STATE OF WISCONSIN

BEFORE THE MEDIATOR-ARBITRATOR

In the Matter of a Mediation-Arbitration between	
RICHLAND CENTER EDUCATION ASSOCIATION and RICHLAND SCHOOL DISTRICT	Case 15 No. 35838 MED/ARB-3560 Dec. No. 23279-A

Appearances:

Karl Monson, Membership consultant, Wisconsin Association of School Boards, appearing on behalf of the Richland School District.

Kenneth Pfile, Executive Director, South West Teachers United, WEAC, appearing on behalf of the Richland Center Education Association.

Arbitration Award

On March 12, 1986 the Wisconsin Employment Relations Commission, pursuant to 111.70(4)(cm)6b of the Municipal Employment Relations Act appointed the undersigned as Mediator-Arbitrator in the matter of a dispute existing between the Richland Center Education Association, hereafter referred to as the Association, and the Richland School District, hereafter referred to as the Board. Subsequent to a timely petition a public meeting was held on June 4, 1986. Mediation efforts were made on June 4 and July 8, 1986. On August 13, 1986 a hearing was also held at which time both parties were present and afforded full opportunity to give evidence and argument. No transcript of the hearing was made. Post hearing briefs were exchanged through the Arbitrator on October 13, 1986 and reply briefs on October 25, 1986.

Background

The Board and the Association have been parties to a collective agreement the terms of which expired on August 14, 1985. In April, 1985 the parties exchanged initial proposals on matters to be included in a new collective bargaining agreement. Thereafter, the parties met on six occasions and failing to reach an accord, the Association filed a petition on December 9, 1985 with the Wisconsin Employment Relations Commission to initiate Mediation-Arbitration. After duly investigating the dispute, the WERC certified on February 10, 1986 that the parties were deadlocked and that an impasse existed.

Final offers of the Parties

1. 1985-86 Salary Schedule

Association Final Offer

The BA base salary would be $14,925, an increase of $925 over the BA base salary for 1984-85. In addition, the Association proposes increasing the amount of the horizontal increment between lanes and the experience increments between steps.

Board Final Offer

The BA base would increase to $14,750 which is $750 over the 1984-85 base salary. The Board also proposes to increase the experience increments in each salary lane.

2. 1986-87 Salary Schedule

Association Final Offer

The Association proposes to reopen negotiations over the 1986-87 salary schedule.

Board Final Offer

The base salary would increase to $15,500, which is an increase of $750 over its 1985-86 base proposal. The Board also proposes increases in the experience increments for each salary lane.

3. Voluntary Lunch Period Duty

The Board would retain the current rate of $7.00 per hour while the Association would change the rate to $5.00 per lunch period.

4. Extended Contract Pay

The Association would increase extended contract pay from $9.25 per hour to $10.00 per hour. The Board would increase such pay, under defined circumstances, to $10.00 per hour and would also establish a schedule for the payment of summer curriculum writing.

5. Personal Leave

The Board proposes one paid personal day per year which would be granted under specified circumstances. The Association's offer provides for two personal leave days to be taken when advance notice is given to the district.

6. Extra Pay Schedule

The Association would maintain the current categories but would increase the dollar amounts paid to each category on the extra pay schedule. The Board would create a number of new categories and would also revise the payment schedule as well.

7. Working Day

The dispute over the "Working Day" involves a number of sub-issues: (1) definition of regular or normal working day; (2) work which my be required beyond the normal working day without added compensation; (3) the amount of additional compensation for after-hours work; and (4) pay for loss of a secondary preparation period due to substitution for an absent teacher.

8. Teaching Load (High School 9-12)

The Association proposes for a seven period day status quo language establishing five teaching periods and two preparation periods. For an eight period day the teaching load would be five teaching periods, one non-teaching assignment, and two preparation periods. In addition, the Association also proposes pay for each teaching assignment beyond the normal load of 12.5% of scheduled salary in an eight period day and 14.25% of scheduled salary for a seven period day. Language is also proposed which would restrict the assignment of additional non-teaching assignments to teachers who hold six teaching periods.

