BEFORE THE ARBITRATOR

In the Matter of Final and Binding Interest Arbitration of a Dispute Between

SCHOOL DISTRICT OF FLORENCE

and

FLORENCE EDUCATION ASSOCIATION

WERC Case 17, No. 57584, Int/Arb-8736
Decision No. 29872-A

APPEARANCES:

For the Association:
Ms. Carol J. Nelson, Executive Director, Northern Tier UniServ-East, P.O. Box 9, Crandon, WI 54520.

For the Employer:
Davis & Kuelthau, S.C., by Mr. Robert W. Burns, 200 South Washington Street, P.O. Box 1534, Green Bay, WI 54305-1534.

ARBITRATION AWARD

The Association has represented a bargaining unit of full-time and part-time teachers for many years. The parties' most recent collective bargaining agreement expired June 30, 1999; on May 27, 1999, the District filed a petition with the Wisconsin Employment Relations Commission requesting arbitration pursuant to Section 111.70 (4) (cm) 6, Wis. Stats. Efforts to mediate the dispute by a staff member of the Commission were unsuccessful, and an impasse investigation was closed by the Commission's order for binding arbitration dated April 17, 2000. The undersigned Arbitrator was appointed by Commission order dated May 23, 2000. A hearing was held in this matter in Florence, Wisconsin on October 4, 2000. A transcript was made, both parties filed briefs and reply briefs, and the record was closed on January 10, 2001.

Statutory Criteria to be Considered by Arbitrator
Section 111.70 (4) (cm) 7

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 expenditures 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 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, the continuity and stability of employment, and all other benefits received.
i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
j. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact–finding, arbitration or otherwise between the parties, in the public service or in private employment.

<u>The Association's Final Offer</u> (new language underlined)

1. ARTICLE XX, COMPENSATION

(H) Teachers required in the course of their work to drive personal automobiles shall be <u>reimbursed at the IRS rate if no school vehicle is available. If a teacher elects to drive their personal vehicle the District will reimburse for gas only.</u>

(K) The Board will pay one hundred percent (100%) of the Long Term Care hospital-surgical-major medical insurance plan (WEAIT). The Board may change carriers, but will endeavor to follow the recommendations of the insurance committee when changing carriers. ~~The benefits of the new plan must be substantially equivalent or superior to the 1089-90 WPS plan.~~

2. INSURANCE:
Move to a long-term care policy as presented by WEAIT Insurance. Move drug card from a 2/2 deductible to a 5/0 deductible to help pay for policy. Long-Term care will be added to current plan. Will start within sixty (60) calendar days after the Arbitration Award.

Dental -- Increase yearly plan maximum from $1000 to $2000.

3. Article XXV, DISTANCE LEARNING

A. Time and Compensation

1. No bargaining unit member may be assigned to teach a course on Triton/ITV. All Distance Learning courses (i.e.. Triton/ITV) will be taught by members of the bargaining unit on a voluntary basis only.

2. Instructional days of a class on the system will follow the calendar of the origination site for the class, unless the instructor involved is willing to work additional days with the approval of the Association and the Board and with just compensation.

3. Teachers who will be presenters or remote site monitors will be provided with initial and ongoing inservice in using telecommunicasting as an alternative educational delivery system.

4. The parties recognize that additional time may be necessary to properly and efficiently provide instruction via telecommunications. Such additional time, if beyond or outside of the normal duty day of the originating District, will be compensated according to the rate specified in the negotiated agreement. Activities for which additional compensation will be provided will include, but is not limited to, teaching more than one course, curriculum development, interdistrict meetings, remote site visitation, etc.

B. Layoff

1. No bargaining unit member may be placed on full or partial layoff if he/she is licensed in an area in which the District is offering or receiving a class via telecommunication.

2. The District further agrees not to receive a course via telecommunications while a bargaining unit member, who is licensed to teach that course is on full or partial layoff.
3. Once scheduled and contracted for, no course may be dropped from a teacher's schedule as long as any students are enrolled in that course at that origination site.

4. It is agreed and understood that distance learning should only be used as a supplement, that is, in addition to or an enhancement to existing course offerings. It shall not be used as a substitute for existing curriculum.

