

BEFORE THE ARBITRATOR

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 In the Matter of the Petition of :
 :
 ASHWAUBENON EDUCATION ASSOCIATION :
 :
 and : Case XVI
 : No. 30567 MED/ARB-1969
 : Decision No. 20227-A
 ASHWAUBENON SCHOOL DISTRICT :
 :
 To Initiate Mediation-Arbitration :
 Between Said Parties :
 :

Appearances:

Dennis W. Rader, Attorney, Mulcahy & Wherry, S.C. appearing on behalf of the Ashwaubenon School District.

Dennis W. Muehl, Director, Bayland Teachers United appearing on behalf of the Ashwaubenon Education Association.

Arbitration Award

On January 18, 1983 the Wisconsin Employment Relations Commission appointed the undersigned as mediator-arbitrator pursuant to 111.70(4)(cm)6b of the Municipal Employment Relations Act in the matter of a dispute existing between the Ashwaubenon School District, hereafter referred to as the District and the Ashwaubenon Education Association, hereafter referred to as the Association. An effort to mediate the dispute on March 31, 1983 failed. An arbitration hearing was conducted on March 31, 1983 at which time both parties were present and afforded full opportunity to give oral and written evidence. No transcript of the proceedings was made and initial briefs were exchanged on May 6, 1983. The parties also exchanged reply briefs on May 23, 1983.

Background

The relationship between the parties is now bound by a collective bargaining agreement the terms of which cover the period of July 1, 1981 to June 30, 1983. The agreement also provides that it can be reopened during its term and with proper notice for negotiation of the 1982-83 base salary. On May 13, 1982 the parties exchanged initial proposals under the reopening provision and thereafter met on four occasions. Failing to reach accord the Association filed a petition on October 25, 1982 to initiate mediation-arbitration. The dispute was investigated by the Wisconsin Employment Relations Commission pursuant to 111.70(4)(cm)6 of the Municipal Employment Relations Act and on December 16, 1982 the Commission certified the final offers of the parties as follows:

Association Final Offer: 1982-83 Base Salary: \$14,175

District Final Offer: 1982-83 Base Salary: \$14,025

Statutory Factors to be Considered

- (a) the lawful authority of the municipal employer
- (b) stipulations of the parties
- (c) the interests and welfare of the public and 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 proceedings with the wages, hours and conditions of employment of other employees generally in public employment in the same 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 pension, 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.

Position of the Parties

The only substantive issue in contention between the District and the Association in the instant case is the base salary which is to be paid during the second year (1982-83) of the current collective bargaining agreement. The District has offered a base of \$14,025 while the Association has demanded a base for 1982-83 of \$14,175. The parties are also in disagreement over certain procedural matters including the costing method to be applied to the total packages and which comparables or benchmarks they believe should be applied by the arbitrator in deciding between the respective final offers. The undersigned concludes that the dispute can be examined most appropriately by considering each of the statutory criteria as these have been raised by the parties through their respective arguments and testimony. It is necessary first, however to take up the issue of the cost of the parties' final offers before proceeding to the other matters in contention.

The Cost of the Proposed Settlements

Typically in interest arbitration disputes the arbitrator is faced with a multitude of varying and often inconsistent calculations of the "cost" of the respective offers. In an understandable if not commendable effort to put the best face possible on their respective offers, the parties often leave the arbitrator with a range of alternative costs which serve more to

confuse than to clarify. Moreover, the cost figures proposed usually are not the actual or true costs which will have to be paid out when the employer's expenses are actually incurred. The instant case is no exception and in fact typifies the behavior of the parties in these cases. The Association here indicates that it has proposed a "... base adjustment of \$875 which results in an 6.6% schedule adjustment for work done during the 1982-83 school year[T]he Board proposes a base adjustment of \$725.00 which results in a 5.4% schedule adjustment for the same period."

The Board for its, part using a different method, claims the cost of its wages only offer to be 7.1%, the Association's 8.2% and total package for each to be 8.8% and 9.9% respectively. These calculations by the Board were subsequently revised in an amended exhibit to reflect a new set of estimates for the total cost which were recalculated to be 8.5% (Board offer) and 9.6% (Association offer). The Board's revised total package cost is the result of a further modification in the method of calculation employed.

The Association decries the figures on cost offered by the Board, contending that the Board is inconsistent in its costing methodology as this has been applied to the total package. As a consequence the Association argues that wages only and not total package costs should be considered by the arbitrator. Otherwise says the Association apples and oranges are being compared.

The undersigned finds merit in the Association's position at least in so far as it relates to the alleged inconsistencies in the Board's costing approaches. The arbitrator therefore has selected the final figures on cost offered by the Board in its amended exhibit 50 provided to the undersigned on April 8, 1983 as the most appropriate for his uses. These cost estimates employ the most commonly accepted costing methodology - that of moving the previous year's staff forward by one incremental step. In this way comparisons with benchmark employee groups can be facilitated as the statutory criteria of 111.70 Wis. Stat. are employed.

The Association also argues that because of the apparent inconsistency in Board application of the costing of the final offers the arbitrator should restrict himself to wage only comparisons. The undersigned rejects this position for several reasons. First, statutory criterion (f) requires that weight shall be given to the overall compensation received by the municipal employees including direct wage compensation, vacations, holidays, insurance and pension, etc. Obviously, the law would not so require such application under unreasonable or inappropriate circumstances. With the revised Board Exhibit #50 we conclude that to the extent that any set of figures is valid and useful those cost estimates are and therefore there is no basis to limit our analysis solely to wages only. Moreover, nonwage benefits are matters of cost to the Employer which because of their magnitude and expense can not be ignored. As the Association points out such items as health insurance and pensions are increasing in cost at a rapid rate, usually far faster than other components of the compensation package. As a result, a wages only approach may significantly understate the total cost of teacher compensation to the District as fringe benefits "roll up" the financial liability of the Employer.

