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In the Matter of Mediation/Arbitration between

CASHTON EDUCATION ASSOCIATION

and

SCHOOL DISTRICT OF CASHTON

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No. 29718
MED/ARB 1653
Decision No. 19791-A

Appearances:

Mr. Gerald Roethel, UniServ Director, Coulee Region United Educators; for the Association.

Mr. David R. Friedman, Staff Counsel, Wisconsin Association of School Boards, Inc.; for the Board.

Mr. Neil M. Gundermann, Mediator/Arbitrator.

ARBITRATION AWARD

Cashton Education Association, hereinafter referred to as the Association, and the School District of Cashton, Wisconsin, hereinafter referred to as the Board, were unable to reach agreement on the terms of a contract. The parties selected the undersigned to serve as mediator/arbitrator to resolve said impasse, and the undersigned was appointed mediator/arbitrator pursuant to Sec. 111.70(4)(cm)6.b. of the Municipal Employment Relations Act by the Wisconsin Employment Relations Commission. A mediation/arbitration hearing was held on November 22, 1982, and the parties filed post-hearing briefs.

FINAL OFFERS OF THE PARTIES

Association's Final Offer:

BA Base $12,600
Amount between Lanes $325
Increase Extra-curricular Compensation $2,733 or an average of 12.96%

Board's Final Offer:

BA Base $12,225
Amount between Lanes $310
Increase Extra-curricular Compensation $1,488 or an average of 7.06%

ASSOCIATION'S POSITION:

It is the Association's position that its final offer is the more reasonable of the two final offers presently before the arbitrator. The Association notes there are only two issues in dispute--the salary schedule and extra-curricular compensation.

While the parties agree on the initial comparable group, specifically the Scenic Bluffs Conference, the Association contends that those districts within CESA #11, of which the employer is a member, are also comparable. In contrast, the Board has provided contiguous schools as a second comparable group. The Association emphasized that one of the contiguous schools, LaCrosse, has been

excluded by the Board. While arguing in support of its assertion that the CESA unit is an acceptable comparable and must be used when the primary comparable provides limited direction, the Association further contends that the Board's second comparable group of contiguous schools is not an appropriate group of comparables.

There is considerable difference in the make-up of the parties' secondary group; however, according to the Association, numerous arbitrators have held that CESA districts are appropriate areas of comparables. Although it is true that there may be instances where arbitrators have used contiguous schools, the Association emphasized that CESA #11 is a compact unit with its service center in LaCrosse. That city provides the major employment for the area as well as the majority of goods and services.

According to the Association, the only reason the Board elected to point to contiguous districts as comparables is the fact that an arbitration decision was issued in Westby and the Board intends to rely upon that decision in the instant case.

The Association argues there are two settlements in the Scenic Bluffs Conference which provide limited direction, and therefore a second comparable group must be used. Because of geography, a common service center, size differences, and numerous arbitration decisions, CESA #11 should be used as the secondary comparable group.

Regarding the extra-curricular schedule, the Association notes that it is requesting approximately the same increase for all coaching positions with two exceptions, the assistant coaches in wrestling and gymnastics. This deviation is based on the fact that the head coaches in these two sports receive the same amount as that provided to the head basketball coach. It would then be appropriate that the assistant coaches in all three sports, basketball, wrestling and gymnastics, receive the same pay. All three are winter high school sports, and all three are paid an identical amount in Hillsboro and Elroy-Kendall-Wilton. There is a similarity of time, time of year, and location which would support the concept that the three should be paid an equal amount.

An analysis of the Board's proposed coaching salary establishes a final offer of approximately 5%. In contrast to that offer, the Board has agreed to increase summer band and summer agriculture at 16.7% and 15.7% respectively. While the Association agrees with the increase for summer band and summer agriculture, the Association contends that the proposed increases in the coaching salaries would be unfair.

Regarding the other aspects of the extra-curricular schedule, the Association argues that increasing the extra-curricular compensation would simply bring the Board up to the rates being paid by some of the other members of the athletic conference during the 1981-82 school year. Significantly, the total difference between the two parties' positions in the area of extra-curricular compensation is $1,245. While the instant dispute will not hinge on the extra-curricular compensation, the Association submits that its final offer in this area is more reasonable than that offered by the Board.

