

STATE OF WISCONSIN

ARBITRATION AWARD

In the Matter of the Petition of	:	
MAPLE DALE-INDIAN HILL EDUCATION ASSOCIATION	:	
To Initiate Mediation-Arbitration between Said Parties	:	WERC Case Y No. 22657 ITD/ARB-50 Decision No. 16352-A
and	:	
FOX POINT JOINT SCHOOL DISTRICT NO. 8	:	

Appearances:

Mr. Patrick A. Connolly, Executive Director, North Shore United Educators, appearing on behalf of Maple Dale-Indian Hill Education Association.
Mulcahy & Wherry, S. C., Attorneys and Counselors at Law, by Mr. Mark L. Olson, appearing on behalf of Fox Point School District No. 8.

ARBITRATION AWARD:

On May 23, 1978, the Wisconsin Employment Relations Commission appointed the undersigned as Mediator-Arbitrator, pursuant to Section 111.70 (4) (cm) 6.b. of the Municipal Employment Relations Act, in the matter of a dispute existing between Maple Dale-Indian Hill Education Association, referred to herein as the Association, and Fox Point Joint School District #8, referred to herein as the Employer. Pursuant to the statutory responsibilities, and upon receipt of a timely filed petition from ten citizens within the jurisdiction served by the Employer, the undersigned on July 12, 1978, conducted public hearing at 8377 North Port Washington Road, Milwaukee, Wisconsin, during which the Employer and the Association explained their final offers and presented supporting arguments for their respective positions to the public, and also members of the public were afforded an opportunity to and did present their comments and suggestions with respect to said dispute. At the conclusion of public hearing on July 12, 1978, the undersigned conducted a mediation meeting between the Employer and the Association, which did not resolve the dispute. Mediation efforts were continued by the undersigned on July 14 which also failed to produce settlement. On July 17, 1978, pursuant to the expression of the members of the public who appeared at hearing on July 12, 1978, and who favored a voluntary settlement between the parties, the undersigned made a written proposal for compromise settlement to the parties to settle the dispute, and on July 21, 1978, the Association advised the Mediator-Arbitrator that the proposed compromise settlement was agreeable to them; and on July 25, 1978, the Employer advised the Mediator-Arbitrator of his rejection of the proposed compromise settlement. On August 11, 1978, hearing was conducted at 8377 North Port Washington Road, Milwaukee, Wisconsin, to take evidence with respect to the issues in dispute, pursuant to prior notice from the Mediator-Arbitrator, that he was proceeding to mediation, and after providing that the parties had from July 26, 1978, to August 1, 1978, in which to withdraw their final offers if they wished to do so. Neither party withdrew his final offer, and hearing was conducted on August 11, 1978, pursuant to notice, at which time the parties were present and given full opportunity to present oral and written evidence, and to make relevant argument. No transcript of the proceedings of August 11, 1978, was made,

however, the proceedings were tape recorded. Arrangements were made at hearing for filing briefs, and pursuant to said arrangements briefs were timely filed, which were exchanged by the Arbitrator on September 19, 1978.

THE ISSUES:

The issues in dispute between the parties are set forth in their respective final offers as set forth below:

EMPLOYER FINAL OFFER:

4.4 Daily Work Hours for Teachers

The normal workday will be from 8:15 A.M. to 4:15 P.M. Included in the teacher's school day shall be thirty minutes for a duty free lunch period.

Early departure, at 3:30 P.M., will be permitted on Friday afternoons and for those teachers who incurred additional responsibilities with students on inclement days.

Other exceptions to the normal workday include:

- 4.5 Staff Meetings
- 4.6 School Meetings

4.5 Staff Meetings

The administration will limit staff meetings so that a teacher's services will not be required beyond 4:15 P.M. more than four hours per month. Such meetings may be called for any professional purpose including but not limited to:

- District Meetings
- Building Staff Meetings
- Curriculum Development Meetings
- In-Service Meetings

5.2.4 S.E.P./C.I.P. Compensation

Compensation for the following services will be based on these hourly rates:

- | | |
|--------------------------|--|
| Summer Education Teacher | Pro Rata up to a \$10.00 per hour maximum in 1978 |
| | Pro Rata up to an \$11.00 per hour maximum in 1979 |
| Curriculum Work | \$6.50 per hour |

5.4 Insurance Benefits

5.4.1 Health and Accident Insurance

Health and Accident Insurance is available under the District Group Plan. The Board and teachers will contribute to the base premium contributions agreed upon in June, 1976. Each teacher who participates in this program will pay \$1.00 towards the first premium payment.

The cost of any premium increases during the term of this contract will be shared as follows:

During 1977-78 premium increases over the 1976-77 premium costs will be shared with 85% paid by the district and 15% by the teachers.

During 1978-79 premium increases over the 1977-78 premium costs will be shared with 75% paid by the district and 25% by the teachers.

Premium payments will not be made if such plan would provide the teacher with duplicate benefits in that insurance companies are protected against making duplicate benefit payments.

ARTICLE V DURATION

This Agreement shall remain in full force and effect for the period commencing August 31, 1977 and ending on August 31, 1979.

If subsequent negotiations extend beyond the expiration date of August 31, 1979, this Agreement shall remain binding on both parties until a new Agreement is signed by both the Board and Association Officers.

In Witness Whereof, the parties have executed this Agreement by their duly authorized representatives on this ____ day of _____, 1978.

SALARY SCHEDULE

As set forth in Appendix A attached hereto for the 1977-78 school year and 1978-79 school year, identified as Employer's Offer.

