

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

JUN 18 1982

----- X
In the Matter of the Petition of :
 :
NORTHWEST UNITED EDUCATORS :
 : Case XIX
To Initiate Mediation-Arbitration : No. 28455 MED/ARB-1350
Between Said Petitioner and : Decision NO. 19436-A
 :
SCHOOL DISTRICT OF NEW AUBURN :
----- X

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

I. APPEARANCES

Robert E. West, Executive Director of Northwest United Educators

Stephen L. Weld, Attorney - Mulcahy and Wherry, on behalf of the School District of New Auburn

II. BACKGROUND

On May 13, 1981, the representatives of the New Auburn School District (hereafter referred to as the "Board") and the Northwest United Educators (hereafter referred to as the "NUE") exchanged proposals for the negotiation of a successor agreement for the 1981-82 school year. Thereafter, the parties met on three occasions in an attempt to obtain agreement on all items of the successor agreement. However, the parties were unsuccessful in their efforts to negotiate the final agreement.

On August 5, 1981, the Union filed a petition requesting the initiation of mediation/arbitration with the Wisconsin Employment Relations Commission pursuant to 111.70 (4)(cm)6, Wis. Stats. An investigation session was held on October 21, 1981. Thereafter, the Board and the Union submitted their respective final offers to the investigator by mail. The investigator subsequently declared an impasse and the commission ordered that the parties select a mediator/arbitrator to assist them in attempting to resolve the dispute.

The parties selected the undersigned as the mediator/arbitrator. The mediator/arbitrator met with the parties on March 30, 1982. Mediation was conducted and the respective parties considered several avenues of settlement before the mediator/arbitrator served notice of his intent to solve the dispute by final and binding arbitration. The parties waived their respective rights to written notice of such intent and their right to withdraw their final offers as extended by Section 111.70 (4)(cm)6c, Wis. Stats. The mediator/arbitrator then conducted an arbitration hearing and received evidence. The parties agreed to present arguments in written form due April 21, 1982. Replies were exchanged and the record was closed May 5, 1982. Based upon a review of the evidence and the arguments and utilizing the criteria set forth in Section 111.70(4)(cm), Wis. Stats., the mediator/arbitrator renders the following award.

III. FINAL OFFERS AND ISSUES

The final offer of the Board is attached as Appendix A. The final offer of the NUE is attached as Appendix B. Stipulations of the parties are included as Appendix C. A brief review of the final offers reveals that the only outstanding issue is the salary schedule. The parties also disagree over what constitutes comparable school districts and as a result this ancillary issue will be discussed first.

A. Comparable Districts

Arguments by the Board

The Board suggests that the group of comparable districts used by the mediator/arbitrator in comparing the final offers should include the school districts in the Lakeland athletic conference. They are Birchwood, Bruce, Cameron, Clayton, Clear Lake, Flambeau, Lake Holcombe, Northwood (Minong), Prairie Farm, Shell Lake, Siren, Turtle Lake, Weyerhauser and Winter. The Board asserts that this comparable group provides the mediator/arbitrator with the most appropriate and meaningful basis for analysis. Moreover, they assert that parties to mediation/arbitration have traditionally utilized athletic conferences to support their respective positions. On this point, they direct attention to Columbus School District, Dec. No. 16644-a (4/79); Joint School District #2, City of Sun Prairie, Dec. No. 16780-A (7/79); Appleton Area School District Dec. No. 17202-A (1/80); Kaukauna Area School District, Dec. No. 18093 (2/81).

They also direct attention to two previous cases involving the Lakeland athletic conference, Turtle Lake II (Dec. No. 17601) and Bruce II (Dec. No. 18833), wherein arbitrator's Kerkman and Imes respectively utilized the Lakeland athletic conference as the comparable basis.

The Board also asserts that their comparable districts meet the commonly used criteria for determining comparability. Those criteria are: 1) geographic proximity, 2) average daily pupil membership and bargaining unit staff, 3) full value taxable property and 4) state aid. The Board has demonstrated the comparability of the Lakeland athletic conference district by using these specific criteria. However, they assert that the NUE has not demonstrated any basis for its selection for comparable districts. They believe the NUE has failed to establish the purported comparability of the wide variety of comparable school districts utilized by them.

Arguments by the NUE

The NUE proposes that the mediator/arbitrator utilize a variety of comparables. They argue that the New Auburn school district is comparable to schools in not only the Lakeland athletic conference but the Upper St. Croix Valley athletic conference and the Heart-O-the-North athletic conference as well as schools in CESA districts 1, 2, 4, 5, and 6. In addition, the NUE submitted data relative to comparability on a statewide basis.

They believe that the school district's reliance upon the Lakeland athletic conference is too narrow. The NUE believes that a more statistically accurate and reliable pattern can be analyzed by looking at a broad range of comparables. They believe that the mediator/arbitrator should review settlements in the general geographic area with comparisons gradually becoming more specific with respect to school district size and geography. They believe the athletic conference merely groups schools for the purpose of athletic competition and that this does not necessarily result in a valid basis for comparison of wage data.

Discussion

The mediator/arbitrator agrees with the NUE to the extent that the athletic conference does not necessarily and automatically guarantee comparability. For example, comparability may become more difficult as some schools begin to cross over to different athletic conferences for different types of athletic competition. However, the NUE has not convinced the mediator/arbitrator that

the use of the athletic conference in this case does not satisfy the primary criteria used in determining comparability to school districts. It is well recognized that the athletic conference is an adequate and meaningful basis for comparing school districts. The mediator/arbitrator believes that the athletic conference should be utilized as the basis for comparability unless it can be shown persuasively that it does not meet the basic criteria for comparability or for some other reasons the use of the athletic conference would be inappropriate. For example, the parties might stipulate to the use of other schools or it might be necessary to consider schools outside the athletic conference if there are only a few schools settled in the athletic conference, thus rendering a comparison relatively meaningless. There is no reason presented in this record which would persuade the mediator/arbitrator that the athletic conference is not a valid basis for comparison. Therefore, it is the decision of the mediator/arbitrator to utilize the schools of the Lakeland athletic conference as the basis for comparability in assessing the final offers of the parties.

