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BEFORE THE MEDIATOR/ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

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In the Matter of the Stipulation :  
of :

MILWAUKEE BOARD OF SCHOOL :  
DIRECTORS :

and :

MILWAUKEE TEACHERS EDUCATION :  
ASSOCIATION :

to Initiate Mediation-Arbitration :  
between said parties :

Case CXXX  
No. 29120  
Med/Arb. 1516  
Decision No. 19337-A

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APPEARANCES: ANNE L. MEIER, Assistant City Attorney,  
appearing on behalf of the Board

RICHARD PERRY, Attorney, appearing on behalf  
of the Association

ARBITRATION AWARD

The Milwaukee Board of School Directors, hereinafter referred to as the Board, and the Milwaukee Teachers Education Association, hereinafter referred to as the Association, are parties to a Collective Bargaining Agreement for the period beginning on January 1, 1980 and extending to June 30, 1982. Said agreement contained salary schedules for all of the employees covered by said agreement for the period from January 1, 1980 through December 31, 1981. It also contained a reopener provision which stated in relevant part that "the salaries for the period January 1, 1982, to and including June 30, 1982, shall be negotiated under a reopener of the contract pursuant to 111.70(4)(cm), Wisconsin Statutes, including mediation/arbitration." Pursuant to the guidelines for negotiation of the reopener provision contained in said agreement, the parties entered into negotiations over the salaries for the period in question. On January 13, 1982, the parties filed a stipulation with the Wisconsin Employment Relations Commission (WERC) wherein they alleged that an impasse in the reopener negotiations existed and requested that the WERC initiate mediation/arbitration pursuant to Section 111.70(4)(cm)6 of the Wisconsin Statutes. The WERC investigated the dispute and, upon determination that there was an impasse which could not be resolved through mediation, certified the matter to mediation/arbitration. The parties selected the undersigned from a panel of mediator/arbitrators submitted to them by the WERC and the WERC issued an Order, dated February 9, 1982, appointing the undersigned as mediator/arbitrator. The undersigned endeavored to mediate the dispute on March 15, 1982, but mediation proved unsuccessful. By letter dated March 16, 1982, the undersigned notified the parties' representatives of his understanding that they were in agreement that a reasonable period of mediation had failed to produce an agreement and that neither party desired to withdraw its final offer. Said letter gave written notice of the undersigned's intent to arbitrate the dispute based on the parties' final offers filed with the WERC. The parties were also given notice of the hearing date previously agreed upon, April 29, 1982. At said hearing, the parties presented their evidence and a verbatim transcript of the hearing was prepared and received by the undersigned on May 11, 1982. Post-hearing briefs and reply briefs were filed and exchanged

by June 23, 1982. Full consideration has been given to the evidence and arguments presented in rendering the Award herein.

### I BACKGROUND

As noted in the introduction, the impasse herein arises out of reopened negotiations over the salary schedules to be in effect during the last six months of the agreement which began on January 1, 1980 and extended to June 30, 1982. It is particularly significant that this agreement was of 30 months duration but only included increases for the first two calendar years within said 30 month period.

Prior to entering into the current 30 month agreement, the parties had entered into agreements which were usually of a two year duration and always coincided with the calendar year. Because the District changed its fiscal year from one that coincided with the calendar year to one that coincided with the school year, it sought an agreement in 1980 which would expire in a way that coincided with the District's new fiscal year. It was apparently for this reason that the parties entered into the current 30 month contract. However, they were unable to agree on the salary increase that should be granted for the last six months of the contract and therefore included the reopener provision.

The Association represents numerous employees, other than classroom teachers, who are covered by the agreement herein. For this reason there are a number of salary schedules and salary rates contained in the agreement as appendixes. These schedules and rates are used for purposes of compensating the employees identified therein, as well as for other purposes under the terms of the agreement. They are as follows:

1. Appendix A, Salary Schedule for Teachers and Teacher-Librarians.
2. Appendix A, Salary Schedule for Community Recreation Specialist I.
3. Appendix D, Salary Schedule for School Social Workers.
4. Appendix F, Salary Rates for Activity Specialists.
5. Appendix L, Salary Schedule for Community Human Relations Coordinators, Human Relations Curriculum Developers, 200-Day PPRC Speech Pathologists and Team Managers.
6. Appendix E, Per Class Rates for Instrumental Music Teachers (Schedule "M").
7. Appendix G, Per Class Rates for Traveling Instrumental Music Teachers Salary Schedule.
8. Appendix B, Salary Rates for Interscholastics Athletics.
9. Appendix A, Hourly Rate for Part-time Certificated Teachers.
10. Appendix A, Salary Rate for Adjustment Class Teachers.
11. Appendix M, Salary Schedule for 12-month Speech Pathologists.

The schedules and rates which were in effect during the second year of the agreement (from January 1, 1981 through December 31,

1981), are as follows:

"APPENDIX 'A' - SALARY SCHEDULE FOR TEACHERS AND  
TEACHER-LIBRARIANS

JANUARY 1, 1981

	Minimum	Maximum	Service Increment
Division B (AB or equivalent)	\$12,181	\$23,302	\$608
Division BB (Div. B + 16 units)	12,453	23,930	624
Division C (MA or equivalent)	12,722	24,462	637
Division D (Div. C + 16 units)	12,966	25,046	651
Division E (Div. C + 32 units)	13,267	25,626	664
Division F (Div. C + 48 units)	13,540	26,207	678
Division G (Div. C + 64 units)	13,811	26,788	691
Division A (no degree)	11,912	22,639	595
Reserve Teachers	11,641	21,910	581

"SALARY SCHEDULE FOR COMMUNITY RECREATION SPECIALIST I

JANUARY 1, 1981

(195 or 200-day basis)

	Minimum	Maximum	Service Increment
Division B (AB or equivalent)	\$12,118	\$23,183	\$606
Division BB (Div. B + 16 units)	12,338	23,804	619
Division C (MA or equivalent)	12,657	24,335	632
Division D (Div. C + 16 units)	12,927	24,913	646
Division E (Div. C + 32 units)	13,199	25,491	659
Division F (Div. C + 48 units)	13,468	26,068	673
Division G (Div. C + 64 units)	13,740	26,646	686

"SALARY SCHEDULE FOR SCHOOL SOCIAL WORKERS, JANUARY 1, 1981

Minimum	Maximum	Increment
\$15,912	\$29,468	\$922

"ACTIVITY SPECIALISTS - JANUARY 1, 1981 SALARY ADJUSTMENTS

(240-day basis)

MINIMUM		MAXIMUM		INCREMENT	
Annual	Daily	Annual	Daily	Annual	Daily
\$10,502	\$43.76	\$15,499	\$64.58	\$377	\$1.57

"APPENDIX 'L' - SALARY SCHEDULE FOR COMMUNITY HUMAN RELATIONS  
COORDINATORS, HUMAN RELATIONS CURRICULUM DEVELOPERS, 200-DAY  
PPRC SPEECH PATHOLOGISTS AND TEAM MANAGERS

...

JANUARY 1, 1981

Minimum	Maximum	Increment
\$19,153	\$29,185	\$836

"RATES FOR INSTRUMENTAL MUSIC TEACHERS - SCHEDULE 'M'\*  
1981

Years of Experience

0	\$8.41 per class period (45 minutes)
1	\$8.75 per class period (45 minutes)
2	\$9.09 per class period (45 minutes)
3	\$9.43 per class period (45 minutes)
4	\$9.75 per class period (45 minutes)

5	\$10.10 per class period (45 minutes)
6	\$10.44 per class period (45 minutes)
7	\$10.76 per class period (45 minutes)

\*Rates apply to Milwaukee Public School Teachers.

"JANUARY 1, 1981 - TRAVELING INSTRUMENTAL MUSIC TEACHERS SALARY SCHEDULE

(Rate Per Class Instruction Hour)

Class A	\$12.80	Class J	\$9.75
Class B	12.45	Class K	9.43
Class C	12.11	Class L	9.09
Class D	11.79	Class M	8.75
Class E	11.44	Class N	8.41
Class F	11.12	Class O	8.09
Class G	10.76	Class P	7.74
Class H	10.44	Class Q	7.42
Class I	10.10		

Rates apply only to music teachers within certification.

"APPENDIX 'B' - INTERSCHOLASTICS ATHLETICS - JANUARY 1, 1981 - DECEMBER 31, 1981

SCHEDULE A

HEAD COACH IN:	\$1,649	\$1,911
Baseball		
Basketball		
Football		
Fymnastics		
Soccer		
Softball		
Swim		
Track		
Volleyball		
Wrestling		
HEAD COACH IN:	\$1,108	\$1,649
Cross Country		
Golf		
Tennis		
ATHLETIC DIRECTORS (Per Semester)	\$2,300	\$2,573
EQUIPMENT MANAGER (Per Semester)	\$1,649	\$1,911

"1981 PART-TIME (Certificated) \$10.49 per hour

"1981 ADJUSTMENT CLASS TEACHERS -- Certificated staff, who assume positions in special schools or designated classes for problem students established for the purpose of providing instructional programs for such students, shall be paid one thousand five hundred seventy six dollars (\$1,576) per year above their positions on the regular schedule at the regular hourly rate to compensate for required extended orientation and supervision. Any assigned noon-hour duty will be compensated at the established hourly rate for certificated personnel.

