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In the Matter of Arbitration :
Between :
BROWN COUNTY SPECIAL : AWARD
EDUCATORS' ASSOCIATION : CASE V
and : No. 26687
MED/ARB-841
BROWN COUNTY HANDICAPPED : **Decision No. 18244-A**
CHILDREN'S EDUCATION BOARD :

MAR 24 1981
WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

I. HEARING. A hearing in the above entitled matter was held on January 28, 1981, beginning at 11:45 a.m. at the Northern Building, Green Bay, Wisconsin.

II. APPEARANCES.

LAWRENCE J. GERUE, Program Director, Bayland Teachers United,
appeared for the Association

KENNETH J. BUKOWSKI, Corporation Counsel, Brown County,
appeared for the Employer

III. NATURE OF THE PROCEEDINGS. This is a proceeding in final and binding final offer arbitration under Section 111.70 (4) cm 6 of the Municipal Employment Relations Act of the State of Wisconsin. The Brown County Special Educator's Association filed a petition on August 20, 1980, alleging an impasse between it and the Brown County Handicapped Children's Education Board in an endeavor to reach a collective bargaining agreement for the school year of 1980-81. Mr. James D. Lynch, a member of the Commission staff, conducted an investigation on October 15, 1980, and found that the parties were deadlocked. The Commission concluded that an impasse existed within the meaning of Section 111.70 (4) cm 6 of the statutes, certified that the conditions precedent to initiation of mediation-arbitration had been met, and ordered such mediation-arbitration on November 18, 1980. The parties having selected Frank P. Zeidler, Milwaukee, as mediator-arbitrator, the Commission appointed him on December 1, 1980.

A mediation session was held on January 28, 1981, but the impasse remained. On the same date an arbitration hearing was held in which the parties were given full opportunity to present evidence and testimony relating to their offers. Briefs subsequently were exchanged on February 24, 1981, and on March 13, 1981.

IV. THE FINAL OFFERS.

A. The Board's Final Offer.

"1. Base Salary: \$11,750.00 on existing schedule.

"2. Article IV - Grievance Procedure - Continuation of initial paragraph:

"A grievant may be a teacher or at the mutual agreement of the teachers involved and the administration, a grievance involving the same act or same issue affecting more than one individual may be consolidated into one proceeding.

- "3. Article VIII - Employment, C. - Change last sentence to read: This does not apply to non-renewals for the reasons of decrease in enrollment, educational program changes, and budgeting or financial limitations.
- "4. Article V - Leaves of Absence - A. Paid Leaves, f. All teachers who retire from the system upon becoming eligible therefore under the State Teacher's Retirement System (STRS) or retire thereafter, shall be eligible to continue in the county's health and dental fringe benefit program until age sixty-five (65). The Board shall pay the entire cost from an escrow account established for such teacher. One-half of the retiring teacher's accumulated sick leave multiplied by his/her daily salary rate at the time of retirement shall create the funds to establish the account. Upon exhaustion of his/her escrow account, the teacher may elect to continue in the group health and dental insurance fringe benefit program upon full payment of the cost up to age sixty-five (65)."

B. The Association's Offer (in essential part).

"All items in the 1979-80 Agreement between the BCHCEB and BCSEA will continue in effect from August 24, 1980 to August 23, 1981 except as modified by stipulation of the parties and according to the following final offer of the Brown County Special Educators Association:

"ARTICLE VIII
EMPLOYMENT

- "C. No teacher will be disciplined, reprimanded, reduced in rank or compensation, suspended, demoted, transferred, terminated, nonrenewed or otherwise deprived of any professional advantage without cause. In no case will this be done publicly unless so requested by the teacher. Any such action including adverse evaluation of teacher performance, will be subject to the grievance procedure set forth in the agreement.

"Subject Paragraph Article VIII - C. (1), (2), (3) will remain as in the 1979-80 Agreement.

"ARTICLE V
LEAVES OF ABSENCE

"(A)(1)(F)

"All teachers who retire from the system upon becoming eligible, therefore, under the State Teacher's Retirement System (STRS) or retire thereafter, shall be eligible to continue in the county's health and dental fringe benefit program until age sixty-five (65). The Board shall pay the entire cost from an escrow account established for such teachers. One-half of the retiring teacher's accumulated sick leave multiplied by his/her daily salary rate, at the same time of retirement, shall create the funds to establish the account. Upon exhaustion of his/her escrow account, the teacher may elect to continue in the group health and dental insurance fringe benefit programs upon full payment of the cost up to age sixty-five (65).

"APPENDIX B
TEACHER'S SALARY SCHEDULE

"BASE SALARY: \$11,950 Effective August 24, 1980"

These offers have two items which are not the same, and therefore they become the primary issues to be considered here. These issues are base salary and the clause dealing with cause for non-renewal. They will be treated here.