B. Salary Schedule

Arguments by the Board

The Board first argues that their final offer is reasonable because it duplicates a bargaining proposal made by the NUE during the course of negotiations. Rhetorically they ask, what could be more reasonable than an offer of exactly that which the NUE proposed during negotiations? They believe the NUE is attempting to gain something for its teachers through arbitration when it could not through face-to-face bargaining. They believe such a tactic defeats the objectives of good faith bargaining and that to condone the NUE's maneuver would do little to promote the possibility of bilateral settlements.

The Board argues that a factor which must be considered when comparing the wages of New Auburn school district to other comparable school districts is the employer's contribution to health insurance premiums. Supporting data submitted by the Board indicates that the New Auburn school district has had the second highest increases in insurance premiums in the Lakeland athletic conference. In light of this position in the conference and in light of the fact that the school district pays 100% of the single and family health insurance premiums for its employees, it is apparent that the Board's contribution in New Auburn for health insurance benefits exceed the contributions in the comparable districts.

The Board also argues that their final offer is most reasonable when compared to the total compensation provided teachers in comparable districts. They believe their salary offer cannot be viewed in a complete vacuum. They believe it is well documented that arbitrators have generally been predisposed to viewing total compensation in preference to base wages only when viewing a party's final offer. In this regard they submit a chart which shows various contributions made by school boards in the comparable districts. This is attached as Appendix D. They believe that the statistics clearly indicate that the fringe benefits received by the New Auburn teachers are extremely competitive and serve to reinforce the competitive ranking of the New Auburn school district offer. A review of the chart indicates that the district is one of only 6 of the comparable districts which pays 100% of both dental premiums. The district is one of only 5 of the comparable districts that provide their teachers with partially paid life insurance. Regarding long term disability insurance, New Auburn is one of 9 of the comparable districts that provide their teachers with 100% paid long term disability insurance. One district provides a maximum of \$77.00 while three districts do not provide any long-term disability insurance. Regarding the employee's share of STRS, the district is on a status quo basis with all other districts.

The Board next argues that their final offer is more reasonable when compared with the increases received in comparable districts for 1981-82. They estimate that the Board's final offer represents an average wage increase of \$1190 or 9.02% and an average total compensation (total package) increase of \$1899 or 10.94%. They estimate that the Union's final offer represents an increase of \$1685 or 12.7% and an average total compensation (total package) increase of \$2480 or 14.28%. They next compare these calculations against the increases received in comparable districts for 1981-82. The percent increases in other comparable school districts were calculated using the exact same method used in arriving at the costing calculations of the New Auburn proposals. The Board points out that the increases in comparable districts, with the exception of the 14.81% increase in Bruce, are below the 14.2% package proposed by the Union. Moreover, the Board's offer of 10.94% is in line with voluntary settlement reached in the district. They distinguish the increase in the district of Bruce because it was based on the result of an arbitration award which the Board asserts was based on the theory of "catch-up." They believe the Board's final offer is more reasonable than the Union's since the 1981-82 voluntary settlements are consistent with the Board's offer.

The Board next argues that their final offer emerges as the more reasonable one when compared to teachers salaries in comparable districts. Further in this connection, they argue that the Board's final offer maintains the comparative rank that the District has enjoyed among comparable districts since 1978-79. They present data at the BA minimum, BA maximum, MA minimum, MA maximum and schedule maximum showing the New Auburn rank among comparable districts over the past four years. They believe this data shows that the Board's final offer maintains the comparative ranking of the New Auburn school district. Moreover, they point out that the 1980-81 figures are skewed as a result of the New Auburn settlement in that year which froze teachers on their experience step.

The Board next argues that their final offer is reasonable because it exceeds the increases in the cost of living regardless of which index is used. They argue that the Consumer Price Index (CPI) is an inaccurate measure of inflation and should be ignored in favor of the Personal Consumption Expenditure index (PCE). They believe the PCE is more accurate measure of the cost of living and when the final offers are compared to the PCE, the Board's is the more reasonable of the two. Even if the CPI is utilized the Board's offer represents a full 1.5% increase above the CPI all-city average and is within $\frac{1}{2}$ % of the Twin Cities CPI data relied upon by the Association. Further, they point out that the CPI is a full 3% points less than the Union's demand. However, the Board disagrees that it is proper to utilize the Twin Cities CPI index if the CPI is going to be used. New Auburn, they assert, has very little in common in terms of labor market and other factor market conditions, with Minneapolis. When the final offers are compared against the downward trend of the PCE, the Board's offer again emerges as the most reasonable. For instance, they compare the 8% increase in cost of living of the PCE for the last quarter of 1981 to the 10.94% increase offered by the Board. The Union's offer is not reasonable because it exceeds the cost of living by approximately 6.28%. The Board also indicates that their offer is most reasonable when compared to first year pay increases in major state and local governmental units as reported by the Bureau of Labor Statistics. The first half of 1981 average increase in governmental units was 7.3% and 9.6% for all industries. This compared quite favorably to the Board's offer of 10.94%.

Arguments by the NUE

The NUE believes that no weight should be afforded the argument made by the Board that their offer is more reasonable because it is identical to an offer made by the NUE during mediation. They do not dispute that the Board's final offer on salary is identical to an offer made during mediation but believe that any reference to attempts by either side to settle the contract should be given very little weight. They contend that the salary schedule which ultimately became part of the employer's final offer was proffered by the NUE during "informal" negotiations. They direct attention to testimony by both employer and employee representatives which indicated that during this period of negotiations the parties had agreed to negotiate in total packages. If an entire package was not acceptable, then the entire package could be withdrawn. The salary schedule offered by the NUE was only part of a package that was not accepted. Because the package wasn't accepted the salary offer became moot. They assert that settlement offers have traditionally been ruled inadmissible or at the very minimum given no weight by arbitrators. They suggest that giving weight to a settlement offer may have a chilling effect on the parties' continuing collective bargaining environment and should offers of settlement be used to prejudice a final offer, few settlement offers would ever be made. Further in this regard, they direct attention to a decision of Arbitrator Weisberger in Lake Holcombe School District (Dec. No. 16714).