The Interests and Welfare of the Public

The Position of the Board. The Board contends first of all that it must serve the interests of three different constituencies: students; taxpayers; and the District's employees. "During this contract year, the interests of these parties are in conflict. The Board submits that its final offer offer attempts to responsibly balance the constituencies' interests and reduce the conflict by providing a reasonable wage and benefit increase without a significant impact on the District's taxpayers." In support of its

position the Board draws the arbitrator's attention to the current economic climate and its impact nationally and locally. Evidence of the current harsh economic times are unemployment rates unsurpassed since the 1930s, the low level of housing starts in the construction industry, nearly unprecedented numbers of bankruptcies, falling levels of retail sales and a significant decline in real earnings for employees. Neither the state of Wisconsin nor the local economy of the Ashwaubenon School District has been spared from the worst effects of the recession. For example, the District points to the results of several state and local surveys of private businesses which indicate that numerous employees have been laid off, work hours adjusted, and at times, wages frozen. In turn, argues the Board these contractions in the local economy have had a direct effect on the ability of local taxpayers to pay the taxes assessed against them. The postponement of tax payments to the Village of Ashwaubenon has risen from 18.7% of the total tax levy in 1978-79 to 30.2% in 1982-83. Moreover, the Board also points to the amount of tax delinquencies for Ashwaubenon as being eclipsed only by the cities of Green Bay and DePere.

In support of its contentions, the Board cites a long and impressive list of arbitrators who apparently also hold the view that given the bad economic times settlements, per force, must be financially conservative. Illustrative of this line of arbitral thought is that of Arbitrator Mueller (Madison Area Vocational, Technical and Adult Education District, WERC Dec., No. 19793-A, (11/82)) who, in selecting the final offer of the Employer in that case concluded:

"... The considerations that are entitled to dominant consideration and greater weight in this case, concern that consideration for the state of the economy and the recognition of its impact primarily on the practical and feasible ability of the public employer to maintain or increase a particular level of funding and the impact on the public."

The District, given the state of the economy and the hardships faced by taxpayers counsels restraint and moderation, arguing that the Association's final offer will impose further burdens that are not consistent with the public interest and welfare.

The Association's Position. The Association contests the claim of the Board that the former's final offer is not in the public interest. In its own behalf the Association defends its offer arguing that the District is not claiming inability to pay and thus carries the burden of proving that the harsh economic times alluded to by the Board can be "bootstrapped" into an implicit ability to pay argument. The only credible evidence introduced by the Board, says the Association, is that relating to postponed school taxes since 1978-79. Rather than proof of a taxpayer base which is in trouble, the Association sees this as evidence of a "... prudent intelligent group of individuals that are aware of investment opportunities."

To buttress its position, the Association also offers figures to show that, next to Green Bay, Ashwaubenon has the lowest per pupil operating costs of any of the comparable school districts submitted by either of the parties during the arbitration proceedings. This situation existing despite the fact that said school district is the acknowledged salary leader for the area. This, says the Association, supports the conclusion that "the economic climate is healthy in the Ashwaubenon School District and the taxpayer gets a good education for the students per dollar spent."

Finally, the Association also offers its own arbitral authority citing Arbitrator Yaffe in School District of Rice Lake (WERC Dec. No. 19977-A, 5/83). In that particular case, the arbitrator selected the Association's final offer of 11.8% despite the District's entreaties that it was excessive given the current economic climate. Arbitrator Yaffe while apparently not discounting the state of the national economy concluded that the major weight in his decision should rest on comparable settlements, stating:

"Apparently, settlements of the magnitude proposed by the Union herein have been deemed acceptable by a good number of school boards in the region. In the undersigned's opinion, this constitutes the best measure of what a reasonable settlement should be, assuming that to the extent possible the results of proceedings such as this should be in accord with what the parties would have agreed to in a free collective bargaining process."

In sum, the Association admonishes the arbitrator to consider the welfare and interest of the Ashwaubenon teacher.

Discussion of the Parties' Positions. The District has relied for much of its case on the contention that the Association's final offer is not in the public interest and has gone to some length to persuade the undersigned of the validity of this position. If the Employer is to be successful in this task several issues must be confronted. First, an acceptable definition of the "public interest" must be devised such that either party's final offer can be concretely evaluated for its impact. Otherwise the term is a meaningless abstraction that can not be applied in any useful fashion. Thus, there are many publics and there are many interests, any one, or more, may be worthy of consideration. As the Employer appropriately points out the tax payers of the Ashwaubenon School District have an interest in a reasonable tax rate, the students of the District in a quality education, and the teachers in a fair and equitable set of working conditions.

Second, it must be validly shown that in this case the Association's final offer, would in fact adversely affect the interests of the other claimant groups. Thus, the District in the instant case carries the burden of demonstrating explicitly that the Association's final offer is indeed harmful in some significant and measurable manner to the taxpayers and/or students of the District. The Board has sought to measure this adverse impact and show its significance by reference to the state of the national, state and local economies and then by inference, to make a further connection to tax postponements and delinquencies in the District.

The Board has sought to make its case concerning the extent of national and local economic adversity primarily by means of newspaper clippings and survey reports of employment conditions in the manufacturing sector of Wisconsin. The Association has objected to the admission of such evidence as hearsay and thereby of no credibility. That such exhibits are hearsay is without doubt. Yet to argue that they are not credible is another matter. In the first place, arbitration proceedings do not normally function in the manner of courts of law with strict adherence to the standard rules of evidence. Such material as newspaper clippings are routinely admitted for whatever their probative value at the time the case is being considered. Second, much of the information presented in the Employer's contested exhibits herein is generally corroborated by other sources of information generally known and accepted. Thus, there is no question whether nationally or locally the economy has been in the throes of the worst recession since the 1930s. It is also generally understood that in the state of Wisconsin the manufacturing sector has been particularly hard hit.

