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WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

STATE OF WISCONSIN  
BEFORE THE ARBITRATOR

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APPEARANCES

ON BEHALF OF THE DISTRICT: Bill Bracken, Director of Employee Relations - Wisconsin Association of School Boards

ON BEHALF OF THE ASSOCIATION: Gary L. Miller, UniServ Director Winnebago and UniServ Unit-South

I. BACKGROUND:

On May 16, 1985, the parties exchanged their initial proposals on matters to be included in a new collective bargaining agreement to succeed their 1984-85 labor agreement. On May 21, 1985, the District filed the instant petition requesting that the Commission initiate Mediation-Arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act. On May 23, 1985, the Association filed a Request to Initiate Mediation. Thereafter, the parties met on October 17, 1985, with a member of the WERC staff in efforts to reach an accord on a new collective bargaining agreement. On December 10, 1985, the staff member conducted an investigation which reflected that the parties were deadlocked in their negotiations, and, by January 16, 1986, the parties submitted to the Investigator their final offers, as well as a stipulation on matters agreed upon, and thereupon the Investigator notified the parties that the investigation was closed; and advised the Commission that the parties remained at impasse.

On February 6, 1986, the Commission ordered the parties to select a Mediator/Arbitrator. The order appointing the undersigned, based on selection by the parties, was issued February 24, 1986. A date (May 20, 1986) was set for mediation and arbitration, if necessary. Mediation was unsuccessful and a hearing was conducted. Post hearing briefs were due, after extension, on July 1, 1986. Reply briefs were due July 11, 1986. The following award is based on the arguments of the parties, the evidence and the relevant statutory criteria.

II. ISSUE:

The only unresolved issue which remains between the parties is salary schedule for the 1985-86 school year. The following represents the 1984-85 benchmarks and the 1985-86 proposals:

1985-86

	<u>1984-85</u>	<u>Association(\$/%)</u>	<u>Board (\$/%)</u>
BA Min	14,600	15,800(1200/8.2%)	15,660(1060/7.3%)
BA 7th	17,336	18,764(1428/8.2%)	18,596(1260/7.3%)
BA Max	19,616	21,234(1618/8.2%)	21,043(1427/7.3%)
MA Min	15,695	16,985(1290/8.2%)	16,835(1140/7.3%)
MA 10th	20,816	22,529(1713/8.2%)	22,327(1511/7.3%)
MA Max	24,230	26,225(1995/8.2%)	25,988(1758/7.3%)
Schedule Max	24,908	26,954(2046/8.2%)	26,714(1806/7.3%)

As can be seen, the difference in the offers is not dramatic. At the benchmark the differences are:

<u>Benchmark</u>	<u>Difference</u>
BA Maximum	\$ 140
BA Step 7	168
BA Maximum	191
MA Minimum	150
MA Step 10	202
MA Maximum	237
Schedule Maximum	240
Average	<hr style="width: 100px; margin: 0 auto;"/> 190

The average teacher salary under the Association offer will be \$22,409 vs. \$22,297 or \$202 less than the Board. The average per teacher increase under the Board's offer is \$1800 and \$2002 under the Association's offer. Salary only increase on a percentage basis for the Board is 8.8% and total package is 9.2%. The Association offer for salary is 9.8% and 10.0% total package. The total difference between the salary offers is about \$14,000.

It should also be noted that there is no disagreement between the parties over the schools which should be utilized for comparison purposes. Both agree that the schools in the Flyway Athletic Conference should be the comparable group. There are eight schools in the athletic conference including Rosendale-Brandon. The other seven are as follows:

Campbellsport	Horicon*
Mayville	Lomira*
Markesan*	North Fond du Lac*
Oakfield	

\*Settled for 1985-86 as of May 20, 1986.

### III. ARGUMENTS OF THE PARTIES:

#### A. The Association

The Association first argues that their final offer salary schedule is more reflective of the 1985-86 settlement pattern within the athletic conference comparables. Before supporting this assertion, the Association notes that the parties are in agreement on the costing for all but two of the settled athletic conference schools. The parties disagree on the costing for Horicon and North Fond du Lac. For a variety of reasons, they believe their costing to be most accurate.

