STATE OF WISCONSIN

BEFORE THE ARBITRATOR

In the Matter of the Interest Arbitration between Waukesha County Technical College and Waukesha County Educational Support Staff Union (WCESSU)	Case 103 No. 58929 INT/ARB-9037 Decision No. 30031-A

Appearances:

Ms. Leigh Barker, WTCS Coordinator, and Mr. Steve Pieroni, Staff Counsel, Wisconsin Education Association Council, appearing on behalf of the Waukesha County Educational Support Staff Union.

Mr. Robert W. Butler, Staff Counsel, Wisconsin Association of School Boards, and Mr. James Warzon, Director of Human Resource Services, Waukesha County Technical College, appearing on behalf of the College.

ARBITRATION AWARD

The above-captioned parties selected, and the Wisconsin Employment Relations Commission appointed, the undersigned arbitrator (Case 103, No. 58929, INT/ARB-9037, Decision 30031-A, 2/26/01) to issue a final and binding award pursuant to Section 111.70(4)(cm)6 and 7 of the Municipal Employment Relations Act to resolve an impasse found to exist in collective bargaining between said parties by selecting the total final offer of either the College or the Union.

A hearing was held at Pewaukee, Wisconsin, on June 29, 2001. The proceeding was transcribed. The parties were given full opportunity to present evidence, testimony, and arguments. The parties exchanged briefs and reply briefs through the arbitrator, the last of which occurred on October 9, 2001. On November 5, 2001, the parties filed a further stipulation of facts with the undersigned at which time the record was closed.

The bargaining unit consists of all regular full-time and part-time office, custodial, and food service employees, laboratory assistants, instructional assistants, high school relations assistants, programmers, and technician employees of the Waukesha Technical College. The bargaining impasse is over the terms of the contract for the period from July 1, 1999, through June 30, 2001. The arbitrator is required to select one of the parties' final offers in its entirety. The complete final offers and tentative agreements of the parties are attached to this award.

In reaching a decision, the arbitrator is required to give the greatest weight to "any state law or directive lawfully issued . . . which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer." The statute further requires that "greater weight" be given to "economic conditions in the jurisdiction of the municipal employer than to any other factors specified in subd. 7r." Those other factors to be given consideration are: (1) the lawful authority of the municipal employer; (2) the interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement; comparisons of the wages, hours and conditions of employment of the municipal employees (3) with those of other employees performing similar services, (4) with those of other public employees in the same community and in comparable communities, (5) with other employees in private employment in the same community and in comparable communities; (6) the cost of living; (7) the overall compensation presently received by the municipal employees; (8) changes in any of the foregoing during the pendency of the arbitration proceedings; and (9) other factors normally considered in the determination of the wages, hours, and conditions of employment through voluntary dispute resolution or otherwise between the parties.

Overview:

The primary issues in dispute are health and dental insurance and wages. Both final offers contain a 3.5% wage increase for 1999-00. The Union offer proposes a 3.5% wage increase for 2000-01, while the College proposes a wage increase of 4.5%. In addition, the Union offer proposes that the position of Senior Child Care Attendant, created in October 1999, be included in the general 3.5% wage increase, effective July 1, 1999, while the College offer does not. Both offers contain Flexible Reimbursement Plans and Salary Continuance Insurance with variations in wording. All other matters have been resolved by the negotiations of the parties.

In sum, the College proposes that support staff contribute an amount approximately equal to 3%, expressed as a fixed dollar amount, toward health and dental insurance premiums, effective July 1, 2000. It also proposes the elimination of the College's practice of reimbursing the second $100 of the single deductible ($200) and the second $300 of the family deductible ($600). Under the College's proposal the employee would be responsible for the entire deductible as of January 1, 2001.

The Union's final offer incorporates the status quo relative to health and dental insurance. Under its terms, the College would continue to pay the full cost of health and dental insurance premiums and reimburse employees for the second $100 of the single coverage deductible and the second $300 deductible of the family coverage.

Arguments of the Parties:

The College's Brief:

The College contends it has proposed changes to health and dental benefits because (1) the College received a substantial increase in health insurance premiums on July 1, 2001, (2) comparable employing units in the private and public sector have sought similar changes, and (3) employees will have a stake in utilizing health care services wisely as a result of their financial contribution toward coverage.

The College states that health and dental premiums have risen substantially for the College. In 1999, the College and its carrier, Blue Cross/Blue Shield (BC/BS), agreed that insurance rates effective July 1, 2000, would not exceed an 8.5% and 7.5% increase for health and dental premiums, respectively. In March 2000 the College was advised that the BC/BS rates would have increased approximately 46% and 12% for health and dental, respectively, but for the agreed upon cap. The College concluded that it would face a significant premium increase the next time around and, in fact, health insurance premiums did increase by more than 47%, effective July 1, 2001.

In exchange for modifications to health and dental insurance, the College proposes a wage increase 1% higher than that proposed by the Union, an increase in the lifetime maximum benefit for health insurance from $1 million to $2 million per individual, and the establishment of a Section 125 plan/flexible spending account as of January 1, 2001. The College asserts that the wage increase and tax savings associated with the flexible spending account will more than offset the employee's contribution toward health and dental insurance. It further contends that implementation of its offer will not erode the ranking of the bargaining unit among the comparables in terms of wages and benefits and that, importantly, the College's employees will continue to receive generous retirement health care benefits.

The College offers the following arguments in support of its position. It cites the testimony of two expert witnesses called on behalf of the College. Their opinions were offered on the health care insurance situation, in general, and the College's costs and benefits, in particular. Roy Waldren, Vice President of the Employee Benefits Division, Mortenson, Matzelle & Meldrum, a Madison, WI insurance broker, testified that rising health insurance costs, in general, are attributable to an increase in utilization of health care services, rising prescription drug costs, pent up demand from providers gradually increasing their demands for compensation, and general inflation. He testified that only a small number of employers do not now require employees to pay part of their insurance premium and that, among his clients, the average employee contribution is 19% for a single plan and 21% for a family plan. He stated that employers ask employees to contribute to the premium cost to reduce costs and to discourage those who do not need coverage from taking it. Mr. Waldren described the College's plan as "very good" and indicated that, notwithstanding the changes proposed by the College, the plan would still be "incredibly good."