To accept this as fact however does not prove the point of the Employer's contention that given such generalized economic adversity the Association's final offer is thereby contrary to the welfare and the public interest. The next step which must be taken is to establish a direct and significant connection of such conditions to the School District of Ashwaubenon. It is not sufficient to infer that this connection exists.

It would have been most logical for the District to make this connection with the argument that the Union's final offer was not in the public interest because the District was unable to pay it - either in the absolute sense - or by means of teacher layoffs, cutbacks in student programs or some related budgetary reallocation that demonstrably would seriously impair the District's ability to administer its educational programs. The District, however makes no such case. Rather it concentrates on the taxpayers of the District alluding to the inappropriateness of further tax increases. Thus, we would expect that the District at this point would clarify whether in fact a tax increase would be required or other such action taken should the Association's position be adopted. Yet no evidence is forthcoming leading to the conclusion that no action is contemplated by the Board regardless of which final offer is selected.

The undersigned finds himself generally unpersuaded by the evidence and arguments adduced up to this point by the District. As the Association suggests such evidence of economic adversity as tax delinquencies and postponements is open to several interpretations. One such interpretation offered by the Union is that with interest rates at an all time high it is just prudent business to postpone the payment of taxes as long as possible. In terms of tax delinquencies equally plausible explanations in addition to those related to the recession can be devised. For example, Employer's Exhibit #26, an article from the Green Bay Gazette for 3/18/83 reports that tax delinquent bills in Brown County were primarily owed by real estate developers and investors. County Treasurer Thomas Cuene is quoted by the author of the article as stating that "The delinquencies are not as bad as we feared." And, "a fair number of developers have come in and really tried to clean things up." While the article also describes the conditions of those villages and towns in the County which were most hard hit by delinquencies - for example, the village of Denmark recorded a 156% increase in delinquencies and Green Bay 14% no mention was made that Ashwaubenon suffered a significant increase. The only mention we find of said School District is that special assessment delinquencies dropped by 98%.

There is also no specific information provided by the Employer with regard to business conditions or levels of employment within the District itself or Green Bay for that matter. Such information is available through the Employment Division of the Wisconsin Department of Industry, Labor and Human Relations and the United States Department of Labor, Bureau of Labor Statistics. For example, the BLS reported in its publication State and Metropolitan Area Employment and Unemployment: April, 1983 that in April 1982 the rate of unemployment in Green Bay was 9.1%, which was below the state's average of 11.1% and well below the average of such Wisconsin cities as Janesville-Beloit with 17.3%, Kenosha with 13.4%, and neighboring Appleton-Oshkosh with 11.3%.

Finally, shedding further light on the economic circumstances characterizing the Ashwaubenon and Green Bay areas is Association Exhibit #55, taken from the Green Bay Chronicle, February 26, 1983 which reports an interview with Mr. Edward Thompson, President, Schneider Transport, Inc. According to Mr. Thompson, "Our economy is tied heavily to the manufacture

of consumer nondurables, chiefly paper products and foodstuffs." The implications of this were that the local economy was more stable, less susceptible to cyclical fluctuations, and "when fluctuations do occur ... they are less severe than in the nation as whole."

In view of the above the undersigned finds little merit in the Employer's contentions that the public interest and welfare would be better served by the Board's proposed settlement than that of the Association. Thus, it is the judgment of the arbitrator that statutory criterion (c) is not dispositive of the instant dispute.

The Cost of Living Criterion

The Position of the District. The Board also attempts to justify the reasonableness of its proposed settlement by reference to statutory criterion (e), the average consumer prices for goods and services. Thus, the Board contends that its final offer "guarantees that Ashwaubenon teachers will receive pay and benefit increases that exceed the increase in the cost of living." Offered as evidence to substantiate this position are two sets of comparisons with cost of living data. The first comparison made uses changes in the Consumer Price Index for All Urban Consumers (CPI-U) and its companion index the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) as these were compiled by the USBLs for various months over 1982-83. Using July-July or February-February in that period the Board's total package offer (as they initially calculated it) was 8.8%, the Association's 9.9% as contrasted with a change in the CPI-U of 6.5% and the CPI-W of 6.3% (July-July). The Board also notes that the cost of living has been coming down in recent months with the rate for the twelve months ending in February 1983 standing at 3.5% (CPI-U) and 3.3% (CPI-W) respectively. The Board sees these trends for its conclusion that its final offer more accurately reflects the long term trend in the rate of inflation.

A second line of argument in the Board's use of cost of living data is its theory that when taken historically the wage and benefit levels of Ashwaubenon teachers have consistently exceeded the pace of inflation. Drawing on a series of exhibits entered into the record at the hearing the Board constructs the following cart to make its point.

TABLE 1
 HISTORICAL COMPARISON OF WAGE AND BENEFIT INCREASES
 RECEIVED BY ASHWAUBENON TEACHERS WITH INCREASES IN THE CONSUMER
 PRICE INDEX, 1978-79 to 1981-82

<u>Salary Position</u>	<u>Wages</u>	<u>Wages & Benefits</u>	<u>CPI-W</u>
BA Base to BA Step 5	49.2%	49.5%	33.0%
BA Step 4 to BA Step 8	36.7%	40.1%	33.0%
MA Base to MA Step 5	51.9%	54.9%	33.0%
MA Step 10 to MA Step 14	37.6%	40.1%	33.0%

(Employer's Brief Chart B p. 22)

The Board concludes that based on the data presented in the above chart Ashwaubenon payments have surpassed the increases in the cost of living by 18.9% for wages only and 21.9% for total compensation. At a minimum the CPI has been exceeded by 3.7% wages only and 7.1% total compensation. In short, says the Board, its final offer more nearly matches the rate of inflation, it also reflects the downward trend in the inflation indices, and its proposed settlement "provides Ashwaubenon teachers with wage and total package increases which traditionally outstrip the inflation rate as defined by the Consumer Price Index."