The Board proposes an eight period day with six teaching periods, one preparation period and one office period. The Board also proposes language governing teaching loads of five periods and the assignment of extracurricular duties.

9. Term of the Agreement

The Association proposes that the Agreement shall run from August 15, 1985 through August 14, 1987. It is also proposed by the Association that Addendum, salary schedule and extra-curricular schedule have a duration of August 15, 1985 through August 14, 1986.

The Board proposes a duration from August 15, 1985 through August 14, 1987 on all Agreement provisions.

1. The Issue of the 1985-86 Salary Schedule

Costing

The Association's final offer would provide an average salary increase per teacher for 1985-86 of $1,980.33 or an average salary increase of 10.49 percent. Its offer would also amount to a total package increase per teacher of $2,595.50 or 10.5 percent.

The Board's final offer provides a salary increase of $1,318.66 per teacher or 6.98 percent while the total package increase per teacher would be $1,1916.23 or 7.75 percent.

The Comparables

The Richland School District is a member of the South West Athletic Conference. Of the seven districts which make up the Conference only Boscobel, Fennimore and Viroqua have settled contracts for the 1985-86 school years. The remaining districts without settlements are Prairie du Chien, River Valley, Riverdale and Richland Center.

The Board's Position. The Board would begin with the three settled districts in the Conference as its primary grouping. This grouping would also be expanded by considering the remaining districts of the Conference in terms of the final offers submitted by the respective parties in each of these other districts.

The Board also offers as an additional set of comparables the districts of CESA #3 - eighteen in all - which have contracts settled for 1985-86.

The Association's Position. The Association submits, first of all, the settled districts of the Southern Eight Athletic Conference for its primary set of comparables. The rationale for this position is that the Southern Eight Conference will merge with the South West Conference in 1987-88. Further, the Association also argues that the three settlements of the Board's conference, Boscobel, Fennimore and Viroqua, are in the second year of a two year agreement and therefore should be given little or no weight. In the same vein, the Association would also exclude Platteville from its primary grouping. As a consequence, the Association's primary set would be composed of Darlington, Dodgeville, Iowa-Grant, Mineral Point, Southwestern and Cuba City (which settled during the pendency for the instant dispute.

As a secondary set of comparables, the Association offers a combination of the all settled districts holding membership in the South West and Southern Eight Conferences. This grouping would contain both single and multi-year agreements and comprise nine districts.

Finally, as a third set, the Association proposes the addition of the certified final offers for the districts from the two conferences without settlements; Lancaster, Prairie du Chien, River Valley and Riverdale.

The Arbitrator's Comparables. There is a good deal of agreement between the parties concerning the comparables. Both would use in one fashion or another the member districts of the South West and Southern Eight Athletic Conferences. For example, although the Association would exclude multi-year settlements from its primary grouping it also presents a detailed analysis in which those same districts are included. The Board, on the other hand, while it relies initially only on the three settlements for its conference, also includes all the settled districts of the two conferences in the districts it draws from CESA #3 for its own secondary grouping.

Both sides clearly give weight to the schools for the two conferences and therefore the Arbitrator sees no reason to deviate from the parties' judgement in this respect. By doing so, the undersigned would have a set of comparables comprised of the following ten districts: Boscobel, Cuba City, Darlington, Dodgeville, Fennimore, Iowa-Grant, Mineral Point, Platteville, Southwest and Viroqua.

Positions of the Parties on the 1985-86 Salary Offers

The Board's Position

First, the Board contends that salary benchmark analyses using both the settlements of the Conference and its expanded list support its position. This is true, argues the Board whether one considers rankings, ratios or dollar and percent increases. In addition, using its comparables to assess the relative value of such indirect payments as life, health and LTD insurance the Board also concludes that the District provides better than average total compensation for its teachers. In sum, concludes the Board,

> ". . . it is clear the Richland teachers have been treated well in terms of benchmarks and ratio rankings.
>
> The comparisons of the Richland final offers with the settled schools of CESA #3 for the 1985-86 school year indicates the School Board's final offer keeps the School District within its historical relationship with the other schools while the Associations's final offer would disrupt this historical relationship by increasing the differences between the schools."

