offers, in terms of total package, compare and rank as follows with its comparables.

	1997-1998	1998-1999	Average
Association's Final Offer	3.76	5.04	4.40
Prairie du Chien	4.28	3.92	4.10
Platteville	4.30	3.80	4.05
Southwestern	4.30	3.80	4.05
Iowa-Grant	4.25	3.80	4.02
Dodgeville	3.83	4.13	3.98
District's Final Offer	3.80	3.80	3.80
Boscobel	3.80	3.80	3.80
Cuba City	3.80	3.80	3.80
Darlington	3.80	3.80	3.80
Mineral Point	3.80	3.80	3.80
River Valley	3.80	3.80	3.80
Riverdale	3.80	3.80	3.80
Viroqua	3.80	3.80	3.80

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the new statute, QEO costing must be available for the comparison. (Emphasis mine)

In this Arbitrator's opinion, the appropriate costing methodology for this case is a cast-forward methodology . . ." (p. 34)

Lancaster	3.35	3.42	3.3
Fennimore	3.09	3.03	3.06

Average (not including the Association's and District's final offer) 3.86 3.75 3.80

The wage only increase compares as follows:

	1997-1998	1998-1999	Total
Association's Final Offer	2.34	4.57	6.91
Prairie du Chien	3.28	2.97	6.25
District's Final Offer	2.38	3.53	5.91
Boscobel	2.76	3.02	5.78
Viroqua	2.95	2.71	5.66
Platteville	3.10	2.30	5.40
Dodgeville	2.65	2.70	5.35
Mineral Point	2.50	2.80	5.30
Southwestern	2.90	2.40	5.30
River Valley	2.58	2.60	5.18
Riverdale	2.50	2.50	5.00
Iowa-Grant	2.40	2.50	4.90
Darlington	2.50	2.20	4.70
Lancaster	2.34	2.30	4.64
Cuba City	2.06	2.55	4.61
Fennimore	2.10	2.10	4.20

Average (not including the Association's and District's final offer) 2.62 2.55 5.16

The average salary increase per teacher (increase/FTE) among comparables is the following:

	1997-98	Rank	1998-99	Rank	Total	Rank
Association's Final Offer	1,141.01	9	2,305.00	1	3,456.00	1
Platteville	1,709.03	1	1,541.08	2	3,251.11	1/2
District's Final Offer	1,157.00	9	1,782.00	1	2,949.00	2
Viroqua	1,414.05	2	1,348.18	6	2,764.23	3
Riverdale	1,337.00	4	1,391.00	3	2,732.00	4
Dodgeville	1,294.15	5	1,371.64	5	2,635.00	5
River Valley	1,281.00	7	1,347.00	7	2,635.00	6
Mineral Point	1,351.92	3	1,222.18	9	2,577.10	7
Iowa-Grant	1,218.48	8	1,286.20	8	2,512.68	8
Cuba-City	1,076.00	10	1,387.00	4	2,473.00	9
Darlington	1,290.76	6	1,171.36	10	2,468.11	10
Average (not including the Association's and District's offer)	1,304.66		1,361.79		2,701.99	

Following District's not included because FTE not known: Boscobel, Fennimore, Lancaster, Prairie du Chien and Southwestern.

It is evident from a review of the above, 5/ that both offers rank high when comparisons are made in average total package, average percentage wage increase, and average dollar salary

5/ All of the comparisons are from District Exhibits (Nos. 45, 46 and 47). The Association did not challenge said exhibits nor provide their own. The Association did provide benchmark comparisons. (Exhibits 5a-5g, 6a-6g, 7a-7g, 8a-8g, 9a-9g, 10a-10g and 11a-11g) in support of its position.

increase during the two-year contract. Compared to the 15 comparables, the Association's offer ranks number one in all categories while the District's offer ranks 6th (tied with 7 others) in total package and is the second highest in average wage increase and in average teacher dollar increase. Clearly, overall, the District's offer is one of the higher offers when compared to its comparables. Thus, the patterns of settlement favor the District's offer and will control the outcome of this case unless the Association's catch-up argument is sufficiently strong to find otherwise.