In general, the NUE urges the mediator/arbitrator to rely most heavily on an analysis of wages only as expressed by the salary schedule at the traditional benchmarks rather than a total package comparison utilized by the Board. They believe that the most appropriate measure for comparability can be found by using the basic salary schedule benchmarks. They believe that the major portion of the dispute between the Board and the NUE is found in the BA lane where the majority of the teachers are located. Therefore, the NUE has concentrated their benchmark analysis on this lane. According to their calculations, the Board offer increases the BA base by \$700 or 6.24%. This compares to an average increase at the BA minimum in Lakeland athletic conference of 10.4%. The NUE proposal, at the BA minimum, is 9%, which they note is significantly less than the average in the Lakeland conference. At the BA maximum, they calculate that the employer offer is an increase of only 4.41% compared to their offer which would increase the BA maximum 8.97%. This is compared to an average increase at the BA maximum benchmark in the Lakeland conference of 12%. This data, they believe, overwhelmingly supports the NUE final offer. In terms of ranking at the BA minimum, they present data which indicates that the BA minimum salary at the New Auburn district ranked no. 1 among the comparables of 1980-81 and if the Board proposal were accepted the BA minimum would fall to rank 6 based on their ranking system. If the NUE proposal were accepted at the BA minimum, the New Auburn school district would maintain its no. 1 rank among the settled schools. The NUE also presents ranking data on the percent increase which indicates that the Board proposal would rank last of all settled districts at the BA minimum. They believe that the data clearly indicates a preference for the NUE offer at the BA minimum. At the BA maximum in 1980-81 New Auburn ranked third. Under the NUE proposal, New Auburn would fall to 6 while the Board proposal would drop them to a rank of 10. When the percent increase is ranked among settled schools, the NUE proposal at the BA maximum of 8.9% would rank 10th of the settled schools while the Board proposal of 4.42% would be the absolute lowest position. Moreover, in terms of rank, the Association asserts that contrary to the Board's contention the Board offer does not in fact maintain the historical ranking of the school district. They believe the statistics clearly show that the New Auburn teachers would be losing rank under the Board's final offer. In addition, they place a different

significance on the fact that the New Auburn settlement of 1980-81 froze teachers on their experience step. They point out that the frozen increment was not recovered under either of the parties' final offers. The frozen increment continued during 1980-81 and if the employer suggests that the New Auburn teachers return to a 1978-79 level without regaining the frozen increment indeed the teachers would lose substantial ranking and dollar increases.

The NUE also argues that the employer final offer cannot be justified because it results in a restructuring of the present 1980-81 salary schedule. The parties had previously utilized a 3.75% figure on the base of each column to determine the lane increments. The employer's final offer reduced the BA lane increment to 3.55%. Under the employer final offer, the actual dollar value of the lane increments would increase in all lanes with the exception of the BA lane. Under the Board's offer, all other lane increases are based on the traditional 3.75%. The argument of the NUE emphasizes that this restructuring of the BA column is not insignificant because approximately 75% of the teachers in the district are in the BA column.

The NUE proposes to add an MA+8 lane. This structural change is justified in comparison to the structural modification proposed by the Board because it has no immediate economic consequences on the Board. Moreover, they believe it is supported by the comparables. Only two conference schools failed to pay for credits received beyond the MA level. Regarding the \$200 horizontal differential as compared to the \$175 horizontal differential proposed by the Board, the NUE also believes that this is supported by the comparables. In this respect, they direct attention to data which indicates that the salary schedule differential between the BA and MA columns is below the average differential in the comparables.

Regarding the Board's total package/total compensation approach, the NUE suggests it is misleading. Regarding the inclusion of dental insurance cost as part of the costing for the package, the NUE suggests that the District is seeking "double compensation" for this concession. In 1980-81 the parties agreed to add dental insurance for New Auburn teachers and the teachers agreed to freeze an increment during negotiations. Moreover, the implementation date for dental insurance was deferred to the mid-term. In light of this, the district would now calculate the additional half-year cost of dental insurance as an increased cost for the purpose of calculating total package increase. This inflates the cost of the dental insurance as a portion of the total cost of 1981-82. Moreover, the employer's arguments regarding health insurance increases are misleading. First of all, it is misleading because the insurance rate in the New Auburn School district was considerably lower during 1979-80 than other districts. They also point out that there is nothing in the record to indicate the teachers were provided any substantial increases as a result of the declining insurance rate in these previous years. They believe it is inconsistent therefore, for the employer to utilize the very low base period of 1980-81 in calculating the insurance increase for 1981-82. They agree that the fringe benefits package of the New Auburn teachers is adequate but not one that is in a leadership position which would justify an overwhelmingly deficient salary proposal as the one submitted by the District.

The NUE also directs attention to the total package settlement figures submitted by the Board. They believe this data should be given very little weight as there is insufficient information in the record to determine the accuracy of their costing methods. Further, they suggest that formats vary considerably and that an accurate comparison between the districts is not possible. For instance, employer exhibit no. 56 is an analysis of the Siren school district settlement. Exhibit no. 56 shows a \$55,021 increase in teacher salaries for 1981-82 and the exhibit indicates this is a 9.4% increase whereas a review of union exhibit no. 59 page 4 shows that the Siren school district settlement increased the five basic benchmarks by 12.2%.

They suggest that because the Siren staff was frozen in increment on 1980-81 that the staff returning from 1980-81 and 1981-82 would have received 12.2%. This is a far cry from 9.46% used in its cost calculation. They assert this error is significant enough as to cast a doubt on the validity of the remaining employer exhibits relative to the total package cost. Without the teacher distributions for each of the school districts, the NUE cannot test the accuracy of these exhibits.