In support of their basic position, the Association submits that although Rosendale-Brandon has been below average in the conference, their offer more closely maintains that relationship. For instance, Rosendale-Brandon's average salary in 1984-85 was \$1499 below the average. Under the Association's offer, it will be \$1494 below the average and under the Board's it will be \$1696 below the average. In fact, they were next to last in 1984-85 and \$2950 behind the first place school. Thus, based on the 1985-86 comparisons, they suggest they are not trying to "catch up" but "keep up."

The Association also submits that the average per returning teacher salary-only increase under their final offer is more reflective of the settled conference comparable salary-only increase than the Board's final offer. Based on their costing, the average increase per returning teacher is \$2015, \$13 more than their offer and \$215 more than the District's. They believe this to be an excellent measure of the parties' offers. Again, they suggest their offer is "keep up" not "catch up" while on the other hand adoption of the Board's final offer will definitely cause a far-reaching negative effect on Rosendale-Brandon teacher salaries.

The Association also offers a benchmark analysis. They offer the following data:

1985-86 TO 1984-85 COMPARISON OF AVERAGE BENCHMARKS  
FOR SETTLED CONFERENCE SCHOOLS

<u>Category</u>	<u>1984-85 Average</u>	<u>1985-86 Average</u>	<u>Average \$ Increase</u>	<u>Average % Increase</u>
BA Minimum	15,122	16,307	1,185	7.8%
BA Step 7	18,229	19,599	1,370	7.5%
BA Maximum	20,418	22,047	1,629	8.0%
MA Minimum	17,176	18,474	1,298	7.6%
MA Step 10	23,201	24,932	1,721	7.4%
MA Maximum	25,591	27,601	2,010	7.9%
Sched. Max	27,309	29,513	2,204	8.1%

Based on this and other data, they argue that their final offer will best maintain relative historical rankings among settled conference school district benchmarks.

Next they argue the historical dollar deviation of Rosendale-Brandon teacher benchmark salaries from the settled conference district's group average clearly shows that the Association's final offer more closely maintains the status quo than does the Board's final offer. This is based on an historical analysis including the past four school years. It is sufficient to say there have been negative differentials in years past at all the benchmarks and the Association's offer will still result in negative differentials and these figures will be closer to the 1984-85 differentials than the Board's offer and some cases even the Association's offer results in further erosion.

Next the Association presents tables which show that the Association's final offer benchmark dollar and percent increases more closely reflects the average dollar increases of settled athletic conference school districts. In general, their offer exceeds the settled athletic conference average benchmark increases in only two (2) of the seven (7) benchmark categories (BA Minimum and BA 7th Step +15 and +52 respectively). At the other benchmarks, even the Association offer is behind the average benchmark increases. Overall their offer is an average of -19 below the pattern. On the other hand, the District's offer is less than average at all the benchmarks ranging from -110 to -397 or an average of -208 below the pattern. Similar results occur on a percentage basis.

The Association next analyzes the offers relative to each of the statutory criteria. The first two criteria are not a factor. With respect to criterion (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," they make the following arguments. First, with regard to the "interest and welfare of the public" the Association would maintain that it is not in the best interests of the Rosendale-Brandon community to have the salaries of its teachers so negatively impacted by the Board proposal. Second, there is nothing in this arbitration matter which calls into question the financial ability of the School District of Rosendale-

Brandon to "meet the costs of any proposed settlement." Third, with respect to the farm economy, they do not believe there is any factual data with respect to how the Rosendale-Brandon area economic situation is any more unique or different (or worse) than shown in comparable settled conference school districts. In this regard, they also direct attention to Arbitrator Kerkman's decision in Oakfield School District, Dec. No. 22-098-A, 10/22/85. In that decision, he reviewed similar farm economy arguments and concluded there was nothing essentially different between Oakfield, Rosendale, Markesan or Lomira. Thus, they conclude that the Arbitrator must concentrate on the confirmed conference settlement pattern to evaluate the full intent of criterion (c) which supports the Association's position in the instant dispute.

