

In the Matter of Final and Binding Arbitration Between	:	
WISCONSIN CIRCUIT INSTRUCTORS, LOCAL 432, WFT, AFT, AFL-CIO	:	
and	:	AWARD
BOARD OF CONTROL, WISCONSIN VOCATIONAL, TECHNICAL AND ADULT EDUCATION SERVICES DISTRICT CONSORTIUM	:	CaseIV No. 29980 MED/ARB-1729 Decision No. 19802-A

I. HEARING. A hearing in the above entitled matter was held on November 4, 1982, at the Northeast Wisconsin Technical Institute, Green Bay, Wisconsin, beginning at 6 p.m.

II. APPEARANCES.

STEVE KOWALSKY, Representative, Wisconsin Federation of Teachers, appeared for the Union.

DENNIS RADER, Attorney, MULCAHY AND WHERRY, appeared for the Employer.

III. NATURE OF THE PROCEEDINGS. This is a proceeding in final and binding final offer arbitration under Section 111.70 of the Wisconsin Municipal Employment Relations Act. The Wisconsin Circuit Instructors, Local 432, WFT, AFT, AFL-CIO, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to initiate mediation-arbitration pursuant to Section 111.70 (4) (cm) (6) of the statutes on the grounds that an impasse in collective bargaining existed between it and the Employer. A staff member of the Commission, Mary Jo Schiavone, conducted an investigation, and on the basis of the investigation, the Commission found that the parties had complied with statutory procedures, that an impasse did exist within the meaning of the statutes, certified that the required conditions precedent to mediation-arbitration existed, and ordered such mediation-arbitration. The parties having selected Frank P. Zeidler of Milwaukee as mediator-arbitrator, the Commission appointed him on August 25, 1982.

An initial meeting was conducted to achieve settlement by mediation on November 4, 1982. Mediation was not successful, and on the same day a hearing in arbitration was held. The parties were given full opportunity to present evidence and made argument. Briefs and reply briefs were exchanged.

IV. THE FINAL OFFERS.

A. The Union Offer.

FINAL OFFER

Wisconsin Circuit Teachers  
Local 432, WFT/AFT

1. All stipulated agreements.

2. Article VI. Work Load

C. Work Load Formula - p. 7

(1) The workload of Circuit Instructor shall consist of a cycle of an 75-hour period during two consecutive weeks and apportioned as follows:

- (a) Status Quo
  - (b) Status Quo
  - (c) Status Quo
  - (d) ....Travel time will be paid only when travel exceeds 1100 miles or when teaching, preparation and travel exceed 75 hours in a two-week period and will be paid at the rate of 1/1425 of contract salary per hour for each 40 miles traveled in excess of 1100 miles or travel time in excess of 75 hours.
  - (e) Status Quo
  - (f) Status Quo
- Change in (
- 2nd sentence (

3. Article VII. Salary Schedule Provisions

- C. Increase Schedule by 6% each cell, plus any savings generated by a cut in the projected cost of health and dental insurance, shall be added to the salary schedule on a percentage basis.
4. All items contained in the 81-82 agreement not addressed in this offer shall be continued in the 82-83 contract.
5. Salary shall be retroactive to August 23, 1982.

B. The Board Final Offer.

EMPLOYER FINAL OFFER

- 1. WAGES 8.5% total package; payment of insurance increase and remainder of monies applied to salary schedule.
- 2. WORK LOAD - present contract.

V. FACTORS CONSIDERED.

The following factors have been given weight as required by Section 111.70 (4) (cm) 7 of the statutes:

- a. The lawful authority of the municipal employer.
- b. Stipulations of the parties.
- c. The interest and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar service and with other employees generally in public employment in the same community and in comparable communities and in private employment in the same community and in comparable communities.
- e. The average consumer prices for goods and services, commonly known as the cost-of-living.
- f. The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

g. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

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

VI. LAWFUL AUTHORITY OF THE EMPLOYER. There is no question here of the lawful authority of the Employer to meet either offer.

VII. STIPULATIONS. The parties have stipulated to everything except two issues; wages and work schedule over a two-week period.

VIII. ABILITY TO PAY. There is no dispute about the ability of the Employer to pay under either proposal.

IX. INTEREST AND WELFARE OF THE PUBLIC. There is a dispute about whether it is in the interests and welfare of the public to meet the Union proposal. This will be discussed at the conclusion of the discussions on compensation.