The College cites the testimony of Richard Lenar, Actuary, McCready and Keane, Inc., who testified in the interest arbitration between the parties involving the instructional staff. The College's post-retirement plan currently provides eligible instructional and support staff lifetime health insurance benefits (age 62 with 15 years service or age 62 with 10 years service, if grandfathered). Under the College's proposal, retirees between the age of 62 and Medicare eligibility will be required to contribute toward their premium just as the active employees would be. Mr. Lenar described the College's current plan to be more expensive and more generous than those available to instructional and support staff in other technical colleges in Wisconsin. Under accounting standards that took effect in 1993, employers' financial statements must recognize net periodic post-retirement health care benefits as a current expense even though the actual expense will be paid in the future when the employee retirees. Accordingly, the generosity of the College's post retirement plan, coupled with financial accounting standards, affects the College's current financial condition.

The College argues that the appropriate comparables in the instant dispute consist of (1) the organized support staff in 13 public school districts within the boundaries of the College (Arrowhead UHS, Elmbrook, Hamilton, Hartland/Lakeside, Kettle Moraine, Menomonee Falls, Merton Community, Mukwonago, Muskego-Norway, New Berlin, Oconomowoc, Pewaukee, and Waukesha); and (2) Blackhawk, Gateway, and Moraine Park Technical Colleges, on the basis of similarity of type of work and institution and geographic proximity. The College argues that the selection of proximate public school districts as the most appropriate comparables for the College support staff is further supported by (1) the similarity of positions, and (2) the similar organizational goals and symbiotic relationship to public school districts.

It proposes a second level of comparables to include city and village public employees in Waukesha County communities over 20,000 in population on the basis of size and geographic proximity, as well as breadth of unit job duties (cities of Brookfield, Menomonee Falls, Muskego, New Berlin, Oconomowoc, Pewaukee, and Waukesha, and the village of Pewaukee) and Waukesha County employees. The College asserts that if the arbitrator finds comparisons to other technical college districts warranted, the geographically proximate technical colleges of Blackhawk, Gateway, and Moraine Park are the most appropriate on the basis of staff size, student population, level of state aid, and similarity of positions. The College contends that its offer is supported by a comparison of the wages and benefits observed among the comparables it cites.

The College states that in determining the appropriate pool of comparables in interest arbitrations, arbitrators have considered geographic proximity, size, funding source, economic conditions, and political factors. In support staff interest arbitration, according to the College, arbitrators have given great weight to geographic proximity. The College contends the relevance of proximity to a determination of the comparables is buttressed by the fact 83% of the support staff members reside within Waukesha County. Therefore, Waukesha County is the appropriate labor market from which to compare the terms and conditions of employment of the bargaining unit.

The College argues that by paying a little more for the costs of health care insurance the College's employees will have more of an incentive to control health care costs. Moreover, increased deductible and premium contribution will keep staff employees more in line with other employees in the public and private sector who generally contribute more to the cost of health insurance than the College's employees. The College contends that a quid pro quo for its proposed insurance change is not needed because the majority of the comparables currently contribute to health insurance premiums. The College states that it is asking employees to contribute less than the average among comparable employees.

The College asserts that the average amount an employee would pay under its offer is $387 before taking into consideration an increase in income realized by using the flexible spending account. Of the $387, $162 would be for the increased deductible, $204 would be for health insurance premium contribution, and $21 for dental premium contribution. The College argues that employees who would use income run through the flexible spending plan for premium contribution and deductibles would realize an increase of $179 in net income as a result of tax savings on the entire deductible amount, not just the amount the College reimbursed in the previous contract.

The College's offer also increases an individual's lifetime maximum health benefits from $1 million to $2 million. The College states that the change would double the most common lifetime maximum benefit and protect employees and their families from financial problems in the event of serious and costly medical problems.

The College further argues that its health care insurance benefits for retirees are extremely generous and expensive. The College pays for health insurance coverage for retired employees for an unlimited amount of time. Premiums for Medicare-eligible employees are also rising. Like active employees, according to the College, retirees are currently paying little for their excellent health insurance benefits. Under the College's proposal, retirees not eligible for Medicare would pay 3% of premiums and the entire $200/$600 deductible if used. Medicare-eligible retirees would have the full cost of their Medicare supplement paid by the College. Currently, only two retired employees would be required to make premium contributions under the College's offer. The College would continue to offer eligible retirees coverage for an unlimited number of years. The College states that retiree health insurance benefits are on the decline nationally. The College's offer would continue to provide employees this valuable and costly retirement benefit, in addition to a generous wage increase on top of already high wages.

With respect to the dispute over wages, the College contends its comparables establish that the College pays competitive or above average wages for comparable positions. It indicates that for the majority of the unit positions (Maintenance, General Cleaner, Cook's Helper, Bookkeeper, Clerical Typist, and Teacher's Aide) the College pays well above the average wage and that under the College's offer, for every position at the base and maximum rates, cents per hour increases and percent per cell increases would exceed average wage offers among the comparables with limited exception. The College claims that the Union's final offer is, without explanation, in further excess of the average wage offers among the comparables. The College concludes that its wage offer is more reasonable based on the average wage increases received among the comparables.

The College's final offer includes a wage increase in 2000, but not 1999, for Senior Child Care Attendants. The College states that the position was created in October 1999 and that the wage was set at that time to reflect the current market rate for the job. Therefore, a wage increase retroactive to July 1, 1999 is unwarranted.