Discussion

1. General

The first arguments that the mediator/arbitrator would like to treat are the arguments surrounding the significance to be attached to the fact that the Board's final offer is identical to a proposal made by the NUE during mediation. The mediator/arbitrator believes that it is generally accepted that offers of compromise and settlements in both interest and rights arbitration are not prejudicial and should be given no weight in the assessment of the merits of a dispute. This is particularly true in this case where the offer was made as part of a package settlement whereupon its acceptance was contingent upon the acceptance of the entire package. To hold otherwise would have an effect opposite of that of the express purpose of the Statute. It is the purpose of the Statute to encourage voluntary settlements. Voluntary settlements would be rare and difficult to obtain if, during bargaining, and particularly total package bargaining, the parties exploratory proposals would come back to haunt them. As a matter of fact, mediators usually emphasize to the parties prior to mediation, that attempts and proposals at settlement will not be prejudicial. We agree with Arbitrator Weisberger's comments in Lake Holcombe School District (Dec. No. 16714):

"The arbitrator believes that permitting evidence of such mediation behavior under the circumstances of this case could unfortunately chill or distort the mediation phase and thus would be against public policy as reflected in MERA. Accordingly, no weight will be given herein to the Employer's offer to meet the NUE final offer on issue #1 during mediation and the NUE's refusal to consent to such a change (or to other rejected offers to modify final offers.)"

The District argues that this type of bargaining defeats the objective of good faith bargaining and is an abuse of the process of mediation/arbitration. While the mediator/arbitrator certainly understands the frustrations of the Board, his jurisdiction extends to the assessment of final offers as submitted to the commission. The question of whether this tactic is good faith bargaining is one beyond the jurisdiction of the mediator/arbitrator and a remedy in this regard should not be sought here. The NUE argues that such a proposal was actually a mistake based on a miscalculation of the increment and for this reason also should not be considered prejudicial. For whatever reason the proposal was made, no matter what it was intended to be, the mediator/arbitrator's jurisdiction extends to the issue of which final offer, regardless of its mediation history, is most reasonable. Therefore, no weight will be given to the employer's arguments in this regard and the mediator/arbitrator will proceed to analyze the final offers in other respects.

At first glance, there are a variety of differences in the salary schedule proposals by the respective parties. Both parties propose the addition of a BA+8 lane which is not present in the 1980-81 salary schedule. However, the Union offer represents a 9.0% increase at the BA base while the Board offer represents a 6.25% increase at the BA base. The Union vertical increments

in the BA column are arrived at by multiplying the BA base or BA minimum by 3.75% whereas the Board offer uses a 3.55% increment in this lane. Both offers use a 3.75% increment in all other columns. Another major difference is that the Union offer utilizes a \$200 horizontal increment (between lanes) whereas the Board offer uses \$175. The last major difference between the offers is that the Union offers a MA+8 lane whereas the Board's final offer has only an MA lane which is consistent with the 1980-81 salary schedule. The mediator/arbitrator also notes that the total dollar difference between the two proposals is approximately \$13,000. It should also be noted that the parties cost the wage portion of the offers slightly different, however, the difference is minute and for the purpose of this arbitration, the mediator/arbitrator costs the wage portion of the Board's offer at 9.02% and the wage portion of the Association's offer at 12.7% and the total package cost of the Board's offer at 10.94% and the total package value of the Association's offer at 14.28% increase over the 1980-81 contract.

2. Comparisons to Wages in Comparable Districts

In analyzing the arguments of the parties, almost as much at issue as the salary schedule itself, are the different viewpoints used to analyze the final offers. Although the Board used a benchmark analysis in terms of rank, they seem to emphasize a total package approach, weighing significantly the high increase in insurance premiums as a factor in their final offer. The NUE, on the other hand, concentrates on an analysis at the BA minimum and maximum benchmarks in terms of rank and percent increase because these two benchmarks have traditionally been a point of analysis by arbitrators and the parties, in addition to the fact that a large majority of the bargaining unit is in this lane. The NUE discounts the increase in insurance cost. The mediator/arbitrator believes both perspectives are valid and both viewpoints must be considered in analyzing the final offers as a whole. It is valid to consider total cost, including increased cost of insurance premiums because it is a cost experienced by the employer as a direct result of a benefit negotiated by the Union. This cost, like the cost of any other benefit which can be expressed in dollar terms, should be considered in comparing final offers of the parties to comparable districts. There is simply no way to ignore the fact that health insurance is a benefit negotiated in the agreement and is of benefit to the bargaining unit members and moreover, that cost of this benefit is experienced by the employer. Regarding the Association's argument that bargaining unit members did not receive a corresponding increase in wages as a result of previously low premiums, is not at issue before the mediator/arbitrator. The mediator/arbitrator also believes that the analytical method used by the Association is also valid. Benchmark analyses such as the one they put forth are common and often used by parties and arbitrators alike in analyzing the reasonableness of final offers. Moreover, the arbitrator believes that such a method is necessary because 18.65 of the 26.65 FTE are in the BA lane. Both methods will be considered.

An analysis of the final offers in terms of total package settlements (including insurance cost) compared to other districts tends to support the Board's position. This conclusion is based on an analysis of the following table.

TABLE NO. 1*

Wage Settlements in Comparables
vs New Auburn

District	Wages Only	Total Package
Bruce	14.34 %	14.81 %
Cameron	10.7 %	12.6 %
Clear Lake	11.5 %	11.4 %
Northwood	10.9 %	11.09 %
Shell Lake	11 %	11.1 %
Siren	9.8 %	11 %
AVERAGE	11.37 %	12 %
Board Offer	9.02 %	10.94 %
NUE Offer	12.7 %	14.28 %

*The wage-only settlements in Northwood and Siren were calculated based on data provided by the Board.

The mediator/arbitrator should note that the Board included in their data a notation on the salary schedule from the school district of Clayton which indicated the "estimated annual adjustment" was 11.94%. However, the data regarding Clayton has not been included in the above table because there was no costing calculations included regarding how the Clayton settlement was arrived at. There was no data to indicate that the costing method was similar to that used in costing the New Auburn settlements. This is in contrast to the data presented in the other districts. The data regarding the other districts show that the costing methods were similar to the one used in New Auburn. The data on the other schools and the above table thus provides a valid "apples to apples" basis for comparison. It should also be stated that there is no persuasive reason not to accept the other settlement data as competent evidence.

As a matter of interpretation, the data indicates that of the schools for which data was provided the Association's offer would be the second highest total cost settlement if it were adopted. Moreover, it would exceed the average by 2.28% while the Board's offer is below the average but by a lesser degree, specifically 1.06%. In addition, the mediator/arbitrator notes that the employer's offer is slightly below (.06%) the range of total package settlements (11%-14.81%) where the NUE offer is within the range, however, second from the top. However, there is some reason to give less weight to the Bruce settlement at the top of the range as it is distinguished from the instant salary issue because it did involve catch-up and the issue here does not. Therefore, discounting Bruce, it would be reasonable to say that the NUE offer is at the top of the range and the Board is at the bottom. While this is true, the fact that the NUE offer exceeds the average settlement by a greater degree than the Board's offer is short of the average, tends to support the Board's position.