V. FACTORS TO BE CONSIDERED. Section 111.70 4 (cm) 7 requires the arbitrator to give weight to the following factors:

- a. The lawful authority of the municipal employer.
- b. The stipulations of the parties.
- c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services and with other employes 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 employes, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- 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 private employment.

There are no matters here involving the lawful authority of the Employer to meet either offer. The parties have stipulated to all other features of their agreement, and of the items found in the final offers, only two represent actual issues.

VI. THE INTERESTS AND WELFARE OF THE PUBLIC AND THE ABILITY OF THE UNIT OF GOVERNMENT TO MEET THE COSTS. The issue of the ability of the unit of government to meet costs has not been directly raised, and generally it is the position of each party that the interests and welfare of the public are best served by the acceptance of the party's offer.

VII. COMPARABLE UNITS OF GOVERNMENT. There is an issue here as to what list of governmental units should be considered as units proper for comparison. The districts of Ashwaubenon, Denmark, De Pere, Howard-Suamico, Pulaski, West De Pere, and Wrightstown, have students who are transported to the one school facility conducted by the Board, the Syble Hopp School, located in West De Pere. The Green Bay school district in Brown County does not participate in the County special education program; however the Association referred to it in Association Exhibit 9.

The Board has had 28 teachers on its rolls as of 1979-80 school year, of whom seven were located at schools in the districts rather than at Syble Hopp School (Assn. Ex. 3) (Board Brief).

For its comparables, the Board listed the districts mentioned by the Association and added the Outagamie County Handicapped Children's Education Board and the Manitowoc County Handicapped Children's Education Board.

The Association requests that the arbitrator ignore those exhibits in which comparisons are made with the Manitowoc and Outagamie County HCEB's. It says that at no time were these two school districts used for comparison purposes. The Association claims surprise and objects to new evidence introduced for the first time at the level of arbitration.

The arbitrator, in reviewing circumstances here, holds that all the districts cited by each party have a value, but that there are orders of importance among the districts for comparison purposes. The most important of the districts are those found within Brown County. County HCEB's outside of Brown County also have a usefulness, though of lesser importance, because of the special nature of education which the HCEB's serve. Outagamie County and Manitowoc County also are sufficiently near to Brown County to be considered in a list of units of government of some importance, though secondary here, for comparisons.

VIII. SALARIES - BASE COSTS.

The 1979-80 base salary was \$11,075. The Board's offer for 1980-81 is \$11,750, an increase of \$675 or an increase of 6.09%. The Association is asking for \$11,950, an increase of \$875 or an increase of 7.9%.

The base salary is applied to an index system which is graduated at various levels and from which the following information is abstracted for a sample:

<u>Placement Level</u>	<u>Bachelor's</u>	<u>B+15</u>	<u>Master's</u>	<u>M+15</u>	<u>M+30</u>	<u>M+45</u>
1	1.00	1.03	1.08	1.11	1.14	1.17
6	1.30	1.33	1.44	1.47	1.50	1.53
7	1.35	1.35	1.50	1.53	1.56	1.59
12	1.60	1.63	1.80	1.83	1.86	1.89

The Board in calculating its salary costs for 1979-80 and 1980-81 listed 28 employees and their index for each of the respective years. It then multiplied the total of indexes by the base salary. The result was that the 1980-81 salaries for the 28 employees came to \$434,416.88 and the 1980-81 totals came to a total of \$479,693.75, an increase of \$45,276.87 or a 10.42% increase. (The total of individual indexes for 1979-80 comes to 39.225 and for 1980-81 to 40.775 according to the arbitrator's calculation.)

The Association's Exhibit No. 12 calculated the total teacher salary cost at \$423,222 for 27 teachers in 1979-80. Under its proposal it calculated the total cost in 1980-81 to be \$500,721 for 29.5 teachers. This is an increase of 18.32% over 1979-80. The Board cost for 1980-81 for 29.5 teachers would be \$492,340, or an increase of 16.34%.

Association Exhibit 13 developed from these figures the following information:

TABLE I-A

COST ANALYSIS FOR TEACHER SALARIES
1980-81 Staff (29.5)

	<u>Association Proposal</u>	<u>Board Proposal</u>
Salaries	500,721	492,340
STRS (11.6%)	58,084	57,111
FICA (6.48%)	<u>32,447</u>	<u>31,904</u>
Total	591,252	581,355
Average Salary Per Teacher	20,042	19,706
Salaries for 1979-80 Staff (27 teachers)		423,222
STRS (11.7%)		49,517
FICA (6.13%)		<u>25,944</u>
Total		498,683
Average Salary Per Teacher		18,470
Percent of increase per teacher over 1979-80, Assn. Proposal is 8.5%.		
Percent of increase per teacher over 1979-80, Board Proposal is 6.7%.		