C. Educational Policy: The educational philosophy, policies and practices of the originating District will be used by districts involved. Such policies or practices will include, but are not limited to:

1. materials selection policy
2. School calendar
3. Grading system
4. Student work, including homework, class work, makeup work
5. The reporting of absences shall be reported by the remote site supervisors in accordance with that District's policies.

4. SALARY CONSIDERATIONS

First Year 3% per cell
Second Year 3% per cell

The Employer's Final Offer

1. 5% Total Package (salary and benefits) Increase.
   (3% Total Package Increase Plus 2% Retiree Insurance Endowment).
2. Revise applicable dates to reflect 1999-2001 Agreement.

Discussion:
I will first assess the parties' positions on an issue by issue basis, and then turn to the overall assessment in order of the statutory criteria.

Article XX, Compensation, and Insurance proposals:

The Association's Position
The Association argues for its long-term care proposal and its dental proposal primarily in terms of its Exhibit 9, a set of proposals for changes in the overall health plan dated October 10, 1997. The Association argues that its proposal provides for two alternate health plans, in one of which coinsurance changes from 100 percent to 90 percent after the deductible is satisfied. In its reply brief, the Association contends that the long-term care proposal is to benefit all members as a form of "catastrophe" insurance, and that there is a minimal cost impact, if any, to the District because of the Association's offer of a quid pro quo in the form of a less expensive drug card and because of a reduction in employer contributions to the Wisconsin Retirement System. The Association does not argue

concerning the proposal striking out the anchoring role of the 1989-90 WPS plan as the standard of reference for a change in carriers.

The Employer's Position

The District contends that the Association's long-term care proposal is an additional benefit on top of a benefit package the District already foresees as difficult to afford. The District costs the long-term care proposal, allowing for the effect of the less expensive drug card and including six months' worth of the dental insurance improvement proposed by the Association, at just under $14,000 in the second year of the contract, because of the Association's proposal that it take effect within sixty calendar days after the arbitration award. But it calculates that this benefit would cost approximately $30,000 over a full year. The District points to its exhibit 13 as identifying only one district among the comparables as having a similar benefit. As to the removal of the WPS "anchor" as a standard for comparison to any new plan, the District contends that the result would be to make it more difficult for the District to locate comparable carriers in order to keep price increases in check, because of unique features in the WEAIT plan. In its reply brief, the District contends that the Association has failed to offer any quid pro quo for these proposed improvements.

Analysis

Neither party addressed the aspect of this proposal of the Association which concerns mileage, and I conclude it is of minimal importance.

Contrary to the Association's brief, it is clear that the Association's final offer does not actually provide for two alternate health plans, and it is also clear that this somewhat garbled argument is based on a WEAIT insurance proposal which was three years old at the time of the hearing, and obviously obsolete in its costing. The Association has also offered no real justification for proposing to change the standard for comparison of any new insurance carrier from WPS to WEAIT.

The Association has offered something of a quid pro quo for the proposed improvement in dental insurance and the addition of the long-term care benefit. Unfortunately, the proposed less-expensive drug card is shown by the District's (unrebutted) exhibit 13 to be almost the same savings ($3762) as the dental insurance improvement costs ($3542). While the District's calculation contains a mathematical error, the net cost of these changes after the long-term care package ($13,678) is added is still $13,464. And while there are no longer six months left within the current contract (the period for which the District costs this benefit), there is no good reason to ascribe a minimal cost for a significantly expensive new benefit merely because it would be introduced toward the end of a two-year contract. This is particularly true where, as here, the Association's proposed quid pro quo offsets only a small portion of the cost and only one other comparable school district has the long-term care benefit.

Distance Learning

The Association's Position
The Association contends that the District has spent a great deal of money, not required by law or by the Department of Public Instruction, to introduce a significantly new set of technologies. The Association contends that its proposal merely sets forth a series of safeguards which are consistent with the recommendations of the DPI's handbook on designing distance learning systems. The District pointed to testimony by Curtis Powell, a retired district administrator from another district who was one of the earlier users of distance learning in Wisconsin, as supporting its position that distance learning was significantly different in teaching methodology from classroom teaching and that encouraging teachers to volunteer, following proper training, was a better way to ensure its success than to assume that it was a duty which could be assigned like any other.

In its reply brief, the Association contends that the District has committed almost $100,000 to distance education in 1998-99, and that this large financial commitment deserves matching assurances that it will be used well, which the Association's proposal is designed to ensure. The Association notes that teachers are evaluated on a regular basis, and contends that to set up the new system in such a way that there is no guarantee that teachers will be appropriately trained for it has the effect of putting both the teachers and students at risk.