In conclusion, the College asserts that it has demonstrated a need for changing the status quo with respect to health and dental insurance and that it has made a reasonable proposal to address that need by having employees share in the rising costs through modest employee contributions to premiums and deductibles. The College notes that although no quid pro quo is required for the change, it is willing to compensate employees fairly for contributing to their insurance coverage. It has offered a flexible spending account and increased the lifetime coverage maximum. According to the College, employees will remain well ranked among the comparables in terms of wages and will contribute less to insurance premiums that average comparables. Employees will continue to receive generous retirement health benefits unmatched among comparables. The College also contends that it has made its case that the wage rate of Senior Child Care Attendant was appropriately established when the position was created in 1999 and that an additional 3.5% increase for 1999 is unwarranted. The College asks that the arbitrator select its final offer.

The Union's Brief:

The Union's final offer proposes to maintain the status quo in 2000-01 for health and dental premiums—the College would continue to pay full health and dental premiums, expressed as a dollar amount; to reimburse the second \$100/\$300 of the \$200/\$600 health insurance deductible; and continue to maintain one combined dollar amount as the health and dental premium rate that the College pays. On wages, the Union's offer proposes an increase of 3.5% for 2000-01, the second year of the agreement, and includes the Senior Child Care Attendant in the 3.5% increase for 1999-00. The Union proposes slightly different wording for the flexible reimbursement and long-term disability plans.

The Union argues that evidence has been presented relative to the economic condition of the Waukesha County Technical College District to demonstrate that the College is in excellent financial condition and has the ability to meet the costs of the Union's proposed settlement. The Union states that, over the past ten years, equalized property values in the district have increased annually by 7.5% and, as a result, the College has decreased its operational mill rate over the same period. The Union further cites the College's investment income and accreditation review by the North Central Association as evidence of the College's strong financial condition. The Union asserts that the College's insistence that employees pay 3% of their health and dental premiums and the full deductible is not based on financial need. It notes that Waukesha County has a healthy property tax base, enjoys a low unemployment rate, and has a history of high household income as further support for its position.

The Union contends that the appropriate external comparables consist of the fifteen other Wisconsin Technical College support staff units in the following order: first, the four contiguous districts of Gateway, Madison, Milwaukee, and Moraine Park; then Fox Valley and Northeast (based on similarity in size, budget, number of students, and district population); and finally the remaining nine technical college districts in the state. The Union proposes that the twelve K-12 districts in the College's area comprise a second set of external comparables.

The Union reasons that its proposed comparables are most appropriate on the basis of district population, property values, expenditures and revenues, operating budgets, number of students, and staff size. The Union rejects the College's contention that area K-12 districts should be the primary comparables. The Union states differences in missions, organizational set up, and funding mechanisms between the College and K-12 districts support the Union's choice of primary comparables.

The Union asserts that the parties' bargaining history and modest increases in premiums during the life of this agreement support the College's full payment of health and dental premiums for 2000-01. The Union argues that the College has not demonstrated the need for a change of the parties' long-standing history of full employer payment of insurance premiums during the term of this contract. The Union states that the parties have a clearly established history of employer payment of full health and dental premiums, stated as dollar amounts. For at least the past 12 years, according to the Union, the College has paid the full cost of health and dental premiums for employees, as a dollar amount, for every year with the exception of one. It has paid the full premium for each of the eight consecutive years immediately prior to 2000-01.

The Union claims that the College's proposal that employees pay a portion of the 2000-01 premiums is not in response to excessive health insurance premium increases during the 1999-01 contract period in dispute or during the preceding eleven-year period. The Union states that the College experienced an average premium increase of 5.18% per year over the eleven-year period, with an average increase under 2% per year for the immediate past four years. Similarly, the Union argues that dental premiums increased by an average of 4.53% over the eleven years and that health and dental premiums combined increased at an annual average rate of 5.53% from July 1989 through July 2000. The Union argues that it has been an active participant in holding down the College's past premium increases through its involvement on a joint union/management committee which met with the District's insurance carrier in early 1999. The Union claims that through its involvement, rates for 1999-00 actually decreased and that a guaranteed cap of 8.5%/7.5% (health/dental) was obtained and enforced for 2000-01. The Union states that it should share in the benefit of its active involvement on the joint committee. Anticipating that the College will argue that the rates would have gone up significantly but for the guaranteed cap in 2000-01, the Union states that the rates did not, in fact, go up significantly. The Union acknowledges that an increase in insurance premiums is an issue that will affect contract negotiations for 2001-2002 and subsequently. The Union states, however, that what is at issue here are health and dental insurance premiums for 2000-01.

The Union further argues that other non-represented College employees, including confidential employees and managers, received full employer payment of their health and dental premiums for 2000-01, as of May 31, 2001. The Union claims it is reasonable to expect the College to pay the full 2000-01 health and dental premiums for Union employees, since it has not required a copayment of premiums for non-represented employees during the period.

The Union contends that premium rates for 2000-01 were reasonable and less than comparable technical college districts' rates. The 2000-01 full health insurance premium for family coverage was $649.98 and, according to the Union, substantially less than the premiums paid in the majority of the six most comparable technical college districts it cites for comparison. The

Union argues that neither the internal, technical college district, nor K-12 district comparables support the College's proposal on premium cost sharing.

The Union states that since 1993 the College has reimbursed employees the second $100/$300 of the $200/$600 health insurance deductible. The arrangement provides the College with cost savings on health insurance premiums with higher $200/$600 deductibles while maintaining a $100/$300 deductible plan for the employees. The employees, according to the Union, have borne the inconvenience and out-of-pocket expense to help hold down costs. They are now being asked to pay the entire deductible, contrary to the bargain originally agreed upon in 1993. The Union further argues that a $100/$300 deductible is supported by the internal, technical college districts, and K-12 comparables and that the $200/$600 sought by the College is unreasonable.