Finally, the Board also takes issue with the way in which the Association uses the cost of living criterion to support its own position. First, the Board argues that in making wage comparisons with measures of inflation it is necessary to take account of the fact that teachers move through the salary schedule and as they do receive incremental increases in pay. To get a valid measure of losses and gains in relation to inflation wage measures must also include the annual incremental increases teachers ordinarily receive. Secondly, beyond the increases received as a consequence Board expenditures for insurance must also be included. The most relevant comparison therefore is the total compensation received by the teacher.

The last criticism raised by the Board with regard to the cost of living approach employed by the Association is directed at the time frame used for measuring the impact of inflation. The teachers have used June-June 1981-82 for their benchmark while the Board contends that the relevant time period is July-July 1982-83. When inflation is falling the time frame must be forward looking otherwise the rate of inflation will be overstated.

Position of the Association. Not surprisingly, the Association also contends that the cost of living criterion favors its proposed settlement. First, however, the Association argues the right methodology must be used to make the comparisons. That is, increments and other fringe benefits must be excluded and evaluations limited to CPI versus schedule to schedule salary changes. The Association cites as arbitral authority for this position Arbitrator Rice ruling in Baldwin-Woodville Area School District (MED/ARB-1701, Dec. 10, 1982) and Arbitrator Gilroy in Western Wisconsin Vocational, Technical and Adult Education District No. 2, (Dec. No. 16356-A, August 15, 1978). Further, using schedule to schedule is particularly apt here since more than 50% of the Ashwaubenon teachers are off the schedule and therefore no longer receive a regular seniority increment.

Finally, the Association also contends that the only relevant time period is that for one year preceeding the expiration of the collective bargaining agreement. Inflation for that time period was 6.9%. Thus, using the Association's method for calculating the parties' respective settlement positions we find that the Board's final offer represents a wage adjustment of 5.5% while the Association's is 6.6%. The Association concludes that its figures show that, "although the offers of both parties are below the 6.9% CPI figure its offer is closer (6.6%) than the Board's (5.5%)."

Discussion of the Parties' Positions. It is necessary to deal with the methodological disagreements over the measurement of cost of living changes before we take up the substantive issues. The first method issue is that of the proper time frame to use. The Association says this should be the year before the contract expires, i.e. June-June 1981-82. The Board

as we have seen argues for the year in which the new salary schedule would take effect: i.e. July-July 1982-83. The arbitrator finds little to support the Board's position on this issue of method. The concept of the CPI is that of an index of price changes that have occurred since a benchmark year. It is a measure of the change in price levels of a market basket of goods and services. As such it is a yardstick for determining the gains or losses in the purchasing power of a given amount of money in relation to the market basket. Concretely for the instant case the relevance of the CPI or cost of living is to measure the changes in purchasing power of the salaries received by the Ashwaubenon teachers in the period between their last increase and the next anticipated increase. Hence the appropriate time here is July 1, 1981 to June 30, 1982 as the Association argues.

The second issue of measurement is whether on the compensation side wages plus experience increments plus insurance and other benefits should be considered as the Board avers or wages only taken schedule to schedule as the Association contends. In the first place the arbitrator sees no basis in practice or arbitral authority to include total compensation in any comparison with cost of living changes. Such a concept as we have said above is important in assessing the cost of proposed settlements to the Employer. Here we are talking not about cost but of compensation and the two are not necessarily identical. Certain kinds of pension and insurance payments made by an Employer may never be realized by an employee for reasons of loss of eligibility through premature leaving or similar circumstances. Therefore we will exclude the nonwage payments such as insurance from any consideration herein.

The question of whether to include seniority increments in the cost of living comparison is less easily answered. Arbitral authorities are not in agreement and conceptually there is merit to both positions. By including incremental payments we are then dealing with an earnings concept. As the Board points out in its exhibits the USBLS regularly publishes data on the extent to which workers are experiencing increases in their real earnings. On the other hand one can also argue that the more valid comparison is schedule to schedule and that particularly for the case of teachers the incremental payments are to reward presumed improvements in teaching skill that come only with experience. In that regard, it is argued that there never was any intention to relate experience bonuses to cost of living adjustments. The undersigned accepts this last point as the more valid of the two positions and in addition, given the large proportion of the Ashwaubenon staff who are off schedule he will exclude the incremental payments from the analysis.

As we look at the extent to which cost of living criteria favor one side or the other here we need first to look at the proposed settlements in light of the changes in the CPI of the period we have selected; that is, June to June 1982. The indicated change in that 12 month period for the All Cities CPI-W as compared to the final offers (wages only) is:

Board Final Offer	7.1%
Association Final Offer	8.2%
CPI-W	6.9%

On the basis of the above changes in the cost of living for the period immediately preceding the effective date of the next scheduled salary increase the Board offer would appear more reasonable. Under neither of the proposed settlements would the teachers lose purchasing power and the Board's offer is closer to the actual change in prices.

The Board has also argued that taken historically the compensation it has paid the Association's members exceeds by a considerable margin the increases which have occurred. Thus using the contract year 1978-79 as a base and including both salary increments and pension and insurance payments the Board finds the increases compensation were never less than 37 percent and in some cases reached 55 percent in comparison to a cost of living which the Board says rose "only" 33 percent. In several respects the arbitrator takes issue with the compensation concepts employed by Board and with the manner in which it has calculated the increase in inflation. First, as we have already indicated we disagree with the inclusion of either salary increments or pension and insurance costs in the wage figure to be used. Second, we find that the Board has greatly understated the amount of price change that has occurred since the 1978-79 contract took effect. Thus, for example, the Board apparently took as the base for the CPI July 1979. But in fact the relevant beginning point would be that time in which the 1978-79 raise was implemented, the end of June 1978 at which time the CPI-W stood at 195.3. The increase in the CPI which occurred is then 48.5 percent to June 1982 and not 33.0 percent as the Board contends. Using the parties' exhibits (primarily Employer's 31-34) the undersigned has analyzed the historical trends in the wages of the Ashwaubenon staff as these relate to changes in the CPI and these are presented in the following table.