Second, The Board also finds support for its position in the 1.2 percent change in the Consumer Price Index which occurred during July-August, 1985-86. In this respect, the Board argues that the total increase offered by the District (7.75%) is well above changes in the cost of living and therefore the Association's offer is labeled as "excessive and unjustified in comparison."

Third, the Board asserts that while it is not arguing an inability to pay concept never-the-less Richland is a rural school district, says the Board, and therefore a difficulty to pay concept is appropriate. In this vein, it contends, " The School District's proposal of a 7.75% wage and benefit increase will provide a greater improvement in the economic situation of the employer's teachers than most of its taxpayers can expect to see in the next several years."

In support of this position the Board presents a number of arguments. First, it offers statistics that purport to show the

Association's 1985-86 salary offer to be well above wage settlements in the private sector; that nonfarm productivity for the first quarter of 1986 was up 4.1% and unit labor costs were down - circumstances not likely to characterize productivity and labor costs for the Richland teachers; and that the national economy is predicted by economists to show little growth for 1986.

Second, working from the premise that Richland is a rural school district, the Board contends that the current state of the rural economy generally and Richland in particular lead to the conclusion that the Associations's offer is not in the public interest. The Board puts forward as evidence for this point the decline in farm land values, the rise in back taxes, the lag in per capita income for persons in Richland County in contrast to that for the State as a whole, the rate of unemployment for the County for 1985-86, the decline of private business in the County and the results of an economic analysis that indicate that elderly and retired persons constitute a larger percentage of the County's population than is true for the remainder of the state.

Third, the Board cites a lengthy list of arbitrators who, in attempting to balance the public interest with the employee interest have given weight to the state of the economy. The Board maintains:

> "The Board submits that in this case the general public interest and the employe interest as expressed in the Union's offer are opposed. The Board's final offer more reasonably balances the public interest with the employe interest. The Board cannot in good conscience agree to burden the already hardpressed taxpayer with a significant expenditure increase to cover the Union's excessive 10.49 wage increase.

Fourth, making reference to non-teaching public employees in the County the Board argues that if one looks at the increases received by such groups as Richland Center city employees, the County's employees and custodial District employees for 1985-86 salary increases for these groups have been substantially less than the increases contained in the Association's final offer.

The Association's Position

As its first point, the Association presents a salary benchmark analysis which examines the parties' final offers from the following points: dollar and percentage increases at seven benchmarks among its comparables; the relative rankings among the comparables; total compensation among the comparables; and the relative size of Richland as compared with the comparables.

With regard to the benchmark analysis, the Association concludes that whether one looks at dollar differences, percentage increases or historical rankings the District's salary proposal is out of line with the comparables. In terms of total compensation, the Association finds that if only current year settlements are considered its offer of 10.5% total package increase is 0.65 above the average of its comparables (the District offer would be 2.10 below) If the comparables grouping is expanded to include the multi-year agreements its offer is 1.11 above the average and the Board's 1.64 below.

Second, as a an additional comparables consideration, the Association asserts that "Arbitrators have consistently ruled that there is a relationship between the relative size of a district and its ability and propensity to pay." Thus, as the largest district in the combined S.W.A.L-Southern Eight Conferences and second largest in CESA #3, argues the Association, the District has greater flexibility with regard to budgeting than is true of districts with a smaller tax base.

Further, the Association maintains that by other measures the District has the ability to fund its proposal. Evidence for this is substantial increases in state funding now available, a decrease in the levy rate, and a levy rate on the average lower for Richland than its primary comparability group,

Third, the Association rejects the District's contention that the cost of living measures by themselves should be weighted heavily. Rather, asserts the Association, arbitrators have consistently held that the appropriate barometer for cost of living is the settlements of comparable school districts. In the same manner, also the Association would disregard as of little relevance either private sector wage settlements or those of other public employees. It cites as authority for this position the awards of Arbitrators Stern in Albany (MED/ARB-3315, May 27, 1986) and Grenig in Janesville (Dec. No. 22823-B, April 11, 1986), among others, to the effect that evidence must support the conclusion that a district is worse off than its comparables if it is to be granted salary treatment different from its counterparts.