The Employer's Position
The District contends that the Association's distance language proposal limits a basic right of the District to manage its classroom activities. The District points to testimony by District Administrator Gerald Gerard, to the effect that the proposal's requirement that such courses be taught by members of the bargaining unit only on a voluntary basis could leave the District without anyone to teach the courses, and argues that the "no full or partial layoff" provision would prevent the District from offering a distance learning course even if only one or two students were going to take it, as long as an appropriately licensed teacher was in layoff status. The District contends that many terms in the Association's proposal are ambiguous, creating uncertainties in management, and argues that the Association's citations of the philosophical purposes of distance learning are not necessarily those of the Board and that there is no basis in the record as to why the Board should be forced to adopt them. The District also contends that the comparables do not support the Association's proposal, as only one district has any language at all concerning distance learning, and that one is far less restrictive than the Association's proposal here, because it addresses only evaluation issues. Finally, the District notes that the Association has not offered any quid pro quo for this language proposal.

Analysis:
While the Association's concern that teachers be properly trained in the use of a new technology has obvious merit, its accompanying assertion, that teachers' security of employment is jeopardized if the District fails to train them, is overblown. If the District, in the event, proves to have done nothing to train teachers for work with the new technology, the teachers have a contractual defense against subsequent adverse evaluation for poor

performance on that work, in the form of a broad "just cause" provision in Article IX (B) and (C) of the Agreement. At the same time, the Association's insistence that the assignment of distance learning work be purely voluntary would distinguish it from any and all other work that some teachers may not relish, with no persuasive reason given why such a special status is called for. The Association's proposal, moreover, is unsupported by the comparables, and is significantly restrictive of management's ability to design and control courses. It would have the effect of forestalling experimentation by imposing a series of onerous requirements on management, without any prior demonstration that there has been any related management error warranting such restrictions. The Association, finally, offers no quid pro quo for a proposal which would significantly limit the District's ability to use technologies in which it has made a significant financial investment.

Salary:

The Association's Position

The Association, conceding that the cost of its proposal on salary is higher than the area settlements, argues that the cost is justified because the District has fallen greatly in the rankings over the past ten years, and has a substantial fund balance which demonstrates that it has the ability to pay.

The Association notes that while the District has made arguments concerning the cost of the retiree health insurance benefit, the Association has had this benefit since the 1980s, while the District and the Association reached a new grievance settlement which redefined it (in terms of years of service rather than age) in August, 1999. The issue of retirement benefits, the Association thus asserts, is not before the Arbitrator, as it was not raised by either party in a negotiating proposal. For its calculation that the District can afford its salary proposal, the Association relies on testimony by Curtis Powell, and on a financial analysis prepared by Powell. Association's Exhibit 18a, the Association claims, shows that as of the March 23, 1999 date from which the District's finances were examined, Powell found that the District was carrying a substantial Fund 10 (the largest and most general-purpose of various accounts) balance of approximately $1.2 million, that it had maintained Fund 10 balances over several years ranging from 14 percent to over 18 percent of revenues, considerably larger than many districts maintain, and that for at least three preceding years, the District had tended to underestimate its revenues and/or overestimate its expenditures. The Association argues that for these reasons, it is appropriate for the District to enter into an agreement which would have the effect of spending down the Fund 10 balance.

Such an award is necessary, the Association argues, because undisputed evidence in the record shows that the Florence teachers have fallen substantially in salary rankings compared to their accepted comparables over the past ten years. The Association notes record evidence that shows that in 1990-91, Florence was ranked No. 1 at the MA-10, MA-max and schedule max benchmarks, but that thereafter, it began to slip, so that by 1998-99 it was ranked fourth at the MA-10 step, third at the MA-max, and sixth at the schedule max. The Association argues that this slippage is having an effect on the District's ability to retain qualified teachers, and points to a rising number of resignations of teachers,

including 13 members of the 62-member staff who resigned in the most recent two years. The Association also cites a column in a local newspaper, by District administrator Gerard, to the same effect, noting that Gerard expressed concern about neighboring Michigan districts being able to pay teachers $5000 more in salary than Florence was paying.