TABLE 2

<u>Iane</u>	<u>1978-79</u>	<u>1982-83</u>	<u>% Change in Salary</u>	<u>% Change in CPI</u>
BA Base	\$10,700	\$14,025 (Bd) \$14,175 (Assn)	31.1% 32.5%	48.5%
BA 4	\$12,840	\$16,830 (Bd) \$17,010 (Assn)	31.1% 32.5%	48.5%
MA Base	\$11,556	\$15,147 (Bd) \$15,309 (Assn)	31.1% 32.5%	48.5%
MA 10	\$17,976	\$23,562 (Bd) \$23,814 (Assn)	31.1% 32.5%	48.5%

In the above table comparisons have been made schedule to schedule and have considered wages only. It is clear for the above that salary levels in the schedule have not kept pace with changes in the historical level of prices. In order, for example for the BA Base salary level in 1982-83 to be comparable in real dollars to what was paid in 1978-79 it would now have to be paid \$15,889. Like increases would be necessary for the other salary levels and steps considered here. Obviously, neither of the parties proposed settlements is above the change in the CPI and if either final offer is to be preferred under the circumstances it would be that of the Association. The loss in purchasing power would be less than under the Board's offer.

The experience of the Association in not keeping pace with inflation is not unlike that of most other employment groups in the U.S. As is generally understood neither arbitrators nor the parties themselves were prepared to accept settlements which equated salary increases with price changes even when inflation was at its worst. The standard for how much erosion of purchasing power was to be permitted was that derived from the voluntary settlements of comparably situated workers. The undersigned sees no reason to deviate from that benchmark here. Let us look, next therefore at the so-called comparables to see what light they may shed on the issue at hand.

Comparison of Wages, Hours and Conditions of Employment

The District's Position. To begin with, the Board asserts that its comparables are basically the nine other districts of the athletic conference: Clintonville, De Pere, West De Pere, Howard-Suamico, Marinette, New London, Pulaski, Seymour, and Shawano. The Board would also add on a more marginal basis the School District of Green Bay. The Board disputes the idea that Green Bay should be considered as a primary comparable much less as the single most important benchmark as it believes the Association argues. Green Bay, contends the Board is larger by a factor of five, assesses at a much higher tax rate, and has nearly 5.5 times the equalized value of Ashwaubenon. However, because of its geographic proximity both to Green Bay and the districts of the Conference and its intermediate size Ashwaubenon "must be characterized as bridging the gap between the School District of Green Bay and the other school districts which comprise Ashwaubenon's athletic conference."

Second, the Board contends that a review of the evidence it presents shows that not only is Ashwaubenon a wage leader among its conference schools but it has held this position historically. For example, beginning with 1975-76, if one compares the Ashwaubenon salary level at the positions of BA Max, MA Base, MA Max, and Schedule Max with average salary for the six districts nearest Ashwaubenon one finds that for each year and position Ashwaubenon has exceeded the average in nearly every case. Moreover, says the Board its proposed settlement for 1982-83 does not impair that position. In all save the BA + 0 maximum the salary level for Ashwaubenon teachers would still exceed the average.

Third, if the comparison is made between the Board's final offer for wages only and for total compensation with the 1981-82 settlements at the benchmark schools of the conference, in terms of absolute dollars only De Pere and West De Pere exceeded Ashwaubenon's wages only settlement and "not a single comparable district provided an average teacher total compensation increase that exceeded the increase provided in Ashwaubenon."

Finally, the board also contends that its wage leadership position has not been eroded. The Board points to the fact that under its final offer the District will continue to lead in benchmark salary positions with such districts as Howard-Suamico and West De Pere. While granting that the amount of the increase offered to the Ashwaubenon staff is not as great as in those other two districts the important point is that "Ashwaubenon does remain the leader." In support of its position, the Board cites Arbitrator Vernon in School District of De Pere, (Dec. No. 19728-A, 11/82) who, in holding for the District concluded that some erosion is inevitable in a wage leadership position and cautioned other arbitrators about sanctioning "perpetual leap frog wage races."

In sum, the Board concludes that its proposed settlement is fair and reasonable for these economically difficult times.

The Association's Position. The Association's set of comparables departs from that of the District in several respects. First of all, the Union would place the School District of Green Bay in the primary position, giving it the most weight. Second, consideration would also be given to the metropolitan area school districts from Ashwaubenon's athletic conference, namely Howard-Suamico, De Pere, West De Pere, Seymour, and Pulaski. These districts all stand in close proximity to both Green Bay and to Ashwaubenon. The central premise here is that the greater the distance from Green Bay the less the district could be expected to influence the Ashwaubenon

bargaining situation. Thus, such districts in the conference as Clintonville, New London, Marinette, and Seymour would be excluded by the Association as being geographically too remote to have any appreciable impact.