CALENDAR

As attached hereto as Appendix B and identified as Employer Final Offer.
NOTE: (Discontinue Accomodation Leave granted in 1977-78)

FAIR SHARE

The Association's Proposal to include Fair Share in the 1977-79 Agreement is rejected by the Board. It is the Board's position that an employee should have the right to determine how they spend their income.

ASSOCIATION FINAL OFFER:

5.4.1 Insurance Benefits

Health and Accident Insurance is available under the District Group Plan. During the contract term the Board shall pay the full premium for both family and single insurance. Each teacher who participates in this program will pay one dollar (\$1.00) towards the first premium payment each school year. The level of coverage shall be equal to or greater than the coverage provided under the current insurance.

ARTICLE X DURATION

A. This Agreement shall become effective as of the first teacher workday of the 1977-78 school year and shall remain in full force and effect through August 31, 1979. Furthermore, it shall renew itself for additional one-year periods thereafter, unless either party pursuant to Subsection (F) of this provision has notified the other party in writing that it desires to alter or amend this Agreement.

B. Timetable for Negotiations:

1. Submission of the Association's bargaining proposals in writing to the Board by February 1, 1979.
2. Submission of the Board's bargaining proposals in writing to the Association by February 15, 1979.

3. Negotiations will commence after the response of the Board, but in no event later than March 1, 1979.

This timetable is subject to adjustment by mutual agreement of the parties and consistent with the progress of negotiations.

- C. If either party requests negotiations for a new Agreement, and said negotiations extend beyond the expiration date of August 31, 1979, this Agreement shall remain binding until a new Agreement is signed by both Board and the Association.

D. Retro-Activity

The following provisions of this Agreement shall be retro-active to the first teacher workday of the 1977-78 school year.

1. Teachers' salaries as provided for in Appendix A of this Agreement for the 1977-78 school year.
2. Teachers' salaries for Summer Education Teaching and Curriculum Work as defined in 5.2.4 of this Agreement.
3. Teachers' Horizontal Pay as defined in 5.2.5 of this Agreement.
4. Health insurance premiums: Teachers shall be reimbursed for health insurance premiums which the employer would have paid under 5.4.1 of this Agreement.

ARTICLE XI FAIR SHARE

The Association, as the exclusive representative of all the employees in the bargaining unit, will represent all such employees, association and non-association, fairly and equally, and all employees in the unit will be required to pay, as provided in this article, their fair share of the costs of representation by the Association. No employee shall be required to join the Association, but membership shall be made available to all employees who apply consistent with the Association Constitution and Bylaws. No employee shall be denied membership because of race, creed, color or sex.

The employer agrees that effective thirty (30) days after the opening of the 1978-79 school year, it shall begin deducting from the earnings of all non-members in the unit, an amount of money equivalent to the annual dues certified by the Association as the current dues, and forward the money to the Association Treasurer on or before the end of the month in which the deduction was made. The employer shall make four deductions and each deduction shall be equal to one-fourth (1/4) of the certified dues. The entire dues amount shall be deducted within six (6) months of employment. The Association shall furnish to the employer a list of association members within thirty days after the opening of school. The dues shall not include any amounts assessed to members for political action committees. The Association shall inform the employer as to the amount of certified dues for each member within thirty (30) days after the opening of school.

SALARY SCHEDULE

As attached hereto as Appendix A and identified as Maple Dale-Indian Hill Education Association for the years 1977-78 and 1978-79.

CALENDAR

As attached hereto and identified as Maple Dale-Indian Hill Education Association 1978-79 Calendar

APPENDIX A

April 18, 1978

MAPLE DALE-INDIAN HILL SCHOOLS
1977-78 INSTRUCTIONAL STAFF SALARY SCHEDULE (PROPOSAL)
1977-78 SCHOOL YEAR

GW
JHW
J.H.

EMPLOYER FINAL OFFER

BACHELOR'S DEGREE

MASTER'S DEGREE

Step	BACHELOR'S DEGREE				MASTER'S DEGREE				
	1976-77 Salaries	Incre- ment	Schedule Adjust.	1977-78 Salaries	Step	1976-77 Salaries	Incre- ment	Schedule Adjust.	1977-78 Salaries
1	\$ 9,036	\$---	\$-0-	\$ 9,036	1	\$ 9,603	\$---	\$-0-	\$ 9,603
2	9,736	300	350	9,686	2	10,303	300	400	10,303
3	10,586	350	300	10,386	3	11,153	350	350	11,003
4	10,936	350	300	11,236	4	11,603	450	350	11,953
5	11,357	400	300	11,636	5	12,124	500	400	12,503
6	11,951	550	200	12,107	6	12,768	550	400	13,074
7	12,598	550	200	12,701	7	13,421	600	400	13,768
8	13,198	550	200	13,348	8	14,085	600	400	14,421
9	13,811	500	250	13,948	9	14,704	550	450	15,085
10	14,385	500	300	14,611	10	15,332	550	450	15,704
11	14,908	450	350	15,185	11	15,911	500	500	16,332
12	14,977	450	350	15,708	12	16,488	500	500	16,911
13	15,024	192	731	15,900	13	17,011	450	550	17,488
14	15,157	192	614	15,900	14	17,631	450	550	18,011
15	15,185	192	551	15,900	15	18,147	450	550	18,631
16		192	522	15,900	16	18,661	450	550	19,147
					16+	18,720	450	750	19,861
					16++	18,731	439	1141	20,300
					16+++	18,779	439	1130	20,300
					16++++	18,799	439	1082	20,300
							439	1062	20,300