The dispute involving the salary schedule is two-fold. The first issue involves the BA base salary, and the second issue involves the dollar difference between the lanes. While there is

no dispute concerning the experience increment remaining at $400 per step, nonetheless the Association believes that in reviewing the total salary structure, the arbitrator must take the experience increment into consideration. The significance of the experience increment is readily noted when one compares the Necedah experience increment of $425. By virtue of having an increment of $25 more per step, the top of the salary schedule will be $350 more than the schedule offered by the Board. Even though there is no dispute concerning the size of the increment, the effect of the minimum increase offered by the Board will adversely affect career teachers when it is incorporated into the Board's proposal.

There is a dispute regarding the dollar difference between each of the educational columns. While the parties are in agreement that the educational column difference must be increased, there is a dispute as to the dollar amount of increase to be applied. The Association is proposing that the column difference be $325, while the Board is proposing the column difference be $310. In 1977-78, the BA-MA difference was $900, or 45% greater than average difference between the BA-MA within the Scenic Bluffs Conference, which was $621. The average in 1981-82 was $971. In order to retain the same percentage ratio, the difference should be $1,408.

It is argued by the Association that the average increase in the BA-MA difference for districts in CESA #11 between 1977-78 to 1981-82 was $319. The districts in CESA #11 that settled for 1982-83 have increased the BA-MA difference by an average of $84. When the $319 is added to the $84, it establishes a total increase of $403 for the MA difference. Since the Board had a $900 difference in 1977-78, it should have a $1,303 difference in 1982-83. The Association's proposal provides for $1,300, while the Board's proposal provides a difference of only $1,240.

When dollars are applied to the recognized benchmarks, BA minimum, BA maximum, MA minimum, MA maximum and schedule maximum, the Association's final offer is less divergent than is the Board's for both the Conference and CESA #11.

It is further noted by the Association that the ratio of the Board to the Scenic Bluffs Conference has deterioriated in all of the benchmarks with the exception of the schedule maximum since 1977-78. The Board has dropped within the Scenic Bluffs Conference on the BA minimum, MA minimum, and the MA maximum. The BA maximum ranking has been maintained, and the schedule maximum rank increased by one position. In a comparison of the change in rank from 1980-81 to 1981-82, there is a drop in BA minimum and MA maximum, with the BA maximum and the MA minimum maintaining rank.

Under the Association's offer, two benchmarks are increased, MA minimum and MA maximum, both of which have dropped from 1977-78 to 1981-82 when compared with the various association offers. In contrast, the Board's proposal will drop the relative rank in at least three of the five benchmarks and potentially in all five. That loss of rank cannot be accepted, and indeed, a restoration of rank needs to take place. The Association emphasized that if the benchmarks are considered in terms of CESA #11, it would take substantial amounts of money, ranging from $190 at the BA minimum to $965 at the schedule maximum for the Board to retain its relative position. If a comparison is made between 1980-81 to 1981-82, it establishes there would have to be an additional $25 at the BA minimum and $137 at the schedule maximum to retain the relative

position. The Association contends its proposal provides the least amount of deviation and thus should be adopted.

The Board will undoubtedly argue that the longevity paid to teachers mitigates the reduced increases at the maximum of the columns. The Association notes none of the Association or District exhibits include longevity when salary schedules are used.

Regarding the statutory criteria to be applied by the arbitrator, the lawful authority of the municipal employer and the stipulations of the parties are not in dispute. The interest and welfare of the public and the financial ability of a unit of government to meet the cost of the proposed settlement is an appropriate criterion to be considered. The Association notes that there was no public hearing requested, which leads the Association to conclude the public was not opposed to the Association's final offer.

The issue before the arbitrator is not one of inability to pay, but a lack of willingness to pay. At no time has the Board taken the position that it was unable to finance the final proposal put forth by the Association.

According to the Association, the interest and welfare of the public would be best served by the adoption of its final offer. Forecasts of a shortage of certified teachers are becoming commonplace, and if a shortage of teachers occurs, the salary schedule of the Board may deter capable teachers from coming to the District.