"APPENDIX 'M' - SALARY SCHEDULE FOR 12-MONTH SPEECH  
PATHOLOGISTS

JANUARY 1, 1980

Minimum	Maximum	Increment
\$22,192	\$33,814	\$967"

ASSOCIATION'S FINAL OFFER

The Association proposes to increase the above salary schedules and salary rates by 9.4% effective January 1, 1982. Thus, in the case of Appendix A, Salary Schedule for Teachers and Teacher-Librarians, the salary schedule having the greatest impact on the greatest number of employees, the Association would increase the minimum and maximum and service increment figures set out above by 9.4%. The minimums, maximums, and service increments in all of the other salary schedules set out above, would also be increased by 9.4% under the Association's final offer. The per class rates and per hour rates for instrumental music teachers, traveling instrumental music teachers, and part-time certificated teachers, would likewise be increased by 9.4% under the Association's offer. Finally, the total salary for adjustment class teachers would be increased by 9.4% from 1,576 to \$1,724 under the Association's proposal.

The Association's official final offer, which includes proposed changes in the wording to accomplish the intent of its final offer (i.e. that it apply during 1980), is attached hereto and marked as Appendix A.

BOARD'S FINAL OFFER

The Board proposes to increase the above salary schedules and salary rates by flat dollar amounts which, on average, equate to 4.75%. In computing the flat dollar sums, the District, in some instances, used a weighted average method and in other instances, used a simple arithmetic average method of computation. For example, in the case of the salary schedule for teachers and teacher-librarians (as well as the salary schedules for community recreation specialists; social workers, team managers, human relations coordinators, human relations curriculum developers, 200-day PPRC speech pathologists, and team managers; and activity specialists), the District first determined the total amount of compensation spent on teachers' base salaries for purposes of determining what a 1% increase in salary should amount to. That amount, \$1,061,241, was then divided by the number of positions, 4,896.8, to determine the dollar amount that a 1% increase would generate. That amount, \$216.72, was then allocated between the portion that was spent for increasing the wage rates, \$210, and the amount that had been spent to increase increments, \$6.51 (based on the Board's undisputed estimate that 62% of the bargaining unit was eligible for increments under the teacher and teacher-librarian salary schedule). By means of these calculations, a 4.75% increase in the basic wage rates would translate to \$998 (\$210 times 4.75) and the increase in the increments may be computed by taking 5% of the new minimum salary figures. The Board used the same basic method of computing the flat sum increases to be applied to the other salary schedules except that the Board used

actual eligibility for increments rather than estimated eligibility. According to the District's calculations, the salary schedule for community recreation specialists was adjusted \$964; the salary schedule for school social workers was adjusted by \$1240; the salary schedule for team managers, etc., was adjusted by \$1197; and the salary schedule for activity specialists was increased by \$727.

In the case of instrumental music teachers and traveling music teachers, the District took the average of the minimum and maximum rates set out above and multiplied said average by 4.75% to compute an average rate of increase of 46 cents and 48 cents per class.

In the case of the salary schedule for interscholastic athletics, the Board, in its official final offer, erroneously applied the 4.75% increase intended as its final offer against the salary schedule set out in the agreement for the period January 1, 1980 through December 31, 1980. The evidence presented at the hearing discloses that this error was inadvertent. Nevertheless, the Association rejected the Board's proposal that it be allowed to amend its final offer to correct this error and contends that the Board's introduction of evidence regarding the origin of this error constitutes an unlawful attempt to modify its final offer. The net result of this application of the 4.75% increase to the wrong salary schedule, resulted in proposed "increases", contained in the Board's official final offer which in all cases are a few dollars less than the actual salary received by head coaches and equipment managers. Thus, for example, head coaches will begin at \$1,645 or \$1,105 (depending on the sport in question) rather than \$1,649 or \$1,108 under the Board's proposal, as set out in its official final offer. After one year in said position, head coaches would earn \$1,906 or \$1,645 rather than \$1,911 or \$1,649, respectively.

Because the rate for part-time certificated teachers is a single rate, i.e. expressed in terms of \$10.49 per hour, the Board's offer would simply adjust the rate provided by 4.75%.

The Board's final offer contains no proposed salary schedule for 12 month PPRC speech pathologists because said 12 month positions have been eliminated by action of the Board. That action has been grieved by the Association but as of the date of the hearing herein, had not been heard by an arbitrator.

The Board in its official final offer, set out the salary schedules and salary rates which would be in effect during the last six months of the agreement but did not set out all of the language which accompanies those schedules and is contained in the existing Collective Bargaining Agreement. In some instances it would be necessary to change that language to effectuate the intent of the District that the salary schedules in question would be applicable in all respects during the period from January 1, 1982 through June 30, 1982. The Board's final offer is attached hereto and marked as Appendix B.

## II ASSOCIATION'S POSITION

Before setting forth its arguments, the Association describes the background with regard to the parties' establishment of their final offers. At a negotiations meeting held on December 8, 1981, which was attended by the WERC mediator, the Board's chief negotiator acknowledged that teacher settlements for the 1981-1982 school year were then running in the neighborhood of 11% on a cost basis. The Association reasons that if you subtract the cost of increments, 1.6%, the resulting figure that would be available for

across the board wage increases exclusive of increments, would be 9.4%. The Board's negotiator acknowledges that this discussion took place and testified that he understood that is where the Association derived its figure for proposing a 9.4% increase. It is significant, according to the Association, that the Board's proposed increase is based on a percentage figure approximately one-half of the 9.4% increase proposed by the Association. It is the Association's contention that the Board's proposed increase of 4.75%, while representing approximately one-half of an increase deemed comparable in December 1981, unfairly deprives employees of dollars in the pocket since the wage increase generated by the 4.75% increase will only be received for approximately 6 tenths of the school year. Further, because the Board's proposed increase has been converted to a flat dollar amount, the Association contends that it results in widely varying percentage increases within the various divisions on the salary schedules. Thus, for example, the annual salary increase in Division B on the teacher salary schedule, ranges from a high of 8.19% at the minimum level to a low of 4.28% at the maximum level. For teachers who would earn an increment during the period in question, which is possible since increments are granted on anniversary dates and not all teachers begin their employment in September, the percentage increase would be 5% greater, thus magnifying the range. Thirdly, the Association points out that the Board's offer is premised on a contention that it would be unfair to grant a 9.4% increase on an annualized basis for a six month period because it would produce a 9.4% "lift" which would form the basis for future bargaining. According to the Association, it is unfair to deprive employees of the dollar in the pocket benefits of a 9.4% increase merely because of the impact it may have on future bargaining.

#### COMPARABLES

The Association proposes two sets of comparables, one constituting primary comparables and the other secondary. The Association's primary set of comparables are all K-12 school districts within Milwaukee County and immediately bordering Milwaukee County. According to the Association, these districts are comparable because, with the exception of Racine, they all fall within the standard metropolitan statistical area consisting of Milwaukee, Ozaukee, Washington, and Waukesha Counties. These districts, according to the Association, must compete with one another for teachers and the teachers employed by these districts share the same economic conditions and compete for the same goods and services.

According to the Association, the Board's contention that Milwaukee is not comparable with these districts because it ranks 24th out of 25 when measured by full value of taxable property is without merit because the statewide general school aid formula is designed to offset such differences in property valuations. In this regard the Association points out that Milwaukee is number one among the districts in the amount of State aids per pupil that it receives.

The Association's secondary set of comparables consists of the seven largest urban school districts in the north central region of the Bureau of Labor Statistics. This grouping includes the Cities of Chicago, Cincinnati, Cleveland, Columbus, Detroit, Indianapolis, and Minneapolis. This group is comparable, according to the Association, because of their geographic location in relation to Milwaukee and their population size.

In support of its proposed comparables, the Association contends that the opinions of arbitrators, expressed at public meetings and in decisions, support its contention that the principal

consideration is geographic proximity, especially in the Milwaukee area, and that a secondary consideration is relative size. For this reason the Association contends the principal comparables should be those districts in closest proximity to the Milwaukee school system and that the secondary group of comparables, of necessity, are the larger school systems located outside of Wisconsin. The nine largest school systems other than Milwaukee, the group relied upon by the Board, is not comparable because of the great disparity in size, according to the Association. Further, the Association points out that only two of those district Racine and Waukesha, are in close proximity to Milwaukee. According to the Association, the cities outside of Wisconsin selected by the Board for purposes of comparison, are inappropriate because they exclude large cities in close proximity to Wisconsin such as Chicago and yet include cities at a considerable distance, i.e. Memphis, Tennessee and Boston, Massachusetts.

#### COMPARISON OF OFFERS

According to the Association, the Board's final offer changes the practice of providing the same percentage increases on the salary schedule and percentage increases to individual employees that has been followed in the past. According to the Association, from 1975 through 1982, a straight percentage increase has been used to improve the salary schedule for the employees in the bargaining unit. According to the Association, during the period from 1967 to 1974, increases were made in the base rates and applied throughout the schedules using an index. Thus, even when a flat dollar amount was added to the base, increases granted to teachers in higher steps of the salary schedule were larger than those received by employees in the lower steps of the salary schedule. According to the Association, the proposed flat dollar increase would change the existing salary schedule "structure" which is a product of many years of collective bargaining and would grant larger percentage increases to new employees and employees who were eligible to receive annual increments than to more senior employees and employees who were already at the maximum salary levels.