The Union states that the College's inclusion of an increase in the health insurance lifetime maximum coverage from $1 million to $2 million, effective January 1, 2001; implementation of a flexible benefit plan; and an additional 1% wage increase on the 2000-01 salary schedule over the Union's offer does not constitute an adequate quid pro quo for the changes it seeks in insurance benefits.

It argues the increase in the lifetime maximum coverage would be difficult or impossible to implement retroactively for this contract period. Moreover, the Union asserts that when implemented, the additional premium cost for the coverage will be deducted from employees' wages until or unless employer payment is negotiated as part of the next contract. While the College describes the $2 million maximum as a benefit, the Union claims it only enables employees to purchase the improved coverage at no cost to the College. Union further contends the flexible benefits plan is not completely new to this round of bargaining and a form of it is already in existence. The Union claims a flexible benefits plan is of as much or more value to the employer than it is to the employees. Lastly, the Union contends that the additional 1% wage increase proposed by the College does not cover the out-of-pocket expenses the majority of employees is being asked to assume for health insurance premiums and deductibles in 2000-01 and in the future. The Union calculates the net cost to employees of the College's proposal to be $322.42 and argues that over 65% of the bargaining unit would receive less than that amount in additional salary from the extra 1%.

The Union states that the additional 1% wage increase does not provide a lasting quid pro quo. Health insurance premiums are predicted to increase in double digits for the next several years and will quickly outpace wage increases. Employees, according to the Union, will quickly lose ground under the College's proposal. The Union argues that the College is attempting to position itself at an advantage for the 2001-2002 negotiations when the issue of rising health insurance costs will have to be addressed. The Union contends the resolution of the insurance issue belongs as part of the bargain where the increase will actually occur.

The Union argues that the College's proposal is further inconsistent with insurance benefits in place among comparables because it states the employee's premium contribution as a dollar amount instead of a percentage. Selection of the College's offer, according to the Union, would break new ground not only by requiring the employees to pay a percentage of the health and dental premiums, but that the amount would be stated as a dollar cap that the employer pays, not as a percent of premium.

The Union states that the College's proposal to separate the combined health and dental premium dollar maximum cap into two separate monetary caps (one for health, one for dental) is contrary to the parties' past bargaining history and would adversely impact employees who may choose to take only health insurance or only dental. The change would result in the potential of substantial additional costs to certain employees and small overall savings to the College.

The Union asserts that its offer on wages is reasonable and more consistent with increases received among the six most comparable technical college districts. The Union notes settlements among the secondary comparables (the Waukesha K-12 districts) are governed by state-imposed revenue caps, which are inapplicable to the technical college districts. Therefore, the secondary comparables should be given little weight on the wage issue, according to the Union.

The Union's proposal includes the two Senior Child Care Attendants in the 3.5% wage increase for 1999-00. The Union claims the parties never agreed to exclude the positions from the overall increase and asserts that the comparables support higher pay for the positions. Lastly, the Union contends its language for the flexible benefit plan and salary continuation insurance is preferable to that of the College because it more clearly identifies employees eligible for the flexible benefit reimbursement plan and clearly sets forth the 60-day waiting period for the salary continuation insurance provision.

The Union concludes that its offer is more consistent with the statutory criteria and more reasonable than the College's offer. The Union states that the additional cost to the employees under the College's insurance proposals is neither justified in terms of the parties' bargaining history nor in terms of the modest increases in premiums during the duration of this contract. The Union asks that its offer be selected.

The College's Reply Brief:

In its reply brief, the College rejects the Union's argument that because the College has adequate financial resources, the Union's offer is the more reasonable of the two. The College contends its offer better serves the interests and welfare of the public and that a sufficiency of funds does not necessarily mean that they should be spent on higher wages in the face of rising health costs which support staff shares little in. It further disputes the Union's characterization of the Waukesha County economy as "strong" and cites exhibits offered at the hearing to indicate that the county's economy has suffered in recent times. The College states that the evidence on record concerning local economic conditions does not demonstrate that economic conditions in Waukesha County are substantially different from those in technical college jurisdictions it contends are most comparable.

The College further argues in its reply brief that the Union's contention that the arbitrator should only select other technical colleges as primary comparables is flawed. Geographic proximity is the most important criteria, according to the College, since support staff employers tend to compete with nearby employers employing people in the same capacity. The College reasons that the labor market for the support staff should be determinative of the comparables. The College states that it competes primarily with Waukesha County employers for workers and, therefore, Waukesha County school districts that hire employees in the same capacity as the College are the logical choice for primary comparables. The College notes that 77% of individuals who applied and were hired by the College reported Waukesha County as their residence on their job application. The College argues that if technical colleges are to be used for primary comparables, they must be limited to those that are most geographically proximate and comparable in size; specifically, Blackhawk, Gateway, and Moraine Park.

The College disputes the Union's claim that a small employee contribution and modification of the up front deductible is unwarranted in light of the recent increase that has taken place based on claims experience. The College acknowledges that the July 1, 2001, increase occurred outside the contract in question but says it was a foregone conclusion that the July 1 increase was going to be incredibly high. That College states that but for the guarantee previously agreed upon BC/BS the increase based on the College's health insurance claims experience should have been 46.4% in July 2000.

The College claims that the Union's argument that health insurance premiums rose an average of 5.18% during the eleven-year period from July 1989 to July 2000 is misleading. The College states a number of years of very low increases were offset by a number of years of very high increases. It argues that the aggregate increase in health insurance premiums over the period was 119.6%. The College denies that the district has experienced modest premium increases over the past eleven years.

Moreover, the College emphasizes that the reason it seeks an insurance contribution is not just because health and dental insurance premiums have increased significantly and will continue to increase significantly in the future, but also to bring its employees up to the general labor market standards on health and dental insurance contributions and to provide an incentive for employees to consume health care in a cost conscious manner. The College asserts that nothing has changed during the pendency of this proceeding to alleviate the continued increases in health and dental premiums the College can reasonably anticipate.