X. BASE WAGES. There are two different methods of establishing what are the base wages to be found in the new agreement between the parties. The parties have six lanes though they are numbered differently in their exhibits. The numbering here will be that of the Employer. Lane 1 is the equivalent of a teacher with a BA degree or seven years trade experience. It has nine steps. Lane 2 has ten steps; Lane 3, 11 steps; Lane 4, 12 steps; Lanes 5 and 6, 13 steps. Lane 6 is said to be the equivalent of an MA degree.

According to the proposals, the Union is proposing a 6% increase across the board, plus an addition of any savings from health and dental insurance costs over the previous year to be reduced to a percentage increase across the board. However, there were no savings on health and dental insurance costs, so that for practical purposes the Union offer is a 6% across the board increase. The Board is proposing an overall package increase of 8.5%. It proposes to pay the insurance increase and then the remainder of monies will be applied to the salary schedule. The Board states that the cost of insurance is 2.2% and so the increase in dollar income to the employees is 6.3%.

However, each group has proposed a specific salary schedule and a selection of steps from this scheduling is illuminating as to the actual salaries being proposed without increments included.

Table I

PROPOSED SALARY SCHEDULES AND PERCENTAGE INCREASES

<u>School Year</u>	<u>I</u>			<u>IV</u>			<u>V</u>		
	<u>Min.</u>	<u>Max.</u>	<u>% Inc.</u>	<u>Min.</u>	<u>Max.</u>	<u>% Inc.</u>	<u>Min.</u>	<u>Max.</u>	<u>% Inc.</u>
1981-82	15022	19799		16813	23382		18008	25173	
1982-83									
Union	15923	20987	6.0	17822	24785	6.0	19088	26684	6.0
Board	15735	20739	4.75	17611	24491	4.75	18862	26368	4.75

Both parties have developed information on salary and package increases. There are slight variations in percentage of increase. This information is derived from Union Exhibit 6 and Board Exhibit 3.

Table II

TOTAL SALARY AND PACKAGE COSTS OF THE PROPOSALS

Item	Parties Statements of		Parties Estimates for 82-83		
	81-82 Costs	Union	% Inc.	Board	% Inc.
<b>Salaries</b>					
Union Est.	1,055,215	1,136,234	7.68	1,122,835	6.35
Board Est.	1,071,469	1,152,203	7.5	1,138,586	6.3
<b>Other Benefits</b>					
Union Est.	271,683	318,715		316,138	
Board Est.	279,818	330,793		328,064	
<b>Total Costs</b>					
Union Est.	1,326,898	1,454,949	9.65	1,438,973	8.45
Board Est.	1,351,287	1,482,996	9.75	1,466,650	8.5
Total Differences	24,389	28,047	0.05	27,677	0.05

The following information is also derived from Union Exhibit 6 and Board Exhibit 3:

Table III

DOLLAR AND PERCENT DIFFERENCES IN OFFERS AND AVERAGE PACKAGE INCREASES, ESTIMATES OF THE PARTIES

	Union Offer		Board Offer		Differences	
	Dollar	%	Dollar	%	Dollar	%
	Inc.	Inc.	Inc.	Inc.	Diff.	Diff.
<b>A. Total Increases</b>						
Union Est. of:	128,051	9.65	112,075	8.45	15,976	1.204
Board Est. of:	131,709	9.75	115,363	8.5	16,346	1.209
<b>B. Average Increases</b>						
	<u>FTE Teachers</u>					
	<u>Union Offer</u>		<u>Board Offer</u>			
	\$	%	\$	%		
Union Est. of: <sup>(1)</sup>	2,761	9.65	2,416	8.5		
Board Est. of: <sup>(2)</sup>	2,802	9.75	2,454	8.5		

(1) Union Exhibit 4 shows a 46.38 FTE.

(2) Board Exhibit 3 shows 47 FTE teachers. The Union did not show this figure. The figure was used to calculate average increases under the Union offer.

The differences in dollar costs arise from the methods used to calculate costs from the placement of teachers in scattergrams. As shown in Union Exhibit 4 and Board Exhibits 5A and B, there are slight differences in placing teachers on steps in the scattergram. Most significant are the data on percent increases of the package, about 9.7% for the Union and 8.5% for the Board, or a difference of 1.2%.