Another criterion contained in the statute is the comparison of wages, hours and conditions of employment of municipal employes in the arbitration proceedings. The Association has presented exhaustive data to support its position relative to both extra-curricular pay and the salary schedule. The current benchmark increases in the Scenic Bluffs Conference and CESA #11 fully support the Association's position. The proposal is without reproach when the five-year history is analyzed. In contrast to the Association's proposal, the Board seeks to lower the salary schedule when compared to both the Scenic Bluffs Conference and CESA #11. The loss of rank within the Scenic Bluffs Conference is significant. The Association is seeking to return the relative rank of its teachers to that of 1977-78.

Within CESA #11 the final offers would have the following results. On the BA minimum, the Association's proposal would move the salary schedule upward by one position, while the Board's would move the salary down one. The 1977-78 ranking was twelfth. On the BA maximum, the Association's proposal will lose one position, while the Board's proposal drops the rank by four positions. The 1977-78 BA maximum rank was sixth. On the MA minimum rank, the Association's proposal would move the rank up two, while the Board's lowers the rank by five. The 1977-78 rank was sixth. On the MA maximum, the Association's proposal loses one position, while the Board's proposal loses three positions. The 1977-78 rank was twelfth. On the schedule maximum, the Association's proposal would lose one position, while the Board's proposal loses two. The 1977-78 rank was tenth. The fact of the matter is that the Board seeks to further lower its position within CESA #11 on all the benchmarks. While the Association's proposal does lose rank on some of the benchmarks, that loss is not nearly the drastic reduction the Board seeks.

Regarding the educational column differences, the Association submits its proposal more closely approximates the settlement patterns in the Scenic Bluffs Conference and in CESA #11. A major fault in comparing the parties' offers with the averages of those settled is the failure to recognize the previous year's ranking. A comparison of the Association's proposal and the Board's proposal with Conference settlements for 1981-82 clearly establishes that the ratio proposed by the Board is substantially below that which has been settled and which is requested by the Association.

Another factor to be considered by the arbitrator is the average consumer price of goods and services commonly known as the cost of living. The Board will undoubtedly argue that its position is closer to the CPI than is the Association's, thus its offer should be selected. This agreement will replace a similar one-year agreement, and neither of those contracts make any mention of cost-of-living adjustments. The salary schedule is bargained annually and implemented annually, and there are no mid-year or mid-term salary adjustments to maintain equality with the increased cost of living. Moreover, if one were to accept the theory of the cost-of-living adjustment, 1981-82 salaries need to be adjusted monthly to maintain equality. This offer would be more appropriate based on the cost of living. Unfortunately, the Board's offer fails to provide any real spendable dollar increase. Additionally, arguments advanced based on the cost of living assume the salary schedule for 1981-82 was the correct salary. Based on the average salary of the Conference or CESA #11, that is an error.

Significantly, at no time have the teachers been able to secure the type of increases that have been reflected by the cost of living.

The Association asserts that arbitrators have relied on settlement patterns as a proper measure against inflation to arrive at an appropriate settlement. The Association believes that the pattern of settlements in the Conference and in CESA #11 supports its final offer. The Board's position is not compatible with any settlements in either group. Inflation protection provided to the teachers in those districts that have settled should be afforded to the teachers in this District.

While the Board may argue that some recent arbitration decisions have placed less emphasis on comparable settlements and more emphasis on cost of living, this was done because the pattern of settlements within the immediate comparable group that would have been reached during the current year of bargaining had been reached earlier. Additionally, the Association contends that where arbitrators have looked to the cost of living as a criterion in assessing salary increases, the arbitrators have also been cognizant of the dollar increases proposed by the districts as well as the associations. The Association believes that the dollars paid in 1981-82 and in 1982-83 will be considerably higher than that proposed by the Board.

Another statutory criterion which must be considered by the arbitrator is the overall compensation presently received by municipal employes. Although the issue before the arbitrator has been confined to salary schedule and extra-curricular activities, the Association contends that other compensation must also be considered by the arbitrator. These other forms of compensation include the various fringes. A review of the evidence establishes that the Board's offer, including fringes, is among the lowest of all offers.

While the Board will argue that the general economic conditions should serve to support its position, the unemployment rates for the counties in which the Board is located rank among the lowest in the State. The District serves a rural setting of farms from 100 acres to 240 acres; farms that provide the employment for their occupants. The metropolitan area of Cashton has only 805 residents, and this small number alone would indicate a rather stable business community. Farming provides opportunity to avoid some of the economy's pitfalls, as a farmer can increase his or her herd size, add another grain commodity, or diversify his production in order to gain more income. Teachers of the District have no such alternatives. Significantly, the Association has recognized the change in economic conditions, as its last offer of 10% for 1982-83 is less than its last offer of 14.57% for 1981-82.