With respect to criterion (d), they believe the wage comparisons they submit fully support their position and the employer's final offer would substantially lower Rosendale-Brandon's dollar impact with respect to the salaries paid teachers in the comparable Districts. With respect to comparable teacher wages, hours and conditions of employment with private sector, non-teacher employees, almost universally Arbitrators have rejected these comparisons. Priority must be given to teacher settlement data when analyzing the final offers in this case. The Board provides no positive constructive evidence to support such a comparison in this case.

Criterion (e) requires the Arbitrator to consider "the average consumer prices for goods and services, commonly known as the cost of living." In this regard, they acknowledge the question of what constitutes an appropriate measure of the cost of living has been of intense concern to negotiators, mediators and arbitrators for the past several years. However, in grappling with this criterion, arbitrators have concluded that the pattern of settlements among comparable and/or school districts is the appropriate indicator of the cost of living since the evidence in this case reveals conclusively that the Association's final offer conforms better to the pattern of voluntary settlements and their offer meets this criterion better.

In terms of criterion (f), they examine the total package per teacher increases. The average total package increase was \$2533 compared to \$2750 for the Association and \$2508 for the Board. They acknowledged an average increase per year of \$2533 slightly favors the Board, but the difference between the parties' cost here is due to the difference between the parties' average salary-only per returning teacher final offer positions rather than any exorbitant fringe benefit costs or different and unique benefits. Also noted is the fact that the average total package cost per returning teacher of both final offers is below the average package comparables. The average total package per teacher is \$30,899 compared to \$30,203 under the Association's offer and \$29,918 under the Board's offer. The last two criterion are not material factors.

#### B. The District

At the outset, the Board asks the Arbitrator to keep in mind certain characteristics of both the school district and the community at large. Also that Rosendale-Brandon ranks second highest in rural percentage of a school district's full value and Rosendale-Brandon is third highest with families below the poverty level, and fourth highest with individuals below the poverty level. Additionally, it should also be noted in their opinion, that there is no heavy industry or manufacturing firms in Rosendale, no Maysteel, Metalcraft or Mayville Metal Products as in Mayville; no John Deere as in Horicon. Private employment consists of small retail establishments or companies employing well under 100 employees. It is also vital to understand in their view that Rosendale-Brandon is more agriculturally dependent and simply

does not have the same tax base nor financial resources found in other comparable schools.

Against this background, the District's first point is to assert that the District's salary is consistent with current economic conditions, both at the local school district level and throughout the state. Concerning the state economy, they draw attention to a variety of exhibits which discuss taxpayer concern, slow growth in the economy, unemployment and the possibility of state cost controls. They also present exhibits concerning the "critical issue" of the farm economy. The topics highlighted in this regard relate to increasing bankruptcies, high property taxes for farmers, dairy product price declines, commodity price declines, declining income and declining land prices. Thus, when viewed from the perspective of the local and state economy, they submit that the District's proposed total package of 9.15 increase is more realistic than the Association's total package proposal of 10.04%.

Also in this same regard, they note the decline in the cost of living which raises the possibility that the District's total package may prove to be four times greater on a percentage basis than the increase in the CPI for calendar year 1986.

They next note that arbitrators are giving increasing attention to these types of considerations in spite of the fact that comparability in some cases may favor the employees. They cite Arbitrator Yaffe in Omro School District, Dec. No. 32181-A, 6/86.