Second, the Association also proposes a variable weighting scheme that would give greater influence to the voluntary settlements within its set of comparables than to those districts in which the new contract wage levels were arbitrated. As a consequence the Association would have the undersigned apply its comparables as follows:

1. Green Bay
2. Brown County Metropolitan area voluntary settlements:
i.e., Green Bay, Howard-Suamico, and West De Pere
3. Add the arbitrated award in De Pere
4. Add the voluntary settlement in Seymour
5. Add the arbitrated award in Pulaski

The Association contends that its placing of Green Bay in the primary position is consistent with the award of Arbitrator Hutchison in an earlier case involving the parties hereto, School District of Ashwaubenon, (WERC Dec. No. 18060-B, April 25, 1981). Moreover, The Association avers that said school district has a special relationship to the City of Green Bay by virtue of the fact that as a suburb of the larger city it "shares the same shopping, cultural and labor market with Green Bay." The Association also cites as arbitral authority for the separation of the Metro Brown County districts from the rest of the districts of the conference the undersigned's award in School District of Clintonville, (WERC Dec. No. 19768, April 6, 1983) and Arbitrator Zeidler in Brown County Handicapped School, (WERC Dec. No. 30086, MM-3367, March 14, 1983).

With regard to the alleged relationship between the school districts of Ashwaubenon and Green Bay the Association offers evidence to support this thesis that a wage tandem has existed between the two for some time and with its proposed settlement the Board's wage offer will by only 70 percent of the base increase agreed upon in Green Bay. Carried through the rest of the Ashwaubenon salary structure, the Board offer "causes a great dollar erosion at each of the salary schedule steps when 1982-83 and 1981-82 are compared."

Next, the Association would also argue that wages for 1982-83 in the Green Bay Metro area support its position more strongly than that of the Board. In doing so, the Association takes issue with Arbitrator Vernon's award for the district in the De Pere case. Asserting that Arbitrator Vernon was preoccupied with the general state of the economy which "affected his selection of comparables especially when he appeared to disregard the 1980-81 Hutchison award in Ashwaubenon ...", the Association never-the-less believes that a community of interest does exist in the Green Bay metro area that "transcends" the athletic conference.

As the Association looks at the Green Bay metro area it sees what it terms significant erosion in the wage relationship with such school districts as Howard-Suamico and West De Pere along with that already alluded to for Green Bay. The evidence is not entirely clear-cut, however, and the Association concludes that the seven salary benchmarks it has selected to make its Metro Area comparisons only slightly favor its position when voluntary settlements are considered and perhaps favors neither final offer if the arbitrated contract at De Pere is added.

As a final point, the Association stresses its contention that wages only be considered in any resolution of the instant dispute. Thus if you accept this approach and using the set of comparables with their weighting scheme as proposed by the Union above one arrives at the following:

TABLE 3

Wages Only - % Increase

	<u>1982-83</u>	<u>Ashwaubenon</u>	<u>Ashwaubenon</u>
	<u>Average</u>	<u>Association</u>	<u>Board</u>
1. Green Bay	9.4%	8.2%	7.1%
2. Brown County Metro Voluntary: Green Bay, Howard-Suamico & West De Pere	8.6	8.2	7.1
3. Brown County Metro Voluntary + De Pere Arbitrated	8.3	8.2	7.1
4. Brown County Metro Voluntary + De Pere Arbitrated + Seymour	8.5	8.2	7.1
5. Brown County Metro Voluntary + De Pere Arbitrated + Seymour + Pulaski Arbitrated	8.5	8.2	7.1

(Association Reply Brief, p. 6)

In sum, says the Association, the comparables as used above clearly support its proposed settlement over that of the Board.

Discussion of the Parties' Positions on Comparables. First of all, the Board and the Association are in apparent agreement on the set of comparables to use. That is, in their evidence and arguments the parties consistently make reference to the School District of Green Bay plus certain districts within the Bay Athletic Conference. Those districts of the conference omitted are left out for reasons of distance from Ashwaubenon: Clintonville, and Marinette; or without an agreement for 1982-83: New London and Shawano. While they agree in general on the Districts which should remain there is great divergence in the weight to be attached to those which are left. As we have seen the Association would make Green Bay its primary comparable and then other districts contiguous or close to Ashwaubenon weighted less depending on whether the district contract was settled by arbitration or voluntarily. The Board would assign only limited influence to Green Bay and give proportionately more weight to the Metro Area schools.

Both parties cite the same two arbitral authorities in support of their positions concerning the weight to be attributed to the School District of Green Bay: Mueller for Mukwonago; and Hutchison for Ashwaubenon. The Association sees both awards as confirming its point that Green Bay should

be the primary benchmark and the Board reads the opposite from the two decisions. Arbitrator Hutchison for example, in considering the relationship between the two school districts concludes:

"The proximity of the Green Bay district clearly had an impact on the terms and conditions of employment observed in Ashwaubenon. The undersigned is satisfied that the historical relationships within the athletic conference and with Green Bay are the most relevant for purposes of comparability."

And, at another point in her award Arbitrator Hutchison remarks, "Both final offers modify the historical relationship between the Green Bay and Ashwaubenon bases."

From Arbitrator Mueller's award in Mukwonago we learn of a theory of "radiating influences" in which a large urban school district such as that for Milwaukee "exerts an influence into contiguous districts and that such influence further extends beyond such contiguous districts in a diminishing domino type effect that has relationship to distance." That is, "... the major principle that must be recognized is that there is an influence that extends from the center of the metropolis to those surrounding." The Association concludes that when placed in the context of the Brown County Metro Area the School District of Green Bay would constitute a center radiating out its influences on Ashwaubenon and like districts and that therefore this fact would make Green Bay Ashwaubenon's primary comparable.

The Board herein interprets Arbitrator Mueller's theory to mean that the school districts of the Bay Athletic Conference contiguous to Green Bay would be most highly influenced, those farther removed less affected and so on to the geographic periphery of the conference where very little impact might be felt. Thus Ashwaubenon would be part of a group of similarly affected school districts none of whom would consider Green Bay as its primary benchmark for bargaining settlements.