The Association also contends that its offer more closely reflects the patterns set by the comparable school districts. In this regard the Association points out that based on its calculations, the Association's final offer is \$63 on an average less than the comparables at 6 points on the salary schedule whereas the Board's final offer is \$529 less than the comparables at 6 points on the salary schedule on a school year basis. Similarly, it argues that its offer is one-half of one percent on an average less than the comparables at 6 points on the salary schedule whereas the Board's final offer provides an average of 2.67% less than the comparables at 6 points on the salary schedule on a school year basis. In terms of increases, the Association argues that between January and June the average increase of the comparables at 6 points on the salary schedule was \$1,022 and that its offer



regard the Association points out that the Board's offer "averages out to one-half in the increase in the cost-of-living" whereas the Association's offer reflects exactly the cost-of-living as measured by said index.

#### OTHER SETTLEMENTS

The Association contends that its offer is consistent with settlements entered into with other employees generally in public employment in the same community and in comparable communities. According to data supplied by the Association, comparable teacher settlements during the 1981-82 school year have averaged 9.46%. Further, the Association points out that even the Board's chief negotiator admitted in December 1981 that teacher settlements were then in a range which would generate a 9.4% increase in this district.

The Association goes on to point out that its research shows that numerous cities and villages entered into wage settlements for 1981 and for 1982 in a range that would appear to justify the Association's proposed 9.4% increase. Further, the Association points out that the increases granted to other employees of the Board for 1981 and for 1982 range between a low of 6.5 for administrators and a high of 9% for engineers, with an average increase among the bargaining units of 8.49%. The total average increase among comparable municipalities and board employees is 9.09%, according to the Association's figures. The Association contends that its offer which would grant the average teacher an increase of 9.4%, is more reasonable than the Board's offer, which, according to the Association, would only generate an increase of 4.6% for the average teacher who earns \$21,700 per year.

#### INTEREST AND WELFARE OF THE PUBLIC

According to the Association, its offer is more in line with the interest and welfare of the public because the Board's offer is inherently destructive of the morale of senior employees. The Association points out that the Board disallowed any intention to raise the issue of financial ability to pay and declined to offer any exhibits with regard to said issue. Thus, according to the Association, it must be assumed that the Board has the financial ability to pay the wage improvements sought by the Association and therefore the public interest and welfare would best be served by selection of its offer.

#### ALLEGED PROBLEMS AND ERRORS IN THE FINAL OFFERS

The Association contends that there are a number of problems and errors contained within the Board's final offer. In addition, it acknowledges that there are two "typographical" errors in its offer.

According to the Association, the Board's use of an arithmetic average for purposes of computing the flat sum increases on the salary schedules for instrumental music teachers and traveling instrumental music teachers, is unfair. According to the Association, it is possible that the actual average wage rate earned by employees under these schedules may, in fact, exceed the arithmetic average. If this is in fact true, said employees would receive less than a 4.75% increase under the Board's offer.

The Association also points out that the Board's offer contains no proposed salary for 12 month PPRC speech pathologists. While there are no such employees currently employed, the Association points out that it has filed a grievance which, inter alia, seeks restoration of those positions. Thus, according to the

Association, if it prevails in its grievance, the Board will provide no salary increase for said employees.

The Association also contends that the Board's final offer provides for no advancement on the salary schedule for traveling music teachers because of the omission of a proposal to change the language of the agreement which currently states "In January 1980 and January 1981, each employee shall be advanced one step on the salary schedule." The Association notes that its final offer contains a proposed change in this wording so that employees will be advanced one step on the salary schedule as of January 1982.

The Association points out that the Board's proposed final offer would not increase the maximum amount that interim learning program teachers (adjustment class teachers) can earn per year. It notes that in prior years the parties have agreed to increase the maximum yearly amount that said employees can earn even though their hourly rate increases under the terms of the agreement when the salary schedule is adjusted. Thus, according to the Association, the Board's proposal deviates from this prior practice.

The Association also points out that the Board's interscholastic athletic salary schedule was computed by applying the 4.75% figure to the 1980 interscholastic athletic salary schedule rather than the 1981 salary schedule. The affect of this error, as pointed out above, is that the employees in question will, in most instances, receive a few dollars less per year during 1982 than they did during 1981.

The two typographical errors contained within the Association's final offer are both related to the increments set out in two of the salary schedules in its final offer. The increment for Division C of the Teacher and Teacher-Librarian salary schedule should have been \$396 rather than \$395, as set out in the Association's final offer. The increment for 200-day employees under Appendix L, should have been \$915 rather than \$918, as set out in the Association's final offer. According to the Association, the first error would affect approximately 1,000 employees and would result in a savings to the Board of \$1,000. The second error, according to the Association, would affect approximately 100 employees and would cost the Board approximately \$300.

#### REPLY TO BOARD ARGUMENTS

In response to arguments made by the Board, the Association points out that the Board failed to show any school district where wage increase as low as 4.75% had been agreed to. On the contrary, the Association contends that the evidence demonstrates that other teacher settlements in Wisconsin and elsewhere have run consistently in excess of 9%.

According to the Association, the Board ignored geographic proximity in selecting its Wisconsin comparable districts and did not use objective criteria in selecting its non-Wisconsin comparables. Thus, the Board's proposal to use the ten largest school districts in Wisconsin and utilize the non-Wisconsin comparables which are included in both lists of proposed comparables, should be rejected.

The Association contends that the Board has failed to provide the arbitrator with complete consistent comparisons utilizing the school districts which it has selected and therefore the Association has, for purposes of argument, constructed such comparisons. In so doing, the Association used the five points of comparison which the Board refers to in its arguments, focused on a comparison of the actual dollars received based on the salary schedules actually

in effect between January 1, 1981 and January 30, 1981 and January 1, 1982 and January 30, 1982, and utilized a combined list of the non-Wisconsin comparables along with the Wisconsin comparables proposed by the Board. The Association compares this combined group in terms of historical ranking, dollar amount increases, and percentage increases. According to the Association, its analysis should demonstrate that on all three bases of comparison the Association's offer is clearly superior to that of the Board.

Similarly, for purposes of argument, the Association constructed a comparison of the districts relied upon by the Association based on the six-month, dollar amount comparison allegedly relied upon by the Board. According to these reconstructed arguments, the Association contends that when compared on the basis of historical ranking, dollar amount increases, and percentage increases, its final offer is superior to the Board's final offer.

The Association takes issue with the Board's reference to "the ability to pay" in its arguments in view of the fact that it expressly waived any intention to raise said argument. Further, the Association accuses the Board of evidencing a "base mentality" when it accuses the teachers of "gorging themselves at the public trough" in its brief.

The Association contends that the Board erroneously seeks to take in consideration changes in the cost of living since December 31, 1981. According to the Association, there is a general consensus among arbitrators that the cost of living increase during the period immediately preceding an agreement is the most relevant. In this respect, the Association agrees with the Board's figures on the cost of living for calendar 1981, which differed from those utilized by the Association because of differences in the time period and locale of the measurements. On this basis, the Association argues that cost of living figures used by the Board lend greater support to its proposal than did the figures used by the Association.

Finally, the Association argues that the Board has erroneously interpreted the data presented by the Association, specifically that related to the percentage increase that would be generated between January and June under the Board's offer. According to the Association, its limited purpose in developing these figures was for purposes of comparison between the two offers. The Association has not attempted to show a "annualization of a six-month rate" by presenting these figures and the Association agrees that its annualized rate is 9.4%.

### III BOARD'S POSITION

According to the Board, the evidence establishes that the District's offer is the more reasonable of the two offers presented based upon the salaries of teachers in comparables communities,

the non-Wisconsin comparables which are common to both proposed groupings should be given consideration by the arbitrator.

The Board acknowledges that the City of Milwaukee is unique among Wisconsin communities. It is a great urban center and is the only truly urban community within the State. Based on its size alone (as measured by student enrollment), it is almost four times larger than the next largest school system, Madison.

According to the Board, even though the statute does not offer any criteria for the purpose of selecting comparables, it is generally recognized that size, wealth, proximity, and the attitudes of the electorate within communities have an appropriate bearing on the selection of comparables. On the question of size, the Board notes that its proposed Wisconsin comparables range from a low of 9,035 students in Sheboygan to a high of 23,207 students in Madison. On the other hand, the Association's proposed list of comparables, with the exception of Racine which is on both lists, has a range of student enrollment from a low of 1,225 in St. Francis to a high of 8,167 in West Allis/West Milwaukee. According to the Board, the Association's list of Wisconsin comparables is not even remotely similar to the City of Milwaukee in terms of size since, in some cases, the Milwaukee school system is as much as 70 times larger than the districts relied upon by the Association.

These differences in size are significant for a number of reasons related to the variety of educational programs, diversity of curriculum, the existence of special educational programs, the homogeneous nature of the populations in small suburban communities, and the complexity of problems confronted by a large urban school system related to problems such as transportation and integration. Therefore, according to the Board, utilizing the nine largest school systems in Wisconsin outside of Milwaukee, based on the size criteria alone, would not result in a true comparable grouping. However, based on size, the Board argues that its proposed grouping is far more comparable than the grouping relied upon by the Association.