The District's second argument concerns the unreliability of benchmark analysis in view of changes in the salary schedule of comparable districts. Instead the best measure of settlements today is the salary only and total package percent increase. They contend there are a number of misleading factors which have to be accounted for. For instance, in one District steps were removed from the base of the salary schedule and added at the top. At the same time, current teachers were moved back rather than forward in their experience placements on the new schedule. The result of this is a "two-tiered" salary system; experience will equate to placement for new teachers, but for current teachers it will not. This year, comparison with another district's MA ninth step, would require use of this district's MA seventh step. Next year the relationship will change again, becoming considerably less useful. In another district, the Union was determined to install a "compacted" salary schedule. To get the Board to agree to this, the Union agreed to the placement of current teachers on the schedule at the nearest position not exceeding an agreed percentage increment from the teachers' prior salaries. In yet another district, the Board and Union agreed to a salary schedule that applied to new teachers only. The agreement provides that the District's continuing teachers will receive a combination of percentage and flat dollar increments from their present salaries. Thus, in the latter two districts, comparisons of experienced teachers' salaries with those of other districts is simply not possible. In all three districts, the only benchmarks remaining for valid comparisons are the BA base and the MA base.

Next the District notes that S. 111.70(4)(cm)7.c, Wis. Stats., directs the Arbitrator to weigh the interest and welfare of the public in evaluating the parties' final offers. In this regard, they draw a distinction between employee interest and public interest. The District submits that here the general public interest and the employee interest as expressed in the Union offer are opposed and that the Board's final offer more reasonably balances the public interest with the employee interest. They assert that the public interest is favored by the Board and the Arbitrator should place more emphasis on the general economic conditions and the current changes in the consumer price index. Thus, in light of the

state of the economy and general economic hardships experienced by the taxpayers who must foot the bill, the Union's final offer will require taxpayers to shoulder a greater burden at a time when restraint and moderation are warranted. In this regard, they cite several arbitration awards that they believe establish a theme that the dismal farm economy and the district's goal to restrain taxes are worthy factors in the interests and welfare of the public. Accordingly, they urge that the instant Arbitrator should join his colleagues in finding that a 9.15% offer is more reasonable than a 10.04% in these economic times. There can be no question that the District is making an extraordinary increase by proposing a 9.2% offer.

The District offers further detail to their cost of living arguments. Using the District's proposal for 1985-86, salary (excluding longevity) has increased 8.8% over this period of time, while the CPI has risen 3.8%. Thus, the Board's salary offer is 5.0% above the cost of living. This further supports the District's contention that its salary package is not only fair, but given the constant rate of inflation, more than adequate. Thus, the fact that teacher salaries have outstripped the inflation rate means that teachers' salaries will gain in very real terms. In fact, many arbitrators issuing decisions in 1985-86 have found that the Boards' final offers best meet this statutory criterion.

The District's last point is that the District's salary proposal is more reasonable since it is closer to the average increases within the Flyway Conference and CESA 6. For instance, they direct attention to exhibit B-18C which lists total package settlement costs among the districts of the Flyway Conference for 1985-86, including Rosendale's proposed total cost increase. They note that Rosendale's proposal is slightly above the average of the districts already settled by a factor of .3%. Attention is also directed to a summary of 1985-86 contract settlements among the districts of each of the state's 12 CESA's. Rosendale is a member of CESA 6, where mean salary increases for 1985-86 average 8.1% and mean total package increases average 8.3%. On the validity of percentages, the employer contends the percentage changes of both parties' offers must be given the primary consideration by the Arbitrator, rather than absolute dollar amounts. The latter whether \$2,000 or \$3,000 (the latest statewide salary increase goal established by the teachers' union) is arbitrary, unrelated to the above past relationships or, for that matter, local ability to pay. The District's proposed salary and total package increases are more consistent with conference settlements and CESA averages than is the Association's proposal. In their opinion, these patterns should not be disturbed absent a compelling reason and the District maintains that no such reason exists.

#### IV. OPINION AND DISCUSSION

The parties differ greatly in several respects on the analytical approach they each believe the Arbitrator should take. First, they each believe different statutory criteria should be given greatest weight. The District relies most heavily on the public interest and welfare and the cost of living and the Association relies most heavily on the comparability factor. In doing so the Association looks at the benchmarks in addition to other measures and emphasizes the relative dollar value of the settlements. On the other hand, the District believes that a benchmark analysis is of limited usefulness and that the relative percentage value of the settlements is more important.