XI. COMPARISONS WITH COMPARABLE DISTRICTS. Both parties have the same list of comparable districts, namely all the VTAE districts in the state. Circuit teachers reside throughout the state. The following table shows the ranking of the circuit teachers in comparison with teachers in other districts for 1980-81 and 1981-82. There are some differences in the 1981-82 top salaries listed between Union exhibits and Board exhibits.

Table IV

SALARY COMPARISON: DISTRICTS' HIGHEST, LOWEST, AND CIRCUIT TEACHERS SALARIES FOR SELECTED LANES AND STEPS, AND RANK FOR 1980-81, 81-82<sup>(1)</sup>

District	1980-81				1981-82 (Union Exhibits)				1981-82 (Board Exhibits)							
	Min.	Rank	BA Max.	Rank	Min.	Rank	MA Max.	Rank	Min.	Rank	BA Max.	Rank				
Highest	15,348	1	25,423	1	16,794	1	26,860	1	16,578	1	27,456	1	18,132	1	29,010	1
Lowest	12,259	16	17,376	16	13,440	16	20,079	16	13,337	16	19,001	16	14,784	16	22,922	16
C.T.	13,719	3	18,081	15	16,445	2	22,989	7	15,022	3	19,799	15	18,007	2	25,173	6
Aver.	12,982		20,108		14,504		22,969		13,480		22,048		19,745		25,090	

(1) From Union Exhibits 7 and 8 and Board Exhibits 8, 9, 10 and 11.

The evidence is that there have not been many settlements for 1982-83, but such settlements as have been made are pertinent; and so the following table is presented based on Union Exhibits 9 and 11.

Table V

SALARY SETTLEMENTS AND OFFERS IN SOME WISCONSIN VTAE DISTRICTS, 1982-83, BASE WAGE AND PACKAGE PERCENTAGES

District	BA		MA		% Inc. Per Cell	% Total Inc.	FTE Students 79-80
	Min.	Max.	Min.	Max.			
Milwaukee <sup>(2)</sup>	17,906	29,652	19,584	31,000	8	10.20	12,019
Moraine Park <sup>(2)</sup>	14,404	22,188	16,600	24,940	8	12.3	2,483
Western							
Wisconsin	14,738	22,845	16,679	26,687	6	9.95	3,345
Indianhead	15,005	21,797	16,336	24,787	7	9.34	2,688
Southwest							
1/82	14,024	21,881	15,375	23,830	8.2	14.8	1,119
2/83	14,564	22,722	15,967	24,756			
Circuit Teachers							
Union Offer	15,923	20,987	19,087	26,683	6	9.65	
Board Offer	15,736	20,739	18,862	26,369	4.75	8.45	
Madison <sup>(1)</sup>	15,349	26,136	16,914	27,989	6.25	8.32	6,435

(1) These data were supplied in the Union brief. However in Board Exhibits 8-11 they are reported as 1981-82 figures.

(2) 2nd year of two year contract.

Board Exhibit 18 presents the same information on dollar amounts with a few slight variations.

Union Exhibit 10 listed percentage increases in salary for select steps for 1981-82 salaries over the 80-81 salaries. Abstracting this information, the increase of 9.50% for circuit teachers was in a three place tie for 5th place at BA minimum; in a two place tie for 6th place at BA maximum; in a two way tie for 4th place at MA minimum; and in a two way tie for 4th place at MA maximum.

The number of full-time equivalent students attending the 16 VTAE schools in 1979-80 was with the highest number being at Milwaukee with 12,019 students and the lowest number being at Nicolet with 846. The median number, however, is 2820 students (Bd. Ex. 7).

The Union's Position on Salary. The Union says that its offer amounts to a 6% increase per cell, a 7.68% increase when increments are considered and a package cost of 9.65. The Board's offer is a 4.75% salary increase, a 6.4% increase in increments and a total cost of 8.45%. The difference is \$15,976, about \$350 per circuit instructor. The Union says that the Board's offer is well below all settlements for 1982-83 and 1% to 6% below in package costs. The Union says that the settled districts represent a cross section of the total VTAE system. The Union also says that under either parties' offer there will be no change in rank of the circuit teachers as compared to the settled districts, so this criterion is not conclusive as to which offer is more reasonable. The Union however says that a comparison of circuit teachers with the average salaries of teachers in districts wherein settlements have been reached, shows that the Union's offer is preferable.