EMPLOYEE FINAL OFFER
APPENDIX 'A'

April 18, 1978

606
JH
JH

MAPLE DALE-INDIAN HILL SCHOOLS
1978-79 INSTRUCTIONAL STAFF SALARY SCHEDULE (PROPOSED)
1978-79 SCHOOL YEAR

BACHELOR'S DEGREE					MASTER'S DEGREE				
Step	1977-78 Salaries	Increment	Schedule Adjust.	1978-79 Salaries	Step	1977-78 Salaries	Increment	Schedule Adjust.	1978-79 Salaries
1	\$ 9,036	\$---	\$-0-	\$ 9,036	1	\$ 9,603	\$---	\$-0-	\$ 9,603
2	9,686	<u>300</u>	350	9,686	2	10,303	<u>300</u>	400	10,303
3	10,386	<u>350</u>	300	10,336	3	11,003	<u>350</u>	350	11,003
4	11,236	<u>350</u>	300	11,036	4	11,953	<u>450</u>	350	11,803
5	11,636	<u>400</u>	300	11,936	5	12,503	<u>500</u>	400	12,853
6	12,107	<u>550</u>	200	12,386	6	13,074	<u>550</u>	400	13,453
7	12,701	<u>550</u>	200	12,857	7	13,768	<u>600</u>	400	14,074
8	13,348	<u>550</u>	200	13,451	8	14,421	<u>600</u>	400	14,768
9	13,948	<u>500</u>	250	14,098	9	15,085	<u>550</u>	450	15,421
10	14,611	<u>500</u>	300	14,748	10	15,704	<u>550</u>	450	16,085
11	15,185	<u>450</u>	350	15,411	11	16,332	<u>500</u>	500	16,704
12	15,708	<u>450</u>	350	15,985	12	16,911	<u>500</u>	500	17,332
13	15,900	<u>192</u>	500	16,400	13	17,488	<u>450</u>	550	17,911
14		<u>200</u>	500	16,600	14	18,011	<u>450</u>	550	18,488
					15	18,631	<u>450</u>	550	19,011
					16	19,147	<u>450</u>	550	19,631
					17	19,861	<u>450</u>	439	20,036
					18	20,300	<u>439</u>	700	21,000
					19		<u>400</u>	700	21,400

626
J.H.W.
1978

APPENDIX B
MAPLE DALE-INDIAN HILL SCHOOLS

PROPOSED SCHOOL CALENDAR 1978-79

					<u>EMPLOYER</u>	<u>FINAL</u>	<u>OFFER</u>							
<u>M</u>	<u>T</u>	<u>W</u>	<u>Th</u>	<u>F</u>				<u>M</u>	<u>T</u>	<u>W</u>	<u>Th</u>	<u>F</u>		
<u>SEPTEMBER</u>					<u>C</u>	<u>S</u>		<u>FEBRUARY</u>					<u>C</u>	<u>S</u>
(4)	5	30	31	X	22	19	5	6	7	8	1	2	20	20
11	12	13	14	15			12	13	14	15	16	17		
18	19	20	21	22			19	20	21	22	23	24		
25	26	27	28	29			26	27	28					
<u>OCTOBER</u>								<u>MARCH</u>						
2	3	4	5	6	20	20	5	6	7	8	1	2	22	21
9	10	11	12	13			12	13	14	15	16	17		
16	17	18	19	20			19	20	21	22	23	24		
23	24	25	X	X			26	27	28	29	30	31		
30	31													
<u>NOVEMBER</u>								<u>APRIL</u>						
6	7	1	2	3	21	18	2	3	4	5	6	X	15	15
13	14	8	9	10			9	10	11	12	X	X		
20	21	15	16	17			X	X	X	X	X	X		
27	28	22	23	X			23	24	25	26	27	28		
		29	30				30							
<u>DECEMBER</u>								<u>MAY</u>						
4	5	6	7	1	14	14	7	8	2	3	4	11	23	22
11	12	13	14	8			14	15	9	10	17	18		
18	19	20	X	X			21	22	23	24	25	26		
X	X	X	X	X			(28)	29	30	31				
<u>JANUARY</u>								<u>JUNE</u>						
X	2	3	4	5	22	21	4	5	6	7	1	8	10	8 1/2
8	9	10	11	12			11	12	13	14	X	X		
15	16	17	18	19										
22	23	24	25	26										
29	30	31												

C = Contract Days = 189

S = Student Contact Days = 178 1/2

X = No School

□ = Workshop Days = 5 1/2
Report Card

△ = Conference Days = 2

○ = Paid Holidays = $\frac{3}{10 1/2}$

LK
C.15.
AE

MAPLE DALE-INDIAN HILL EDUCATION ASSOCIATION

APPENDIX A
TEACHERS' SALARY SCHEDULE
1977-78

B.A. SALARY SCHEDULE

M.A. SALARY SCHEDULE

1976-77 STEP	1977-78 STEP	SALARY	1976-77 STEP	1977-78 STEP	SALARY
-	1	\$ 9,036	-	1	\$ 9,603
1	2	9,736	1	2	10,303
2	3	10,586	2	3	11,153
3	4	11,261	3	4	11,753
4	5	11,661	4	5	12,503
5	6	12,132	5	6	13,074
6	7	12,726	6	7	13,868
7	8	13,373	7	8	14,521
8	9	13,973	8	9	15,185
9	10	14,611	9	10	15,804
10	11	15,210	10	11	16,432
11 11+	12	15,750	11	12	17,011
11++ 11+++ 11++++	13	15,900	12	13	17,588
			13	14	18,111
			14	15	18,731
			15	16	19,247
			16,16+	17	20,161
			16++,16+++ 16++++	18	20,400