On the question of which criteria deserves most weight, there is no doubt that the interest and welfare of the public has been getting more attention in the face of the very real

problems on the farm. The Employer has cited many examples of recent arbitration cases which are reflective of this.

The Arbitrator takes no particular exception to these awards. However, it is this Arbitrator's opinion that the public welfare factor is getting more weight where the comparability factor is relatively unreliable. For instance, where there are a dearth of comparable settlements or the settlements are of such a nature that solid inferences as to a pattern of settlements are relatively difficult, other statutory factors should be given more weight than they are when there is a solid pattern of settlements. In line with well established arbitral thinking, where a settlement pattern is clear and where one offer is clearly more consistent, the comparability factor is the best measure--save distinguishing circumstances--of the weight to be afforded criteria such as cost of living, economic trends and the public interest and welfare.

In this case, a majority (4 of 7) of the traditionally comparable schools have settled. Moreover, the settlements are not "all over the board" and a consistent pattern is easily discernible. Thus, absent evidence that clearly distinguishes the economic situation in Rosendale-Brandon from the settled schools, the comparability factor should be controlling if an appreciable preference for one offer or the other is present. In this case, it is the conclusion of the Arbitrator that there is not enough evidence to convince the Arbitrator that Rosendale-Brandon is different enough from other schools to justify special consideration and thus the comparability factor must be given significant weight.

Within the comparability factor, the Employer argued that benchmark analysis was limited in usefulness due to alterations in salary structures. However, upon closer examination of the evidence, the types of alterations in the 1984-85 schedules detailed in Board Exhibit 22 are not the radical "gimicks" that this Arbitrator believes renders benchmark analysis useless. Also, on the issue of percentage vs. dollars, this question can only be answered by a closer look at the wage level data. Where a District's wage level is relatively consistent with the comparable group, percents vs. dollars really pose no major analytical problem. However, where a district is relatively high or relatively low, relying on percentages causes a problem. In each case, it distorts the real income increases received by the employees. Obviously, in the high wage level case, applying the same percentage received in lower level settlements yields more of a real income increase than received by teachers in the lower level settlements. This isn't particularly justified nor is the reverse. Applying the same percentage increase in lower level settlements as in the middle of the pack yields less dollars and less real income, causing the wage follower to fall farther behind. Put simply, one buys groceries with dollars not percentages. Accordingly, whether percentages get more weight than dollars depends on the facts and circumstances of each case.

Accordingly, the Arbitrator's approach to this case will be to look at the comparable settlements in a variety of ways to determine which offer is most consistent with the comparables.

With respect to per returning teacher salary increases the record reflects the following.

1985-86 Increases Per Returning Teacher

<u>District</u>	<u>\$</u>	<u>%</u>
Horicon	2033	8.7
Lormira	1788	8.8
Mayville	2239	8.8
Markesan	2002	8.9
North Fond du Lac	2013	8.8
Average	2015	8.8
Board	1800	8.8
(Difference)	(-215)	(---)
Association	2002	9.8
(Difference)	(-13)	(+1%)

It can be seen from this data that the Association's offer is most consistent on a dollar basis and the Employer is most consistent on a percentage basis.

In terms of benchmark increases, the data reflects the following:

<u>Bench- mark</u>	<u>Avg. Increase</u>		<u>Board</u>		<u>Association</u>	
	<u>\$</u>	<u>%</u>	<u>\$</u>	<u>%</u>	<u>\$</u>	<u>%</u>
BA Min	1185	7.8	1060(-125)	7.3(-.5)	1200(+15)	8.2(+.4)
BA 7th	1370	7.5	1260(-90)	7.3(-.2)	1428(+58)	8.2(+.2)
BA Max	1629	8.0	1427(-202)	7.3(-.7)	1618(-11)	8.2(+.2)
MA Min	1298	7.6	1140(-158)	7.3(-.3)	1290(-8)	8.2(+.6)
MA 10th	1721	7.4	1511(-210)	7.3(-.1)	1713(-8)	8.2(+.8)
MA Max	2010	7.9	1758(-252)	7.3(-.6)	1995(-15)	8.2(-.3)
Sch. Max	2204	8.1	1806(-398)	7.3(-.8)	2046(-158)	8.2(+.1)