Discussion

Comparisons of Wages, Hours and Conditions of Employment of the Municipal Employment Involved in the Arbitration Proceedings with the Wages, Hours and Conditions of Employment of Other Employees Performing Similar Services

As indicated above, after considering the Parties' positions on the choice of comparable school districts the Arbitrator selected the settled districts of the combined South West and Southern Eight athletic conferences. A salary benchmark analysis on the resulting ten comparison districts is reported in the following tables.

TABLE 1

Ranking of Richland School District
Seven Salary Benchmarks

Arbitrator's Comparables

	BA Base	BA+7	BA Max	MA Base	MA+10	MA Max	Sch Max
1982-83	3	6	4	4	8	5	7
1983-84	3	8	4	4	7	6	8
1984-85	3	6	4	3	5	5	4
1985-86							
Board	4	9	3	5	6	4	5
Assoc	3	5	2	4	5	4	5

Table 1 above shows that the Association's salary offer for 1985-86 would produce the least change in the District's ranking for 1985-86 over 1984-85. The Association would maintain the historical ranking, or come closet, on four of the seven benchmarks, the Board on one benchmark and for the remaining two the respective offers would produce the same result.

Second, Table 2 presents an analysis of the extent to which the Parties' offers deviate from the dollar averages of the ten comparable school districts at each of the seven salary benchmarks. As the table reveals the Board's salary offer would

increase the District's dollar deviation from the average for the comparables at every benchmark by a greater margin than is true for the Association's offer.

TABLE 2

Deviation from Dollar Average
Seven Salary Benchmarks

Arbitrator's Comparables

	BA Base	BA+7	BA Max	MA Base	MA+10	MA Max	Sch Max
1984-85	344	(14)	1011	401	447	432	(84)
1985-86							
Board	30	(485)	514	64	(52)	(138)	(636)
Assoc	205	(76)	1196	439	485	471	(27)

Numbers in parentheses indicate that Richland School District was below the average for the comparison group.

Finally, Table 3 presents the results of an examination of the dollar and percent increases which the two offers would produce in comparison to those for the ten comparable school districts. As can be seen from the table the Association's offer approaches most closely the dollar and percent increases at each of the benchmarks which have occurred for the ten settled districts of the comparison grouping.

TABLE 3

Dollar and Percent Increases for Salary Benchmarks

Arbitrator's Comparables

	BA Base	BA+7	BA Max	MA Base	MA+10	MA Max	Sch Max
Group							
Dollar Ave	1011	1313	1516	1079	1513	1705	1755
Percent Inc	7.38	7.78	7.95	7.27	7.48	7.51	7.29
Board Offer							
Dollar Inc	750	906	1088	800	1088	1216	1292
Percent Inc	5.40	5.40	5.40	5.30	5.30	5.30	5.40
Assoc Offer							
Dollar Inc	925	1315	1770	1175	1625	1825	1901
Percent Inc	6.60	7.80	8.80	7.70	7.90	7.90	8.00

If the dollar and percent increases are averaged for all the benchmarks as a whole we find that the comparables' average dollar increase was $1,413, for the Association $1,505 and for the Board $1,202. In terms of the percentage increases the respective figures were 7.52% (comparables), 5.36% (Board) and 7.81% (Association).

On the basis of the analysis of settlement patterns in comparable school districts the Arbitrator must conclude that the Association's offer on the 1985-86 salary schedule is to be preferred.

Cost of Living

The Board points out that in the last year the cost of living has risen 1.2 percent. In the view of the Board, these circumstances would dictate giving heavy weight to the cost of living criterion.

An examination of movements in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the period July 1985 to June 1986 supports the Board's allegation of an increase of 1.2 percent. The salary and total package offers of both parties thus provide increases in compensation which are greatly in excess of the changes in the cost of living for 1985-86 as they are measured above. The result is a significant improvement in the real salaries of the District's teachers regardless of the offer selected. Moreover, the continuing decline in the cost of living is reinforcing the real wage gain.