In summarizing its position, the Association contends that its proposal relative to extra-curricular salaries is the more reasonable, as it adjusts the salaries of all three winter sports' assistant coaches to the same pay. Additionally, the increases are within the same range in terms of dollars. Significantly, the proposal does not move the District's salary ahead of the Conference. Additionally, the total difference in dollars for all extra-curriculars is $1,245. A prior District arbitration has favored more than the current Association's proposal. These factors should clearly establish that its proposal relative to extra-curricular activities is the more reasonable of the proposals.

The Board's proposal provides the smallest dollar increase to those teachers who are currently receiving longevity. Irrespective of percentages, the fact of the matter is that the Board proposal is far below the standard of settlement in both the Conference and CESA #11. While the employes who are at the maximum of the salary schedule do receive some longevity, it is not sufficient to mitigate the failure to provide adequate salaries for professional people in the District. The Association has extensively argued the failure to remain competitive in the Conference and in CESA #11 for career teachers.

The Association concedes that its proposal provides a measure of "catch-up" which has become necessary since 1977-78. While the rank within the Conference has remained relatively stable since 1977-78, within CESA #11 there has been rapid deterioration of that rank. The Association's proposal would seek to hold that reduced rank, while the Board attempts to move it downward even further. The Board's proposal is furthest from the norm of the settlement pattern. The catch-up dollars provided earlier must be addressed. Additionally, the Association contends its proposal changes the schedule to reflect comparable schedules. Its proposal, as opposed to that submitted by the Board, attempts to address the bargaining that occurred in both the Conference and CESA #11 since 1977-78. Since that time the Conference schools have increased the difference between the BA and MA column the same amount the Association has proposed. CESA #11 has widened the difference between the BA and MA basis at this same rate.

There is no issue of ability to pay in the instant dispute, therefore the Association has argued that the decline of teachers' salaries since 1977-78 should be addressed. The Board did not present any evidence that there would be a hardship on the District to implement the Association's offer. Under the assumption that the Board simply does not wish to increase salaries to the level the Association wishes, one must then direct the arbitrator's attention to the comparables, the catch-up factor, and the voluntary settlements, all of which support the Association's position.

If the arbitrator is persuaded to look at the CPI, the Association's position is still the least divergent. The Association continues to argue that settlement patterns provide the most accurate insurance against inflation for both parties. Numerous arbitrators have so awarded. Additionally, when inflation was high, decisions were reflective of settlement patterns. That trend must continue. Without adding any merit to a discussion of CPI, the Association emphasizes that teachers within the District have lost spendable income to inflation during the 1981-82 school year, and added to the annualized June, 1982, salary plus an equivalent amount for lost spendable income for 1982-83 school year provides the Association with a proper salary if its final offer is awarded.

The Association contends that the comparables support its position. The comparables both within the Conference and within CESA #11 must be used with the same amount of weight being placed on the settlements to develop a pattern. The Association is convinced that the pattern of settlements is well defined by CESA #11 and substantiated by the Conference. The Association's proposal follows the norm rather than establishing a new settlement pattern, and thus should be incorporated into the agreement.

BOARD'S POSITION:

It is the Board's position that its final offer is the more reasonable of the offers before the arbitrator. The Board notes that there is a threshold disagreement as to the full extent of the comparables, with the Board relying on the athletic conference and four contiguous districts and the Association relying upon the athletic conference and CESA #11. The Board contends its comparables are more appropriate in that in a previous arbitration decision involving the same parties the Board presented the districts that were basically within the old athletic conference. The old conference contained more schools than does the new conference. The Association relied basically on part of the old conference and what was to be the new conference at that time. The arbitrator essentially used all districts for his decision.