This data reflects that the Board on a percentage basis is reasonably close to the benchmark settlement pattern at four of the seven benchmarks but substantially off the mark on a dollar basis.

Thus, it can be seen from this data the Board's offer fares fairly well on a percentage basis and the teachers on a dollar basis. The question is which indicator is more valid in this case.

As noted earlier, an examination of the wage levels hold the key here. It is apparent that Rosendale-Brandon has been somewhat behind the pack in years past and a slightly higher percentage increase is necessary to generate the same increases in real income and to maintain their already negative differentials. An historical benchmark analysis and a look at the average teacher salaries in 1984-85 and 1985-86 are indicative of this.

Historical Annual Salary Differentials  
Rosendale-Brandon vs. Comparable Average

	<u>BA Min</u>	<u>BA 7th</u>	<u>BA Max</u>	<u>MA Min</u>	<u>MA 10th</u>	<u>MA Max</u>	<u>Sch.Max</u>
81-82	-407	-694	-279	-928	-1737	-1289	-1575
82-83	-400	-663	-162	-1032	-1907	-1299	-1411
83-84	-357	-616	-77	-1064	-1949	-1287	-1631
84-85	-522	-893	-802	-1481	-2386	-1361	-2401
85-86-							
Board	-647	-1003	-1004	-1639	-2596	-1615	-2298
Assoc.	-507	-835	-813	-1489	-2394	-1378	-2558



1984-85 and 1985-86  
Average Teacher Salaries  
Rosendale-Brandon vs. Comparables

	1984-85	1985-86
Horicon	<u>23,429</u>	<u>25,462</u>
Lomira	20,362	22,150
Mayville	22,492	24,731
Markesan	22,434	22,436
N. Fond du Lac	21,172	23,185
Average	<u>21,978</u>	<u>23,993</u>
Rosendale-Brandon	20,479(-1499)	
Board		22,297(-1696)
Association		22,499(-1494)

This data clearly indicates that the teachers in Rosendale-Brandon have been somewhat behind and that, even given the higher percentage of the Association's proposal, it is needed for the teachers to "keep up." This explains as well why the total package data at first glance favors the Board (the average is 8.7%). However, the Association's total package offer exceeds the average primarily because it must generate more salary dollars. Even at this the package cost per teacher would be nearly \$900 less in Rosendale-Brandon under the Association's offer than in the comparables.

Even assuming Rosendale-Brandon is less fortunate than its neighboring school districts and that they should not be required to pay teachers at the same levels, the Association's offer is not requiring them to. It is, as they say, not a "catch up" offer, it seeks only to maintain an already lower wage level. This is the critical factor in what can be described as a "close call." To hold for the District would cause already negative differentials to increase to unacceptable margins. If Rosendale-Brandon wage levels weren't behind the pack already and wouldn't fall further behind under the Board's offer, the \$1800 per-returning-teacher increase might otherwise be considered more reasonable. In order to "keep up," it is necessary to require a higher percentage salary increase than received by teachers in other districts. When doing so the teachers in Rosendale-Brandon receive a comparable increase in income while the District still benefits from a salary schedule which is, especially at the upper end, much more modest than other districts.

Therefore, it is the opinion of the Arbitrator that the Association's offer more reasonably balances the interests of the parties relative to the statutory criteria.

AWARD

The 1985-86 collective bargaining agreement of the parties shall include the final offer of the Association.



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Gil Vernon, Arbitrator

Dated this 14<sup>th</sup> day of August, 1986, at Eau Claire, Wisconsin.