MAPLE DALE-INDIAN HILL EDUCATION ASSOCIATION

APPENDIX A

TEACHERS' SALARY SCHEDULE
1978-79

C 15
U 1/2

B.A. SALARY SCHEDULE

STEP	SALARY	INDEX
1	\$ 9,425	.44
2	10,067	.47
3	11,138	.52
4	11,781	.55
5	12,209	.57
6	12,638	.59
7	13,280	.62
8	14,137	.66
9	14,566	.68
10	15,422	.72
11	16,065	.75
12	16,493	.77
13	16,708	.78

M.A. SALARY SCHEDULE

STEP	SALARY	INDEX
1	\$10,067	.47
2	10,924	.51
3	11,781	.55
4	12,424	.58
5	13,066	.61
6	13,709	.64
7	14,566	.68
8	15,208	.71
9	15,851	.74
10	16,493	.77
11	17,350	.81
12	17,779	.83
13	18,421	.86
14	19,064	.89
15	19,706	.92
16	20,135	.94
17	21,206	.99
18	21,420	1.00

The base of the salary schedule shall be M.A. Step 18. The dollar amount for the other steps shall be determined by multiplying the index number by the salary at the base.

LK
C.B.
M.E.

MAPLE DALE-INDIAN HILL EDUCATION ASSOCIATION

1978-79 CALENDAR

M	T	W	T	F	*C	*S	M	T	W	T	F	*C	*S	
AUGUST							2	FEBRUARY					20	20
						0					1	2		
							5	6	7	8	9			
							12	13	14	15	16			
							19	20	21	22	23			
							26	27	28					
SEPTEMBER							20	MARCH					22	21
						19					1	2		
							5	6	7	8	9			
							12	13	14	15	16			
							19	20	21	22	23			
							26	27	28	29	30			
OCTOBER							20	APRIL					15	15
							2	3	4	5	6			
							9	10	11	12	13			
							16	17	18	19	20			
							23	24	25	26	27			
							30							
NOVEMBER							21	MAY					23	22
DECEMBER							14	JUNE					10	8.5
JANUARY							22	JULY						

*C = 189 Contract Days
*S = 180.5 School Days

178.5 Student Contact Days
2.0 Conference Days
180.5 School Days

- : Workshop/Report Card Day = 5 Days
- ◻: 1/2 Day Workshop = 1/2 Day
- X: No School
- : Paid Holiday..... = 3 Days
- △: Conference Day..... = 2 Days

- A. Normal work year begins on August 30, 1978.
- B. Normal work year ends on June 14, 1979.
- C. Accommodation Leave for December 18, 19, and 20 shall be the same as it was in the 1977-1978 school year.

DISCUSSION:

By statutory direction the undersigned is required to consider the issues in dispute between the parties, and make a determination as to which final offer is to be incorporated into the Collective Bargaining Agreement, based on the criteria of the Wisconsin Statute found at 111.70 (4) (cm). The criteria are:

- 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 employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally in public employment in the same community and in comparable communities and in private employment in the same community and in comparable communities.
- e. The average consumer prices for goods and services, commonly known as the cost-of-living.
- f. The overall compensation presently received by the municipal employees, 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.
- g. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- h. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

In presenting their evidence and argument, the parties have directed their respective cases toward certain of the criteria to the exclusion of others. The Arbitrator in this decision will give prime consideration to those criteria to which the parties address themselves. Both parties have placed a great deal of reliance on criteria (d), which is the comparison of wages, hours and conditions of employment of the employees involved in these proceedings with other employees generally, in public employment in the same community and in comparable communities. The parties have been unable to agree as to which communities constitute comparable communities, and accordingly, the evidence submitted with respect to wages, hours and conditions of employment in comparable communities, differs significantly, because the Employer has included more districts in its list of comparables than the Association has. In order for the undersigned to fulfill his statutory responsibilities in considering the criteria enumerated at Section 111.70 (4) (cm), it is essential that he determine which communities are to be considered for the purposes of comparisons, those proposed as comparable by the Employer, or those proposed as comparable by the Association.

DETERMINATION AS TO COMPARABILITY OF
CERTAIN COMMUNITIES (SCHOOL DISTRICTS)

The Employer has submitted evidence and made argument that thirteen other districts in the suburban Milwaukee area all constitute comparable school districts. The districts upon which the Employer rely are Nicolet, Clendale-River Hills, Fox Point-Pavside, Whitefish Bay, Shorewood, Brown Deer, Mequon-Thiensville, Cedarburg, Crafton, Port Washington, Elmbrook, Menomonee Falls, and Hamilton-Sussex. In addition to the foregoing thirteen districts the Employer also compares itself to other districts in the State of Wisconsin who, like Fox Point Joint School District No. 8 receive no state aid funds. The other districts in the state receiving no state aid funds are Gibraltar, Drummond, Kohler, Williams Bay, Green Lake, Jt. 3 Fontana, Jt. 4 Merten, Phelps and Jt. 5 Walworth. The Employer thus argues that there are twenty-two districts

that can be legitimately considered at least in some respects comparable to that of the Employer's district. The Association places its prime reliance in submitting evidence and argument with respect to comparable communities on three other districts, which are: Nicolet, Fox Point-Bayside, Glendale-River Hills.