Utilizing the criteria of wealth, the Board argues that its proposed grouping is far more comparable based on an analysis of the equalized valuation data. The per pupil valuation among the comparables relied upon by the Association, ranges from a low of \$106,487 in the community of Racine (which is in the Board's list of comparables) to a high of \$273,294 in the community of Wauwatosa. Milwaukee ranks last among this group with a per pupil valuation for 1981-1982 of \$122,284. On the other hand, the ten largest school districts within the State of Wisconsin, relied upon by the Board, have a per pupil valuation ranging from \$100,162 in Kenosha to \$150,930 in Madison. Milwaukee was 6% below the average of this group; whereas Milwaukee was 36% below the average of the group relied upon by the Association. The phenomenon of wealthy suburban communities developing around a large urban center is not unique to Milwaukee, according to the Board. Based on this criteria, the Board again argues that Milwaukee is unique and not comparable to the suburban community school systems relied on by the Association.

With regard to the criteria of proximity, the Board notes that all of the Association's proposed comparables are located within a 50 mile radius of the City of Milwaukee. However, it argues that the labor market pool for professional employees probably extends well beyond the normal 50 mile radius relied upon by many arbitrators. Further, the Board notes that three of the districts on its list of comparables are within commuting distance of the City of Milwaukee. In addition, the Board argues that the proximity criteria is not as important in the case of a large urban school system like Milwaukee since Milwaukee frequently recruits nationwide, particularly when seeking specialized teachers. Finally, the Board points out in this

regard that in a period of declining enrollment, the ability to hire qualified teachers in a given labor market, should take on less importance. This is particularly true, according to the Board, in view of the vast disparities in size and wealth that would exist between the two groupings in question.

With regard to the attitudes of the electorate, the Board maintains that the population of the large urban center has a vastly different political climate than the small suburban populations which surround it. Small suburban communities frequently express a desire to have the best possible educational system that they can afford, based upon their relative means; whereas the population of large urban centers, such as the City of Milwaukee, are more prone to the attitudes that exist in the other larger communities in Wisconsin.

The Board notes that in certain arbitration awards involving suburban communities surrounding Milwaukee, the arbitrators and parties have all agreed that other communities in the Milwaukee area, other than the City of Milwaukee itself, were comparable. According to the Board, this is perhaps the strongest evidence that the City of Milwaukee itself is unique and is not truly comparable to the suburban communities surrounding it. In summary, the Board argues that while the criteria of proximity is best met by the school districts offered by the Association, the criteria of size, wealth, and community attitude are best met by the list offered by the Board. The list offered by the Association does not remotely compare with the City of Milwaukee because of the disparities of size, wealth, and electoral attitudes.

With regard to the non-Wisconsin comparables proposed by the Board and the Association, the Board suggests that Chicago, because of its sheer size, should be rejected but that all of the other cities which are included on both groupings should be considered for purposes of comparability.

#### COMPARISON OF OFFERS

The Board points out that its offer, in addition to providing the equivalent of a 4.75% increase in the form of a flat dollar sum on the salary schedules and on the salary rates and hourly rates, provides for the continuation of the 5% incremental increases which amount to a 1.62% value and an increase in the pick up of health insurance costs, which amounts to a .9% value. Thus, according to the Board, the total compensation increase for the six month period is 7.26% rather than 4.75%. If the Association's proposed 9.4% increase has added to it the 1.62% value of the increase in increments and the .9% value of the increase in the pick up on health insurance, the result is a total average compensation increase of 11.92% for the six month period.

The Board disputes the Association's suggestion that its method of computing the wage increase has changed the basic salary structure. On the contrary, according to the Board, its final offer still provides for a minimum and maximum salary for each educational range and a 5% dollar value increment. The only impact of its proposed method of computing increases is to reduce the amount of time that would be required to move within the ranges provided with 5% increments. The Board acknowledges that the Association's proposal would maintain a 2.20 index ratio for the entire salary schedule but notes that its proposal would only reduce the ratio to 2.11. The Board contends that other data shows that this reduction makes the Board's proposal more comparable to other school districts in its list of comparables.

In attempting to make comparisons, the Board points out that the period in dispute herein is a six month period from January 1, 1982 to June 30, 1982 and that no comparable school districts

among those offered by the Board or the Association, have negotiated salary increases for that same six month period. All of the proposed comparables, with the exception of Green Bay, have salary schedules that were negotiated for the entire school year, 1981-1982. According to the Board, this critical fact severely limits the drawing of meaningful comparisons.

Secondly, the Board points out in this regard that no meaningful comparison percentages can be drawn between a wage increase for a six month period and wage increases for a one year period. The Board acknowledges that you can draw analogies to the actual salaries received by the employees in question within the six month period or the actual dollars received within that period but contends that a percentage analysis is not possible. Thus, the only meaningful way to make comparisons between school districts is to compare the actual total dollars received during the six month period or to compare the salary schedule which will be the comparable benchmark for future negotiations commencing in July of 1982. The dollar value increases for the six months are not a meaningful source of comparison because no other school districts received dollar increases for that particular period.

For these reasons, the Board has chosen to compare the actual salaries contained on the salary schedules of the comparable school districts it relies upon. Based on a comparison of five points on the salary schedule (BA minimum, BA maximum, MA minimum, MA maximum, and schedule maximum) the Board contends that it compares favorably and that its offer would not adversely affect its relative position. For example, at the BA minimum the District's offer maintains Milwaukee's rank whereas the Association's offer would improve its rank. At the BA maximum both offers maintain Milwaukee's rank of one; at the MA minimum the District's offer retains Milwaukee's rank of ten whereas the Association's offer seeks to improve Milwaukee's rank to eight; at the MA maximum both offers maintain the Milwaukee rank of one; and at the schedule maximum the District's offer would decrease Milwaukee's rank by one whereas the Association's offer would maintain its rank by one. Overall, the Association's proposal would deviate the District's relative rank by three levels whereas the Board's offer would only cause a deviation of one position.

According to the Board, interest arbitrators have acknowledged that arbitration is not a means by which one improves its relative position among the comparable school districts if a history of voluntary settlements has achieved a mutually agreeable placement. Here the parties have established a relationship to the other school districts in question, which includes a relatively low MA minimum step and that pattern should not be disturbed. The Board contends that the low minimum step for a masters degree may well be justified in view of the fact that the District does not actually require that a teacher earn a masters degree and has a liberal policy with regard to the substitution of other credits for graduate level courses. This same factor should, according to the District, be taken into account in evaluating all of the higher levels of compensation in the existing salary schedule. On the other hand, the proposed reduction in the ratio between the minimum and maximum on the salary schedule from the existing 2.20% to the Board's ratio of 2.11%, would appear to be justified for these same reasons. Three of the other school districts used as comparables require the attainment of a PhD to achieve the maximum salary provided on the schedule and the average maximum to minimum ratio on the other schedules is 1.98%.

The Board argues that it is unreasonable to maintain Milwaukee teachers at 11.3% and 12.7% higher than the average of other

similarly situated teachers (at the MA maximum and schedule maximum), when the qualifications to achieve those salaries are not nearly as stringent. According to the Board, its offer somewhat reduces this gap but at the same time maintains Milwaukee's rank among the most highly compensated teachers in the group. Further, it points out that this change has the effect of reducing the amount of time that it takes for a teacher to proceed from minimum to the maximum on the salary schedule while maintaining a ratio that is higher than any of the other districts in its list of comparables.

With regard to the non-Wisconsin comparable grouping, the Board has compared the same five points on the salary schedule. According to the Board, that data shows that the District's offer maintains its rank within the top three school districts, with the exception of the MA minimum column, where Milwaukee ranks sixth out of eleven. The Board contends that its offer also compares favorably with relation to the minimum and maximum salary paid to teachers within this grouping of school districts. The average maximum to minimum ratio among these school districts is 2.08. The District's final offer, which would result in a 2.11 ratio, would mean that its ratio is more comparable to the average non-Wisconsin districts.

The Board notes that the Association has offered no comparability data to support its requested increases for the salary schedules and salary rates that apply to non-teaching positions. It points out in this regard, that its proposed part-time certificated rate of \$10.99 per hour is in excess of any of the other hourly rates paid by districts which compensate employees on an hourly basis among its group of comparables. Its comparison of the salary ranges for social workers in the other school systems relied upon by the Board demonstrate, according to the Board, that its offer would maintain its position near the top whereas the Association's offer is unreasonably in excess of that currently provided in other school districts.

On the question of coaching salaries, the District points out that the evidence establishes that both parties were fully aware that it was the District's intention to apply a 4.75% increase to the salary rates set out in the 1981 salary schedules for coaches. Further, that evidence demonstrates that an error was made in the computation of the 4.75% increase when the old 1980 salary schedule was utilized rather than the new 1981 salary schedule. While the Association argues that this error cannot be corrected because it would constitute a unilateral modification of the Board's final offer, the Board submits that it can be corrected by the arbitrator since the error is of a purely clerical nature. According to the Board, the Association's refusal to allow the Board to correct this clerical error is motivated by a desire to capitalize on the Board's mistake at the expense of the teachers affected thereby. For this reason the Board contends that the Association is not in a position to complain that the Board's proposal on coaching salaries is unreasonable because it reduces salaries since it has refused to allow the Board to correct this clerical error.