The undersigned, while intrigued by the Mukwonago theory of radiating influences - what others have called orbits of coercive comparison - is unable to find the evidence in either parties' arguments that this theory can be applied with a high degree of confidence in the instant case. Certainly a relationship exists but does the influence flow only out of Green Bay to Ashwaubenon? Might it not also flow in the opposite direction? From what other directions are bargaining influences felt in the Ashwaubenon School District? To what extent do the particular characteristics of each district modify or even nullify the influences emanating from a Metropolitan center. None of these questions is adequately answered in the instant case to the satisfaction of the arbitrator. Moreover, Arbitrator Mueller was not unequivocal with his theory stating further in Mukwonago: "... of course there are numerous localized factors that cause substantial variations as between districts located in equal proximity ..." and "[e]vidently, each district is subject to some unidentifiable influences that have had a bearing upon their rate structure."

The undersigned has examined the arguments and evidence from both sides and as well reviewed the arbitral authorities cited. As a consequence, I am not persuaded that Green Bay should be made the primary benchmark. Certainly, it should be part of the set of comparables used for the instant case but the amount of influence to attribute to it should be determined on an ad hoc basis. Therefore, the undersigned considers the following to be the benchmark school districts most relevant to the issue at hand:

TABLE 4

Arbitrator's Set of Comparable School Districts

1981-82

<u>District</u>	<u>Enrollment</u>	<u>FTE Staff</u>	<u>Equalized Value Per Pupil*</u>	<u>Tax Rate</u>
Green Bay**	17,228	977.17	\$152,026	\$9.77
De Pere**	1,908	125.51	\$151,935	\$9.42
W. De Pere**	1,852	117.53	\$133,893	\$9.15
Howard-Suamico**	2,794	147.50	\$ 97,132	\$8.66
Pulaski	2,757	177.53	\$113,812	\$9.27
Seymour**	2,297	139.00	\$113,235	\$9.04
Ashwaubenon	3,417	185.91	\$136,986	\$9.46

Source: Association Exhibit #6 for all information except equalized value per pupil which came from Department of Public Instruction State of Wisconsin.

* 1982-83

** Contiguous to Ashwaubenon

The arbitrator is satisfied that the above school districts constitute a valid and useful set of benchmarks by which the positions of the Board and Association herein can be evaluated. All districts are either contiguous to Ashwaubenon or very close to it. Thus all share relatively the same labor and service markets, similar metropolitan population patterns and presumably all are influenced in similar ways by the School District of Green Bay. It should be noted however, that there are differences between the Bay Conference districts that would affect how the influences from Green Bay get manifested. Ashwaubenon itself is much larger than any of the others, taxes itself at a higher rate and judged by the equalized value per pupil characterized by greater economic resources. In this respect it resembles De Pere, West De Pere, and Green Bay much more than it does the other districts.

Both parties not only agree that Ashwaubenon is the wage leader for the Conference schools but both also attach much significance to this point. The Association contends that the proposed settlement of the Board would cause a serious erosion in this wage leadership position and the Board vigorously denies that claim. Under its offer, says the Board, the Association's wage rank would be maintained even though the wages only increase it would grant is somewhat less than that of several of the comparable districts. More importantly from the Board's point of view the total package increase would be greater than that obtained by any of the comparable teacher associations save Green Bay.

In order to assess these counter claims the undersigned has examined the evidence submitted by the parties and comes to the following conclusions. First, as the following table shows when compared over various salary

benchmark positions with the six school districts of the arbitrator's set of comparables the settlement proposed by the Board in the instant case would apparently drop Ashwaubenon from its wage leadership position for the 1982-83 school year.

TABLE 5

Ranking of Ashwaubenon School District by Salary Position,
Arbitrator's Comparables

1981-82

	<u>BA Base</u>	<u>BA 7</u>	<u>BA MAX</u>	<u>MA Base</u>	<u>MA 10</u>	<u>MA MAX</u>	<u>Sched. MAX</u>
	1	2	6	1	1	1	1

1982-83

Board Offer	2	2	6	2	2	1	1
Assn Offer	1	2	6	1	1	1	1

If we exclude Green Bay from the arbitrator's set of comparables we find that for the remaining five conference schools Ashwaubenon's rank as wage leader is unchanged under either final offer for 1982-83. The change in position then comes from the impact of the Board's offer on the wage relationship with Green Bay. This is indicated by the table below which considers only the relative rankings of Ashwaubenon and Green Bay between the two contract years.

TABLE 6

Green Bay and Ashwaubenon Relative Rankings

1981-82

	<u>BA Base</u>	<u>BA 7</u>	<u>BA MAX</u>	<u>MA Base</u>	<u>MA 10</u>	<u>MA MAX</u>	<u>Sched. MAX</u>
Green Bay	2	1	1	2	2	2	2
Ashwaubenon	1	2	2	1	1	1	1

1982-83

Ashw. BD	2	2	2	2	2	1	1
Ashw. EA	1	2	2	1	1	1	1

Source: Association Brief Table 1, pp. 11-12; and Table 2, p. 15.

The historical trend in the relationship of wages between the Ashwaubenon and Green Bay school districts is clearly revealed by Association Exhibit 12 which is reproduced below.

TABLE 7

Green Bay School District
Bachelors' Base Comparison

<u>Year</u>	<u>Green Bay BA Base</u>	<u>Ashwaubenon BA Base</u>	<u>Difference</u>
1974-75	\$8,558	\$8,200	-358
1975-76	9,061	8,750	-311
1976-77	9,566	9,350	-216
1977-78	10,214	10,000	-214
1978-79	10,801	10,700	-101
1979-80	11,475	11,450	- 25
1980-81	12,285	12,350	+ 65
1981-82	13,138	13,300	+162
1982-83 (Bd)	14,156	14,025	-131
1982-83 (Assn)	14,156	14,175	+ 19

Source: Association Exhibit 12.

It is clear from the above table that over a number of years the Association and the Board have consistently narrowed the base salary differential with Green Bay until the latter district's salary level was surpassed in 1980-81. The Board's offer would reverse the wage leadership that Ashwaubenon assumed three years ago while the Association's would permit the differential to narrow somewhat without the positions becoming reversed again.