From their respective positions with respect to what constitutes comparable communities (school districts), it is noted that the three districts which the Association proposes as comparables are included in the twenty-two districts to which the Employer has addressed himself for the purposes of comparability. Because the ultimate determination in this matter may well turn on which communities are used as a basis for comparison, it is particularly important in the case at bar that serious consideration and deliberation be given to determining which communities should have primacy for the purposes of comparison. The undersigned has considered the evidence and the argument advanced by the parties with respect to comparables, and concludes that the most comparable communities for the purposes of these proceedings are those of Nicolet High School, Fox Point-Bayside and Glendale-River Hills. This is not to say that the additional ten suburban communities upon which the Employer relies are to be totally disregarded in the comparisons. However, the uniqueness of the Employer's structure compels the undersigned to conclude that the three districts to which the Association addressed themselves in these proceedings are those most comparable. With respect to the nine districts which receive no state aid funds upon which the Employer relies, the undersigned is persuaded that the comparabilities are so remote as to be not compelling. From the foregoing, it follows that the undersigned will give prime reliance on comparisons with the school districts of Nicolet High School, Glendale-River Hills and Fox Point-Bayside. In making the determination that the three school districts advanced by the Association are the most comparable; the undersigned was impressed with the fact that the school district of the Employer in this case, like the school districts of Glendale-River Hills and Fox Point-Bayside are elementary districts, all feed into the Nicolet High School District, which is the third district proposed as comparable by the Association. Thus, we have the Nicolet High School District, which serves the same geographic area and population as that served by the three elementary schools of Glendale-River Hills, Fox Point-Bayside and the instant Employer. Not only does the geographic area and population served lead the undersigned to the conclusion that the most comparable districts are those set forth above; the record establishes that the above districts are served by the same transportation facilities, and that they jointly work with common bus schedules to meet the needs of all four districts; and the record further establishes that the school calendars of the four districts are coordinated so as to provide common dates in certain areas of the calendar. Additionally, the administrators of the four districts attempt to coordinate curriculum by reason of their feeder status to the Nicolet High School. Finally, the record establishes that at least some of the population considered a merger into a K through 12 school district, when in 1976 a referendum was held for a proposed merger of the three elementary districts and Nicolet High School. While the referendum failed, the fact that a referendum was considered emphasizes in the mind of the undersigned strong reasons why prime comparisons be made among the districts advanced by the Association.

THE DISPUTED ISSUES:

The undersigned will proceed to make a determination as to which final offer is preferable on an issue by issue basis, keeping in mind the statutory criteria, and when considering criteria (d), considering the comparable communities as set forth in the preceding section of this discussion.

ISSUE NO. 1: TEACHER WORK DAY

In its final offer the Employer has proposed that the normal work day be changed from 8:15 a.m. to 4:00 p.m. to 8:15 a.m. to 4:15 p.m., Monday through Thursday, with the provision that the early departure time be changed from 3:40 p.m. to 3:30 p.m. on Fridays and inclement weather days. The Association proposes to maintain the existing work day. The undersigned has considered the

evidence and argument with respect to the work day. The Employer relies on comparables with the other districts to support its position for the extended work day, and states its need for the extended work day because teachers would then be more available for parent conferences on an after school basis if the day is extended, and to give aid to students who have special needs.

After considering the evidence the undersigned rejects the Employer position. The record fails to establish that the Employer is having a problem meeting the special needs of students or having teachers available for parent conferences under the existing hours. In the absence of establishing a need for the change proposed by the Employer, the undersigned can only conclude that the length of the present work day is sufficient to fulfill the needs of the students, and to have teachers available for conference with the parents.

The undersigned has reviewed the evidence with respect to the length of the work day in comparable school districts and finds it less than persuasive reason to adopt the change proposed by the Employer. From Employer Exhibit #15 the undersigned notes that while only Elmbrook has a shorter work day than the existing work day in this district as far as starting and quitting times are concerned; the duty free lunch periods vary more extensively. Fox Point has a 40 minute lunch, Shorewood a 55 minute lunch; Whitefish Bay 60 minute lunch. These three districts then have a work time day of 7 hours 20 minutes, 7 hours 5 minutes and 7 hours, compared to the existing day of 7 hours 15 minutes in this District. Elmbrook has a 7 hour 10 minute work day after subtracting the 30 minute duty free lunch. The comparables then establish that the present Employer is not unique with respect to the length of the work day, and absent the showing of a compelling need for the extension of the work day, the undersigned concludes that the work day should remain undisturbed, and finds for the Association on this issue.

ISSUE NO. 2: STAFF MEETINGS

In its final offer the Employer has proposed that the existing limitation of staff meetings, which is three hours per month, be increased to four hours per month. The Association proposes to maintain the present limitation of three hours per month for staff meetings outside the regular school day. A review of the evidence with respect to comparables, particularly the most comparable districts as discussed in the prior section of this Award, leads the undersigned to conclude that the Employer proposal with respect to staff meetings is the more reasonable. While the Association has contended that the Employer has failed to show that they are presently utilizing the present three hours per month, the undersigned, in view of the testimony adduced at hearing with respect to the use of staff meeting hours, concludes that the proposed additional extra hour for staff meetings is not unreasonable, particularly in view of the practice established in comparable districts. The undersigned, therefore, finds that the Employer's position with respect to staff meetings is the more reasonable.