The Association argues that the District's proposal, by contrast, has a profoundly regressive effect on the teachers. The Association calculates that 35 of the teachers would make less in salary under the Board's offer for 1999-2000 than they made in 1998-99, in most cases by well over $600. 32 of these teachers would again make less under the Board's offer for 2000-2001 than they made two years earlier, in most cases by between $550 and $600. The net effect, the Association calculates, is a loss of some $1300 over two years compared to a simple continuation of prior earnings. The Association notes that since these salaries will enter into the formula used to calculate retirement earnings, the losses are compounded in their effect on subsequent retirement earnings. The Association contends that it is not consistent with the interests and welfare of the public to penalize teachers by having them take home less pay.

In its reply brief, the Association notes that the District has made a number of other significant investments over the past three years, referring to the distance learning equipment, as well as significant expenses in business administration. The Association argues that if the District can afford these expenses, it can afford to pay the teachers more, particularly in view of Gerard's admission in his newspaper column that low salaries in Florence were a problem for the District. The Association defends Powell's expertise and analysis by noting that his long experience as a district administrator included the functions of a business administrator, and contends that despite the revenue caps and enrollment drops, the District continues to be able to afford the Association's proposal because of the substantial Fund 10 balance. The Association contends that the teachers have moved from first place to "dead last" in the rankings over a six-year period, and argues that the District proposal to set aside money for the retiree health benefit is an irrelevance in view of the fact of the parties had settled the retiree issue.

<u>The Employer's Position</u>

The District contends that in recent years, enrollments have declined substantially, with birth projections for about 35 children per year in the District representing a major falloff from recent graduating classes of 75, 67 and 80. The District notes that under the State's aid formulas, declining enrollments decrease the District revenue limit. The District cites full-time equivalents of students as 877 in 2000, decreasing to 664 projected for 2004-2005. A second factor affecting what the District can afford is tax levies and equalized values, in which equalized values in the County have increased by 11.5 percent, 23.48 percent and 12.72 percent over the past three years, which reduces the District's aid from the state and has resulted in a 22.6 percent increase in local property taxes in 2000-2001. The District calculates its permitted revenue cap as 3.2 percent, including such benefit as the District can obtain from a hold-harmless provision which slows the effect of declining enrollments on state aid losses. The District contends that consideration of the "greatest weight factor" clearly impacts on the reasonableness of the offers, in favor of the District proposal.

The District contends that its Fund 10 balance has been within the recommended range for districts generally, but is now poised to decline rapidly because of the costs of either the District's or the Association's proposal for the contract at issue. The District calculates that even using its own proposal, because of the revenue limitations the District has no choice but to go into the fund balance, and that with all other factors equal and a projection of approximately $200,000 per year in increased salary and fringes for the two years following the current contract, by 2002-2003, the fund balance would be gone. The District contends that assuming its own proposal becomes the new contract, by June 30, 2001 the fund balance will have dropped to $855,508 from $1,225,530 in one year, a loss which the Association's proposal would essentially double. The District contends that Powell's analysis did not look closely at the implications of the District's outside report on the long-term impact of the retiree health provision, and that Powell did not know what that financial obligation is. The District also notes a newspaper article concerning job cuts at a major local employer, contending that this implies that these families will most likely be forced to move out of the area to seek employment. The District argues that for these reasons the "greater weight" criterion favors its offer.

The District argues that even though the retiree health benefit issue was settled on the basis of the new provision, its cost is very substantial, and that the District, unlike the Association, has made provisions in its offer to address that cost. The District argues that its 2 percent endowment provision is an appropriate way to begin to prepare for the impact of a long-term expense the exact amount of which is impossible to calculate, but which represents a compromise between the figures of $2 million and $6 million liability estimated, by a reputable outside firm, as the respective positions of the parties prior to the 1999 grievance settlement. The District notes testimony by Gerard to the effect that this year the District eliminated elementary art, middle school Spanish and one vocational person and that previously the District eliminated elementary counseling, in an effort to reduce expenses, but that essentially because of the retirement benefit combined with the effects of enrollment losses and increases in equalized value, the tax levy still went up 23 percent this year. The District notes that the health insurance rates have increased "dramatically" over the past few years and that there is no guarantee that they will not continue to rise, causing the effective cost of the retiree health insurance benefit to rise commensurately. The District argues that while the Association attacked the District's plan on the basis that the Board theoretically could move the endowment fund into other purposes at will, in practice that would merely trigger a grievance, and therefore the endowment fund is effective as a device for ensuring future payment of the retiree health insurance costs. The District further notes that no other district among the comparables has a benefit even close to the level of retiree health insurance provided by Florence under the grievance settlement. While nine other districts in the area provide for early retirement insurance benefits, and while the provisions vary, in essence almost all such benefits terminate when the employee becomes eligible for Medicare. Only the District provides for insurance for between 5 and 10 years beyond Medicare eligibility age, depending on date of employment.