An analysis of the final offers using a benchmark analysis (wages only) on the other hand tends to support the position of the NUE, particularly at the BA minimum and BA maximum benchmarks. This conclusion was arrived at by an analysis of the historical rank of New Auburn settlements and the comparables, an analysis of the historical differential relationship of New Auburn settlements compared to the average settlements in the comparable districts and an analysis of year-to-year increases in New Auburn at the benchmarks compared to increases in the comparable benchmarks. These analyses are expressed in the following tables.

TABLE NO. 2

Historical Analysis of Rank at Benchmarks

Year	BA Base	BA Max	MA Base	MA Max	Schedule Max
1978-79	6/14	9/14	12/13	12/13	12/13
1979-80	2/14	10/14	11/14	13/14	13/14
1980-81	2/15	4/15	4/15	11/15	13/15
1981-82 (Offers)					
NUE	1/11 ¹	6/11	3/11	7/11	10/11
Board	5/11	9/11	8/11	8/11	9/11

¹Number one rank will be retained even if union offers accepted in remaining districts.

TABLE No. 3

Historical Relationship of New Auburn Settlements to the Average Settlements in Comparables

	<u>BA Minimum</u>			
	1978-79	1979-80	1980-81	1981-82 (Offers)
1. Comparable Averages	\$9502	\$9980	\$10,825	\$11,842
2. New Auburn	9600	10,150	11,216	11,916(Board) 12,225(NUE)
3. Difference Between Comparable Averages in \$ and %	+\$98/1%	+\$170/1.7%	+\$391/ 3.6%	+\$74/.6%(Board) +\$383/3.2%(NUE)
	<u>BA Maximum</u>			
1. (See above)	\$13,408	\$14,291	\$15,565	\$17,194
2.	13,200	14,341	15,847	16,547(Board) 17,268(NUE)
3.	-\$208/1.5%	+\$50/.3%	+\$282/1.8%	-\$647/3.8%(Board) +\$74/.4%(NUE)
	<u>MA Minimum</u>			
1.	\$10,215	\$10,784	\$11,690	\$12,742
2.	\$10,061	\$10,611	\$11,725	\$12,616(Board) \$13,025(NUE)
3.	-\$154/1.5%	-\$173/1.6%	+35/.3%	-\$126/.9%(Board) +\$283/2.2%(NUE)
	<u>MA Maximum</u>			
1.	\$15,097	\$16,066	\$17,396	\$19,168
2.	14,208	15,387	17,003	18,292
3.	-\$889/3.8%	-\$679/4.22%	-\$393/2.2%	-\$876/4.5%(Board) -\$282/1.4%(NUE)
	<u>Schedule Maximum</u>			
1.	\$15,383	\$16,385	\$17,844	\$19,629
2.	14,208	15,387	17,003	18,292(Board) 19,176(NUE)
3.	-\$1175/7.6%	-\$998/6.0%	-\$841/4.7%	-\$1337/6.8%(Board) -\$453/2.3%(NUE)

TABLE NO. 4*

Year to Year Increases at Benchmarks Expressed in Percents
IN Comparable Averages (CA) vs. Settlements and Proposals
in New Auburn (NA)

	BA Min	BA Max	MA Min	MA Max	Schedule Max
1978-79 to 1979-80	+5%-CA +5.73%-NA	+6.6%-CA +8.6%-NA	+5.5%-CA +5.4%-NA	+6.4%-CA +8.3%-NA	+6.5%-CA +8.3%-NA
1979-80 to 1980-81	+8.5%-CA +10.5%-NA	+8.9%-CA +10.5%-NA	+8.4%-CA +10.5%-NA	+8.2%-CA +10.5%-NA	+8.2%-CA +10.5%-NA
1980-81 to 1981-82	+9.3%-CA +6.25%-Board +9.0%-NUE	+10.47%-CA +4.4%-Board +8.97% <u> </u> NUE	+9%-CA +7.6%-Board +11%-NUE	+10.2%-CA +7.6%- Board +11.1%- NUE	+10%-CA +7.6%-Board +12.8%-NUE

*Note that these figures differ from the NUE data in that theirs was based on seven schools and this data is based on ten schools in the athletic conference for 1981-82 not including Lake Holcombe, Prairie Farm, Turtle Lake and Winter.

An analysis of Table 2 indicates that in the BA base column, the NUE would lose 3 positions in rank over the settlements in the last two years, while they would gain one position under the NUE offer. This tends to support the NUE position because of the greater marginal loss in rank under the Board's offer compared to the lesser marginal gain under the NUE offer. At the BA maximum, both offers represent a loss in rank over the 1980-81 settlement but the NUE offer is less of a loss. The Board's offer does not result in a loss compared to the 1978-79 and 1979-80 years, however the NUE offer is slightly preferred because it is less of a loss over the most current settlement. At the MA base, the NUE offer improves the rank of the New Auburn district one position and the Board offer results in a loss of four positions over the most current settlement. This tends to support the NUE. At the MA maximum and schedule maximum, both offers are relatively equal because they improve rank to approximately the same degree. Overall the mediator/arbitrator concludes, contrary to the argument made by the Board, that adopting its offer would not maintain comparative ranking historically enjoyed in the comparative districts. The Board offer would result in loss of significant rank in three of the five benchmark categories. Moreover, it would result in the loss of rank in the BA category where a vast majority of the teachers in the bargaining unit are placed.