The following table of deviations from the averages for selected lanes is derived from the Union brief.

Table VI

DEVIATIONS OF OFFERS TO CIRCUIT TEACHERS  
FROM AVERAGES IN SETTLED DISTRICTS IN SELECTED LANES,  
1981-1982 AND 1982-1983

	<u>1981-1982</u>			
	<u>BA</u>	<u>BA</u>	<u>MA</u>	<u>MA</u>
	<u>Min.</u>	<u>Max.</u>	<u>Min.</u>	<u>Max.</u>
Deviation from Average	+576	-3,050	+1,974	- 50
	<u>1982-1983</u>			
Deviation from Average				
Union	+501	-3,438	+1,947	-280
Board	+314	-3,686	+1,722	-594
Gain or Loss over 81-82 average				
Union	- 75	- 388	- 27	-230
Board	-262	- 630	- 252	-544

The Union notes from the table that both parties' offers lose ground in all categories, and considers the loss under the Board's offer as intolerable.

The Union also holds that its offer of percentage increases applied to each cell is a pattern found in the other districts, and therefore it is reasonable to make comparisons of changes in each salary schedule cell. The Union notes that its offer of 6% is at the low end of the scale, but also notes that the Board proposal of 4.75% is 3.25% below districts that settled two year contracts quite some time ago in Milwaukee and Moraine Park and is 1.25% to 3.5% below recently settled districts and is 1.5% below an arbitration award in Madison favoring the employer.

The Union rejects the Employer's argument that prevailing conditions justify the Employer's offer, because that offer is abnormally low. Further the Union's offer was made in light of economic conditions and at 6% the offer is less than the 6.9% increase in the CPI from June 1981 to June 1982. This is an offer of 33% less than last year. The Employer's exceedingly low offer has no support from comparables, or in cost of living, or even in economic theory. The Union further notes that the individual members of the Board of Control represent districts which made higher offers to their own teachers, alongside of whom the circuit teachers work.

The Board's Position on Salary. The Board points to the fact that both parties use a statewide list of VTAE districts for comparisons. The Board in its brief presented a table which showed the relationship of average salaries in 15 districts to circuit teachers' salaries. The following is abstracted from this table.

Table VII

DEVIATIONS OF CIRCUIT TEACHERS SALARIES FROM AVERAGES  
IN FIFTEEN VTAE DISTRICTS, 1980-81, 1981-82

	<u>BA</u> <u>Min.</u>	<u>BA</u> <u>Max.</u>	<u>MA</u> <u>Min.</u>	<u>MA</u> <u>Max.</u>
1980-81				
Deviation	737	(2,027)	1,941	20
1981-82				
Deviation	1,068	(1,944)	2,367	156
CT Gain	351	83	426	136

The Board says that these data show that in every position except BA maximum, circuit teachers' salaries far exceed the average paid. Heavier weight must be given to MA maximum since 72.3% of the total bargaining unit is in the MA lane.

The Employer, citing fringe benefits (which are considered later here) and the higher than average salary that existed in 1981-82, argues that the total compensation of the circuit teachers does not justify a higher than average salary to maintain them as competitive to other teachers. It states that though there was a 6.25% increase in each cell in the Madison award, the package cost was 8.3208%. This is less than the Board offer here.

Discussion. In the matter of offers relating to wages alone, base plus increments, the evidence is that the Union offer more nearly fits the pattern of comparison of the settlements occurring this year and the higher settlements that exist as a part of a two-year settlement. Table VI shows that the Union will slip in its relationship to the average of districts which have settled. Table V shows that the salary settlement proposed by the Union is comparable to other settlements currently though the total increase is on the high side of settlements made in 1982. Table VII data relates to last year's experience, and the experience of last year does not outweigh current experience, in the arbitrator's opinion.