ISSUE NO. 3: HEALTH INSURANCE

Both parties propose a change to the existing language of the Agreement with respect to payment for health insurance. The existing Agreement provides for a dollar sum of premium to be paid by the Board for health insurance, which at the time of negotiations was the full month of health insurance premium charged to the Employer. Additionally, the language of the current Agreement provides that each teacher who participates in the program will pay \$1.00 toward the first premium payment. The Employer final offer proposes that the Employer would continue to pay \$62.16 per month per teacher for family coverage, and \$22.10 per month per teacher for single coverage (which was the rate established in the preceding Collective Bargaining Agreement), and that for 1977-78 school year the District would pay 85% of the amount of premium increase over \$62.16 and \$22.10 respectively, less the \$1.00 each teacher is required to contribute toward the first premium. For the 1978-79 school year the Employer would continue to pay the amounts proposed for the 1977-78 school year, and would pay 75% of the increase in premium over and above the amount charged in 1977-78.

The Association offer would continue in effect the existing language with respect to the \$1.00 contribution toward the first premium payment on the part of the teacher, but would delete the dollar reference in the Contract and substitute for it a commitment on the part of the District to pay 100% of the health insurance premium, except for the \$1.00 contribution required by the teacher for the first premium payment. Additionally, the Association proposes new language to the effect that the level of coverage shall be equal to or greater than the coverage provided under the present insurance. The Employer has argued that its final offer in this matter is preferable because it makes the employee interested in securing the best possible premium rate by reason of his participation in the payment of premium; additionally, the Employer contends that a dollar specified amount has been traditional in the relationship between the parties and, further, that the premium payment proposal as set forth to the Association is consistent with the Agreement negotiated with the custodial unit, which has agreed to this method of premium payment with this Employer. Additionally, the Employer argues that the total premium paid, even with premium participation on the part of the employees, exceeds the amount of premium paid in some comparable districts. Finally, the Employer contends that comparable districts do not provide for the 100% payment on the part of the Employer as the Association has requested here. The Association, on the other hand, argues that in considering the question of total compensation when taking into account all fringe benefit payments on the part of the Employer the Association position is the more reasonable.

The undersigned, after careful evaluation of the evidence and argument of the parties, concludes that the Employer position with respect to health insurance is the more reasonable when considering this issue standing alone. The Association has asked that total compensation be considered in determining this issue. The undersigned is of the opinion that when considering the health insurance issue, it is more appropriate to consider comparables with respect to health insurance, and that total compensation should not be part of the consideration at this point of the deliberation. Certainly the statutory criteria speaks to total compensation, however, the criteria of total compensation will be considered when determining the full final offers of the parties, rather than applying it to the sole issue of health insurance.

The undersigned is persuaded to find that the Employer position is the more reasonable when comparing comparable communities, and notes that of the most comparable communities, the Association offer would be over and above what the most comparable communities provide their employees. Furthermore, the undersigned considers it persuasive that other employees of this Employer have agreed to provisions for premium sharing which require those employees to participate at a higher dollar amount than the employees involved in this dispute.

ISSUE NO. 4: ACCOMMODATION LEAVE

The Employer has proposed to eliminate a provision from the calendar which was negotiated specifically for the 1977-78 school year, which provided certain teachers an accommodation leave over the Christmas recess, which provided that the teachers on the accommodation leave would receive his normal rate of pay less the cost of paying a substitute. The Association has proposed to continue the accommodation leave as it appeared in the previous calendar for the year 1978-79. A review of the evidence shows that the 1977-78 accommodation leave provision of the calendar was agreed to by the parties so that the Employer could adopt a calendar consistent with that of the two other elementary districts and said Nicolet High School. The record establishes that the accommodation leave was agreed to specifically for 1977-78 so as to provide an opportunity to teachers who had planned a holiday away from the community an opportunity to be absent from school without drastically changing those plans. The undersigned is satisfied that the accommodation leave was negotiated as an accommodation specifically for the school year 1977-78, and to ease the inconvenience to employees who had already planned vacations based on what had been the traditional time for Christmas recess. In view of the transitory nature of the Agreement with respect to accommodation leave, and in view of the showing in the record which established a real problem to the Employer in granting one accommodation leave

during the 1977-78 school year; the undersigned concludes that the accommodation leave should be deleted from the calendar.

ISSUE NO. 5: FAIR SHARE

The Association proposes a fair share provision to the Agreement as set forth in the Association's final offer under the heading of positions of the parties in this Award. The Employer opposes the inclusion of any fair share provision in the Agreement. The Employer expresses his opposition on several grounds as follows: 1) his philosophical opposition to requiring any employee to pay dues against his will; 2) the district's contention that the ambiguity of the language of the Association proposal in light of the Supreme Court decision in Browne vs. Milwaukee Board of School Directors (83 Wis. 2d 324); 3) the failure to include language in the Association proposal which would provide a hold harmless or indemnification clause against any and all claims which might arise by reason of the fair share agreement; 4) the lack of fair share provisions in comparable districts.

The undersigned concludes that the arguments advanced by the Employer are not sufficient reason so as to reject fair share in the present Agreement. With respect to comparables, while it is true that none of the most comparable districts have a fair share agreement, this fact is more than offset by the evidence which shows that all other municipal employees, except for this school district within the same municipal jurisdictions, have fair share. The comparables then, in the opinion of the undersigned, would favor fair share. Additionally, the undersigned fails to understand how the district can be philosophically opposed to fair share when other employees of other municipal employers in the community have fair share provisions in their agreements covering their employees. The undersigned cannot establish a community philosophical opposition to fair share under these circumstances.