The College, contrary to the Union, contends that non-represented employees are being treated in exactly the same way as it proposes to treat unit employees. The College states that when premiums increased on July 1, 2000, the College did not increase the amount it paid for non-represented employees' premiums. As a result, non-represented employees began paying 8.5% of health insurance premiums and 7.5% of dental premiums. The College states that for 2000-01 the amounts paid by the non-represented employees were reduced to the amounts the College seeks in this proceeding along with the same deductibles.

The College asserts that even if one did not calculate in the 46.4% rate increase the College should have received, and taking the July 1, 2000, rate of $649.98 at face value, the best argument the Union could muster was to show the premium was roughly equal to the average among their selected comparables. The College contends that it need not wait to ask for a premium contribution until rates are alarmingly high, particularly when those rates are imminent and based upon experience that occurred during the contract term. The College states that the parties have agreed to keep the family premium artificially low and the single rate artificially high because single premium costs are less and a large increase off a smaller amount creates a smaller aggregate increase. The College claims that for most technical colleges, with the exception of Waukesha, the single premium is about 40% as large as the family premium. At the College, the single premium is 55% as large as the family premium amount. Moreover, the College contends that when the cost of the College's post-retirement health insurance benefit is factored in, the cost of the College's insurance plan exceeds all other technical colleges with the exception of one plan at one college (Milwaukee).

The College disputes the Union's claim that the proposed $2 million cap cannot be applied retroactively and is of little value or cost relative to this dispute. Given trends in medical inflation, the College states the higher cap could be of significant value to employees and will financially impact the College and future premiums as the College could absorb $2 million worth of claims in its experience rating.

The College rejects the Union's claim that elimination of the reimbursement of the second $100/$300 deductible is unsupported, stating that general labor market and inflation trends support its position. Furthermore, the College claims that while its offer has a higher deductible that most comparables, other plan design deductibles (prescription drug copays, doctor visit copays) are lower.

The College asserts that under the prior agreement only premium contributions could be run through a flexible spending account. Under the current proposal, numerous other medical and dependent care expenses will be eligible for funding through the plan. The College further states that expansion of the flexible spending account is not without cost to the College. It notes that a third party administrator will be hired by the College to administer the plan and cites additional administrative costs.

The College argues that the Union's analysis of the adequacy of the quid pro quo for changes in the health and dental insurance plans is flawed and understates its value to unit employees because its examples do not use a weighted average for deductibles and premiums. The Union's calculations assume all employees take the family plan and have the entire $300 deductible reimbursed. The College states that almost 30% of employees take the single plan and only 13% of employees received the entire $300 deductible reimbursement in 2000. Therefore, the College contends weighted averages should be used to assess the quid pro quo. Moreover, the College asserts that the Union's analysis fails to take into account increased Wisconsin Retirement System benefits under the College's offer as a result of higher wages.

The College further disputes the Union's claim that the Union wage offer is consistent with the comparables it cites. The College claims the Union offer exceeds the average wage offer in 2000-01 for each tier of comparables the Union has offered.

The Union's argument that K-12 school districts should be given little weight with respect to wage settlements because they are subject to revenue caps while technical colleges are not is without merit, according to the College. The College states that statutes directly limiting the generation of revenue affect both entities.

With respect to the Senior Child Care Attendant wage increase, the College states that it is just as accurate to say the parties never agreed to include the position in the general pay increase effective July 1, 1999, as it is to state the Union's claim that it was never agreed to exclude the position. Both parties concur that differences on this issue, as well as on proposed language for the flexible spending account plan and salary continuation insurance, are too minor to affect the outcome of this proceeding.

The Union's Reply Brief:

The Union in its reply brief argues that the College's rationale for offering K-12 school districts as primary comparables is flawed and should be rejected. The Union states that nothing in the record supports the College's claim that the work performed by K-12 support staff is the same as that performed by technical college support staff. The Union argues that differences in the type of work performed and students served far outweigh any similarities. It notes differences in the length of school year, hours of operation, age and number of the students. Furthermore, the typical scope of a K-12 school district support staff unit is limited to custodial, clerical, food serviced, and teacher assistant positions, while the College support unit also includes positions not found in K-12 districts such as programmer/analyst; registration technician; financial aid technician; bookstore technician; veteran clerk; education assistants for nursing, dental hygiene, and commercial driving; instructional assistants for law enforcement and nursing; architectural drafter, minority retention assistant, graphic artist, and others. The mission of the College—to provide occupational education and training and customized training and technical assistance to business and industry—is clearly distinguishable from the mission of the public school system, according to the Union.

The Union reiterates that the comparables it has offered, including the technical colleges in Madison and Milwaukee, are the most appropriate for comparison on the basis of proximity, similar jobs, working conditions, ratios between teaching and support staff, and operational budgets. The Union rejects the College's offer of K-12 (and some K-8) school districts as primary comparables and argues they should be given little weight. The Union states that K-12 districts are operating under strict revenue caps that can impact wages paid to K-12 district employees, including support staff. Technical colleges were not included under the law and, therefore, the Union argues wage comparisons should be made to other technical colleges, not K-12 districts.

The Union disputes the College's claim that the Union's offer exceeds wage increases among comparable technical colleges. The Union states that 2000-01 settlements among the six most comparable technical colleges average 3.48%. According to the Union, of the remaining nine technical colleges, five received units received an increase of 3.5%, while four received increases greater than 3.5%.

The Union argues that the wage comparisons offered by the College on eight specific positions should be given little consideration as the College failed to establish the comparability of the positions through actual job descriptions. The Union objects to the College's comparison of unit wage rates to the average wage rate among its selected K-12 districts. The Union states that such comparisons distort relative wages differences and obscure the fact that unit wages may have been above average for many years and not recently gained.