XII. COMPARISONS WITH OTHER WAGE CHANGES. The Board presented several exhibits relating to its contention that it is not in the interests or welfare of the public to meet the Union offer, because of outside wage decreases. Board Exhibit 20B indicated that the workweek in manufacturing was dropping below 40 hours per week, that the weekly initial claims for unemployment compensation was sharply rising, and that the number of building plans being examined were also down. Board Exhibit 20C showed that help wanted advertising in Milwaukee is continuing down in a long down swing, and the unemployment rate has gone up to about 11% and that job openings as reported by the job service are also down in a long downturn of three years' duration. According to Board Exhibit 23A, average weekly earnings in August 1982 had increased 4.5%, though hourly earnings had increased 5.3%. Board Exhibit 24 showed that the all-industries' first-year median wage increase negotiated in the first nine months of 1982 was 7.1%, down from 9.8% for the same period of 1981.

Discussion. There is an evident downturn in the economy, and the question is raised as to whether this favors the Board. Lack of job openings as evidenced by the data does support the Board. However, the information that industries are settling for an average of 7.1% increase for the first nine months of 1982 is a fact which favors the Union offer when other wage comparisons are considered.

XIII. COST OF LIVING. The Union presented no data on the cost of living, but reported a 6.9% annual increase in the consumer price index for urban wage earners (CPI-W) for June 1982. The Board reported data for the CPI-W and the Experimental Measure CPI-U Rental Equivalence Approach using CPI Rent. The data is shown in abstract:

<u>Period, 1982</u>	<u>Experimental CPI-U</u>		<u>CPI-W</u>	
	<u>Index</u>	<u>Annual Increase</u>	<u>Index</u>	<u>Annual Increase</u>
June	263.2	6.5	290.1	6.9
July	265.0	6.4	291.8	6.3
August	265.5	5.9	292.4	5.8
September			292.8	4.9

The Board also cited the Implicit Price Deflators for Personal Consumption expenditures. These showed a 6.9% increase for the first quarter of 6.9%, and the second quarter increase is 5.9%.

The Board asserts that its wage and benefit offer exceeds increases in both the Consumer Price Index and the personal consumption expenditure index. It cites three decisions in which Wisconsin arbitrators applied these indices in their decisions, but also states that the Consumer Price Index has been criticized, because it fails to accurately measure housing costs, market supply variances and consumer preferences. The Board therefore asks that the CPI-U Rental Equivalency Index be considered as well as the Personal Consumption Index (PCE) which latter index it considers to be a more accurate measurement of components of inflation.

The Board holds that a comparison of both offers under all of the indices graphically demonstrates the reasonableness of the Board's offer. The Board says its offer represents an 8.5% increase per teacher or \$2,454, whereas the Union offer is 9.75% or \$2,802. This increase does not include the value to the circuit teachers of the reduced workload.

Discussion. There is a question here of how to apply the data related to changes in the cost of living increases. Should the data be applied to the overall package increase or to the increase in salaries? The Board offer is supported by applying the data to the overall package increase which the arbitrator believes is becoming the standard method of applying the criterion. Against this must be weighed the data on average salary



increases in the districts which settled. Here the information indicates that settlements as far as salaries were concerned are in the range or exceeded that of the changes in the cost of living. Of the two criteria, cost of living comparability and wage settlement comparability, the arbitrator believes the latter to be more weighty.

XIV. OTHER BENEFITS. The Union presented no information on fringe benefits. Board Exhibit 13 showed that the VTAE teachers are paid 100% of health insurance. This compares favorably with other districts. Circuit teachers also enjoy 100% coverage on dental insurance. This also compares favorably (Bd. Ex. 14). All districts and the VTAE circuit board pay 5% toward employees' retirement. The Board pays 100% of long-term disability, but pays 67% of salary after 60 days. The Board pays 100% of life insurance with the feature "double next \$1,000 salary", a feature not found in any other plan reported (Bd. Ex. 17). VTAE circuit teachers do not have a longevity plan, a fact true in nine districts.

The Board offer is reasonable as far as other benefits are concerned.

XV. INTERESTS AND WELFARE OF THE PUBLIC. The Union states that although the Employer is citing the economy as a reason not to grant the Union offer, the other districts which settled were also influenced by the condition of the economy and settled at a considerably higher level than what the Employer is offering. The Union position meets this pattern of settlements.