Historically the parties have relied on the districts basically listed in Arbitrator Johnson's previous award. Athletic conferences tend to be used for the following reasons: They tend to be in the same geographic area; tend to come fairly close to each other in property value and tax rate; tend to contain the same number of students enrolled in each school; and finally, the number of teachers tends to be about the same in athletic conference schools. In Two Rivers Public School District, WERC Dec. No. 18610-A, Arbitrator Yaffe found that comparable districts not only include the athletic conference but include districts based upon geographic proximity, similar size, and the economic resources available to those districts for their educational programs. In School District of Marshfield, WERC Dec. No. 1811-A, Arbitrator Richard U. Miller stated as follows:

> "In reviewing the evidence and arguments presented by the parties, the undersigned sees no reason to go beyond those districts in the Wisconsin Valley Athletic Conference for the appropriate comparable under statutory criterion d. One would discard or supplement the Conference districts only on two bases. First, the athletic conference districts were mismatched or illogically grouped. Second, the primary comparisons which are otherwise weak

"would be significantly strengthened by the addition to the comparison set of non-conference school districts."

Essentially the argument advanced by the Association for going beyond the conference is that there are not many settlements within the conference at this time. The Board submits such argument is misplaced. Moreover, the criteria established by Arbitrator Miller have not been met. The Association has failed to establish that the conference districts are mismatched or illogically grouped, and the Association has failed to show that the information regarding the conference schools is weak. The fact that there are few settlements does not weaken the basic underlying value of the athletic conference as a basis for comparison.

What the Association is trying to do is place primary weight upon statutory criterion Section 111.70(4)(cm)7.d. The approach of placing weight only upon one of the factors to be considered in arbitration has been rejected by this arbitrator in School District of Cudahy, WERC Dec. No. 19635-A. This arbitrator's reasoning in Cudahy was further adopted in School District of South Milwaukee, WERC Dec. No. 19668-A by Arbitrator Robert J. Mueller. Based on arbitral authority, the expansion of the comparables beyond the athletic conference and the contiguous schools is not warranted in this case.

Historically the parties have relied on the districts that the Board proposes. The arbitration awards clearly indicate a preference for not going beyond the schools in the athletic conference and in the geographic proximity. Finally, the Association attempts to expand the comparables to CESA #11 so it has more of a data base to support its case which is based exclusively upon comparisons. This approach of expanding the districts so that an argument can be made only on the basis of comparability has been rejected.

Regarding salary, the Board submits there are basically five ways to judge an offer:

"1. Compare actual dollar amounts;
2. Compare the dollar increase from year to year;
3. Compare the percentage increase that teachers receive in the economic package;
4. Look at the state of the economy as it currently exists and has existed; and
5. Look at how schools rank when compared to each other on various points on the salary schedule."

recognizes that benchmarks are one means of determining increases, it submits it is not always a true indication of what happens to a teacher's increase. In some instances the number of steps in a salary schedule will be changed, while in other situations the increments may be changed and therefore the amount of money generated at the benchmark maximums obviously will be increased. Thus, any change within a salary structure of this nature will have an effect upon the benchmark maximums.

In the instant case the Board's proposal provides the minimum increase for someone progressing through the salary schedule will be $950. The minimum increase the teacher at the maximum of the salary schedule would receive is $750 on the schedule in addition to a longevity payment of $230 or $980. If a comparison is made between step 14 at the MS+16 column and step 15 at the MS+16 column of this year's salary schedule, it will be noted that a person would receive an increase of $1,140.

By looking at different places on the salary schedule, different dollar figures can be arrived at. By whatever means is used, the District's dollar increases are competitive with other districts and reasonable in light of the economy. Arbitrators have stated that the percentage pattern of settlement is "a reasonable barometer as to the weight the cost of living increases should be given in determining the outcome of an interest arbitration." Merrill Area Public School District, WERC Dec. No. 17955-A, (Kerkman). There is evidence in the record that shows that the pattern of settlements in the area runs the gamut. However, none of the settlement information shows percentage packages to be in the range proposed by the Association. In this arbitration, as opposed to many arbitrations, the parties are in agreement as to the cost of their packages. The Board's package offer is an increase of 7.56% over last year, while the Association's offer represents an increase of 10.01% over last year. The Board submits the arbitrator is well aware of numerous decisions throughout the State in which the percentage package awarded by arbitrators has been closer to the Board's offer than to the Association's offer.