The Union emphasizes that the contract at dispute for 1999-01 expired before the July 1, 2001, health and dental premium increased went into effect. The Union argues that the increase is outside the scope of this agreement and should be addressed in next bargain. The Union contends the College inappropriately included the July 1, 2001, insurance increase in its calculation of the premium increase since 1994-1995. The Union contends the premiums increased 3.67% since 1994-1995, not 9.9% as stated by the College. The Union asserts that for the period premiums and wage increases were almost identical (22% and 21%, respectively) and that insurance premiums did not rise astronomically.

The Union contends that the College's arguments rely almost exclusively on general, national trends and not empirical data relative to the College or other technical college districts. The Union states that the College has offered no evidence relative to the College or other technical college districts to support its proposal to implement a copayment of premiums and doubling of the deductible.

The Union states that the College's argument with respect to a quid pro quo for the proposed insurance changes must be rejected. The Union states that the majority (4 of 6) of the most comparable technical college districts and 75% (12 of 16) of all technical college districts paid the full premium in 2000-01. Moreover, the Union contends that the College is not asking, as it claims, unit employees to contribute just as other comparable employees do. The Union contends that among those technical colleges, K-12 districts, and city/county units where employees do contribute, the employer has agreed to contribute a specific percentage, not a flat dollar amount as proposed herein by the College.

The Union denies the College's claim that the quid pro quo it is offering in wages would give all employees a wage increase that would offset the increase in insurance costs. The Union disputes the College's use of average contributions and deductibles to reflect the actual impact of its offer on all employees.

The Union rejects the College's inclusion of savings from the use of the flexible savings account as part of the quid pro quo it claims to offer. The Union states that the flexible benefit plan is not new and that enhancements to the plan will not benefit all employees. The Union further states the improvements to the plan were only available to employees for half a year as the changes went into effect in January 2001.

The Union acknowledges that the College's retirement plan is generous but states that retiree health benefits are not an issue in this proceeding. The Union argues that health insurance coverage for retirees did not result in higher premiums or increases for 1999-00 or 2000-01 or for the 10 years prior. The Union concludes that during the term of the contract at issue, neither health insurance premium rates nor rate increases were excessive or out of line with the comparables.

Discussion and Award:

Section 111.70(4)(cm)7 of the Municipal Employment Relations Act provides:

> 'Factor given the greatest weight.' In making any decision under the arbitration procedures authorized by this paragraph the arbitrator. . . 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 . . . shall give an accounting of the consideration of this factor in the arbitrator's . . . decision.

The District states that, while the Qualified Economic Offer law does not apply to technical colleges, it does not mean that there are no other legal limitations on expenditures that may be made or revenues that may be collected by the municipal employer. The College states that Sec. 38.16, Wis. Stats., limits the amount of revenue it may collect, wherein it specifies that a district board "may levy a tax, not exceeding 1.5 mills on the full value of the taxable property of the district, . . . except that the mill limitation is not applicable to taxes levied for the purpose of paying principal and interest on valid bonds or notes . . ." The District makes no claim, however, that such legal limitation precludes its ability to fund the Union's offer, should it be accepted. Having considered the "factor given greatest weight," the arbitrator concludes that limits on revenues that may be collected or expenditures that may be made are not a significant or controlling factor in this dispute.

Section 111.70(4)(cm)7g provides:

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

The Union has argued that economic conditions are good in Waukesha County and substantiate that the College has the ability to meet the costs of the Union's proposed settlement. The College has not claimed an inability to pay and states that the dollar value of its offer for 2000-01 exceeds the Union's offer as part of the quid pro quo for changes to the health insurance plan. The College costs the Union's final offer for 2000-01 at $5,871,031, and characterizes its offer as $5,927,445 for the same period. The College has argued that the evidence on local economic conditions does not favor either party's final offer. The arbitrator finds that given the nature of the dispute and the relatively narrow dollar difference between the final offers, the "factor given greater weight" neither favors nor precludes consideration of either final offer.

Turning to the remaining statutory criteria, the parties offered considerable evidence and argument on relevant comparables. The College argues that the appropriate comparables in the instant dispute consist of (1) the organized support staff in 13 public school districts within the boundaries of the College (Arrowhead UHS, Elmbrook, Hamilton, Hartland/Lakeside, Kettle Moraine, Menomonee Falls, Merton Community, Mukwonago, Muskego-Norway, New Berlin, Oconomowoc, Pewaukee, and Waukesha); and (2) Blackhawk, Gateway, and Moraine Park Technical Colleges on the basis of similarity of type of work and institution and geographic proximity. It proposes a second level of comparables to include city and village public employees in Waukesha County communities over 20,000 in population on the basis of size and geographic proximity, as well as breadth of unit job duties (cities of Brookfield, Menomonee Falls, Muskego, New Berlin, Oconomowoc, Pewaukee, and Waukesha, and the village of Pewaukee) and Waukesha County employees. The Union contends that the appropriate external comparables consist of the fifteen other Wisconsin Technical College support staff units in the following order: first, the four contiguous districts of Gateway, Madison, Milwaukee, and Moraine Park; then Fox Valley and Northeast (based on similarity in size, budget, number of students, and district population); and finally the remaining nine technical college districts in the state. The Union proposes that the twelve K-12 districts in the College's area comprise a second set of external comparables.

Geographic proximity is a prime consideration in the selection of comparables in disputes affecting support staff units, but the similarity of job functions and employing entities is also an important consideration. It is true that the College competes with other area employers for its support staff workforce and that the labor market is more local or regional for support staff than it is for professional staff. However, the duties and working conditions of College support staff differ in a number of areas from the duties and working conditions found among area public school districts. Differences are recognized in the variety of job classifications, work schedules, nature of work, ratio of professional staff to support staff, organizational missions, and students served.