The District contends that the Association has used the wrong salary schedule in computing the value and percentage cost of its offer. The Association, the District argues, is

ignoring the fact that it lost a grievance arbitration over which of the two salary schedules for each year of the prior collective bargaining agreement was effective for purposes of determining the "status quo" beyond expiration of that contract. As a result, the District argues, the Association's offer is considerably more expensive than the Association's figures represent. The District calculates that the real difference between the District proposal and the Association's proposal is $142,103 in 1999-2000 and $245,555 in 2000-2001. The District contends that its proposal represents a 9.7 percent increase over the five-year span from 1998-99 to 2003-04, while the Association's artificial B.A. base essentially doubles that increase. The District calculates the same respective percentages at the schedule maximum.

The District argues that its 5 percent total package is a highly reasonable approach, including the three percent package offer for general wages and benefits, because of the constraints currently placed on the District. The District contends that its three percent package is within the range of area settlements, while the Association's three percent per cell proposal exceeds any other comparable district, even by admission of UniServ Director Gene Degner. The District argues that Beecher-Dunbar-Pembine settled at 2.11 percent per cell in 1999-2000 and 1.2795 in 2000-01; Goodman-Armstrong has a salary schedule increase of .55 percent in 2000-01; Laona has 1.39 percent per cell in 1999-2000 and .63 percent per cell in 2000-01; Crandon has 1.35 percent per cell in 2000-01; Elcho added between .6 percent and 1.2 percent to the schedule in 2000-01; and Wabeno added $200 to each step in 2000-01 and removed step one on the salary schedule that year. The District argues that its exhibit 17 shows that Florence teachers moving through the steps are receiving 3 percent to 5 percent increases under its proposal, which is comparable to what teachers in the comparable districts are receiving who are not at the top of the schedule, while the two percent retirement endowment is not matched by any other District and should not go unnoticed.

The District contends that both parties' offers exceed those provided by comparable districts, but that the District's proposal is closer, because calculating the Association's proposals in line with the effect of the grievance arbitration decision which the Association lost, the Association's proposal rolls up to a 7.13 percent total package increase for 1999-2000, and 5.79 percent for 2000-01. The District contends that its proposal also exceeds the CPI.

With respect to the teachers' admitted decline in rankings over the last decade, the District concedes that there has been some slippage, but argues that these were not the result of a single bad bargain; rather, it is the result of many voluntary bargains over the years. The District argues that in effect, the Association is trying to make up all of that lost ground in a single bargain, arguing that the effect of adoption of the Association's proposal would be that over the two years of this collective bargaining agreement, the Association's proposal would move teachers at the B.A. minimum from $1285 behind the average of the comparables to $174 behind, while at the B.A. max the teachers would go from $618 ahead of the average to $2777 ahead; at the MA minimum, from $1116 behind to $18 ahead; at the M.A. max, from $783 ahead to $2598 ahead; and at the schedule max, from $685 ahead to $2493 ahead. The District admits that its offer tends to reduce teachers' pay at each of

these steps in relation to the average, but argues that the Association's proposal substantially moves up the placement of the District among the comparables in just one contract, and that the District's offer is more aligned to what has been offered by comparable districts.

In its reply brief, the District argues that the Association fails to rebut any of the financial information put forth by the District, and that the Association confuses the fact that the retirement grievance was settled with the fact that the retirement cost remains. The District argues that it has made a compelling case with respect to both the "greatest weight" and the "greater weight" criteria, citing a "vivid picture" of limitations placed on this District with respect to revenues. The District also argues that with respect to the fund balance, on cross examination Powell admitted that small districts, and low aid districts that rely more on local taxes, tend to keep a larger percentage in reserve to compensate for irregular revenue flow, while the District is within the range suggested by the DPI.