However, even if it is determined that the arbitrator does not have the authority to allow the correction requested, the District contends that its offer compares favorably with the coaches salaries provided in the other nine districts utilized for comparison purposes. Thus, even if one utilizes the incorrect figures, Milwaukee coaches will continue to be the highest paid coaches in the State in all areas with the exception of basketball where it will rank fourth. On the other hand, according to the Board, the Association's offer far exceeds the amount necessary to maintain Milwaukee's status as first in the State and therefore the District's offer is the more reasonable, regardless of whether the arbitrator "corrects" its offer.

## INTERESTS AND WELFARE OF THE PUBLIC

The Board acknowledges that attempting to assign a value to the services offered by the public sector, is a difficult process. There are two major differences between the public sector and the private sector in this regard. First, the consumer has no choice but to pay for the services, even if he does not choose to utilize them. Second, the public sector "vendor" does not have a choice of staying in business or going out of business.

According to the Board, the arbitrator has the difficult task of weighing the interests of the public and their ability and willingness to pay for the services in question and the interest of the employees from whom those services are "purchased." In this regard, the Board points out that it is not attempting to raise the technical legal argument of ability to pay, but asserts that the issue that must be addressed in this case relates to the interests and welfare of the public because of the relative reasonableness or unreasonableness of the final offers. According to the Board, the offer of the Association is simply so exorbitant as to be against the interests of the public. According to the Board, the Association proposes a percentage increase for a six month period that "in recent times would have been a handsome package for a full year." In this regard, a review of the current economic climate mandates rejection of the Association's final offer.

As a statistical measure of the "ability of the public to pay for services" the Board argues that the dramatic increase in the number of delinquent real estate tax accounts in Milwaukee, the recent downgrading of the rating on general obligation debt instruments from triple A to AA+, and the high and increasing unemployment rate (8.7% in March 1982), should all be taken into account. According to the Board, these statistics show that both public and private employers in Milwaukee are suffering from one of the most severe economic declines in years. Further, the Board refers to news articles recounting evidence that on a national level, businesses are failing at a "epidemic rate." According to the Board, public sector employees cannot ignore the reality of these facts; and arbitrators, who determine the cost of services to be born by the public, cannot ignore them either. It states "while both consumers and businesses in the general public are tightening their belts, public employees cannot continue to gorge themselves at the public trough." In light of this "stark reality" the Board argues that it is unreasonable for the Association to ask for and be awarded an increase of 9.4% in salary only and 12.81% in compensation for a period of six months. It contends that its offer of an increase in compensation worth 7.26% is "stretching the bounds of unreasonableness in light of the current economic climate."

## COST OF LIVING

First of all, the Board points out that its evidence in the form of Consumer Price Index statistics, is offered merely as one statistical indication of the impact of the cost of living. However, the Board argues that the Consumer Price Index has limitations with respect to its accuracy, particularly with regard to home owner costs and the cost of medical care. Since most employees already own a home and all employees are covered by full medical coverage, these components tend to distort the true measure of the cost of living, according to the Board. While the evidence introduced by the Association demonstrates that the rate of inflation for the year 1981 was 11.4% under the category of "all urban consumers" and 11.2% under the category



of urban wage earners and clerical workers," the Board points out that these figures represent an increase in the cost of living for a 12 month period and do not accurately give a picture of the six months immediately preceding the reopener. During that period, the rate of inflation was 4.3%, according to statistics introduced by the Board. Further, the Board points out that the inflation rate for the first quarter of 1982 was .4% and argues that if that rate of inflation continued for the second quarter covered by the six month reopener, the rate of inflation would only amount to .8% during the period in question. Thus, according to the Board, whether the cost of living is measured by the six month period immediately preceding the reopener or by the period since the reopener, the Board's offer is clearly more reasonable than the Association's.

#### ALLEGED STATISTICAL ERRORS

The Board argues that the Association's exhibits contain serious statistical errors which nullify their value in this case. First, the Board points out that in Association's Exhibit No. 2, it attempted to portray the differences between the dollar increase and percentage increase contained in the two final offers. In particular, the column entitled MTEA percent increase, January to June, was based on a basic mathematical error, i.e. the annualization of a six month rate. In other words, according to the Board, the Association has divided a six month numerator by a twelve month denominator. This produces percentage increases which are meaningless and misleading. Instead of taking the 9.4% increase proposed by the Association and multiplying it by .6, it should have been divided by .6, which would then produce an annualized figure of 15.7%.

Secondly, the Board finds serious fault with the Association's methodology of annualizing the salaries used for comparison purposes. The Association took .6 of the annualized salary for the period of January through June and added it to .4 of the salary effective for the prior January to December. Then, throughout the balance of its exhibits, the Association has used these annualized figures for purposes of comparison. According to the Board, this methodology is completely misleading since the period of this dispute is for the period of January to June 1982.

The use of such annualized salary for comparison purposes cannot be allowed, according to the Board. First of all, the use of annualized salary in this manner combines negotiating periods. By combining the two periods the value of the final offers for the critical period in dispute is thus completely obscured. The use of annualized salaries for the combined negotiating periods either dilutes or enhances the value of the January to June package, according to the relative strength or weakness of the September to December salaries. This leavening process obscures the real merits of the package for the six months in dispute. This is, in fact, what has happened here, according to the Board. Milwaukee naturally compared less favorably with other school districts in the September to December period because it was in the last half of a contract while the districts being compared all negotiated raises effective September of 1981.

For these reasons, all of the exhibits utilized by the Association, are thus "fatally flawed." The tables, averages, ranks and resulting comparisons that are drawn in these documents are, according to the Board, unreliable and misleading. Using its own list of comparables and comparing the Association's method of computation with the actual salary received method of computation advocated by the Board, the Board argues that the misleading nature of the Association's method is clearly demonstrated. The relative rank of the District based on the

Association method of comparison, is substantially less than that which is demonstrated by the Board's method of computation. According to the Board, this statistical exercise demonstrates that precision of statistical logic is vital to a fair comparison of the quality of each final offer. Unless the actual six month period in question is compared, the true merit of each party's final offer is obscured.

#### REPLY TO ASSOCIATION ARGUMENTS

The Board points out that the Association relies heavily on its argument that a 9.4% increase would be consistent with the increases received by teachers in communities which it deems comparable. The Board points out that there is a "basic flaw" in this argument since the percentage increases granted were for an annual period and are not comparable to the percentage increase that should be awarded for a six month period. The Board states that it cannot be stated too strongly that the period in dispute in the instant case is six months, a transitional period to move the parties from a calendar year contract to a fiscal year contract. For purposes of illustration, the Board cites the example of two employees, one of whom receives a 9.4% increase as an annual settlement, and the other of whom receives a 9.4% increase for a six-month period followed by a similar increase thereafter for an annual period. The first employee at the end of the year will receive a simple 9.4% increase in wages. The second employee, at the end of one year, will have received the compounded sum of \$119.68 for every \$100 of salary. The actual increase in wages during the 12-month period for the second employee would amount to 14.54%. According to the Board, this example shows the fallacy of comparing a six month percentage increase to annual percentage increases and it also shows the value of a six-month reopener in terms of the "lift" it gives the affected employee.

With regard to the Association's reliance on the comments of the Board's negotiator with regard to percentage increases in other districts, the Board points out, in addition to the fact that this is a six-month reopener, that the trends of inflation and economic outlook have changed drastically since December 1981. For these reasons, the Board contends that its offer should appear to be all the more reasonable at this point in time.

On the question of cost of living, the Board takes the position that the most appropriate period to consider for evaluating the impact of the changes in the cost of living, is the period from January through June of 1982. This is so because the most relevant question is whether the increase received will permit the employee to keep pace with increases in the cost of living. Based on the latest data available at the time the reply briefs were filed, the projected rate of increase in the cost of living as measured by a CPI amounted to 1.2%, according to the Board. The Board acknowledges that some arbitrators have found that the most relevant period for purposes of considering the cost of living increase, is the period immediately preceding the agreement. It argues that only the six-month period immediately preceding the reopener should be taken into account if this approach is followed.

According to the Board, when the Association's exhibits are purged of their "annualization flaw" they strongly support the selection of the Board's final offer. Based on a reconstruction of Association exhibits for purposes of argument, the Board contends that a substantially different picture is

portrayed. While those reconstructed exhibits show a change in rank under both final offers, it argues that the Association's final offer would cause more changes in rank than would the Board's final offer.

Notwithstanding its contention that its relative rank within the suburban school districts relied upon by the Association would not be seriously affected by the Board's final offer, the Board reasserts its contention that the suburban school districts relied upon by the Association are not comparable and should not be considered primarily relevant to this dispute. According to the Board, the Association attempts to dismiss the absence of comparability due to size by substituting a second group of comparables which are more comparable in size. According to the District, it does not make sense to contend that Milwaukee suburban school districts can be rendered appropriately comparable on the basis of size by adding additional school districts which are more comparable in size. Further, the Board argues that the Association's effort to dismiss the criteria of wealth because of the existence of the State aid formula must fail because the evidence demonstrates that a large portion of the State aids provided to Milwaukee are for the purpose of meeting the high cost of special education programs necessary in a large urban system. In addition, approximately 11% to 12% of the State aids available are earmarked for transportation and program costs necessary to meet the intra-district integration requirements. The Association's reliance on public comments of other arbitrators and comments contained within other arbitration awards is, according to the Board, misplaced. According to the Board, the Association misinterprets the meaning of those comments and "ignores the fundamental facts of urban politics and finance which are well known to students of those areas."