In this regard, the Association in its reply brief argues that it is not trying to just "keep up" but is arguing for "catch-up" in the salary schedule. The benchmark comparisons are as follows:

Benchmark Ranking as Compared to the Comparables
(Includes Group Average as a Ranking)

	BA Min	BA 7th	BA Max	MA Min	MA 10th	MA Max
1995-96	15	14	4	15	14	14
1996-97	15	13	3	15	14	14
1997-98						
Association	16	16	3	16	15	14
District	15	13	4	15	15	15
1998-99						
Association	14	10	2	15	12	11

District	14	12	2	15	14	14

Association Brief p. 6
(Compiled from Association Exhibits 12a-12g)

First, it should be noted that it is difficult to address a catch-up argument without taking into consideration total compensation. I agree with Arbitrator Nielsen's assessment in the Marshall School District case:

> . . . that total compensation, including the cost of fringe benefits, must be considered rather than only annual salary. Salary is only one component of the compensation package, and a low salary may reflect the decision of the parties in past negotiations to spending their compensation dollars in other areas. 6/

Unfortunately, the record is not sufficient to make total compensation comparisons. However, it is likely that a total compensation analysis would not change the benchmark rankings. Assuming that to be the case, the District's offer maintains historical rankings and maintains or improves the benchmark salary rankings of 1996-1997. Based on the above chart, the District improves one ranking in the BA Min, BA+7 and BA Max benchmarks and maintains its ranking in the MA Min, MA+10 and MA Max benchmarks. The Association's offer makes improvements in every benchmark except MA Min where it maintains its ranking. The Association believes the real difference between the parties is at the MA Max

6/ Op. cit., footnote 3, p. 17.

benchmark where the Association by its offer moves up three rankings while the District by its offer maintains its ranking.

In evaluating the two offers, the Arbitrator notes that the District's offer, as does the Association's, makes improvements in the BA lanes where approximately 70% of the teachers are located. It does not improve the MA Max benchmark, as does the Association's, but it does improve the BA Max where there are approximately twice as many teachers (23.03 vs. 11 FTEs) than at the MA Max level. Further, and importantly, the District is offering the second highest average dollar salary only increase per FTE teacher over the two years in the conference. (District Exhibit 47) 7/

Based on the above, the Arbitrator concludes that the District's offer is the more reasonable of the two. In the final analysis, the Association's offer with respect to "catch-up" and

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7/ Arbitrator Nathan in the Madison School District case assessed the importance of the average increase as follows:

> . . . it is also true that as a bargaining unit ages, comparisons at schedule steps have little probative value. One should look at what the average increase was for teachers in the unit compared to the average increase received by teachers in other units. 38/
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> 38/ One cannot simply look at average teachers' salaries because these numbers are more a product of the seniority of the unit rather than the relative worth of their schedule. Another probative test is to place the scattergram of the unit at issue and place it on the schedules of the comparative units.

benchmark rankings are not sufficiently strong to offset the District's offer when compared to the patterns of settlement. As discussed earlier, the District's offer exceeds the settlement pattern and generates the second highest average teacher dollar increase among the comparables. The Arbitrator recognizes the fact that the District's 3.8% package using the cast-forward method does not actually cost 3.8%, but this is true with the comparables as well who used the same traditional cast-forward method of costing typically used in teacher negotiations. Thus, it may be that their reported settlement figures, like here, do not represent their actual cost of settlement either. Had the actual cost figures of the comparables been available, the Arbitrator would have made those comparisons as well in his analysis and determination.

A final note. The Arbitrator's conclusion reached above should not be interpreted to mean that the parties' salary schedule, especially at the maximums, needs no improvement. Association Exhibits 5a-5g through 11a-11g establishes that while there may be no erosion of the actual rankings, there is erosion of the salaries within the benchmark rankings that should be addressed by the parties. In the instant case, however, in evaluating the impact of the parties' offers in context of all the issues presented, the District's offer is deemed the more reasonable of the two.

For the foregoing reasons, and based on the record as a

whole, the Arbitrator renders the following

AWARD

That the final offer of the Richland School District shall be included in the parties' 1997-1999 collective bargaining agreement.

Dated at Madison, Wisconsin, this 28th day of January, 2000.

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Herman Torosian, Arbitrator