The issue of fair share has been decided in other arbitrations where that issue was the sole issue before the Arbitrator. In this dispute we have a number of issues, which in the opinion of the undersigned have higher priorities in determining which total final offer is to be used. While there is some justification to the Employer position with respect to the lack of an indemnification provision in the Association's fair share language, the lack of the indemnification provision is not a serious enough flaw so as to make the fair share issue a controlling item in whether the total offer of the Employer or the total offer of the Association is to be adopted. It follows, then, that the inclusion or exclusion of the fair share agreement will be determined by the other issues in dispute here.

While it is true that Browne vs. Milwaukee Board of School Directors has raised questions with respect to the amounts of fair share contributions properly chargeable to non members that matter, however, is now in the hands of the Wisconsin Employment Relations Commission to determine what are the proper amounts to be charged, and the undersigned concludes that the language of the proposed fair share provision is insufficient reason to reject the total offer of the Association in this matter. The undersigned notes that the prior Collective Bargaining Agreement at Article IV has a provision dealing with agreements contrary to law, which will be carried forward into the present Agreement. It is clear to the undersigned that if the language proposed by the Association in this matter is later deemed to be contrary to law in any respect, those provisions can be worked out between the parties under the terms of Article IV.

summer school will be paid on an hourly rate basis, and that said rate will be the prorata hourly rate based on the rate of pay set forth in the individual teacher contract. The undersigned has weighed all of the evidence in light of the statutory criteria, and has concluded that the district has failed to establish sufficient evidence to support its proposed change in this matter, and consequently, the Arbitrator finds for the Association on this proposal.

ISSUE NO. 7: DURATION

The duration of this Agreement is not in dispute. Under the duration language the Employer and the Association have agreed as to the expiration date of this Agreement. What is in dispute is whether a time table for negotiations and retroactivity provision shall be included specifically in the duration clause of the Agreement. After reviewing the evidence, the undersigned concludes that the Employer duration language is preferable to that of the Association.

ISSUE NO. 8: SALARY

The salary schedules for both school years 1977-78 and 1978-79 are in dispute. The dispute over the 1977-78 salary schedule is quite narrow (.5%), and the final offers of the parties with respect to the 1977-78 salaries will not control which final offer with respect to salaries is preferred. The 1978-79 salary schedules final offers present a considerably wider difference between the parties, and the preference for which 1978-79 schedule is to be adopted will control the decision on the salary issue. An examination of the offers, evidence, and arguments of the parties shows that a number of sub-issues with respect to the 1978-79 salary schedule must be considered as follows:

1. Salary Schedule Structure Index vs. Non-Indexed Schedule.
2. Which offer is preferred based on statutory criteria of comparable communities and cost of living.
3. Impact of cost control formulae on the final offers.

SALARY STRUCTURE

At issue is whether the form of the salary schedule should be based on an indexed system, as proposed by the Association; or whether each step of the salary schedule should be determined through bargaining (in the instant case by the unilateral proposal for salary at each step made by the Employer) as had been the practice historically.

There is no evidence presented by either party with respect to the existence of indexed salary schedules in comparable districts, hence the decision as to the form or structure of the salary schedule cannot be determined on that basis. The Association argues the need for an index so that it will no longer be required to negotiate sixty or more separate rates contained in the salary schedule, and to assure that internal relationships between steps and lanes in the structure be established and maintained. The Employer resists the indexed structure because it is rigid to the extent that the parties will not be able to place money in the schedule where it is most needed, and because the indexed schedule uses the top of the salary structure as the departure point of the index rather than the customary approach of indexing from the B.A. base.

The undersigned has considered the Employer's reasons for opposing the index and rejects them. It is true that an index does establish a rigidity internal to the system, but the index of the Association appears to be preferable to the salary schedule proposed by the Employer because the Employer's schedule would propose a lower rate for the same lane and step in 1978-79 than that paid at the same point of the schedule in 1977-78. In the Bachelor schedule the Employer offer at step 3 is \$10,386 for 1977-78 and \$10,336 for 1978-79. At step 4 of the Bachelor's schedule the Board offers \$11,236 for 1977-78, and \$11,036 for 1978-79. In the Master's schedule at step 4 the Employer offer is \$11,953 for 1977-78, and \$11,803 for 1978-79. While no

teacher of the District would take a decrease of pay by reason of the Employer proposal because the teacher would be moving up one step on the schedule; it is a fact that teachers of the Employer at certain steps of the schedule would be earning less than the teachers who occupied those positions in the prior year. There is no evidence submitted by the Employer as to why he considers it proper to reduce pay at certain steps of the schedule, and the undersigned feels that these reductions should be avoided in the absence of clear and convincing proof that the pay at the proposed reduced steps of the schedule was too high. Since there is no such proof in the record, the Employer's position on the structure of the schedule is rejected.

The Employer objection to the indexed schedule, because it is indexed from the maximum of the schedule, is likewise rejected. While it is true that the typical index departs from the B.A. base; in the instant dispute, where since at least 1974 the base has not been modified, the Association approach of indexing down from the maximum is understandable and acceptable.

The Association index results in a wider range of increases than the schedule proposed by the Employer. The range of increases ranges from 5% to 14% in the Association proposal; while the range of increases for the Employer proposal ranges from 4.4% to 7.5%. The undersigned concludes that the wider range of increases is inherent in a conversion to an index and is unavoidable, especially here where the internal relationships in the former salary structure are almost non-existent. Evidence shows that the Employer offer for 1978-79 is 5.81% for salary alone and the Association proposal is 8.15%. (Employer Exhibits #48 and #49) Whether the 5.81% or the 8.15% increase is adopted will be determined when cost of living and comparable criteria are compared. For the consideration of the form or structure of the salary schedule, the amount of increase will not be considered. From the foregoing it follows that the indexed salary schedule of the Association is preferred.