The Board objects to the above exhibit on the grounds that this exhibit used only 27 teachers whereas the records of the school district indicate there were 28 teachers in 1979-80. Further it contends that the Association did not include in Exhibit 13 a health insurance increase of 9.98% and a dental insurance increase of 19.88%.

The Association in a reply brief says that both parties have made errors in their calculations. The Association says it made an error in omitting one staff person for both 1979-80 and 1980-81. It accepts the Board's total cost for salaries at \$434,416.88 for 1979-80, but says that the gross index should be 39.225, not 39.22 as shown in the Board's brief. The Association argues that the gross index for 1980-81 for the same 28 staff members should be 40.775 and that the gross salary should be \$479,106.25 for the same 28 staff members.

The Association says that there are now 30.1 FTE teachers. The Association calculates that under the Association proposal for 1980-81 for 30.1 staff, the cost of salaries, STRS and FICA benefits would come to \$607,106.84, or an average of \$20,169.66. Under the Board proposal the total of the costs would come to \$596,946.07 or an average of \$19,832.10. The average cost per teacher for 28 teachers in 1979-80 was \$18,281. The percentage increase in 1980-81 would then be 10.33% for the Association proposal; and for the Board would be 8.48%.

The following is the information supplied, which it is to be noted has not been subjected to cross examination but also not objected to:

TABLE I-B

COST ANALYSIS FOR TEACHER SALARIES
1980-81 STAFF (30.1)

	<u>Association Proposal</u>	<u>Board Proposal</u>
Salaries	\$514,148.75	\$505,543.75
STRS (11.6%)	59,641.25	58,643.08
FICA (6.48%)	<u>33,316.84</u>	<u>32,759.24</u>
Total	\$607,106.84	\$596,946.07
Average Salary Per Teacher	\$ 20,169.66	\$ 19,832.10
Salaries for 1979-80 Staff (28 Teachers)	\$434,416.88	
STRS (11.7%)	50,826.78	
FICA (6.13%)	<u>26,629.75</u>	
Total	\$511,873.41	
Average Salary Per Teacher	\$ 18,281.19	

Percent of increase per teacher over 1979-80, Association Proposal is 10.33%.

Percent of increase per teacher over 1979-80, Board Proposal is 8.48%.

Discussion. The contention by the Board is that its offer increases the cost of salaries by 10.42%, and the original contention by the Association was that the percent increase by the Board was only 6.7% as compared to its own offer of an 8.5% increase. These original differences of the parties on what their offers cost were difficult to reconcile from the data supplied on what actual increase the Board would pay under either offer. The arbitrator regarded the Board data, supplied in its brief, to be more reliable for 1979-80, since it actually identified 28 teachers at the level they were paid. (The arbitrator could not reconcile the Board's data with Association Exhibit 10).

For 1980-81, the Board moved this cohort of teachers ahead and gave information on what the new salary costs would be; but only 28 teachers were identified, whereas in the hearing 29.5 FTE teachers were identified as now being employed. The arbitrator does not doubt that it will cost the Board a 10.42% increase for the 28 teachers whose services are continuing, but for the 29.5 teachers, the average cost could be lower. The Association in its reply brief identified a total of 30.1 FTE.

Taking the Board's figures for teacher cost in 1979-80, the average teacher cost for salary alone would be \$15,515. (The Association in its reply brief accepts the Board salary costs for 1979-80.) Assuming that the Association cost analysis for teachers' salaries for the originally estimated 29.5 FTE teachers is reasonably close, the Association proposal would cost \$500,721, or an average of \$16,974 per teacher. The Board cost would be \$492,340 or an average cost of \$16,689. The percentage increase for the average teacher under the Association's offer would then be 9.4% and 7.6% for the Board's offer. This is a 1.8% difference in cost, the same difference as is shown in Association Exhibit 13, but the percentages of increase are higher.

Taking now the Association's reply brief, which is new evidence, not subject to cross examination, the Association says that this latest cost analysis puts the Association cost for salaries alone at \$514,148.75 for 30.1 FTE teachers, and the Board proposal comes to \$505,543.75 for its offer. This averages \$17,081 per teacher for the Association's offer and \$16,795 for the Board's offer, for salaries alone. The percentage increases are 10.01% for the Association offer and 8.25% for the Board offer for salaries alone.

Making a judgment on percentage increases, the arbitrator is of the opinion that the **last** data supplied by the Association more nearly approximates true costs and percentage increases. Conclusions will be drawn later about this information.