As a general matter, the undersigned agrees with the arbitral "school" that holds that cost of living factors are reflected in the wage settlement patterns of comparable school districts. Never-the-less, the Arbitrator also believes that given its present level of change cost of living criteria should not be excluded entirely from consideration herein. Therefore, the Arbitrator concludes that on this factor the Board's offer is more reasonable.

Ability to Pay and the Public Interest

There is no disagreement between the Parties with regard to the District's ability to pay. The Association has sought to demonstrate that the District can afford to pay the Association's final offer and the Board has not denied this. Rather the contentions of the two sides have focused on a consideration of the public interest. The Board argues that it is necessary to balance the employee's interest with that of the public and citing both arbitral authority and economic facts urges the Arbitrator to find the Association's offer excessive.

If the Board is to prevail on this line of argument the supporting evidence must be clear and convincing. That is, the Board must able to demonstrate that its economic circumstances are such that, in the face of an established settlement pattern, the District should be held to a different standard. In reviewing the evidence contained in the parties' exhibits, the Arbitrator finds a very mixed picture. Thus, for example, although the Board maintains that unemployment is high, private business has declined and tax certificates have increased the data submitted is only for Richland County. Hence, there is no basis to judge by comparison whether Richland County's experience is any worse, or any better, than that of counties containing the remainder of the school districts in the Conference.

In addition, the Board makes the point that rural poverty at 17 percent (1980) is very high for Richland. Yet examination of the total figures presented reveal that while this rate is above the state average (14%) it is identical to virtually all the surrounding counties except for Crawford where the rate is 23 percent.

The decline in both farm land and all property is a major point raised by the Board. The statistics clearly bear out the Board's argument in this regard. Data taken from the Wisconsin Department of Revenue show that farm land declined more than 19 percent in Richland County between 1984 and 1985. This was nearly twice the number for the next closest county, Crawford. On the basis of equalized values of agricultural and all property, however, the rate of decline was 10 percent, equaled by Crawford County and exceeded by Vernon County. To offset the decline in property values the State increased its aid to

Richland County by 31.9 percent ($262,530). The result was a reduction in the levy rate for 1985-86 of 1.44 percent.

It is clear from the above analysis that the agricultural sector in Wisconsin has suffered through serious economic difficulties in recent years. These adversities, in turn have spread to many communities whose lifeline is supplied by agriculture. Yet, what is not clear is the extent to which the economic circumstances of Richland are different from its counterparts in the remainder of Southwestern Wisconsin. In the absence of such evidence the Arbitrator is not prepared to conclude that the Association's salary offer is excessive and unreasonable as judged by the criterion of the public interest.

On balance, the Arbitrator concludes that on the issue of the salary schedule for 1985-86 the Association's offer is to be preferred.

2. The 1986-87 Salary Schedule

The Board has offered to increase the average salary per teacher by 7.15 percent or $1,436.33 for 1986-87. This would amount to a total package increase of 7.94 percent or $2,108.96 per teacher. The Association does not have a salary offer for the second year of the proposed contract. Rather, it suggests that the Agreement be reopened in mid-term and that the second year salary schedule be negotiated.

The Association would leave the second year salary open for the following reasons. First, it points out that at the end of the pendency period for the instant case "no district among any of the comparables offered by either party had reached a 1986-87 salary settlement." Second, at that point in time also, there was no reliable information concerning the levels of state funding available to the District. Third, the Association maintains that the Board's offer for the second year is well below, 7.1% vs. 9.39%, the average increase for settled comparables for 1985-86. The Association argues further,

> "We can now only speculate about the settlement pattern that may emerge among the comparables for 1986-87. To award the District's significantly lower offer in the absence of any comparable data and without the benefit of current economic data is unnecessary, and most likely unwise."

The Board's position on this issue centers on the argument that to grant the Association's request for a reopener is not a reasonable approach. That is, the parties would then have to begin negotiating immediately after the Arbitrator renders his award for the instant dispute. Says the Board, "This type of year-round negotiations activity is not conducive to producing the best of education for the children, the best of morale for the teachers nor the improved benefit and welfare of the public."