The Board takes issue with the Association's contention that its offer is contrary to "a traditional pattern of settlement increases" or that it "destroys the traditional salary structure." In this regard, the Board points out that the salary structure which existed in the period from January 1, 1980 through December 31, 1981, is the same salary structure that will exist under either final offer. Minimums and maximums are continued and 5% service increments are continued. The Board's use of a dollar amount did not alter the fundamental salary structure.

According to the Board, the testimony of its chief negotiator completely refutes the Association's arguments that the parties have in the past established a "traditional method of percentage increases." That testimony, according to the Board, shows that over a period of years the parties have chosen a number of different ways to address the dollar increases to be contained in the new salary schedule. Those dollar amounts have sometimes been arrived at on a percentage basis and sometimes by a flat dollar basis, sometimes freezing the minimum and expanding the maximum. In this regard, the Board argues that its proposed method for computing the raises to be granted during the six months in question has the beneficial effect of allowing an employee to progress through the salary schedule at a faster rate. This is more in line with comparable school districts and improves the recruiting level of salaries, a factor that was necessary in light of the fact that the BA minimum was in need of improvement by all comparisons.

With reference to the Association's claim that the Board's final offer contains a number of problems and errors, the Board argues as follows: the use of an arithmetic average of the rates contained in the salary schedules for music teachers was

necessary because the Board had no record of exactly how many individual teachers worked how many hours at the various rates; the omission of wage rates for PPRC speech pathologists was due to the fact that the Board does not currently employ any such employees and if an arbitrator were to award reinstatement of said positions, provision for interim salary increases could be included as part of such an award; the Association's assertion that the Board's offer provides no incremental increases for traveling music teachers, is erroneous since the Board's offer specifically states that "increases indicated by the preceding schedule shall be effective January 1, 1982" and there is nothing to indicate that the Board's offer was intended to eliminate the practice of granting regular class increases on January 1; the failure to increase the maximum dollar amount for interim learning program teachers or adjustment class teachers, will have no impact on their rate of pay since the contract already provides that they shall be compensated at the "regular hourly rate" which is clearly a function of the regular teachers' schedule; and the Association's effort to "belittle" the Board's final offer as a result of the clerical error involving the interscholastic athletic salary schedule, is based on a misstatement of the clear intent of both parties at the time the final offers were finalized.

Finally, in response to the Association's contention that its offer is more in line with the interest and welfare of the public, the Board argues that the Association seems to be saying that so long as the Board has the ability to finance the cost of a higher offer, a higher offer must therefore be in the interest and welfare of the public. While the Board acknowledges that the public has an interest in maintaining salaries which will attract and keep qualified teachers, it contends the Association's argument would ignore the public's interest in maintaining quality in the present programs and long term fiscal integrity for the school system.

#### IV DISCUSSION

Before evaluating the parties' final offers in light of the evidence, arguments, and statutory criteria, the issues raised regarding their content and the meaning of their content, should first be resolved. While these issues do not have a significant impact on the outcome of this proceeding, resolution of these issues is required for purposes of evaluating the offers and implementing the offer selected.

There is no showing in the record herein that the Board's use of an arithmetic average in the case of the salary schedules which will apply to music teachers had an actual adverse impact on the wage rates thereby established. The Association's argument in this regard must therefore be deemed in the realm of speculation. It is equally as possible that the use of an arithmetic average will accrue to the benefit of said teachers.

The Board's failure to propose a wage rate increase for 12-month speech pathologists is consistent with its action in eliminating said positions. Had the Board proposed a wage increase for said employees, it arguably would have prejudiced its position in the grievance arbitration involving said positions. Because the Board has argued in this proceeding that the grievance arbitrator would have the authority to award such increases as part of his or her general remedial powers it would hardly be in a position to argue to the contrary in said proceeding. However, if the Association is concerned that the Board might take a contrary position in that proceeding, it can, if it wishes, deal with the problem as part of the current negotiations for a successor agreement to the instant agreement.

The Association's claim that the Board's offer does not

provide for step increases in 1982 for traveling instrumental music teachers, would appear to be without merit. Comparing the existing contract provisions with the District's final offer which includes a statement to the effect that the increases indicated by the preceding schedules shall be effective January 1, 1982, leaves little doubt that step increases were intended to be continued as in the past. If this were not the case, there would be little reason to propose the continuation of the salary schedule. The Board could simply have proposed that all existing employees receive the cents per hour increase of the computed amount. Further, had the Board intended to change the existing practice, it would have had to propose such a change specifically in order to avoid this obvious inference. While clarity in final offers is always to be preferred <sup>1/</sup>common sense must be utilized when interpreting final offers.<sup>2/</sup>

It is true that the Board did not propose to increase the total amount of pay that may be received by interim learning program teachers and the record would indicate that such failure to propose an increase was not inadvertent. However, in the view of the undersigned, this does not seriously detract from the Board's offer since the provision in question continues to provide that said employees shall be compensated at the regular hourly rate on the regular salary schedule. That rate will increase under the Board's proposal on the regular salary schedule. Thus, since under the existing language the Board has the authority to determine how many hours an employee may work and be compensated for under this provision, its failure to increase the maximum is not deemed significant. Employees will still be compensated as in the past under this provision.

As noted above, the Board's offer for compensating coaches and equipment managers in its interscholastic program, does not provide for a wage increase, and, in fact, provides for a slight wage decrease. Contrary to the Board's assertion, the undersigned believes that he lacks the authority to change the content of the Board's final offer even though the undisputed evidence discloses that this proposal is the result of an inadvertent clerical error and both parties knew and understood that the Board's offer was intended to grant a 4.75% increase to the employees compensated under this schedule. Given the Association's refusal to allow the Board to change its final offer to correct this error, the only way this error could have been corrected would have been for the Board to request a reopening of the investigation herein. Such a request, if granted, probably would have caused a considerable delay in these proceedings. Given these circumstances and the fact that the error only affects a few people and is correctable in the next round of negotiations, the undersigned does not believe that this error should be deemed to seriously detract from the overall reasonableness of the Board's offer.

The two computational errors contained within the Association's offer would likewise not appear to have a serious impact on the relative reasonableness of its offer.

The undersigned believes that the Board is correct with regard to two important arguments related to the uniqueness of these negotiations. First of all, Milwaukee is unique among Wisconsin municipalities. For this reason alone there is good reason to question comparisons to the small suburban school systems relied upon by the Association even though the salary level paid teachers

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1. See Racine County (17196-B) February 8, 1980.

2. Cf. City of Manitowoc v. Manitowoc Police 70 Wis. 2d 1006, 1112-1113 (1975).

in those systems undoubtedly has some relevance in terms of the labor market. One need only peruse the Association's agreement with the Board to appreciate its uniqueness among these possible comparisons.

As the Board points out, there is, for this reason, some utility in comparing the wages, hours, and working conditions established in Milwaukee to other urban school systems in Wisconsin. While those systems may or may not hold a leadership position in the wages established under their agreements, the impact of the wages, hours and working conditions contained in those agreements is undoubtedly great on surrounding school systems and on the school systems in other urban centers. All of the systems relied upon by the Board operate under the same Collective Bargaining Laws, which include the same impasse procedures. For this reason, comparisons to school systems outside the State of Wisconsin are also of questionable utility.

Finally, when reviewing proposed wage increases alone, comparisons to wage increases granted and taxes imposed by the other major taxing authorities in the greater Milwaukee area, such as the City, County and Sewage Commission, probably have greater significance than the comparisons drawn by either party.

The other matter, related to the uniqueness of these negotiations, is the fact that the parties here have agreed to a 30-month contract with a 6-month reopener for purposes of effectuating the transition to an agreement that coincides with the fiscal year and school year. This evidences to the undersigned that the parties must have understood that the 6-month reopener contained in the agreement would result in an additional lift in the salary schedule (a significant long-term benefit to the members of the Association) and would also result in a short-term savings in dollars required to "purchase" that lift.

The focus of many of the Association's arguments appears to be on the latter, negative aspect of the trade off agreed to. Further, its arguments related to the Consumer Price Index and other settlements all focus on the reasonableness of its proposed 9.4% increase on an annual basis. The problem with this approach is that the Board and Association have already agreed to a 30-month agreement, not a 36-month agreement. If this agreement were for a 36-month period the Association's proposal would arguably be "in the ball park," at least as compared to other one year (1981-1982) settlements in the Milwaukee area. Viewed as a six-month reopener, it clearly is not. This single factor, in the view of the undersigned, clearly overshadows all of the other evidence and arguments in this case.

Much of the comparative data provided by the Association is subject to the legitimate criticism that it distorts the true picture because it compares salary levels that were increased in September 1981 to salary levels that are being increased in a different time frame. The Board's approach of comparing total annualized salary figures in effect as of January 1981, does not measure the dollars in the pocket figures which are the focus of the Association's concern. However, it does provide a better basis for comparison for purposes of the future which presumably will include another wage increase effective July 1, 1982.

The Board's proposal, on the other hand, is somewhat troublesome for different reasons. Given the Association's agreement to enter into a 30-month Collective Bargaining Agreement to effectuate the transition to a contract that coincides with the school year, the undersigned believes a more reasonable

proposal on the Board's part might have been to grant a percentage increase which provided additional lift to the salary levels which was deemed sufficient (in conjunction with the January 1, 1980 and January 1, 1981 increases) to offset the short-term dollars in the pocket "loss" which has been the focus of the Association's concern in this case.