Since one of the purposes of using the percentage package increase is to determine what would be an equitable cost-of-living increase, the arbitrator must take note of the Board's exhibits relating to inflation. According to the evidence, either party's offer exceeds the statutory criteria on cost of living. The Board submits that its offer comes closer to that standard than does the Association's offer. The Board recognizes that when inflation was running rampant employes did not receive raises that were equivalent to the cost of living. The Board does not expect raises to be lower or the same as the cost of living when the inflation rate goes down. However, it does not believe that an offer which is double the rate of inflation should be granted.

Regarding the cost of living, it is noted that the CPI for LaCrosse area has been running below the nationwide trend. Since the previous years' Board offers were closer to the nationwide trend, and since the rate of inflation has been less in the LaCrosse area, the Board views its offer in terms of long-term cost of living to be closer to the standard than that of the Association.

Another factor which must be considered is the economy, and the evidence establishes that there is high unemployment, layoffs, and a generally poor state of the economy. The Board will remind the arbitrator of his statements in the Cudahy case. The Board would also draw the arbitrator's attention to two excellent statements by Arbitrator Robert J. Mueller in Madison Area

Vocational, Technical and Adult Education District, WERC, Dec. No. 19793-A. The arbitrator in that case made a lengthy statement regarding the state of the economy and its impact on bargaining. The conclusion of the arbitrator was that the economy played a vital and significant role in determining which offer should be accepted. The arbitrator made a similar statement in the South Milwaukee case. It is clear from the two decisions of Arbitrator Mueller, as well as the decision of this arbitrator, that the economy impacts on everyone, including teachers.

The fifth point in judging the reasonableness of an offer has to do with how the districts have ranked in comparison with one another.

There are numerous ways of establishing ranking. Ranking can be based on the actual dollar amounts; ranking can be done with respect to the average dollar increases at the benchmarks; ranking can be done with respect to the median salary paid at the benchmarks and using comparable schools; and finally, ranking can be done by looking at the actual dollar spread between the districts involved.

Some of the exhibits introduced into evidence by the Association used the salary, the STRS, family health insurance rate, and family dental rates. There is no supportive data for these documents, therefore the Board has no way of assuring the accuracy or the reliability of the data. While this information is superficially useful, the Board submits the concrete facts as to the amount of money paid by other districts for the various factors used by the Association do not really stand the test of scrutiny.

It is much better if the actual dollar amounts paid at the benchmarks are used. However, in looking at benchmarks it must be emphasized that they do not include longevity payments made by the Board.

Association Exhibit #18 shows the BA salary range for eight schools to be in a range of $550 separating those eight schools. The Board submits that is a fairly close dollar amount for eight schools. It is significant to note that the numbers are grouped. For example, there are two figures that are around $12,000, four schools are grouped between $11,800 and $11,675, and two schools are grouped at the same salary of $11,500.

Association Exhibit #19 establishes that the dollar spread between the second-ranked school and the sixth-ranked school is rather insignificant. There is a greater spread between the first and the eighth districts, but if one looks closely, the ranks of all the rest of the districts are rather close. The maximum salary benchmark figures do not clearly reflect the number of steps needed to get to the benchmark.

Association Exhibit #20 shows the closeness of the rankings between the second and eighth ranked districts. There is a total of $670 between Necedah, which is ranked second, and New Lisbon, which is ranked eighth. The dollar difference is $700 between the number one ranked school and the number two ranked school. It is interesting that between the seven schools there is a $670 difference, and between the first and second school there is a $700 difference. The net result of the analysis of the ranking of schools on dollar amounts indicates that to slip a rank or two on the dollar spread is insignificant.

The Board submits that by using five different methods of comparing salaries, its final offer is more reasonable than that of the Association. One of the underlying philosophies of mediation-arbitration is an attempt to understand where the parties would have arrived had they voluntarily settled. Historically, the Board and the Association have settled with respect to the comparable districts. The Board's percentage settlements and average dollar increase settlements have been competitive with the comparable districts throughout the years.

The evidence establishes that since 1977-78 the parties have bargained changes in the salary structure. The dollar amount between steps has changed as has the dollar amount between columns. This evidence clearly establishes that the Board has historically been willing to make modifications in the dollar amount of the increments and the dollar amount between the columns as well as the number of columns. Over the years the parties have worked out satisfactory salary schedules, albeit with the help of third parties.