The Board conversely strongly emphasizes the condition of the economy and holds that this condition supports the Board offer. It cites the arbitrator in this matter in Burlington Area District (Substitutes) Dec. No. 23919 (17/79) in distinguishing between employee interest and the public interest, and holds that in this matter employee interest and public interest are opposed.

It also cites Arbitrator Rothstein in School District of Kewaskum, Dec. No. 18991-A, Arbitrator Gundermann in School District of Cudahy, Dec. No. 19635-A (10/28/82), and Arbitrator Mueller in Madison Area Vocational, Technical and Adult Education District, Dec. No. 19793, (11/22/82) to the effect that economic conditions of the present did not warrant the increases demanded by the employees involved.

The Board says it cannot ignore the economic difficulties faced generally by taxpaying residents in the State of Wisconsin, and its total package offer of 8.5%, when there is an inflation rate of 4.9%, represents a generous balance between public interest and the needs of bargaining unit employees.

The Board cites its Exhibit 19 which shows unemployment in nine Wisconsin Standard Metropolitan Statistical Areas which has increased in

XVI. DISCUSSION ON WAGE OFFERS, COMPARISONS, TOTAL COMPENSATION, AND INTERESTS AND WELFARE OF THE PUBLIC.

This discussion on the salary offers independent of the change in the work schedule relates to the foregoing presentations. The Board is holding several basic positions described earlier. One is that the total compensation percentage increase must be considered as against the changes in the cost of living as measured by various indicators. Another is that the employees obtained substantial gains in the period between 1980-81 and 1981-82 over the averages in 15 districts, and another is that the compensation in fringe benefits is comparable. Chiefly it is arguing, however, that the interests and welfare of the public under severe economic conditions must be a deciding factor for the Board offer.

The Union is relying chiefly on the rate of increases in wages alone given to other teachers in districts which have already settled, and here the District offer is far too low.

The arbitrator is of the opinion that the basic criterion to apply on the fairness of the wage offers alone is what the wage settlements were in the districts, and the evidence under this criterion favors the Union offer. The arbitrator comes to this conclusion because for several of the districts, the economic conditions were known and yet wage settlements alone approximated or exceeded the change in the consumer price index. This gives support to the proposition that if the parties bargain freely without resort to arbitration or job action, they will arrive at a settlement somewhere around 6% to 8% on wages alone.

The Board clearly meets the standard of comparability on fringe benefits. However, it must be inferred from the evidence that if all other districts have fringe benefits similar to those of the Board, then the value of the total compensation they have agreed to will be exceeding the Board's offer of 8.5%. Thus the main reliance here is on the comparability of wages. Under this concept the Union offer more nearly meets the statutory criterion.

XVII. CHANGES IN THE WORKWEEK. The Union is proposing a change in the workweek from 40 hours to 37.5 hours. It must be understood, however, that the work schedule is an 80 hour biweekly schedule which permits varying hours during the weeks. The past contract calls for 42 hours of class teaching in 80 hours, and one fourth of an hour for preparation time for each hour of teaching. Travel time is calculated for one hour for each 40 miles of travel. Travel time is paid when it exceeds 1100 miles, and then it is paid for each 1/1520 of the contract travel time in excess of 1100 miles or 80 hours of work. There is also a minimum teaching day of 6 hours, and there are some contract provisions about teaching above this. Overtime can be paid, but then by a local district rather than the consortium.

The circuit teachers have a base school, and they travel to other schools to conduct courses in subjects for which there is not a full-time teacher. Sometimes they may be on the road several days before returning to the base school. There is flexibility in scheduling each week in the two-week period, with the possibility of putting more than 40 hours in one week.

The Union Position on Work Schedule. Union Exhibit 12 listed the workweek of fifteen VTAE districts. The Madison district had a 30 hour week, the Milwaukee district 32.5 hours, and all the rest 35 hours. The circuit teachers were asking an average of 37.5 hours, and the Board offer was to retain the 40 hour average. It is the Union contention that reducing the circuit teachers biweekly work-time requirement from 80 hours to 75 hours would have a very slight monetary impact, since this change would affect only one teacher, who is teaching 90 extra hours per year. The teacher's hourly rate is \$18.18, and the total cost would then be \$1,636 or an impact of .12%.