IX. SALARIES - COMPARISONS.

Association Exhibit 6 showed that percentage increases for base salaries for 1975-76 to 1979-80 ranged from 8.4% in the first year to 5.5% in the last year with an average of 6.7%. Association Exhibit 7 compared the Bachelor base of "integrated classroom" schools in Brown County with the Board base salaries. Integrated schools are those in which handicapped children are placed in those schools. There are four such schools: Ashwaubenon, De Pere, West De Pere, and Howard-Suamico. The Association averaged the base Bachelor salaries and compared the Board's base salary. The following table is derived from this exhibit:

TABLE II

COMPARISON, AVERAGE OF FOUR SCHOOL DISTRICTS, BASE BACHELOR SALARY, WITH BROWN COUNTY HCEB SALARIES

	1974- 1975	1975- 1976	1976- 1977	1977- 1978	1978- 1979	1979- 1980	1980	Offers	1981
Average, 4 Dist.	8,113	8,707	9,282	9,900	10,600	11,207	12,000 (1)	12,025 (2)	
BCHCEB Bd. Of. Assn. Offer	8,000	8,670	9,260	9,860	10,500	11,075	11,750	11,750	
							<u>11,950</u>		<u>11,950</u>
Diff.	- 113	- 37	- 22	- 40	- 100	- 132	- 250	- 50	- 275
									- 75

(1) If Ashwaubenon Board prevails
 (2) If Ashwaubenon Education Association prevails

Association Exhibit 8 is the source of the following abstracted data:

TABLE III

COMPARISON OF BACHELOR BASE IN ALL BCHCEB FEEDER SCHOOLS WITH 1980-81 BOARD AND ASSOCIATION OFFERS

	<u>1979-80</u>	<u>1980-81</u>	<u>\$ Inc.</u>	<u>% Inc.</u>
	<u>Base</u>	<u>Base</u>		
Average	\$10,918	\$11,688-(1) \$11,702-(2)	770-(1) 784-(2)	7.1-(1) 7.2-(2)
BCHCEB	11,075			
Bd. Offer		\$11,750	675	6.1
Assn. Offer		11,950	875	7.9

(1) If Ashwaubenon Board prevails

(2) If Ashwaubenon Education Association prevails

Association Exhibit 9 compared the Bachelor's base of BCHCEB with the Green Bay school district. It averaged the Green Bay school district's base increases when there was a split year salary schedule. The difference in 1977-78 was - \$354 for BCHCEB; for 1978-79 it was - \$301; for 1979-80 it was - \$400. For 1980-81 the Board offer would be \$535 below the Green Bay base; and the Association offer would be \$335 below that base.

Both parties supplied exhibits dealing with the salary schedules of the other districts. Association Exhibits 21, 22, 23, 24, 25, 26, 27, 28, and 29 were exhibits of this type. Board Exhibits 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, and 15 are of this type also. The Association however is contending that there are 41 errors in Board Exhibits 4 and 5. In Board Exhibits 4 and 5 the Board placed teachers in its scattergram of employment into similar positions in the other districts.

In these exhibits the Board listed 29 different positions of its employees, listing the degree categories and the years of service, to find the different placement levels. Correcting these tables with data supplied by the Association in its brief, the grand totals of the cohort of teachers under the BCHCEB comes to \$491,444 which is higher than the grand totals the same cohort would get if placed in any other salary schedule in the primary comparison group, excluding Manitowoc and Outagamie HCEB's.

In the 29 different positions in the salary schedule, counting the Ashwaubenon Board and District offers as separate, thus making nine units to compare, Brown County ranks first 8 times, second 2 times, third 10 times, fourth 8 times, and sixth 1 times. Where Brown County is ranked third, higher rankings are usually the two offers of Ashwaubenon, and where Brown County ranks fourth, again two offers of Ashwaubenon are involved. Thus if and when the Ashwaubenon issue is resolved, Brown County would rank second among 8 discrete units of government where it now ranks third.

An inspection shows that while Brown County tends to rank lower at the first years of employment in any degree category, it tends to rank high as the years of service increase.

The Association objects to these exhibits with respect to the data supplied for the Manitowoc HCEB and the two offers at the Outagamie County HCEB. However generally it might be said that for the 29 positions listed, Brown County would pay more than would the units in the secondary comparison list.