Another factor to look at in determining where the parties might have arrived in a voluntary settlement is contained in Board Exhibit #36. This exhibit establishes that the Board's offers have been found to be more reasonable than the Association's. For the 1978-79 school year salary proposal, the arbitrator adopted the Board's position. For the 1981-82 monetary reopener, the Board's offer was much closer to the eventual settlement. Thus, based on historical analysis, the parties would have settled very close to where the Board's offer is currently.

The Association has put in the CESA #11 schools in order to show that the Board lags behind those schools. Since the parties have never used CESA for comparison purposes, this argument does not have validity. It also is not valid in that arbitrators very seldom use CESA for comparison purposes. More likely, the Association is going to argue that the Board has slipped in its rankings and therefore has to catch up or move up in its rankings. The Board submits that position in rankings should not be given the weight the Association might want. With dollar spreads that are so tight between the districts, the issue of catch-up is not a viable issue. Further, the Board argues that if there is any catching up to be done, a point the Board does not acknowledge, such catching up should not be accomplished with an economy in its current condition, and it should be accomplished through a voluntary settlement.

The Board raises another issue in support of its position that its final offer is the more reasonable. The Union's argument with regard to ranking and catch-up would be that over the past few

Board's previous offer; thus, the facts show that the Board's initial offer and arbitration position was close to where the settlement was achieved.

Assuming for the sake of argument that catch-up is an issue, analysis of the facts will show that the arbitrator should not remove the Association from a predicament it voluntarily and knowingly might have gotten itself into. The arbitration proceedings should not reward a party who in the exercise of his rights has not struck the best deal possible.

The main difference between the parties on the salary structure is the difference of $15 between the columns. It should be noted that both parties have increased the amount over last year's amount between columns, and the issue really is which offer is the more reasonable. In Columbus School District, WERC Dec. No. 16644-A, Arbitrator Kerkman ruled on an analogous issue. In Columbus, the Association was attempting to add another educational advancement column while the Board was seeking to maintain status quo. Arbitrator Kerkman agreed that such a proposal would have changed the status quo, and further concluded that where a change of status quo was sought such change had to be justified by the party seeking the change. Unless this Association can show that the dollar amounts are inequitable, unworkable, or are required by the comparables to be changed, the Board must prevail. The Board submits the Association has presented no evidence that would justify its position on this issue.

The remaining issue to be addressed is that of extra-curricular compensation. The Association is seeking an increase of nearly 13% in extra-duty pay. The evidence established that the Board is about in the middle, and there is no evidence to indicate that the Board's coaches coach a longer season, have more responsibility than other coaches, have more players participating in sports, coach in locations that are less desirable than other coaches, or any other factor which would justify an increase of this magnitude. The Association has not shown that conditions or circumstances warrant such a huge increase in pay. The Board has proposed an increase of over 7% for extra-duty positions. The Board's offer for these positions is in line with its total salary proposal, while the Association's proposal is clearly higher than its total package increase. While it is obvious the extra-curricular issue is not determinative of the total dispute, the Board does submit that an increase of the magnitude being sought by the Association is unreasonable; and further, the Board's increase does not drop the extra pay behind other comparable districts.

For all the above reasons the Board respectfully requests

Arbitrator David Johnson issued an arbitration award on February 7, 1979, between the parties. In that award the arbitrator noted:

> "The Association has taken the position that both the Northern section of the Scenic Central Athletic Conference and the New Athletic Conference to which Cashton belonged (or belongs) constitutes a comparable group of schools."

At that time the Board proposed the Scenic Central Conference as well as a number of schools in geographic proximity to the District. At least in 1979, both parties relied in considerable part on the athletic conferences, new and old, as the comparables.

While it is true that in some cases arbitrators have relied upon CESA areas to draw comparables, it appears that in the preponderance of the cases the arbitrators have more narrowly defined the area of comparables, frequently relying upon an athletic conference from which to draw the comparables. Where, as in this case, the parties previously relied upon the athletic conference(s) to draw the comparables, the undersigned can find no basis for expanding the comparables to CESA #11. In the opinion of the undersigned, the comparables used by the parties previously, the athletic conference, are appropriate to use in this case.