While it is appropriate to consider proximate K-12 districts among the comparables, the technical college districts constitute the primary comparables, particularly those that are geographically proximate and similar in staff size, students served, operating budgets, and state aid. The parties have agreed that among the technical college districts, Gateway and Moraine Park are primary comparables, but the College has contended that Madison and Milwaukee are too large while the Union has asserted that Blackhawk is too small for comparison to the College.

Proximate Technical College Districts:	Total Staff	1999-00 FTE Professional Staff	1999-00 FTE Support Staff	Ratio of Prof. to Support Staff	1999-00 FTE Students	1999 Operating Budget ($)	1999 State Aid ($)
Blackhawk	292				1,656	18 mil	3.9 mil
Gateway	681	308.8	287.1	1.08	3,469	44.5 mil	7.4 mil
Madison	1,138	588.8	505.5	1.16	8,255	80.4 mil	14.8 mil
Milwaukee	2,068	957.4	915.2	1.05	12,203	128.4 mil	36.8 mil
Moraine Park	460	218.0	222.4	.98	2,629	28.4 mil	4.7 mil
Waukesha	653	308.8	305.2	1.01	3,262	47.1 mil	5.0 mil

In the opinion of the arbitrator, all the above proximate technical college districts have relevance to the instant dispute. While Madison and Milwaukee, in particular, are significantly larger than the College, the districts share an urban environment and are impacted by metropolitan economic and employment conditions. Including Blackhawk in the comparable pool somewhat offsets the inclusion of the large districts. The K-12 districts, with the exception of Elmbrook and Waukesha, have smaller staff sizes and operating budgets than the College. All have significantly higher ratios of professional staff to support staff and most have larger student populations. The eleven K-12 districts within the area will serve as a secondary set of comparables. While the College and area K-12 districts share basically the same labor market for support staff, there are important differences in mission and operational structures. The undersigned is persuaded that if there were clear differences between the terms and conditions of employment between the proximate technical colleges and area K-12 districts, the proximate technical college comparisons would be most relevant and prevail.

The significance of the health and dental insurance issue to the parties cannot be overstated. Notwithstanding that the term of the contract in dispute was days away from expiring when the interest arbitration hearing was held, the parties have devoted untold time, resources, and energy to resolution of this issue. It is indisputable that trends in health insurance for active and retired employees are not positive—costs are skyrocketing, access is shrinking, coverage is deteriorating. The College correctly states that employers are increasingly asking employees to share the burden of increased health care costs. Employers and employees in the public and private sector are faced with the increasingly difficult prospect of obtaining adequate, affordable health insurance coverage.

My analysis focuses on an examination of health insurance premium costs and cost sharing among the comparables. While dental insurance premiums are also at issue, they have a smaller dollar impact and a fairly consistent relationship to increases in health insurance premiums across the comparables. The table on the following page sets forth a comparison of the health insurance premiums, deductibles, and employer contributions in 1999-00 and 2000-01 among the primary and secondary comparables compiled from College exhibits 47, 48; Union exhibits 135, 137, 164, 165.

Among the primary comparables on actual dollar amounts, the College's health insurance premiums for 1999-00 and 2000-01 were on the high end for single coverage and mid range for family coverage. On the issue of full versus partial payment of the insurance premium by the employer, the primary comparables favor the Union's offer, while the secondary comparables clearly favor the College's offer. With exception of two K-12 districts, all of the area K-12 districts provide some level of premium cost sharing with the employee. The College's proposal of a 3% cost sharing falls within the range of percentages observed among the secondary comparables. It is interesting to note, however, that in general, the premium rates in the K-12 districts exceed those of the College. The Union's offer on individual deductibles for single and family coverage is supported by the primary comparables. Excluding HMO plans, all of the primary comparables have individual deductibles at or under $100 single/$300 family. Based on premium levels and cost-sharing arrangements among the primary comparables, the arbitrator finds support for the Union's position.

Staff Support (full-time)										
	1999-00				2000-01					
Proximate:	Plan type	Single premium ($)	Family premium ($)	Employer contribution Single/family (%)	Plan type	Single premium ($)	Family premium ($)	Employer contribution Single/family (%)	Individual deductible Single/family (%)	Stated in contract as ($/%)
Technical Colleges:										
Blackhawk	HMO	190.60	481.94	100/100	HMO	204.90	525.20	100/100	None/None	$
Gateway*	FED	217.80	571.01	100/100	FED	283.00	742.00	100/100	100/300	%
Madison	FED	296.85	744.00	96/96	FED	350.03	878.42	96/96	100/300	$/%
	HMO	191.01	510.51	96/96	HMO	209.16	559.00	96/96	None/None	$/%
Milwaukee	MM	252.31	678.31	100/100	MM	275.02	739.36	100/100	100/200	%
	HMO1	219.14	564.45	100/100	HMO1	240.62	619.77	100/100	None/None	%
	HMO2	221.04	583.33	100/100	HMO2	229.88	606.66	100/100	None/None	%
Moraine Park	MM	215.40	575.38	100/100	MM	215.40	575.38	100/100	100/300	%
Waukesha	FED	332.79	599.06	100/100						
Board offer					FED	361.08	649.98	97/97	200/600	$
Union offer					FED	361.08	649.98	100/100	100/300	%
K-12 Districts:										
Arrowhead		261.00	573.00	100/100		299.50	661.50	100/100	NA	%
Elmbrook		270.00	648.00	97/97		317.00	761.00	97/97	NA	%
Hamilton		308.90	817.19	97/98		323.38	855.55	97/98	NA	$/%
Kettle Moraine		311.04	683.66	98/98		340.06	752.82	98/98	NA	%
Menomonee Falls		276.62	655.91	95/95		336.98	766.86	95/95	NA	%
Mukwonago		343.50	755.10	93/93		378.90	836.62	93/93	NA	%
Muskego-Norway		334.66	734.30	90/90		384.14	849.54	90/90	NA	%
New Berlin		274.41	740.88	NA		330.48	892.26	92/92	NA	%
Oconomowoc		292.79	644.27	95/95		380.63	728.03	95/95	NA	%
Pewaukee		310.64	683.88	98/98		346.76	766.80	99/99	NA	$
Waukesha		304.08	668.28	100/100		341.96	754.74	100/100	NA	$

*Mid year increase, recorded amount is average over the year.