The arbitrator has developed the following information from Association Exhibits 21-29:

TABLE IV

COMPARISON, SALARY SCHEDULES AT SELECTED LEVELS, 1980-81

Level	Ashwaubenon		Denmark		De Pere		Green Bay	
	Board	Assn.						
BA+0								
Base	\$12,250		\$12,350		\$11,200		\$11,950	\$12,285
Top, No Long.	16,416	(8)	16,549	(8)	17,808	(14)	18,550	(12) 19,655
Top, Long.	18,987	(29)	19,142	(29)	18,308	(15)	(4)	(4)
MA+0								
Base	13,320		13,338		12,025		13,145	13,268
Top, No Long.	23,520	(14)	23,712	(14)	19,120	(14)	21,605	(12) 22,113
Top, Long.	25,357	(29)	25,564	(29)	19,619	(15) (3)	(4)	(4)
MA Max.	(1)		(1)				(2)	
Base	14,210		14,326				14,041	14,374
Top, No Long.	25,970	(16)	26,182	(16)			23,797	(12) 23,218
Top Schedule	27,562	(29)	27,787				(4)	(4)

(1) MA+32G
(2) MA+24, BA+61

(3) Schedule Maximum
(4) See Table V

Level	Howard-Suamico		Pulaski (6)		West De Pere		Wrightstown	
BA+0								
Base		\$11,850		\$11,412		\$11,950		\$11,200
Top, No Long.		18,391	(12)	14,472	(8)	18,640	(12)	16,000 (12)
Top, Long.		(5)		(5)		24,080	(24)	(5)
MA+0								
Base		12,800		12,338		13,145		12,000
Top, No Long.		21,047	(12)	19,995	(15)	21,806	(12)	17,400 (12)
Top, Long.		(5)		(5)		20,206	(32)	
MA Max.		(1)		(2)		(3)		(4)
Base		13,400		12,550		13,384		12,400
Top, No Long.		22,785	(12)	20,857	(15)	22,332	(12)	17,800 (12)
Top, Schedule		(5)		(5)		24,732	(32)	(5)

(1) MA+24
(2) MA+6
(3) MA+12

(4) MA+15
(5) See Table V
(6) Averages of split schedule

TABLE IV (continued)

<u>Level</u>	<u>Brown Co. HCEB</u>			
	<u>Board</u>		<u>Assn.</u>	
BA+0				
Base	\$11,750		\$11,950	
Top, No Long.	18,800	(12)	19,120	(12)
Top, Long.	(1)		(1)	
MA+0				
Base	12,690		12,906	
Top, No Long.	21,150	(12)	21,510	(12)
Top, Long.	(1)		(1)	
MA, Top	(2)		(2)	
Base	13,748		13,982	
Top, No Long.	22,208	(12)	22,586	(12)
Top, Long.	(1)		(1)	

(1) Additional 1% of base for each year of service beyond schedule. e.g. at 32 years BA+0 yields \$21,150; MA+0, \$23,500; MA, Top, \$24,936

(2) MA+45

TABLE V

POST INCREMENT SCHEDULE
BROWN COUNTY HANDICAPPED SCHOOLS
AND FEEDER SCHOOLS

Ashwaubenon - 1% of base salary, accumulative

Brown County Handicapped - 1% of base salary, accumulative

Denmark - \$500 flat amount increment step

De Pere - 1.15% of BA Base accumulative for:

14 years BA and BA+8 Lanes

17 years BA+15 and BA+24 Lanes

22 years BA+30, MA, MA+15, MA+24 Lanes

Green Bay - 1% of BA Base accumulative plus \$200.00 flat amount

Howard-Suamico - 1% of base salary accumulative BA to BA+30 Lanes;

2% of base salary accumulative MA to MA+18 Lanes

Pulaski - \$200 flat amount increment step

West De Pere - 1% of BA Base accumulative for:

12 years at BA and BA+12

15 years at BA+24 and BA+30

20 years at MA and MA+12

Wrightstown - \$150 per year of service over base schedule lanes for

16 years

SOURCE: NEGOTIATED CONTRACTS

For computing schedule maximums, which the arbitrator has not listed where not calculated on the salary schedule in the contract, the above information from Association Exhibit 14 is useful.

The Board's Position. The Board's position is that its offer on the whole is a superior offer because of the Board's index system which was modeled after the Green Bay system some years ago. The Board places reliance on its Exhibits 4 and 5 which show generally that teachers in its system under its index are on the whole better off than if they were paid under other systems.

Board Exhibit 16 was a WEAC exhibit showing that in 1978-79 a teacher at the BA rank with 25 years of service in the Brown County HCEB would have earned \$384,300, which was 11th highest among 118 systems. This also proves the superiority of the Brown County index system.

The Association's Position. The Association notes that while it has the same index system as Green Bay, the Board's base salary offer would be \$535 below that of Green Bay, and its own offer would be \$335 below. The Association states that historically it has lagged behind Green Bay by \$301 to \$400, and it wants to keep the same approximate separation.

The Association contends that of the districts in which it now has teachers placed on an integrated basis, only the Howard-Suamico district has had a consistently lower base salary. The Board's salary offer would make the district's base the lowest for the first time among the districts and would double the amount by which the Board's base salary is below the average.