Viewed realistically, it is quite unlikely that the parties would have reached a voluntary agreement to implement a flat dollar increase. As pointed out by the Association, the Board's proposed increase has the affect of granting much larger percentage increases to employees near the minimum than to those near the maximum. Further, and perhaps more important to the Association in the long run, it reduces the salary schedule index from 2.20 to 2.11.

Thus, it must be concluded that neither offer in this proceeding is deemed to be particularly reasonable or realistic. To the extent that the mediation/arbitration statute is intended to compel one or hopefully both of the parties to propose a final offer that is reasonable, as measured by the likelihood of achieving a voluntary settlement, it has been a failure in this case. It is not possible or necessary to attempt to assess blame for this failure since it is true that either party could have made the first move by proposing an offer that was more likely to produce a voluntary settlement. Further, the question of which party is "to blame" for such failure is irrelevant since, in the last analysis, the offer which is more reasonable under the statutory criteria must prevail. For a number of reasons the undersigned finds that the Board's offer should be selected.

As noted by the Board in its arguments, the Association's proposal for a 6-month reopener covering .6 of the school year would provide an increase that, when measured on a cost basis, would be very respectable in comparison to other one-year increases granted in 1981-1982. According to the Board, the cost of the Association's wage increase alone for teachers on the regular salary schedule, would amount to 11.02% when increments are included. If the additional cost of insurance is added to this figure the annual cost of the Association's proposal would be 11.92%, even though an additional increase will be negotiated to become effective on July 1, 1982.

The annual cost of the Board's proposal, on the other hand, is a respectable 7.26% under the Board's offer. All teachers on the regular salary schedule will receive, on that schedule alone, approximately \$1,000 each year hereafter as a result of the proposed increase. It is true that they will only receive approximately .6 of that amount in the period covered by the reopener, but the increase will generate approximately \$600 per teacher during that period and that increase is in addition to any increase in increments that may be received during that period. According to the Association's own calculations, a few teachers will receive as much a 8.6% lift in their salary levels and none will receive less than 3.7%. Most will receive a percentage increase in salary somewhere between those two figures. These increases are in addition to the 9% and 8.25% (plus dental insurance) increases in salary levels granted under the first two years of the agreement. These three increases combined will establish salary levels that are competitive and fair in relation to the comparisons drawn.

While the Board's offer, in the view of the undersigned, would be more reasonable if it were expressed as a percentage and was increased to a figure closer to 5.5% (.58 of 9.4), it must

be concluded that overall the Board's offer is closer to a reasonable figure under the statutory criteria than is the Association's.

Based on the above and foregoing analysis the undersigned renders the following

AWARD

The final offer of the Board, attached hereto and marked Appendix B, is hereby selected and shall be implemented for the period from January 1, 1982 through June 30, 1982, pursuant to the reopener provision of the parties' agreement.

Dated at Madison, Wisconsin this 19<sup>th</sup> day of July, 1982.

  
George R. Fleschli  
Arbitrator



APPENDIX "A"  
 SALARY SCHEDULE FOR  
 TEACHERS AND TEACHER-LIBRARIANS  
 JANUARY, 1982

	MINIMUM	MAXIMUM	SERVICE INCREMENT
Division B (AB or equivalent)	\$13,326	\$25,492	\$666
Division BB (Div. B + 16 units)	\$13,624	\$26,179	\$681
Division C (MA or equivalent)	\$13,918	\$26,761	\$695
Division D (Div C + 16 units)	\$14,218	\$27,400	\$711
Division E (Div. C + 32 units)	\$14,514	\$28,035	\$726
Division F (Div. C + 48 units)	\$14,813	\$28,670	\$741
Division G (Div. C + 64 units)	\$15,109	\$29,306	\$755
Division A (no degree)	\$13,032	\$24,767	\$652
Reserve Teachers	\$12,735	\$23,800	\$637

SALARY SCHEDULE FOR  
 COMMUNITY RECREATION SPECIALIST I

JANUARY, 1982  
 (195 or 200-day basis)

	MINIMUM	MAXIMUM	SERVICE INCREMENT
Division B (AB or equivalent)	\$13,257	\$25,362	\$663
Division BB (Div. B + 16 units)	\$13,498	\$26,042	\$675
Division C (MA or equivalent)	\$13,847	\$26,622	\$692
Division D (Div C + 16 units)	\$14,142	\$27,255	\$707
Division E (Div. C + 32 units)	\$14,440	\$27,887	\$722
Division F (Div. C + 48 units)	\$14,734	\$28,518	\$737
Division G (Div. C + 64 units)	\$15,032	\$29,151	\$752

APPLICATION OF THE 1982 SCHEDULES

The 1982 raises for teachers, teacher-librarians, and community recreations specialists shall be nine and four tenths percent (9.4%) effective January 1, 1982 of the individual base pay as of December 31, 1981.

PENSIONS - The Board will pay five percent (5%) of the individual teacher's gross salary to the Milwaukee Teachers' Retirement Fund, thereby reducing the deduction from the teacher's paycheck by such sum.

LONGEVITY PROVISION - After fifteen (15) years of creditable experience with the Milwaukee Board of School Directors, a certificated employe shall receive one one hundred dollar (\$100) longevity increment prorated each payroll period during the ensuing year of his/her employment. After twenty (20) years of creditable experience with the Milwaukee Board of School Directors, a certificated employe shall receive a second one hundred dollar (\$100) longevity increment, for a total of two hundred dollars (\$200), prorated each payroll period during the ensuing year of his/her employment. These increments shall remain constant and be in addition to the employe's base salary each subsequent year.

1982 ADJUSTMENT CLASS TEACHERS - Certificated staff, who assume positions in special schools or designated classes for problem students established for the purpose of providing instructional programs for such students, shall be paid one thousand seven hundred twenty-four dollars (\$1,724) per year above their positions on the regular schedule at the regular hourly rate to compensate for required extended orientation and supervision. Any assigned noon-hour duty will be compensated at the established hourly rate certificated personnel.

ELEMENTARY SCHOOL NOON SUPERVISION - Teachers assigned to noon-hour duty will be compensated at the established hourly rate for certificated personnel, payable biweekly.

SUMMER SCHOOL - Daily summer school salaries will be computed on a basis of seventy percent (70%) of the certificated employe's regular daily rate of pay in effect at the close of the regular school term.

Driver education teachers will receive seven percent (70%) of the certificated employe's regular daily rate of pay in effect at the close of the regular school term for the first five (5) hours of each day and the part-time certificated hourly rate for all hours beyond five (5) hours. Such compensation shall also be provided for the number of days on which such teachers work, whatever the number, beyond the regular summer school session.

1982 PART-TIME (Certificated)                      \$11.48 per hour

02/2/82

APPENDIX "B"

INTERSCHOLASTICS ATHLETICS

JANUARY 1, 1982

SCHEDULE A

HEAD COACH IN:	BEGINNING AMOUNT	AFTER ONE YEAR IN THAT POSITION SAME SPORT
Baseball	\$1,804	\$2,091
Basketball		
Football		
Gymnastics		
Soccer		
Softball		
Swim		
Track		
Volleyball		
Wrestling		
HEAD COACH IN.		
Cross Country	\$1,212	\$1,804
Golf		
Tennis		
ATHLETIC DIRECTORS (Per Semester)	\$2,516	\$2,815
EQUIPMENT MANAGER (Per Semester)	\$1,804	\$2,091

Assistant coaches would receive seventy-five percent (75%) of head coaches salary (based on their experience).

First assistant coaches in football will be compensated eighty percent (80%) of the head coaches salary, based on their experience, provided they report the first day of practice with the head coach.

1981 application shall apply for 1982.

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APPENDIX "D"

SALARY SCHEDULE FOR  
SCHOOL SOCIAL WORKERS, JANUARY 1, 1982

MINIMUM	MAXIMUM	INCREMENT
\$17,298	\$32,298	\$1,000

APPLICATION 1982

Starting January 1, 1982 presently employed school social workers shall receive a raise of nine and four tenths percent (9.4%) of their December 31, 1981 base salary in addition to the School Board paying five percent (5%) of total of the gross salary for their pension payments.

Remainder of 1981 provisions shall apply to 1982.

APPENDIX "E"

RATES FOR INSTRUMENTAL MUSIC TEACHERS

SCHEDULE "M"\*

1982

YEARS OF  
EXPERIENCE

0	\$ 9.20 per class period (45 minutes)
1	\$ 9.57 per class period (45 minutes)
2	\$ 9.94 per class period (45 minutes)
3	\$10.32 per class period (45 minutes)
4	\$10.67 per class period (45 minutes)
5	\$11.05 per class period (45 minutes)
6	\$11.42 per class period (45 minutes)
7	\$11.77 per class period (45 minutes)

1981 application shall apply to 1982.