An analysis of Table 3, at the BA minimum, shows that historically the New Auburn settlements at this benchmark have been greater than the average increase. The increase at this benchmark range from 1% to 3.6%. The Board offer would only be slightly greater than the average .6% while the NUE offer is 3.20% greater than the average, which approximates to a closer degree the historical pattern of greater increases than the average increases at this benchmark. This tends to support the NUE offer. At the BA maximum, the benchmark, the parties have settled at slightly more than the average in the last two years. The NUE offer is very consistent with this pattern while the Board offer would result in a settlement of 3.8% less than the average at this benchmark. This too tends to support the NUE offer. At the MA maximum, the settlements at the New Auburn district have been consistently less than the average. Over the three year

period, the parties' settlements have been an average of approximately 4% less than the average settlement. The Board offer tends to approximate this trend slightly better than the NUE, thus at this benchmark the Board offer is preferred. At the schedule maximum, a similar result occurs. The parties have consistently been below the average settlement. Both offers are below the average settlement. However, the Board's offer approximates the pattern more closely.

An analysis of Table No. 4 indicates the percent increases at the BA minimum in the New Auburn district have been greater than the percentage increases in the comparables. The NUE offer is slightly less than the average while the Board offer would result in an increase of 6.25% compared to the average percent increase at the BA minimum of 9.3%. This clearly supports the NUE. At the BA maximum, the parties settlements have usually been slightly more than the average percentage increases. However, both offers at the BA maximum are less than the 10.47% increase at this benchmark in the comparable districts. The NUE is 1.5% lower while the Board is 6.07% lower. From this perspective, the NUE offer is strongly preferred. At the MA minimum, the Association offer is 2 percentage points greater than the average percent increase while the employer is 1.4% less than the average. Neither offer at this benchmark is preferred because each is a significant departure from the average which seems to be unjustified in either direction. At the MA maximum, the NUE offer is preferred because, although it is greater than the average, the Board offer results in a proportionately greater negative difference compared to the average. At the schedule maximum, neither offer is preferred because both are approximately off the average by the same degree.

The mediator/arbitrator has explored in detail the two different approaches the respective parties have used comparing their final offer to wages received by employees in comparable districts. The Board emphasizes a total package comparison including increases in insurance and basically the NUE emphasizes a wages-only approach, which discounts the increases in fringes. As previously mentioned, both are valid methods and must be considered. However, the two methods tend to support opposite conclusions. When the final offers are viewed from the perspective of total settlement cost, the Board's offer tends to be preferred whereas when they are viewed based on a comparison of wages only based on the salary benchmarks, the NUE offer seems to be preferred. In order to make a determination of which offer is more reasonable, it is necessary to make a determination as to which approach, wages or total package cost, provides the most meaningful assessment of the reasonableness of the parties' economic offers compared to other districts. It should be added that such a determination should be made on a case by case basis. It is the determination of the mediator/arbitrator in this case that the analysis of the final offers in terms of wages only at the benchmarks provides a marginally more meaningful and more complete assessment. It was determined that less weight should be given to the total settlement cost comparison used by the Board.

There are several reasons why the mediator/arbitrator believes that the comparative analysis based on benchmarks is more meaningful. First, the total package settlement data including evidence on costing methods was available in only six of 15 comparable districts whereas there was evidence in the record which enabled a benchmark-salary schedule analysis in ten of the fifteen comparable school districts. The fact that more schools could be included in the benchmark analysis gives a better perspective than the more limited sampling of total package settlements. Secondly,

more weight should be given to the benchmark analysis particularly in the BA minimum and maximum because 18.65 of 26.65 teachers in 1980-81 were in this column. Because such a large number of teachers were in this column, the final offers impact greatest on these individuals. Third, the total settlement method was given less weight because it emphasizes the increased cost of insurance which may be within the control of the Board to some extent to reduce. The total settlement method emphasized the inclusion of the increases of insurance premiums and while, as previously stated, the reality of this cost cannot be ignored in cost comparisons, it must also be recognized that it may be possible for the Board to reduce this cost by shopping for a less expensive premium for this same coverage. Had the Board showed that they were prevented from finding less expensive insurance for the same coverage by contract, law or by the market, the mediator/arbitrator would be inclined to give greater weight to the total package data and thus the insurance increases.

Because greater weight has been given to the analysis of the final offers based on benchmarks, the mediator/arbitrator concentrated his analysis in this area. An analysis of the final offers from this perspective supports the NUE offer. As previously mentioned, the NUE offer is preferred because in general it tends to approximate the historical rank of the New Auburn settlements in the comparable districts, because it tends to approximate the relationship of the New Auburn settlements to the average settlements, and because it tends to approximate to a greater degree the relationship of percent increases at the benchmarks to percent increases at the same benchmarks in the comparables.

There are other reasons why the NUE offer is more reasonable. The NUE offer maintains the practice of even and consistent increments across all lanes, whereas the employer offer represents a change in this approach over last year. There is another aspect of these uneven increments which tends to render the NUE offer more reasonable. Because of the uneven increments, the teachers in the BA lane would receive disproportionately smaller percentage increases for their experience increment than teachers in the other lanes. There seems to be no valid justification for this differential treatment. The employer argued that the lower experience increment in the BA column would provide incentive for employees to move out of the BA column thus resulting in a higher quality of education. While this may be true, it does not answer the basic question of why employees in this lane should have any different incentive than employees in other lanes. In order to justify this differential treatment, there would have to be a better justification.

Another reason why the NUE offer appears to be more reasonable is the fact that wage-only settlements compare most favorably to the NUE offer. As previously mentioned, the settlement data is thinner than the benchmark data but it does provide some additive weight. Looking at wages only (see Table No. 1), it is noticed that the Board offer is below the average settlement to a greater degree than is the NUE offer above the average wage-only settlement. The NUE wage offer of 12.7% is 1.33% above the average wages-only settlements of 11.37% whereas the Board's offer of 9.02% is 2.35% below the average wage-only settlement. Another difference in the final offers of the parties was the NUE's inclusion of an MA+8 lane. Their proposal in this regard also has significant support in the comparables. It is observed that 11 of the 15 school districts in the comparables compensate for credits beyond the MA lane.

For the above cited reasons, the Association's offer is concluded to be most reasonable when compared to the wages received by employees in comparable districts.