The Association also says that while its offer, costing 7.9% as it calculates the offer on the base, exceeds the average cost of other offers or settlements on base by 0.8% or 0.7%, depending on the outcome of Ashwaubenon, the Board offer at 6.1% is on the same basis 1.0% or 1.1% below the average. The Association holds that it is not fair to ask the Brown County HCEB teachers to accept a 6.1% increase.

The Association also holds that a comparison of a BA teacher in 1978-79 with 25 years in Brown County with teachers elsewhere is dubious. The information is not updated to 1980-81. Further, if this comparison were made, it would show that Green Bay has gained on Brown County since 1978-79.

Discussion. The most important argument for the Board in its presentation is found in its Exhibits 4 and 5 as corrected through the Association brief. These exhibits would show that the Board has a good general position with respect to salaries in other systems.

Against this must be considered the deterioration of the Board's position with respect to base salaries as shown in Table II. Also the information shown in Table IV needs consideration.

From the Table IV it can be seen that the Brown County Board offer for the BA base is 7th (counting both Ashwaubenon offers); and the Association offer is tied for 4th (counting both Ashwaubenon offers). For BA top without longevity, the Board offer is second highest; and the Association offer is second highest.

In comparison for MA base, the Board offer is 6th; and the Association is 6th. For MA top without longevity, the Board offer is 6th, and the Association offer is 5th.

The arbitrator finds it difficult to draw meaningful conclusions from the MA maximum obtainable, since a number of systems are open ended. However with respect to the scheduled step maximums, the Board offer is 6th and the Association offer is 6th.

From this information the arbitrator concludes that the Board offer tends to be low at the initial stages; and even though the index in Brown County tends to improve the status of the teachers in its system, the improvement which would occur under the Association offer does not advance Brown County excessively as against the other systems.

The arbitrator notes the conclusion drawn from Table I-B, the Association's amendment of its Exhibit 13, in that the percentage increase in salaries alone is 10.01% for the Association and 8.25% for the Board. These data taken alone support the Board offer. However with the decline of the Board status at the base in its past comparability as shown in Tables II and III, the arbitrator is of the opinion that the Brown County HCEB teachers are losing position with respect to other comparable districts; and even though the percentage increase for the average teacher may be high (there is no comparable data), because of this slippage at the base under the Board offer, the arbitrator concludes that the Association offer more nearly meets the statutory guideline on comparability.

The arbitrator notes the favorable position of the Brown HCEB with the Manitowoc and Outagamie County HCEB's; but regards them as a comparison group secondary in influence here to the primary group considered above.

X. OVERALL COMPENSATION.

Board Exhibit 17 was a comparison of fringe benefits available to the teachers in the Brown County districts and the Manitowoc and Outagamie County HCEB's. The fringe benefits of health, dental, life, and long term disability insurance were compared, as were retirement, sick, personal, and bereavement leave, and retirement bonus. In some instances percentage increases and dollar amounts were cited in comparing the same benefit, making complete comparison difficult. The arbitrator however makes the following conclusions:

1. Brown County in paying 100% for single coverage and 95% for family coverage is in a favorable position on health insurance. The coverage is not described.

2. Brown County, paying the same percentages for dental insurance, also appears to be in a favorable position, but the coverage is not described.

3. Brown County paying 100% for life insurance appears to be in a favorable position, but the coverage is not described.

4. For retirement (STRS) Brown County with a 5% payment matches all other districts.

5. Brown County in having a long term disability insurance has a feature found in other districts, but in no district is the cost or plan described.

6. Brown County with ten days sick leave per year, plus 60 days accumulation is comparable for the amount of annual sick leave; and in the middle level for accumulation of unused leave.

7. Brown County with two personal or emergency days leave is exceeded by only one other district.

8. The Board proposal for one half unused sick leave to be used for health insurance is unique.

9. The Board, in providing three days bereavement, is in a group of five districts providing three days, and they are exceeded by only one district.

Neither party provided information on the total compensation of their offers. The Association however provided information in Exhibit 19 on budgets from 1978 to 1981. From this exhibit can be gleaned a comparison of estimated expenses for 1980 and the budget for 1981. Estimated "Salaries" for 1980 were \$646,534, and the budget for 1981 was \$695,080 for this item, an increase of 7.5%. Total anticipated expenditures for 1980 were \$1,011,523. Total expenditures budgeted for 1981 were \$1,106,588, or an increase of 9.4%. However this information does not tell what the overall cost of each offer is.

Discussion. The Board contends that its Exhibit 17 shows that the Brown County HCEB is far above the average, if not the leader, in providing fringe benefits for its employees.