With respect to the catch-up argument and the proper base for costing the new proposals, the District argues that even if some degree of catch-up may be needed, the Association is attempting to do too much too quickly, while the proper way to view the 3.8 percent salary schedule in each of the previous two years was that it represented a bonus, so that the Association's contention that teachers' salaries are being reduced under the District proposal ignores the difference between a salary improvement and a bonus which was never intended to become part of future wage increases. The District argues that contrary to the Association's claim that the District is imposing a "life sentence of financial punishment" on the teachers, the real meaning of the two salary schedules in the previous agreement was the District was taking money from the fund balance to pay a one-time bonus to the teachers.

Analysis:
A complicating factor in determining the reasonableness of these proposals under this statute is that both parties' final offers appear to be based on significantly faulty financial reasoning. The proper base for costing both proposals must therefore be addressed first.

For the Association's part, its costing and calculations of offers all work off the assumption that the 3.8 percent schedules in the prior collective bargaining agreement were the operative ones. This could be accepted only if the Association had won the arbitration award in the case heard by Arbitrator Crowley. But there is no way to read that award without concluding that the Association and District exited the previous collective bargaining agreement with the status quo salary schedule being the 2.1 percent schedule for the second year of the agreement. Thus the impact of the Association's costing has value only to the extent of comparing year-to-year actual costs, which owing to the curious system generally accepted for costing teacher contracts in Wisconsin, has only limited relevance.

The District, meanwhile, has predicated a full 40 percent of the value of its proposal on an "endowment fund" for which it offered no precedent, no comparison and, significantly, no believable plan. In the simplest terms, a household equivalent of what the District proposes would be to take money out of a checking account and put it in a savings account. So far,

that would appear to be a reasonable and even prudent thing to do when anticipating large future expenses. But the District then proceeds to define this money as "spent", by costing it as a specific proposal in its final offer. That is a considerable stretch. No new purchase is made by this supposed spending. No new commitment or additional commitment of funds to the retirees is implied, beyond what the District would have had to pay anyway. To "cost" this two percent in the same sense as the remaining three percent of the offer is therefore to confuse money spent with money banked. The most that can be said for the endowment fund proposal is that if it were accompanied by a solid plan to segregate it and secure it against other claims, which it is not, it would provide a degree of additional security for the retiree obligation. As it is, I find that the proposed endowment fund is a de minimis benefit to teachers with no true cost in and of itself. I conclude the District is accordingly, for all practical purposes, offering a three percent package.

The consequence is that the parties are actually much further apart than their respective costing of their own proposals would suggest.

The degree of financial difficulty the District is actually in is not easy to determine, because the Association has presented unrebutted evidence that the District has had something of a tendency to underestimate future revenues in recent years, and overestimate costs, demonstrated by Association Exhibit 18a. In particular, I note that Powell found in his analysis that the District emerged from the 1995-96 year $30,000 better off than projected; emerged from the 1996-97 budget year $66,000 better off; and emerged from the 1997-98 budget year $206,000 better off. This casts a certain degree of doubt over the District's projected loss of its entire Fund 10 balance over the next three years.

It is clear, however, that the District's economics have been affected in somewhat perverse ways by the rapid increases in equalized value. From Employer's Exhibit 22, I calculate that in the entire 15 year period from 1981-82 to 1996-97, the equalized value of property in the District rose by 46.46 percent, while in the four most recent years, equalized value rose by 64.98 percent. At some level, this represents rapidly rising real estate wealth of county taxpayers as a group. I note that while the District has stressed the 22.56 percent increase in the tax levy for 2000-01, Employer's Exhibit 22 also shows a highly fluctuating series of changes in the tax levy from year to year. For example, in previous years taxes have gone up by as much as 27 percent in one year (1983-84) and have gone down by as much as 27.48 percent (1996-97). A better measure of the true tax impact on the population of all factors taken together is therefore a multi-year calculation. Using that approach, over the most recent 10 years (1990-91 to 2000-01), the tax levy increased from $2,546,560 to $2,897,255, a 14.67 percent increase. The 1.47 percent average annual increase this represents seems very reasonable by comparison with the previous nine years (the extent of the data supplied), in which taxes rose by an aggregate of 111.68 percent, or 12.41 percent per year on average. I note also that while the size of the 2000-2001 increase can hardly have pleased Florence taxpayers, Employer's Exhibit 12 shows that in 1998-99, Florence had a mill rate about 20 percent below the average of the comparables, while the mill rate for Florence declined to substantially lower levels in both of the succeeding years.