*207/13*

APPENDIX "F"

ACTIVITY SPECIALISTS

JANUARY 1, 1982 SALARY ADJUSTMENTS  
(240-day basis)

MINIMUM		MAXIMUM		INCREMENT	
Annual	Daily	Annual	Daily	Annual	Daily
\$11,489	\$ 47.87	\$16,956	\$ 70.65	\$ 412	\$1.72

APPLICATION OF SALARY ADJUSTMENT AND OTHER PROVISIONS

1. Starting January 1, 1982 presently employed Activity Specialists shall receive a raise of nine and four tenths percent (9.4%) of their December 31, 1981 salary.
2. Activity specialists shall be scheduled to work two hundred forty (240) days per year, and ten (10) days of the two hundred forty (240) days shall be vacation.
3. Activity specialists shall receive the same holidays with pay as teachers.
4. All fringe benefits provided in the teacher contract shall be available to activity specialists with the exception that they shall receive pension and social security through the city pension system.
5. The salary schedule for activity specialists shall be increased by the same percentage as that granted to teachers in addition to the normal increment.
6. In the event any activity specialist receives an unsatisfactory evaluation which could lead to a recommendation of dismissal, the procedures set forth in Part IV, Section Q, excluding the specific evaluation cards referred to therein, shall be followed before any adverse action is taken.

*Ad*

JANUARY 1, 1982

TRAVELING INSTRUMENTAL MUSIC TFACHERS

SALARY SCHEDULE

(Rate Per Class Instruction Hour)

Class A	\$ 14.00	Class J	\$ 10.67
Class B	\$ 13.62	Class K	\$ 10.32
Class C	\$ 13.25	Class L	\$ 9.94
Class D	\$ 12.90	Class M	\$ 9.57
Class E	\$ 12.52	Class N	\$ 9.20
Class F	\$ 12.17	Class O	\$ 8.85
Class G	\$ 11.77	Class P	\$ 8.47
Class H	\$ 11.42	Class Q	\$ 8.12
Class I	\$ 11.05		

TRAVELING MUSIC TEACHERS

1. The work year of traveling music teachers shall consist of two (2) semesters of seventeen (17) weeks each including approximately one week of recruiting students, sixteen (16) weeks of lessons and when needed one week of make-up lessons.

2. Traveling music teachers who work twenty-five (25) class periods per week or more or twenty (20) hours per week or more shall receive all fringe benefits of this contract. It is understood that this means six hundred (600) hours per year or more as necessary to receive the benefits. Traveling music teachers who fall below six hundred (600) hours per year shall be able to retain their accumulated sick leave for up to one year for use in the event they reestablish full time status.

3. Traveling music teachers shall be entitled to the lower of the flat per diem mileage allowance or as an alternative, the option of the variable cents per mile as specified in the mileage section of the contract.

4. Traveling music teachers who work twenty-five (25) class periods per week or more shall receive five (5) hours preparation time at the end of each semester.

5. Traveling music teachers who teach nine hundred (900) or more class periods per year shall, effective with the beginning of the following year, be moved up one step on the salary schedule as an increment. In January, 1982 each employe shall be advanced one step on the salary schedule.

6. Traveling music teachers who have taught twenty-five (25) or more class periods a week in the previous year shall be offered additional classes, when available, before new teachers are hired to teach those classes.

APPENDIX "L"

SALARY SCHEDULE FOR  
COMMUNITY HUMAN RELATIONS COORDINATORS,  
HUMAN RELATIONS CURRICULUM DEVELOPERS,  
200-DAY PPRC SPEECH PATHOLOGISTS AND  
TEAM MANAGERS

JANUARY 1, 1982

MINIMUM	MAXIMUM	INCREMENT
\$20,953	\$31,928	\$ 918

APPLICATION OF THE 1982 SCHEDULE

The 1982 raise for Community Human Relations Curriculum Coordinators, Human Relations Curriculum Developers, 200-Day PPRC Speech Pathologists and Team Managers shall be nine and four tenths percent (9.4%) effective January 1, 1982 of the individual's base pay as of December 31, 1981.

PENSION

The board shall pay five percent (5%) of the total gross salary of the employe as the employe's share of the pension contribution to the Milwaukee Teachers' Retirement Fund.

SALARY SCHEDULE PLACEMENT

Movement to or from the salary schedule in Appendix "L" or "M" by employes from different salary schedules shall be in accordance with previously established procedures.

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APPENDIX "M"

SALARY SCHEDULE FOR 12-MONTH

SPEECH PATHOLOGISTS

JANUARY 1, 1982

MINIMUM	MAXIMUM	INCREMENT
\$24,278	\$36,993	\$ 1,058

APPLICATION OF 1982 SCHEDULE

The 1982 raise for 12-month PPRC Speech Pathologists shall be nine and four tenths percent (9.4%) effective January 1, 1982 of the individual's base pay as of December 31, 1981.

PENSION

The board shall pay five percent (5%) of the total gross salary of the employe as the employe's share of the pension contribution to the Milwaukee Teachers' Retirement Fund.

VACATION AND HOLIDAYS

a. Twelve-month PPRC speech pathologists shall receive an annual vacation of four (4) weeks after one (1) year of service and five (5) weeks after twenty (20) years of service. An employe who leaves the service due to resignation or death or who takes a military leave, will be paid for earned vacation time that has been accumulated. An employe who leaves the service due to retirement shall use or be paid for his/her earned vacation time that has accumulated prior to the effective date of retirement.

b. Twelve-month PPRC speech pathologists shall be granted a holiday for each of the following days, New Year's Day, the last working day prior to the day celebrated for New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, the day after Thanksgiving, Good Friday, Christmas Day, and the last working day prior to the day celebrated for Christmas. All holidays are guaranteed. When a holiday falls on a Sunday, it shall be celebrated on the following day. When a holiday falls on a Saturday, it shall be celebrated on the preceding workday.

Salary Schedule - 2

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BOARD PROPOSAL ON SALARY RATES  
1982

SECTION I

Schedule 1 (Teachers)

<u>Division</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Increment</u>
B	\$13,179	\$24,300	\$659
BB	13,451	24,928	673
C	13,720	25,460	686
D	13,994	26,044	700
E	14,265	26,624	713
F	14,538	27,205	727
G	14,809	27,786	740
A	12,910	23,637	646
Reserve	12,639	22,808	632

Schedule 1A (Community Recreation Specialists)

<u>Division</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Increment</u>
B	\$13,082	\$24,147	\$654
BB	13,302	24,768	665
C	13,621	25,299	681
D	13,891	25,877	695
E	14,163	26,455	708
F	14,432	27,032	722
G	14,704	27,610	735

Schedule 2 (Social Workers)

<u>Minimum</u>	<u>Maximum</u>	<u>Increment</u>
\$17,052	\$30,708	\$994

Schedule 4S (Team Managers, Human Relations Coordinators, etc.)

<u>Minimum</u>	<u>Maximum</u>	<u>Increment</u>
\$20,350	\$30,382	\$888

Schedule 6 (Activity Specialists)

	<u>Minimum</u>	<u>Maximum</u>	<u>Increment</u>
Annual	\$11,229	\$16,226	\$403
Daily	\$46.79	\$67.61	\$1.68

*PKW*

BOARD PROPOSAL ON SALARY RATES (Cont.)

Application for 1982 - Section 1

Persons paid on the preceding schedules shall have their base pay rates increased effective January 1, 1982, over their based pay rates as of December 31, 1981, as follows:

<u>Personnel on Schedule</u>	<u>Annualized Pay Increase January 1, 1982</u>
1 (Teachers)	\$ 998
1A (Community Recreation Specialists)	964
2 (Social Workers)	1,240
4S (Team Managers, Human Relations Coordinators, etc.)	1,197
6 (Activity Specialists)	727

4/21/82

SECTION II

Instrumental Music Teachers

<u>Years Experience</u>	<u>Per Class Period (45 minutes)</u>
0	\$ 8.87
1	9.21
2	9.55
3	9.89
4	10.21
5	10.56
6	10.90
7	11.22

Traveling Instrumental Music Teachers

<u>Class</u>	<u>Per Instruction Hour</u>	<u>Class</u>	<u>Per Instruction Hour</u>
A	\$13.28	I	\$10.58
B	12.93	J	10.23
C	12.59	K	9.91
D	12.27	L	9.57
E	11.92	M	9.23
F	11.60	N	8.89
G	11.24	O	8.57
H	10.92	P	8.22
		Q	7.90

Application for 1982 - Section II

Increases indicated by the preceding schedules shall be effective January 1, 1982.

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BOARD PROPOSAL ON SALARY RATES (Cont.)

SECTION III

Athletics

	<u>Beginning Amount</u>	<u>After One Year In That Position Same Sport</u>
<u>Head Coach In:</u>	\$1,645	\$1,906
Baseball		
Basketball		
Football		
Gymnastics		
Soccer		
Softball		
Swim		
Track		
Volleyball		
Wrestling		
 <u>Head Coach In:</u>	 \$1,105	 \$1,645
Cross-Country		
Golf		
Tennis		
 <u>Equipment Manager</u> (Per Semester)	 \$1,645	 \$1,906

Assistant Coaches would receive seventy-five percent (75%) of head coach's salary (based on their experience).

First Assistant Coaches in football will receive eighty percent (80%) of head coach's salary (based on their experience) provided that they report the first day of practice with the head coach.

Interim Learning Program Teachers

Certificated staff who assume positions in special schools or designated classes established for the purpose of providing instructional programs for problem students shall be paid up to one thousand five hundred seventy-six dollars (\$1,576) per year above their positions on the regular salary schedule at the regular hourly rate to compensate for required extended orientation and supervision. Any assigned noon-hour duty will be compensated at the established hourly rate for certificated personnel.

Part-Time Certificated Rate

\$10.99 per hour (effective January 1, 1982)

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