The arbitrator, because he cannot compare dollar values of the fringe benefits where percentages and dollars are cited in comparing the same benefits among districts, cannot verify that Brown County HCEB is the leader in fringes. However, it does appear above average in benefits, and the arbitrator believes that the weight of the factor goes to the Board with respect to fringe benefits only; and no conclusion can be reached on overall compensation.

XI. COST OF LIVING.

The Association presented several exhibits relating to the cost of living. Association Exhibit 15 concerned a relationship to the percentage increase of the CPI and the percentage increase in base salary. The following table gives this information:

TABLE VI

PERCENTAGE INCREASES IN BASE SALARY
AS COMPARED TO PERCENTAGE INCREASES IN CPI

<u>Period</u> <u>May to May</u>	<u>CPI %</u> <u>Inc.</u>	<u>School</u> <u>Year</u>	<u>% Base</u> <u>Inc.</u>
'74-'75	9.5	'75-'76	8.4
'75-'76	6.2	'76-'77	6.8
'76-'77	6.7	'77-'78	6.5
'77-'78	7.0	'78-'79	6.5
'78-'79	10.9	'79-'80	5.5
'79-'80	14.4	'80-'81	6.1 (Bd.)
		'80-'81	7.9 (Assn.)

The Association also supplied two news articles from the Green Bay Press Gazette on inflation. One article (11/9/80) dealt with a U.S. Commerce Department report that while the income of working men and women increased, in 34 states, in every case the gain was overcome by the increase in prices.

The other article (11/19/80) reported that food prices were expected to increase by over 12% in 1981.

The Position of the Parties. The general position of the Board is that it is giving a raise to the same cohort of teachers from the previous year of 10.287%.

The Association in its brief made an argument supporting the CPI as a proper method of measuring the change in the cost of living. The Association then notes that the change in the "National Average CPI from September, 1979 to September, 1980 was 12.6%," as compared to a dollar change in the base schedule of only 5.5%:

The Association argues that the only fair way to compare salaries when there is an increase in staff members from 27 to 29.5 FTE teachers is to use average salaries from one year to the next. It says that the average salaries, after adding STRS and Social Security payments would amount to an 8.5% increase under the Association offer and only 6.7% under the Board's offer. Both are under the double digit rate of inflation.

Discussion. There is no question but that the Association offer more closely meets the cost of living change than does the Board offer. The question is, whether the Board offer is an offer of a 10.287% increase or something less. This has been dealt with earlier by the opinion being expressed that the average increase is a more useful measure of the Board effort per teacher than the method of advancing the cohort of teachers from the earlier year. The arbitrator has judged that the Board offer produces a **8.25% increase in total in wages** and the Association offer **produces a 10.01% increase.**

It should be noted however that generally wage settlements reached voluntarily do not keep pace with the cost of living.

XIII. RENEWAL CLAUSE.

The positions of the parties on the change in Article VIII, C has been given above. In essence, the Association is seeking a change so that non-renewal is subject to the just cause provision. The Board is keeping the non-renewal exclusion from the just cause provision, and specifically stating that the reasons for non-renewal may include decrease in enrollment, educational program changes, budgeting and financial limitations. Both parties supplied exhibits of non-renewal clauses in contracts in comparative districts. A summary of the provisions is as follows:

A. Primary Comparison Group of districts,

Howard-Suamico - non-renewal for certain reasons excluded from just cause provision. Other non-renewal just cause only.

Pulaski - non-renewal subject to "due process"

Denmark - non-renewal must not be "without good reason"

Ashwaubenon - termination for just cause

West De Pere - non-renewal subject to just cause provision

De Pere - non-renewal subject to just cause provision for teachers who have completed probationary period

Wrightstown - non-renewal subject to just cause provision after second year of employment

B. Secondary Comparison Group,

Manitowoc HCEB - teachers not meeting standards can be put on probation for one year

Outagamie HCEB - teachers after three full consecutive years of full-time teaching and who accept a fourth year contract cannot be non-renewed except for just cause

C. Green Bay - non-renewal excluded from just cause, but teacher to be given reasons in writing

Positions of the Parties. The Board holds that Section 118.22 Stats. provides due process necessary even through the probationary period. Of the nine districts used for comparisons, only four use the term "just cause" as it applies to non-renewals. The rest use other language or enumerate, as the Board proposes, conditions for non-renewal that are beyond the Board's control.

The Association, in its arguments, notes that non-renewal could be for a variety of reasons; e.g.: violation of work rules, incompetence, falsifying records, lack of work. The Association is asking that the Board be required to prove that an action of non-renewal is fair and justifiable.

The Association asserts that the Board's language is ambiguous. It could be interpreted that non-renewal for causes other than those enumerated by the Board require just cause. The Association does not know what the Board's intent is, and the future solution may have to be clarified legally.