I also find the District's five-year projection of expected increases under its proposal and the Association's to be quite suspect, because by the District's own calculations, the District proposal provides for very small salary schedule increases, ranging from $83 to $166 at various points on the annual schedule in the first year, with a schedule freeze in the second year. Virtually all of the 9.7 percent increase from 1998 to 2003 which the District projects as a result of its offer represents pure speculation as to what might happen in the succeeding collective bargaining. The same is true as to the larger part of the 18.2 percent of the District's projected five-year cost of the Association's proposal. (Employer's Exhibit 11). This will do nothing to alleviate and may even worsen the turnover rate the District has suffered in recent years, which appears particularly likely to continue considering widespread emerging competition across the country for teachers, together with the sharp difference between salaries in Florence and salaries in the neighboring Michigan districts.

The anticipated slippage in benchmark rankings from adoption of the District's final offer argued by the Association is not quite as extreme as the Association claims. But some further slippage is visible. In 1998-99 the District was eighth of a list of nine districts in the same athletic conference (including Florence and districts that have settlements for all years compared) at the B.A. minimum; fifth at the B.A. maximum; seventh at the M.A. minimum; fourth at the M.A. maximum; and fourth at the schedule maximum. Under the District's offer, by the second year of the contract Florence would be ninth at the B.A. minimum; sixth at the B.A. Maximum; eighth at the M.A. minimum; seventh at the M.A. maximum; and sixth at the schedule maximum. (Employer's Exhibit 17. White Lake, which in 1998-99 paid more than Florence at the lower end of the schedule but less at the schedule maximum, is not settled, and the Association includes Niagara and Wausaukee, which the District does not, but does not include 200-2001 figures. Both of the latter districts, at all events, have had higher salaries than Florence at most benchmarks.)

Particularly at the upper end of the salary schedules in question, the spread between the comparable districts is substantial. The change in the relative ranking of Florence is therefore not as obvious as the change in its position compared to the <u>average</u> of the other districts' salaries, under either the District's proposal or the Association's. Under the Association's proposal, Florence stands to move up compared to the averages, by the large amounts noted above in the District argument; but under the District proposal, the movement is almost as dramatic, but in the opposite direction. Thus at the B.A. minimum, the District proposal would have the effect of moving Florence from $1285 behind the average of the comparables to $1634 behind in the first year and $2016 behind in the second year. At the B.A. maximum, Florence would move from $618 ahead of the average to $243 ahead in the first year and $148 behind in the second year. At the M.A. minimum, Florence would move from $1116 behind to $1644 behind in the first year and $2082 behind in the second year. At the M.A. maximum, Florence would move from $783 ahead of the average to $181 behind in the first year and $828 behind in the second year. And at the schedule maximum, Florence would move from $685 ahead of the average to $505 behind in the first year and $1208 behind in the second year. These are large relative losses compared to the comparables.

Yet the District is entitled to the value of the "status quo" grievance arbitration award issued by Arbitrator Lionel Crowley, in which it prevailed. One effect of that award is to establish that in the terms in which school district collective bargaining is conventionally costed, the Association's proposal is far more expensive than the comparable settlements. Because the District is entitled to have the status quo for costing purposes viewed as the 2.1 percent schedule in the preceding contract, I must either accept the costing impact on the Association's proposal of using that schedule as the baseline, or, in effect, nullify the Crowley award. There is no basis in the record for taking such an extraordinary act as to nullify that award. Also, the Association has not rebutted otherwise the costing laid out in Employer's Exhibit 9. I therefore find that in conventional costing terms (which are easily distinguishable from actual cash costs, as noted by many previous arbitrators) the Association's proposal must be costed at a package value of 7.13 percent in the first year and 5.79 percent in the second year. The salary portion of the Association's final offer is costed at 7.15 percent in the first year and 5 percent in the second year, including schedule movement and extracurriculars. Also, because the Association figured its "3%" per cell proposal off the 3.8% schedule, the Association's per-step increase working from the status quo 2.1 percent schedule must be costed at 4.98 percent, not 3 percent, in the first year. The Association, meanwhile, has not rebutted the District's evidence of the size of the package settlements in the comparable districts, which shows a range from 2.6 percent to 4.2 percent in 1999-2000 and 2.6 percent to 4.0 percent in 2000-2001, with the average settlement being 3.73 percent in the first year and 3.70 percent in the second year.