The Union contends that its proposal is more reasonable, because it is more comparable to the workweek of other districts. It notes that its proposal does not change the required teaching time of 21 hours per week. The Union contends that its demand would have been reasonable if it were asking for a 35 hour workweek on the basis of the information on comparisons. The current 40 hour workweek is a substandard working condition when compared to the conditions of similar employees.

The Union contends that the 37.5 hour workweek will have almost no monetary impact on the Board and is a non-economic proposal. The Union has felt that at a time when there was high inflation and increased cost of living, a proposal for a reduced workweek and higher salaries would not have been feasible, but the economic times are different with employers proposing significantly lower wage increases, so it is traditional for unions in times like these to secure better working conditions which are not going to have a cost impact.

The Union stresses it is not requesting a change in the required "workload". "Workload" refers to the time each employee is required to actually teach each week. There will not be a loss of productivity by the employees as there might be if they were assembly line workers. They are professional workers and are obligated to put in the necessary time to get the teaching done. The Union states that a witness, Mr. Sheehan, testified that under the present system teachers work longer than 80 hours to get their work done without being paid overtime, because their required job can't be done in the workweek. There will be no harm to the productivity for the Employer.

The Board Position on Work Schedule. The Board asserts that the circuit teachers have not demonstrated any change in conditions persuasive enough to substantiate their requested reduction of their work hours scheduled, and therefore this request should be denied, because it is a tenet of interest arbitration that parties requesting a change have the burden of proving a need for the change. The Board cites decisions by Arbitrator Imes in School District of Wausau, Dec. No. 18189-A (4/82) and Dane County Dec. No. 17884-A, Arbitrator Krinsky in Village of West Milwaukee, Dec. No. 12444-A (6/74), Arbitrator Stern in City of Greenfield Police Department, Dec. No. 15033-B (3/77), Arbitrator Kerkman in School District of Greendale, Voluntary Impasse Procedure (9/78), Arbitrator Bellman in City of Manitowoc, Dec. No. 16301-A (2/79) and Arbitrator Weisberger, in School District of Brown Deer, Dec. No. 18064-A (1/81) to this effect.

The Board notes that the teachers have not claimed that they are working less than 80 hours per two weeks, nor have they claimed the workload diminished. If teachers already receive overtime on an 80 hour schedule, they will automatically receive approximately five hours of overtime per two weeks to maintain and put out the same work effort. The Board says that the teachers' estimate of a cost of only 0.12% ignores the fact that the Board wants the same type of preparation, curriculum and project development for which teachers now have time under the 80 hour schedule. The District would then have to pay 5 hours of overtime merely to guarantee production of the same kind of services it presently has.

The Board holds that the Union position presumes that teachers are not providing needed services during the whole 80 hours at the present time. The Union, according to the Board, is arguing that teachers are properly fulfilling the responsibilities of a 80 hours work period and at the same time it is asserting that 75 hours won't hurt productivity. In the absence of evidence that the need for driving time has been reduced and the need for preparation time has been reduced, it must be presumed that 75 hours will result in five hours of work not being performed, and the Board therefore will have to pay overtime.

The Board also contends that the work schedule of the circuit teachers and the conditions of employment are not comparable to the VTAE campus teachers. The circuit teachers get portal to portal pay, have no counseling responsibilities, no office hours, can use preparation time away from the campus, such as at home, are required on a campus 21 hours per week and have a flexible schedule. Campus teachers, however, are paid portal to portal only in isolated instances; they must counsel as a normal duty, have regular office hours, have preparatory time at stated periods, be on the campus an average of 34.5 hours a week, and have a set daily and hourly schedule.

Since circuit teachers have a totally different work schedule, a presumption cannot be made that these teachers are to be compared with VTAE campus teachers. Circuit teachers, for example, can be home for several days each two week period. They are spread throughout the state, and if they had to work at a VTAE campus, they would have to travel great distances on their own time. Instead they have a flexible schedule.