The Association contends that its offer meets the test of comparability with other comparative districts - the feeder schools. These schools specifically include non-renewal for just cause only. Two schools allow non-renewal for good reasons, and one requires due process.

The Association objects to the use of the Manitowoc and Outagamie HCEB contracts. The Manitowoc policy is not part of a contract, but a unilateral position of the Board. The Outagamie contract supports the Association position, but Outagamie has never been used as a comparable.

Discussion. On the basis of language in the contracts of the primary comparable, the Association contract more nearly meets the criterion of comparability. Further, while there is a point in the Board's position of specifically stating reasons for non-renewal for administrative reasons, the language has the ambiguity about other causes of non-renewal. Further the arbitrator is of the opinion that the administrative reasons cited by the Board for non-renewal are subsumed under the term "just cause", so that the Board would not be compelled to keep on the roll more teachers than circumstances require.

The weight of this issue goes to the Association, then, on the grounds of comparability.

XIII. CHANGES DURING THE PROCEEDINGS.

The cost of living continues to rise during the pendency of the hearings. The Consumer Price Index, U.S. city average for all items for all urban consumers, stood at 260.5 in January 1981, a 11.7% increase over the previous year.

XIV. OTHER FACTORS.

The Board says that it is offering a new benefit on leaves of absence. This is a new proposal in which the Board assumes certain health and dental insurance premium liabilities based on the retiring teachers' accumulated sick leave. The Employer says that this is a new and unique benefit, of substantial benefit to the employees.

The Association objects to two items in the Employer's brief. The Association says that the Board never submitted any evidence to indicate that health insurance increased in cost from 1979-80 to 1980-81 by 9.98% and dental insurance by 19.88%, as complained in the Board's brief. The Employer never mentioned these items also in arbitration, and it is not proper then to introduce the evidence in a brief.

The Association also objects to the inclusion of a letter in the Board brief which discusses rates for a health maintenance program. The program is not in effect according to the Association, and the letter implies that such a program is in effect. This is highly misleading, it claims.

The arbitrator is not in a position to make a conclusive judgment on the character of the Board offer, either as to its comparability or value because of lack of supporting data. Generally, the offer constitutes a benefit to the Association, but the arbitrator, lacking the comparative data does not know how much weight to give it.

XV. SUMMARY.

The following summarizes the opinions and conclusions of the arbitrator in this matter:

1. There are no matters here involving the lawful authority of the Employer to meet either offer.

2. There is no issue of the ability of the unit of government to meet the cost of either offer.

3. The matter of the interests and welfare of the public is subsumed under other factors herein.

4. There is a primary list of comparable districts which include the feeder schools for the Board's school. Secondary comparables include the Outagamie and Manitowoc Handicapped Children's Education Boards. Comparison has been made by the Association with the Green Bay District only with respect to base salary changes, which is a useful comparison; neither party used it as a primary comparison district.

5. The arbitrator found it difficult to ascertain both the percentage increase in salary alone and the total cost of either offer because of data offered by the parties that could not be reconciled, and because neither party supplied complete information on total compensation. However, by extrapolation and comparing data, the arbitrator believes that the Association offer for salary alone would produce an increase of 10.01% and the Board offer about 8.25%. No similar data was supplied by either party for other systems.

6. The arbitrator, relying on information supplied on percentage increases in the base salaries, and on information developed from exhibits on salaries in the scheduled steps, concludes that the Board's offer tends to be low at the initial stages of the schedule, and that the Association offer does not advance the Brown County HCEB salary schedule excessively as against systems in the primary comparison list. It is the opinion then that the Association offer more nearly conforms to the statutory guideline of comparability.

7. The Board, with its fringe benefits, provides benefits comparative and perhaps superior to those in the primary list of comparative districts and conforms to the statutory guidelines on fringes given.

8. The Association offer more nearly conforms to the guidelines on the cost of living and changes during the pendency of the proceedings.

9. The Association offer on the renewal clause more nearly meets the test of comparability to the language of clauses in comparable districts. The Board clause has an element of ambiguity as to whether all cases of non-renewal are to be excluded.

10. An issue stated on retirement by both parties is expressed in the same proposed language, and the parties did not discuss it.

11. The most weighty factors are those of salary, changes in the cost of living, fringes, and the renewal clause. The weight in three of these factors, falling to the Association, the arbitrator holds that,

XVI. AWARD. The 1980-81 agreement between the Brown County Handicapped Children's Education Board and the Brown County Special Educators' Association should contain the offer of the Association.

Frank P. Zeidler
FRANK P. ZEIDLER
MEDIATOR/ARBITRATOR

DATE: March 23, 1981