The District is also entitled to recognition of the cost of the extraordinary benefit represented by the retiree health insurance plan, which far exceeds all of the comparables. The Association has evidently placed a high priority on maintaining this benefit, but at a current cost of $159,000 a year it unavoidably enters into the total financial picture of the District. The net effect is that while the Association has made a strong case for some degree of catch-up in the wage schedule, its loss of relative salary position compared to the other districts is offset to a significant financial degree by the escalating cost of the retiree health insurance benefit.

Taking all these factors together, the Association has not justified a salary proposal which greatly exceeds the salary settlements in other districts. This is not to say that the District will not have to address the salary problem soon, because the Association has made some demonstration of a need for catch-up and because the District's location makes this district more vulnerable to competition for teachers from neighboring Michigan districts than might be true for all of the District's comparables. But the Association's proposal, even on salary alone, attempts to make up so much ground in one contract, at such added expense compared to other districts' settlements, that it leaves the District's proposal the more reasonable of the two, even though I find the District's proposal insufficient.

<u>The Statutory Weighing:</u>

The "greatest weight" factor renders the probable loss of large amounts of the District Fund 10 balance quite significant, even allowing for some doubts as to whether the degree of that loss will be as large as the District projects. The effect of rising real estate values in the District is paradoxical, but the statute leaves no doubt that the limitation on revenue

created by the rising real estate values and falling enrollments, combined with the way the applicable state formulas work, means that this factor must be counted as strongly in favor of the District's offer.

The "greater weight" factor is more ambiguous in this case, because economic conditions include not only the loss of an undetermined number of jobs at one major local employer, but also the more general prosperity implied by the rapidly rising equalized values. I find that on balance this factor slightly favors the Association's offer.

Under section 7 r., (a) and (b), the lawful authority of the employer and the stipulations of the parties are not the subject of any argument here, while the financial ability of the District to meet the costs favors the District's offer, for the same reasons as apply to the "greatest weight" factor. Under (c), the "interests and welfare of the public" factor is more balanced, because the Association's salary offer is too high while the District's offer fails to address a declining salary standing not only of Florence compared to comparable Wisconsin districts, but also compared to the difficult-to-match, but competing, neighboring Michigan districts.

The section (d) overall comparison of Florence wages and benefits to those of teachers in comparable districts would favor an Association proposal that more modestly attempted catch-up on salaries, but favors the District in this instance because the Association has attempted to do too much at one time on salaries, because the Association has proposed a substantial new benefit in the form of long-term care without significant support among the comparables and with no quid pro quo, and because the Association has proposed an unjustified change in the basis of any future change to the insurance carrier along with an onerous, unique and factually unjustified distance learning provision.

Sections (e) and (f) were not argued. Section (g), the Consumer Price Index, favors the District's offer. Section (h), overall compensation, brings into play the value of the uniquely generous retiree health insurance provision and its escalating cost, and favors the District's offer. Sections (i) and (j) were not argued.

Summary

A District offer on salaries which is low compared to the comparable settlements; propels the teachers further in a direction of relative decline compared to their former standing among the comparables; and which includes as 40 percent of its supposed value a benefit which costs the District nothing and offers little to the teachers, would not be favored here, if the Association had not outdone the District. But the Association has proposed a final offer which tries to make up too much ground at once on salaries; loads an additional long-term care benefit on to terms of employment which already include by far the most generous retiree health insurance provision among the comparables; unjustifiably removes the existing basis for comparison of any potential new insurance carrier; offers no quid pro quo for any of these (allowing that the Association's proposed reduced drug card does represent an approximate quid pro quo for the doubled dental benefit); and introduces substantial strictures that would impede the District's use of its expensive and potentially

very useful distance learning system, with no evidence that such strictures are necessary. I conclude that the District's offer better meets the statute's demands.

For the foregoing reasons, and based on the record as a whole, it is my decision and

AWARD

That the final offer of the District shall be included in the 1999-2001 collective bargaining agreement.

Dated at Madison, Wisconsin this 26th day of February, 2001.

By_____
Christopher Honeyman, Arbitrator