3. Cost of Living

The mediator/arbitrator has not given much weight to the arguments of the parties relative to cost of living. While the Board's offer is more consistent with either index, the mediator/arbitrator is of the belief that the best indicator of the proper cost of living increase to be included in the settlement is the pattern of settlements in comparable districts. As stated by Arbitrator Kerkman in Merrill Area Education Association (Med/Arb-679 Dec. No. 17955):

"Consequently, the undersigned concludes that the proper measure of the amount of protection against inflation to be afforded the employees should be determined by what other comparable employers and associations have settled for who experienced the same inflationary ravages as those experienced by the employees of the instant Employer. The voluntary settlements entered into in the opinion of the undersigned create a reasonable barometer as to the weight that cost of living increases should be given in determining the outcome of an interest arbitration. The employees as a party to interest arbitration are entitled to no greater or less protection against cost of living increases than are the employees who entered into voluntary settlements."

It has already been determined that the NUE proposal is most reasonable compared to wages received in other districts.

4. Overall Compensation

The Board argued that its offer on wages must be considered in context of the overall compensation received by the district employees. They direct evidence, and it has some persuasive value, that the teachers in the New Auburn district enjoy several fringe benefits not extended to other teachers. However, the mediator/arbitrator does not believe that the additional fringe benefits enjoyed by the New Auburn teachers offsets the employer's low offer on wages in this contract year.

IV. CONCLUSION

The mediator/arbitrator believes that, of the criteria utilized, the most important criteria is the comparison of the proposals to wages received by employees in comparable districts. In analyzing comparisons with employees in other districts, the mediator/arbitrator found that more weight in this case should be given to comparisons at traditional salary schedule benchmarks rather than total settlement costs and moreover, an analysis of these benchmarks favors the NUE offer. This is particularly true in respect to BA minimum and maximum benchmarks. For this reason, and others cited above, the mediator/arbitrator finds that the NUE offer is the most reasonable of the two.

V. AWARD

The 1981-82 Agreement between the Northwest United Educators and the New Auburn School District shall include the final offer of the NUE and the stipulations of agreement as submitted to the Wisconsin Employment Relations Commission.

Dated this 17th day of June, 1982, at Eau Claire, Wisconsin.

BY: 
Gil Vernon, Mediator/Arbitrator

SALARY SCHEDULE

FEB 12 1982

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

<u>Step</u>	<u>BA</u>	<u>BA+8</u>	<u>BA+16</u>	<u>BA+24</u>	<u>MA</u>
0	11916	12091	12266	12441	12616
1	12337	12544	12726	12908	13089
2	12758	12997	13186	13375	13562
3	13179	13450	13646	13842	14035
4	13600	13903	14106	14309	14508
5	14021	14356	14566	14776	14981
6	14442	14809	15026	15243	15454
7	14863	15262	15486	15710	15927
8	15284	15715	15946	16177	16400
9	15705	16168	16406	16644	16873
10	16126	16621	16866	17111	17346
11	16547	17074	17326	17532	17819
12					18292

In placing teachers on the 1981-82 salary schedule, no teacher shall receive an experience increment for the 1979-80 school year.

MAR 1 1982

NUE FINAL OFFER NEW AUBURN

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

STEP	BA	BA+8	BA+15	BA+24	MA	MA+8
0	12,225	12,425	12,625	12,825	13,025	13,225
1	12,683	12,891	13,098	13,306	13,513	13,721
2	13,142	13,357	13,572	13,787	14,002	14,217
3	13,600	13,823	14,045	14,268	14,490	14,713
4	14,059	14,289	14,519	14,749	14,979	15,209
5	14,517	14,755	14,992	15,230	15,467	15,705
6	14,976	15,221	15,466	15,711	15,956	16,201
7	15,434	15,687	15,939	16,192	16,444	16,697
8	15,893	16,153	16,413	16,673	16,933	17,193
9	16,351	16,618	16,886	17,153	17,421	17,688
10	16,809	17,084	17,359	17,634	17,909	18,184
11	17,268	17,550	17,833	18,115	18,398	18,680
12					18,886	19,176

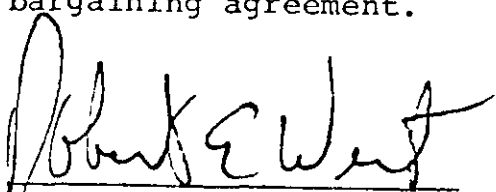
Teachers shall move a maximum of one vertical step annually.

12/12/82

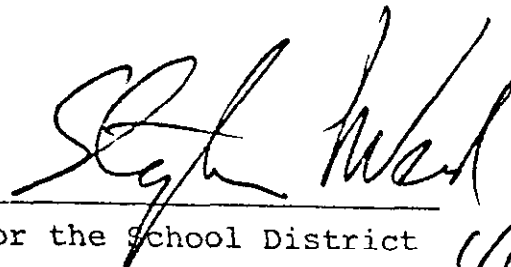
WISCONSIN
RE...

2011

The attached agreements are stipulated by the
New Auburn School District and Northwest United
Educators to be included in the 1981-82 collective
bargaining agreement.



For NUE 1-5-82



For the School District 1/18/82

2. Amend Article V, Section D, 1., Staff Reduction, to read as follows:

1. When, in the judgment of the Board, a layoff of personnel should occur, the Board agrees to use its best efforts to effect such layoff at the end of the school year. If a layoff is to occur at the start of the school year, the teacher to be laid off shall be notified no later than the end of the preceding school year. If a layoff is to occur at the end of the first semester of a school year, teachers to be laid off shall be notified no later than 30 days prior to the end of the first semester.

This language incorporates your proposed layoff language except for the provision dealing with continuation of insurance premiums. It is the District's opinion that your proposal still contains permissive language, however, in an attempt to reach a voluntary settlement, we would incorporate your proposal in our settlement offer.

3. The District agrees to modify Article X, Section C, Standard Clause, to read as incorporated in your letter of November 16:

Except as this agreement shall hereinafter otherwise provide, all terms and conditions of employment, which would be negotiable under Wisconsin Statute 111.70 and which are applicable on the effective date of this agreement to employees covered by this agreement, will continue to be so applicable during the term of this agreement.

4. The District settlement offer also incorporates the NUE's position on mileage reimbursement--24¢ per mile.
5. The District position on Kramschuster and Nehring, which was a part of the last settlement offer proposed by NUE, would be a part of this counter-proposal. That is, Kramschuster and Nehring would be placed pursuant to the following language for their absence in 1979-80 and Article VII, Section A, Paragraph B.2. would be amended to read as follows:

Teachers working between 25% and 100% of the student contact days in a semester shall receive credit for the semester.