COMPARISON OF OFFERS BASED ON COMPARABLE COMMUNITIES AND COST OF LIVING

Earlier in this discussion it was determined that the most comparable communities (school districts) for the purposes of these proceedings are those of Nicolet, Fox Point-Bayside and Glendale-River Hills. Comparisons for salary purposes will be made against those three districts.

A review of the evidence shows that the offer of the Association for 1978-79 salaries leaves the Association behind the salaries paid at the B.A. base of the schedules when compared to the three most comparable districts. Furthermore, the Association proposal leaves the Association in last position for 1978-79 in 23 out of 33 comparisons between the four districts, when comparing B.A. and M.A. schedules. (Association Exhibit #35) At no place in the comparison does the Association proposal place it in the number one position of the comparisons, and in only one place in the comparison does the Association rank second. From the foregoing analysis the Arbitrator considers the Association proposal to be more acceptable than that of the Employer when considering salaries in comparable communities.

In evaluating the offers based on the cost of living criteria, the Association offer appears to be preferable. The Cost of Living Index for the year ending September, 1979, increased 9.31%. Additionally, the undersigned notes that the Cost of Living Index for Milwaukee (all urban consumers) increased 2.4% from the preceding period in August, 1978, which annualizes to a 9.6% rate of increase.¹ From the Milwaukee data the undersigned concludes that the National CPI increase properly reflects the increased cost of living in the Milwaukee area. While the Milwaukee data is an annualized projection and, therefore, subject to variation in future months, it does confirm that Milwaukee is currently confronted with cost of living increases that run parallel

¹ From data released by U. S. Department of Labor, Bureau of Labor Statistics October, 1978. (All Urban Consumer Index)

parallel to the national cost of living increases. For the year 1978-79 the Employer offers a 5.81% salary increase and the Association an 8.15% increase. Thus, the Employer offer is 2.5% less than the cost of living increase, and the Association offer is .16% lower than the cost of living. Since the salary increase being compared to the cost of living is for the fall of 1978 and spring of 1979, the 8.31% measure of cost of living will be applied, and based on that criteria the Association offer is preferred when considering cost of living.

IMPACT OF COST CONTROL FORMULA ON THE FINAL OFFERS

Considerable evidence was submitted at hearing with respect to cost controls. The Employer introduced evidence to show that he has already trimmed other areas of his budget to bring the cost of his offer for 1978-79 within cost controls. Additionally, the Employer introduced evidence which showed that the Employer offer was \$27,983.00 in excess of cost control, and the Association offer exceeded cost control by \$47,270.00, based on the data used in the cost control calculations. (Letter from DPI dated August 8, 1978 - Employer Exhibit #54) The Association introduced evidence which showed that the Employer, during negotiations, had furnished them with a series of cost control calculations, each showing different positions and limits with respect to cost control limits. The undersigned recognizes that the cost control calculations are affected by the budgetary estimates used by the Employer in completing the cost control work sheet, and that the DPI certification of the Employer calculations dealing with cost controls verifies that the calculations are accurate based on the data used. The Association has challenged the reliability of certain of the estimated data. The Arbitrator does not believe it necessary to determine the accuracy of the data in considering the cost control issue in the instant case. Assuming arguendo that the Employer data is accurate, and that he is \$27,983.00 in excess by his offer, and \$47,270.00 in excess based on the Association offer, then the disputed amount is \$19,287.00, which is 1.17% of the General Fund Budget for 1978-79. (From Association Exhibit #37) In view of the arguments advanced by the Employer in his brief, when he describes the Employer position with respect to cost controls as "an unwillingness to pay rather than an inability to pay" (Employer brief, page 45 and 46); and in view of the amount in dispute being 1.17% of the General Fund Budget for 1978-79; and in the absence of any showing in the record that the budgeted funds are not irrevocably committed in all other areas of the budget; the undersigned finds that the cost control issue is not so compelling as to require a finding for the Employer in this matter. Whether the Employer or the Association salary offer is preferred turns on the other factors discussed earlier; and as previously discussed the Association offer is preferred with respect to the salary issue for the reasons set forth.

The Arbitrator has verified the actual enrollment reported by the Employer to the DPI by verifying the information with the Department of Public Instruction. The actual student enrollment for cost control purposes is 718, a reduction of 2 from the prior estimates used by the Employer. In view of the small change in enrollment from the estimate, the reduction does not affect the cost control calculations enough so as to persuade the undersigned that the Employer offer should be adopted with respect to salary.

CONCLUSIONS:

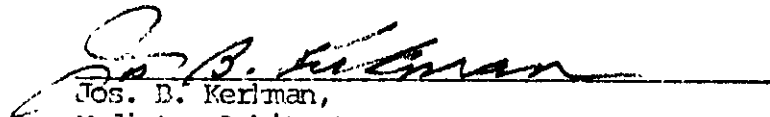
In evaluating each of the disputed issues separately, the undersigned

Insurance, the Work Day and Salary issues outweigh the Health Insurance issue. Since the Arbitrator is constrained by the statute from splitting the issues between the parties; it follows from the above that the Association offer is preferred in its entirety.

AWARD

Based upon the statutory standards, the record as a whole, the argument of the parties, and upon the discussion set forth above, the Arbitrator determines that the final offer of the Association be incorporated into the Collective Bargaining Agreement of the parties.

Dated at Fond du Lac, Wisconsin, this 21st day of November, 1978.


Jos. B. Keriman,
Mediator-Arbitrator

JPK:rr