The parties have submitted no evidence in support of their positions on the issue of the 1986-87 salary schedule. As a consequence, the undersigned has no basis to measure either offer through the application of the statutory criteria. Given a lack of settlements among comparable school districts and the uncertainties of such factors as the cost of living and state support for schools at the time in which this award is being prepared it is more reasonable that the decision on the 1986-87 salary be left in the hands of the parties. Therefore, the Arbitrator finds that the Association's position on the 1986-87 salary schedule is to be preferred.

3. Voluntary Lunch Period Duty

The Association proposes that the current payment for voluntary lunch period duty be increased from $7.00 per hour to $5.00 per period, an effective rate of $10.00 per hour. The Board makes no offer to increase the amount.

The Association argues that its offer is consistent with the hourly rate previously agreed to by the Board on June 4, 1986 for driver training instructors and for teaching on noncontract days or beyond the regular school term. Further, says the RCEA, this increase would be the first in four years, it will aid in finding volunteers for this duty and its cost impact is insignificant.

If there is a need to change this rate the Arbitrator can not find it. On the one hand, examination of the comparable school districts sheds little light on the prevailing practice. Apparently, most districts deal with the issue on an informal basis or do not provide such payment.

Second, the Association contends that raising the rate would help in finding volunteers but neither the District nor the Association cite the lack of volunteers as a problem. At least there is no evidence in the record to support such an allegation.

Third, the Association also would hold that a $10.00 rate would be consistent with compensation that the Board is already providing for other tasks. The activities referred to, however, drivers training and noncontract teaching, would seem to the Arbitrator to be a different category of work from volunteer lunch period duty.

The Arbitrator concludes, therefore that on the issue of pay for voluntary lunch period duty the Employer's offer is more reasonable.

4. Extended Contract Pay

The Board proposes that Article IV be modified to contain the following:

D.6. All teachers employed to teach in their professional teaching specialties on noncontract days, or beyond the regular school term shall be compensated at the rate of $10.00 per hour.

10. Summer curriculum writing shall be compensated at the following rate:

Full year course (meets daily)	$225.00
One semester course (meets daily)	$112.50
One quarter course	$ 56.25

The Association proposal on this issue would continue the current language but raise the rate from $9.25 to $10.00 per hour. Presently the language states:

5. All teachers employed in their professional specialties on noncontract days, or beyond the regular school term, will be compensated at the rate of $9.25 per hour.

The Board Position. The Board contends that the current language is ambiguous in the sense that teachers could be teaching, writing curriculum or filing 8 x 5 note cards and all would be paid the same rate. The Board, therefore, seeks to change the language by separating summer curriculum writing into a specific provision with a set rate of compensation.

In addition, the Board would also insert the phrase "to

teach" after "employed" and the word "teaching" between "professional" and "specialties" in the existing provision to make specific the paid activity and remove any ambiguity.

By removing the ambiguity, the Board concludes that it would also remove a source of dissention among teachers "due to the inequities the current language has caused."

The Association Position. The Association raises three points with regard to the extended contract pay issue. First, it maintains that its proposal is reasonable with regard to the status quo. That is, in the words of the RCEA,

> "The District currently pays $9.25 per hour (1984-85) for all extended contract work. It proposes to pay ten dollars ($10.00) per hour for extended contract teaching, and only for teaching in an individual's 'professional teaching specialty.' Clearly, the District intends to narrow the work for which it pays even this minimal hourly rate, and to pay lesser, flat dollar amounts for other professional work which it desires its employees to do."

The Association argues that the result of the Board's effort to rewrite this clause will be to pay less for such activities as curriculum writing than it is presently paying. This, asserts the Association, is a deviation from the status quo. In contrast, the RCEA contends that its proposal would raise the pay for extended contract activities by slightly over eight percent, a considerably smaller change from the current status.

Second, the Association argues that its proposal is strongly supported by the comparables. In the 14 comparable districts which it investigated, the Association found that seven of the 12 with language on the issue pay regular salary rates for extended contract teaching, three pay regular rates for all extended contract work, four pay 80-85 percent of regular salary and the rates pay lesser amounts. Only one, Viroqua, says the RCEA, pays less than the status quo amount of $9.50 per hour offered at Richland.