The College's argument, however, has not been based solely on premium costs and deductibles observed among comparable employers. The College has argued that its health and dental premium rates for 2000-01 were artificially low as a result of the rate increase cap previously obtained for the period and that in July 2000 it became apparent that a significant rate increase would be at hand upon renewal the following year. The College has asserted that an increase of more than 46% would have been realized but for the 2000-01 cap and that on July 1, 2001, the rate did increase by more than 47%.

The Union has argued that the rate increase for 2001-02 should be the subject of negotiations for that contract period, not this. The Union has contended that the College is attempting to position itself for the next round of bargaining.

Nationally, health insurance premiums rose dramatically in the late 1980s and early 1990s, then leveled off before a new round of significant increases took hold beginning in early 2000. That experience is mirrored in the College's history of health insurance premiums shown below:

College Health Insurance Premiums 1990-2001				
Date	Carrier	Single Premium ($)	Family Premium ($)	Paid by Employer (%)
7/1/90	WPS	199.26	358.70	100
7/1/91	WPS	221.36	398.48	100
7/1/92	WPS	278.91	502.08	95.24
1993 avg	WPS/BC/BS	292.12	526.30	100
7/1/94	BC/BS	292.09	525.78	100
7/1/95	BC/BS	312.24	562.06	100
7/1/96	BC/BS	334.46	602.07	100
7/1/97	BC/BS	334.46	602.07	100
7/1/98	BC/BS	334.46	602.07	100
7/1/99	BC/BS	332.79	599.06	100
7/1/00	BC/BS	361.08	649.98	
7/1/01	BC/BS	531.91	957.49	

The College experienced consistent premium increases at the beginning of the decade, which leveled off—and in one year declined slightly—toward the end of the decade. A 2000-01 increase was capped at 8.5% by an earlier agreement with the insurer. That increase was followed on July 1, 2001, by an unprecedented increase of more that 47%. According to the parties' November 5, 2001, stipulation, on July 1, 2001, BC/BS health insurance premiums rose from $649.98 a month to $957.49 a month for the family plan and from $361.08 a month to $531.91 a month for the single plan. As the College anticipated, health insurance premiums increased for family and single coverage by 47.3%. The increase in dental premiums for 2001-02 turned out to be minimal.

The College has asserted that its cost sharing proposal is warranted in the face of escalating insurance premiums and is further supported by the high wage rates and generous post-retirement health benefits provided unit employees by the College. The College has argued that the trend is for employers to seek some level of health insurance cost sharing with employees to encourage cost consciousness and appropriate utilization. The College has contended that it has demonstrated a need for a change, proposed an appropriate solution to address that need, and offered the employees an adequate quid pro quo in exchange although not required.

The contract at issue involves health and dental insurance coverage for 1999-01 and, in particular, premium cost sharing for the last year of the contract and higher individual deductibles for the last six months of the contract. But the applicable health and dental insurance premium increases against which the College's proposal must be weighed is the 8.5% increase realized for the 2000-01. The table below indicates that the 2000-01 premium increase for the College was less than that experienced among the comparable comparables. The College's increase was also significantly less than that observed among the majority of secondary comparables for 2000-01. The College's premium increase was low for 2000-01 and there has been no showing that a doubling of the individual deductible is warranted on the basis of the comparables.

Proximate Technical Colleges	Wage increase (%)		Family health insurance premium increase (%)
	1999-00	2000-01	2000-01
Blackhawk	3.4	3.5	9.0
Gateway—Paratech	3.5	3.5	
Gateway—Clerical	3.25	3.25	29.9
Madison	3.5	3.5	18.0
Milwaukee—Clerical/Custodial	4.0	4.0	
Milwaukee—Paratech	3.6	3.6	9.0
Moraine Park	NA	NA	NA
Waukesha	3.5		
Board offer		4.5	8.5
Union offer		3.5	8.5

The substantial premium increase the College realized for 2001-02 will impact the parties' negotiations for that period. The parties will have the difficult task of addressing that increase, as will the proximate primary and secondary comparables who, according to the evidence submitted, have also realized significant health care premium increases for 2001-02. However, the arbitrator is not persuaded that the College's 2001-02 premium increase should drive the terms of the 1999-01 agreement. Between 1996 and 2000, the College's premiums were constant and actually dipped slightly in 1999-00. The College and Union were astute in obtaining and enforcing a premium cap for 2000-01. That fact should not be overshadowed by the premium increase relevant to the next contract. In the opinion of the arbitrator, the College's proposal to share premium costs must rise or fall on the premiums and wages in effect during the 1999-01 contract period, not on the anticipation of what the rates will be in the subsequent contract period. The arbitrator concludes that the Union's position on health and dental insurance premiums and wages is supported by the primary comparables and is more reasonable.

The parties have agreed that the health and dental insurance premiums and wages are the central issues in the instant dispute and that the parties' positions on the wage rate for the Senior Child Care Attendants and language on the flexible reimbursement plan and salary continuation insurance are not controlling. Accordingly, the undersigned has not addressed the merits of their respective positions.

Based on the above and the record as a whole, and having considered all the applicable factors specified at Section 11.70(4)(cm)(7) of the Municipal Employment Relations Act, the arbitrator selects the final offer of the Union for inclusion in the parties' 1999-01 agreement along with the parties' previously agreed upon tentative agreements.

Given this 4th day of December 2001, at Madison, Wisconsin.

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Kay B. Hutchison, Arbitrator