6. The District's proposal regarding co-curricular assignments would also be incorporated into the collective bargaining agreement. That language, which was also acceptable to NUE in its last settlement offer, would read as follows:

Article V, Section F, Additional Assignments and Duties, shall be amended to read as follows:

Teacher participation in co-curricular positions and miscellaneous assignments will be sought on a voluntary basis. If there are insufficient volunteers for miscellaneous assignments, the Employer may go outside the bargaining unit to fill the position or, if the nature of the assignment requires that a bargaining unit person fill the position, teachers may be assigned on a rotating basis. If the District is required by an outside agency to fill a co-curricular position with a certified staff member, teachers may be assigned to fill the position based on qualifications, experience, and inverse seniority in the District.

7. Finally, the District's proposal to amend Article IV, Section B, Contract Termination, to replace August 1 with July 15, a change also agreed to by the NUE in its last settlement offer, would be a part of this package proposal.
8. All tentative agreements reached between the parties in the negotiations would also be incorporated in this settlement offer. The articles in the existing contract which we believe to have been modified are listed below and set out in full in the Stipulation of Tentative Agreements:

- a. Article IV, Section B;
- b. Article VI, Introduction;
- c. Article VI, B;
- d. Article VII, Section A, subpart B, 4-a;
- e. Article VII, Section E;
- f. Article VIII, Section C, Step 4, subpart a;
- g. Article VIII, Section C, Step 4, subpart e;
- h. Article X, Section B (one year contract);
- i. Add junior high forensics at Step 7;
- j. Add in-service coordinator at Step 7;
- k. All reference to days in the collective bargaining agreement shall be school days as defined in the grievance procedure; and
- l. Add FHA at Step 7.

RECEIVED JAN 4 1982

ARTICLE IV - TEACHER'S RESPONSIBILITIES

Section B, Contract Termination - Amend by adding the following:

. . . expenses will be itemized.



ARTICLE VI - LEAVES OF ABSENCE

Add the following introductory statement:

This article includes all leaves available to employees of the New Auburn School District.



ARTICLE VI - LEAVE OF ABSENCE

Section B - Emergency Leave

Emergency leave of three (3) days during any contract year may be granted for emergencies upon prior application to and approval of the district administrator. Emergency leave of more than three (3) days may be granted upon prior application to and approval of the district administrator whereas a teacher will pay substitute pay in his absence.



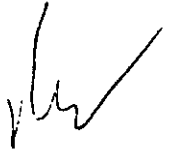
ARTICLE X - RULES GOVERNING THIS AGREEMENT

Section B, Duration

Amend to reflect a one year agreement.




All references to days in the collective bargaining agreement shall be school days as defined in grievance procedure.



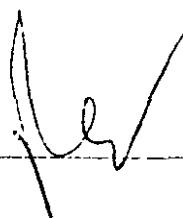
Add at Step 7 of Appendix B, Supplementary Pay Schedule:

In-Service Coordinator
Junior High Forensics
FHA



ARTICLE VII, Section A, Sub.B, 4-a:

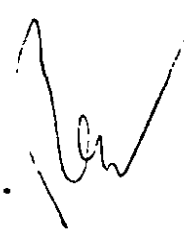
Delete



ARTICLE VII - SALARY AND TEACHER WELFARE

Section E, Fringe Benefits - Life Insurance - Amend to read as follows:

The Employer shall contribute 9¢ per \$1,000 gross payroll per month for an employee life insurance plan. The Board agrees to permit deductions to be made from payroll for participants in the life insurance program. The District may, from time to time, change the insurance carrier and/or self-fund the life insurance program provided the level of benefits remain substantially the same or equal to that presently provided.



ARTICLE VIII - GRIEVANCE PROCEDURE

Section C, Procedure, Step 4 - Amend subpart a. to read as follows:

~~a.~~ Any grievance which cannot be settled through the above procedures, may be submitted to an arbitrator selected as follows: The Board and the Association shall endeavor to select an arbitrator by mutual agreement. If they are not able to agree on an arbitrator within fifteen (15) school days, either party may request through the WERC to submit the names of five (5) qualified arbitrators for consideration. The arbitrator shall be chosen by alternate striking of names with the grieving party proceeding with the first strike. The remaining person shall serve as arbitrator.

ARTICLE VIII - GRIEVANCE PROCEDURE

Add the following to subpart e:

e. This arbitrator's decision shall be limited to the subject matter of the grievance and shall be restricted solely to the interpretation of the contract in the area where the alleged breach occurred. Nothing in the foregoing shall be construed to empower the arbitrator to make any decision amending, changing, subtracting from, or adding to, the provisions of this agreement.

1981-82 Total Compensation Comparisons
(Board Contributions)

	<u>Health Insurance</u>		<u>Dental Insurance</u>		<u>Life Insurance</u>	<u>LTD.</u>	<u>STRS</u> (Employee's share)
	Single	Family	Single	Family			
Birchwood	100%	100%	None	None	50%	100% (effec. 1/1/82)	5%
Bruce	100%	100%	None	None	41%	100%	5%
Cameron	100%	100%	100%	100%	None	100% (effec. 1/1/82)	5%
Clayton	100%	100%	None	None	None	100%	5%
Clear Lake	100%	100%	100%	100% (effec. 3/1/82)	None	Max of \$77/yr.	5%
Flambeau	100%	100%	100%	100% (effec. 3/1/82)	41%	100%	5%
Lake Holbombe	100%	100%	100%	100%	None	None	5%
Northwood	100%	93%	None	None	50%	None	5%
Prairie Farm	100%	100%	None	None	None	100%	5%
Shell Lake	100%	100%	100%	100%	41%	None	5%
Siren	100%	100%	100%	100%	None	100%	5%
Turtle Lake	100%	100%	None	None	None	100% (effec. 4/1/82)	5%
Weyerhauser	100%	100%	None	None	None	100%	5%
Winter	NOT SETTLED						
New Auburn	100%	100%	100%	100%	9¢/\$1000 of salary	100%	