The Board puts a monetary cost on the workload reduction proposal of the Union, contrary to the Union's assertion that the cost would be slight. It states that an award of the Union's offer would "create" five (5) hours of overtime every two weeks for each teacher pursuant to a revised Article VI, Subsection C of the agreement. On December 3, 1982, sixteen weeks of a 38 week contract year were completed. This means that 16/38 or 42.1% of the school year was completed. The teachers are working on an 80 hour schedule, and an award for the Union would subject the Board to an additional five hours of overtime pay for every two week period by all 47 teachers in the bargaining unit. The Board calculates that the average wage for teachers is \$24,515 and the average hourly rate is this figure divided by 1425 or \$17.20. Thus for 16 weeks the average cost per teacher would be \$688. The total cost per teacher for this period would then be \$32,336 or a 3% increase in wages alone. The total additional roll-up cost to the Board would be \$38,221 or a 2.85% total impact increase. This coming on top of a 9.75% overall Union cost, not counting the workload change, would bring a cost to the Board of 12.55% for total compensation through December 3, 1982. Each additional week costs \$2,388 in wages and fringes, or 0.18% in total impact.

The Board states that thus its offer of total compensation exceeds the CPI, exceeds the rate of inflation by 3.6%, whereas the Union offer would exceed it by 7.65%.

Discussion. The first matter to be addressed is whether circuit teachers can be compared to campus VTAE teachers as far as their workweek is contained. The essence of the Board argument is that the work conditions are too diverse so that the work schedule, as far as total hours, should not be used for comparison purposes. The arbitrator is of the opinion that despite the differing types of work schedule, differing as shown in the Board brief, nevertheless the circuit teachers are teachers of vocational, technical and adult subjects, basically similar to what might be taught on a campus if there were enough students in a given location. The parties do use the comparisons of district conditions for basic wages and other features of the contract, and the arbitrator therefore sees no reason to assume that just because of the function of traveling, comparison should not be made on work schedule.

As far as comparison then, the evidence on work hours in a two week period favors the offer of the Union for a 75 hour biweekly schedule as compared to the 80 hour biweekly schedule proposed by the Board.

The Board, however, says that no compelling reason for a change was shown. This arbitrator agrees with the principle of other arbitrators about a strong need being required to show that a change in existing conditions should be made. However, in this case, the arbitrator ascertains that a good reason for making a change has been shown in the disparity of hours of work between the campus teachers and the circuit teachers, assuming there is no cost.

There is then the argument as to what this will cost the Board in productivity or in overtime payments. The Union offer assumes that there is some time available to make the cut, time not used in class, preparation or travel. The working time of a circuit teacher in two weeks consists of a required 42 hours teaching time, a required 10.5 hours preparation time based on teaching time, and the rest is for travel time. Specific information on how much of this travel time as a component of the work schedule that was actually used in travel was not given. The presumption of the Union offer is that in the case of all employees but one, at least five hours are not so used. This presumption must be weighed against the testimony that employees are currently working their full 80 hours, so that this would mean that the unused travel time is used as preparation time over and above the 10.5 contract hours of such time. Thus there is weight to the Board's contention that preparation and the quality of teaching might suffer. The arbitrator, however, does not consider this contention sufficient to outweigh the matter of comparable wages.

There is a remaining major issue. This is the Board's contention that an award in the Union's favor would subject the Board to overtime claims for past work. The arbitrator cannot find in the documents submitted to him any stipulation on retroactivity, but presumes this contract is the successor contract to the one which ended June 30, 1982. According to the Board it would be liable to retroactive pay to August 16, 1982, the beginning of the school year. The employees have been working on an 80 hour biweekly schedule. The Board's contention then that there is a substantial cost to it on a change in the work schedule is persuasive, and its calculations about the magnitude of the cost are also persuasive. For the period of the new contract the Board then would be liable for an increased cost of 12.55%, overall cost for the period up to the date of the award. In the arbitrator's opinion the case turns on this overall cost. Whereas the Union is justified in asking the wage increase it is **seeking**, and whereas the hours reduction without cost is justified, when the cost of the new benefit of the reduced biweekly work schedule and the cost of the wage increase are added, this produces an overall rate of compensation which generally is not comparable for contracts currently being settled. The statutory criterion of comparability is not met. The arbitrator therefore reaches the following conclusion:

AWARD. The provision of the Agreement between the Wisconsin Circuit Instructors, Local 432, WFT, AFT, AFL-CIO and the Board of Control, Wisconsin Vocational, Technical and Adult Education Services, District Consortium for the ensuing period should include the final offer of the Board of Control.



FRANK P. ZEIDLER  
MEDIATOR/ARBITRATOR

DATE January 29, 1983