Third, because the District has the ability to control the number of hours of work for which it will pay, contends the Association, the RCEA proposal has a minimal cost impact. For example, curriculum writing could be required during the regular school term at unassigned time during regular work hours. In this fashion, the Association believes that the Board retains the ability to control extended contract costs.

Discussion: It is clear, as the Association claims, that the comparables do support its position. Indeed, only one of the twelve with such contractual language would pay an amount less than that offered by the Board. Moreover, the comparables also do not indicate that it is a prevailing practice to separate the non-teaching extended contract activities in the manner proposed by the Board.

Beyond the comparables, the Association also argues that the Board is seeking a radical change not favored by a status quo standard. The Board's reply is a worthy defense, provided that it is buttressed with evidence. That is, change is necessary because the current language is ambiguous and productive of teacher dissatisfaction. The Arbitrator finds no such evidence, however. Examination of the record turns up no instances of dispute over the contested provision nor cited instances of teacher dissatisfaction. Neither does the Board establish a basis for concluding that the current language is burdensome and inequitable. We have only unsubstantiated allegation. This is insufficient to justify the change it seeks and therefore the

Arbitrator finds that the Association's position on this issue is to be preferred.

5. Personal Leave

The current Agreement does not provide for personal leave. The Association proposes that:

> "Each employee shall be allowed up to two (2) personal leave days with pay each school year. Employees who wish to use personal leave shall notify the District in advance. No employee shall be required to state the reason for such leave."

The counterproposal of the Board reads as follows:

> "Teachers shall be entitled to one nonaccruable paid personal leave day each year.
>
> Personal leave may not be taken the last working day before or after a vacation/holiday scheduled on the school calendar; may not be taken the day or days scheduled as preschool inservice/workshop in the fall; nor may it be taken on the day the school year is scheduled to end.
>
> Application for personal leave shall be made in advance on the District 'Request for Leave' form, and will be granted if substitutes are available to cover the teacher's absence.
>
> Personal leave shall be counted as one of the days of reimbursable leave granted to teachers and deducted accordingly."

Board Position. The Board suggests, first of all, that the major problem with the Association's proposal is that it does not offer the District any control over the use of such leave. According to the Board, examination of the equivalent provision in comparable school district contracts reveals that those districts which do provide personal leave within the athletic conference all have some form of control over the use of such leave.

The Board also argues that under the RCEA proposal it is possible to have a situation occur in which "all the teaching staff use their personal leave days at the same time thereby effectively striking the District for two (2) days which may not be found to be an illegal work stoppage."

Association Position. While the Agreement does not presently provide personal leave as such it does contain a provision (Article IX.A.3) by which reimbursable absence, which according to the Association, may be granted if certain specified conditions are met. In section (f) of the clause final approval for reimbursable leave rests with the discretion of the district administrator and/or Board. The Association argues that its language would provide a "clear and consistent vehicle" for personal leave and ensure that leave is available when needed.

The Association also contends that its personal leave proposal is supported by the language to be found in the fourteen contracts of the comparison school districts. Of the fourteen, says the RCEA, only one does not provide for personal leave while remaining thirteen offer an average of 2.6 days of personal leave per year. Thus, maintains the Association, even its proposal is below the average although consistent with the majority practice.

Discussion. Examination of the comparables confirms the Association's contention that only two of the comparison districts grant less than two days personal leave. Eight provide two days, two provide three and one, Viroqua, apparently grants ten days. Consideration of the language also shows, however, that a variety of restrictions are applied to provide the district with some measure of control in their use. For example, it is typical to limit the number of teachers who can take a personal leave day at any given time, many of the contracts preclude the use of such days before or after holidays and many also require that the cost of a substitute be deducted from the pay received by the teacher taking the leave day. In many cases, as well, the language makes explicit the fact that such leave will be granted at the discretion of a supervisor such as a building principal or district administrator.

While the bare numbers of personal leave days granted favor the Association the lack of control which its language would provide supports the Board. The need for administrative control is clearly recognized in the comparable contracts. The Board's offer on personal leave is an improvement over the existing circumstances but also offers a basis by which the granting of the leaves can be tailored to the needs of both the teachers and the District. Therefore, the Arbitrator concludes that the Board's offer on personal leave is preferable.