The Association also contends that its position vis-a-vis the other comparable districts is being significantly eroded by the Board's offer. The undersigned has examined from several perspectives the evidence adduced by the parties, recalculating them in the following manner. First, in the table below salary position benchmarks have been compared for 1981-82 and 1982-83 using the arbitrator's set of comparables.

TABLE 8

Salary Increases for Benchmark Positions,
1981-82 and 1982-83

	<u>BA Base</u>	<u>BA 7</u>	<u>BA Max</u>	<u>MA Base</u>	<u>MA 10</u>	<u>MA Max</u>	<u>Sched. Max</u>
1. Av. All Comps	\$ 802	\$1,051	\$1,205	\$ 857	\$1,330	\$1,467	\$1,628
2. Av. Vol. Setl.	839	1,082	1,283	895	1,370	1,520	1,801
3. Av. All W/O G.B.	758	986	1,120	809	1,254	1,393	1,569
4. Av. Vol. Settle. W/O G.B.	780	984	1,167	826	1,257	1,416	1,760
5. Ashwa. Board	725	957	972	783	1,218	1,392	1,537
6. Ashwa. Assoc.	875	1,155	1,173	945	1,470	1,680	1,855

The arbitrator's sets of comparables have been manipulated a number of different ways in the table above in order to ascertain the extent to which, as the Union claims, erosion of its leadership position would occur if the Board's final offer were implemented. In some instances Green Bay was included and in some it was not. For example, in comparison #4 the average salary increase for those school districts drawn from the Bay Athletic Conference (Howard-Suamico, West De Pere and Seymour) which voluntarily settled their contracts for 1982-83 were calculated for comparison with the increases which would be generated by the Board and Association offers. At all benchmark positions the Board increases would be the lower of the two figures in amounts varying from \$24 to \$223. If Green Bay is included in the voluntary settlements group as was done in comparison #2 the disparity increases. In fact as is evident from the table regardless of whether Green Bay is included, only voluntary settlements are used or arbitrated resolutions are considered the Board offer results in the loss of ground for the Ashwaubenon teachers compared to their counterparts in comparable school districts.

Another way to look at much the same data is to organize it by categories of wages only versus total compensation for the benchmark school district settlements for 1982-83. This we have done in the following table.

TABLE 9
Teacher Settlements
1982-83

	<u>Wages Only</u>		<u>Total Compensation</u>	
	<u>\$</u>	<u>%</u>	<u>\$</u>	<u>%</u>
DePere	\$1,535	7.6%	\$2,104	8.2%
Howard-Suamico	1,653	8.65	2,158	8.93
Pulaski	1,429	8.7	1,744	8.2
Seymour	1,577	9.0	2,050	9.0
West De Pere	1,507	7.64		8.24
Green Bay	2,095	9.4	2,916	10.2
Ashwaubenon				
Board	1,607	7.10	2,460	8.5
Assoc	1,852	8.20	2,776	9.6

Source: Board's Revised Exhibit #50.

Considering wages only the above information indicates that the Board's wages only offer would constitute the smallest percentage increase of any of the comparables we are using here. The average for the voluntary settlements including Green Bay is 8.67 percent in contrast to the 7.10 percent offered by the Board. If the two arbitrated contracts are included the average drops to 8.47 percent; still significantly above the Board's offer.

In terms of total package settlements, the Board's offer of an 8.5 percent package increase is exceeded by three of the four voluntary settlements. Only West De Pere at 8.24 percent is lower. However, the Association's offer at 9.6 percent goes beyond all of the comparable school districts except for Green Bay which granted a 10.2%. An average taken from the districts which voluntarily settled calculates to be 9.1 percent which puts the Association's 9.6 percent equidistant above the average as the Board is below at 8.5 percent.

While the undersigned finds himself leaning slightly toward the Board's final offer as a consequence of the evidence presented by the parties on their total packages the remaining elements in the parties' positions inclines him on balance to favor the proposed settlement of the Association. In the first place, the Union's wage offer is more in keeping with comparable settlements reviewed here. Moreover, the Association, based on its position of wage leadership propounded a theory of erosion were the Board offered to be implemented. The Board concedes this erosion but labels it not significant. The Association disagrees with this conclusion and the arbitrator is persuaded that view on this is not without some merit. The arbitrator was particularly impressed with the magnitude of the loss of ground which would occur relative to Green Bay.

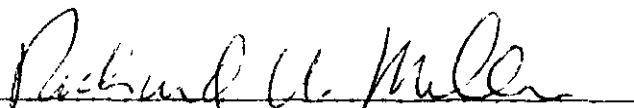
In so far as either the cost of living criterion or that involving the welfare and interest of the public we find neither to be dispositive of the issue before us. Given the circumstances of the instant case, the current rate of price level changes, and the primacy of the comparables criterion, cost of living has no bearing on the outcome here. On the other hand, although a valid case of ability to pay or adverse impact on the public interest would certainly take precedent over comparables no such case was made here. The Board was unable to demonstrate a concrete connection between the general state of the national or Wisconsin economies and the financial position of the District. Under those circumstances it is relevant then to examine the settlements of like districts for their guidance in disposing of the matter at hand. This we have done so, laying especially heavy weight on the voluntary settlements of those districts adjoining Ashwaubenon.

Having considered all of the issues in the light of the evidence presented, the arguments, and the statutory criteria, the undersigned renders the following:

AWARD

The final offer of the Association together with the prior stipulations of the parties shall be incorporated into the Collective Bargaining Agreement for the period beginning July 1, 1982 and through June 30, 1983.

Dated at Madison, Wisconsin this 22 day of July, 1983.


Richard Ulric Miller, Arbitrator