There are eight schools in the athletic conference: Bangor, Cashton, Elroy-Kendall-Wilton, Hillsboro, Necedah, New Lisbon, Norwalk-Ontario and Wonewoc. For the 1981-82 school year the evidence establishes that the District ranked as follows:

BA Base Salary	6 of 8
BA Maximum Salary	3 of 8
MA Base Salary	3 of 8
MA Maximum Salary	6 of 8
Schedule Maximum Salary	3 of 8

In three of the categories the District ranked third, and in two categories the District ranked sixth.

With the exception of the BA minimum and MA maximum, since 1977-78 the District has generally been in the upper half of the rankings. Between 1977-78 and 1981-82, the District has ranged between fourth and eighth place at the BA minimum, and fourth and sixth place at the MA maximum. Overall, the District appears to have remained competitive with the athletic conference comparables in most areas. An argument can be made that at the BA minimum and MA maximum some improvement in ranking could be made.

The Board argues that if the Association's ranking has fallen, it is directly attributable to the position the Association has taken in negotiations during the last two years. According to the Board, the Association "lost" a decision before Arbitrator Johnson, and reached a settlement in the mediation phase of mediation/arbitration with Arbitrator Yaffe one-half percent above the District's final offer. Thus, the Board argues, any attempt to rectify the results of third-party intervention would in effect reward the Association for previous errors in judgment and penalize the Board. Such argument is not entirely persuasive.

If the Board's argument were accepted, it would mean that if the relative position vis-a-vis other comparable districts

deteriorated, the Association would have no recourse to re-establishing a competitive position. Quite clearly the statute does not contemplate such results, especially considering criterion d. which provides:

> "Comparison of wages, hours and conditions of employment of the municipal employes involved in arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services and with other employes generally in public employment in the same community and in comparable communities and in private employment in the same community and in comparable communities."

In contrast to the Board's position, the Association argues that the application of the cost of living to the 1981-82 salaries is inappropriate for to do so would presume those salaries were appropriate, which they were not, in the opinion of the Association. Appropriate or not, those salaries were arrived at through collective bargaining, albeit in the mediation phase of mediation/arbitration. The Association had an alternative available to accepting a voluntary settlement--arbitration.

Collective bargaining does not occur in a vacuum. This fact is recognized in the statutory criteria, especially criteria e. and h. Criterion e. states the following:

> "The average consumer prices for goods and services, commonly known as the cost-of-living."

While the Association argues, with some justification, that when the CPI was rapidly rising the teachers did not receive comparable salary increases thus when it rises more slowly the CPI should not be a basis for determining salaries, nonetheless it is one of the statutory criterion. As such it is a factor to be considered. At an annualized rate the CPI rose 3.9% for the month of December, 1982. The Board's final offer represents a total increase of 7.56%, almost twice the December CPI, while the Association's final offer represents a total increase of 10.01%. Certainly the Board's final offer more closely approximates the CPI.

Criterion h. provides as follows:

> "Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment."

Certainly the general economic climate in which the negotiations occur is a valid consideration under criterion h. It is not necessary to dwell on those conditions other than to note that the economy is extremely weak and unemployment is at a post-depression high.

While the Association contends that the taxpayers in the District are really insulated from the economic conditions existing in the country because the taxpayers are farmers who can increase herd size or change or increase crops to increase their incomes, such argument is simply unpersuasive. There appears to be no

segment of the economy insulated from the severe recession, including agriculture.

The undersigned recognizes that certain portions of the salary schedule could be improved to make the District more competitive. However, those changes can be best accomplished through negotiations. Certainly the Association's final offer cannot be characterized as totally unreasonable; however, given the current cost of living and present economic environment, it is the opinion of the undersigned that the Board's final offer relating to salaries is the more reasonable.

Both parties have recognized that the issue of extra-curricular compensation is not determinative of this dispute. Nonetheless, the undersigned is of the opinion the Association's position in this regard is the more reasonable position, especially as it relates to assistant coaches.

After having given consideration to the evidence and the statutory criteria, it is the opinion of the undersigned that the Board's final offer is the more reasonable final offer and should be awarded. Therefore the undersigned issues the following

AWARD

That the Board's final offer be incorporated into the collective bargaining agreement.

Neil M. Gundermann

Neil M. Gundermann, Arbitrator

Dated this 26th day of
February, 1983 at
Madison, Wisconsin.