6. Extra Pay Schedule

In its proposal for this issue the Board would make a number of changes. First, the existing nine classes which make up the extra-curricular pay schedule would be reduced to eight. Second, the Board would reorganize the activities changing the categories to which they have been assigned. Third the percentage of base salary by which extra-curricular pay was determined would be modified in some cases. And, fourth, a procedure for introducing a system of longevity pay would be established.

The Association, on the other hand, offers to maintain the status quo with regard to the structure, categories and percentages of the present system. With the increase in the salary schedule the dollar amounts paid to each extra-curricular activity would, however, increase.

The Board placed no testimony, evidence or argument in the record to support its position on this issue. The Association contends that "in the absence of District support for its proposal, with minimum experience in providing for longevity pay among the comparables, and in view of the sweeping revisions proposed by the District, RCEA's status quo position is necessarily preferable."

Discussion. The Arbitrator finds himself in agreement with the Association's position. The Board has proposed very significant changes which may well be warranted. Yet it offers no explanation of the changes sought. No mention is made of problems with the current extra-curricular pay schedule. The Board's silence is conspicuous and damning, leaving the field to the Association. Therefore, the Arbitrator finds for the Association on this issue.

7. Working Day and Related Issues

The parties propose to make the following changes in Article IV, Section A of the Agreement: (1), the definition of the "Working Day"; (2) work which may be required by the Employer beyond the normal work day without additional compensation; (3), the amount of additional compensation for afterhours work; and (4), pay for the loss of a secondary preparation period due to

substitution for an absent teacher.

The Employer offers the following language for these issues:

A. Working Day

The working hours in the secondary and elementary school shall be as follows, subject to modification and meeting any unique needs as long as there is no increase in the total hours of work in a school day as negotiated herein. In times of an emergency or extreme weather conditions, the Association recognizes the Board/Administration will have to act immediately, and may have to shorten or extend the number of hours during the emergency or weather condition.

1. The normal school day shall not exceed eight (8) hours including duty-free lunch time and preparation time, except as follows:

a. On Fridays, or the day immediately preceding a holiday scheduled in that school calendar, teachers may leave five minutes after the buses leave unless they are on another assigned duty.

b. On days teachers are required to attend staff meetings, curriculum meetings, inservice meetings, parent conferences, or other job-related meetings/activities to which they may be assigned. On these days, teachers may leave at the close of the meeting/activity or one hour after the end of the normal school day, which ever occurs first.

c. When assigned special education responsibilities for staffings, assessments, conferences, etc. Teachers assigned to a general staffing, individualized educational plan conference, EEN assessment, or multidisciplinary team meeting, will be expected to stay beyond the regularly scheduled work day as necessary to complete the task.

Teachers assigned to more than fifteen (15) such special education meetings per year that extend the normal school day 30 minutes or more shall be paid $10 for each of these meetings in excess of the fifteen (15).

The Association's final offer pertaining to "Working Day" issues is the following:

Article IV, Section C.2. Working Day

(a) The regular employee work day shall not exceed eight (8) hours, including duty-free lunch time, preparation time, and time before and after the students' day, but excluding additional paid responsibilities.

On Fridays or the day immediately preceding a holiday scheduled in the school calendar, teachers may leave after the students have been dismissed, unless they are assigned to another paid duty.

(b) The parties to this Agreement recognize that professional work may be required beyond regular

working hours. Teachers may be required to attend a maximum of five (5) M-Team meetings, and a maximum of two (2) other professionally-related events per year beyond normal working hours without additional compensation.

(c) Teachers who are required to work beyond regular contract hours, (excluding duties described in C.2.B. and excluding duties for which compensation is specified elsewhere in this Agreement), shall be compensated at the rate of ten dollars ($10.00) per hour. The minimum payment for such required overtime work shall be ten dollars ($10.00).

(d) Secondary teachers agree to utilize a maximum of two (2) preparation periods per month, if requested, to substitute for teachers who are absent. Teachers who are requested to substitute during their preparation periods shall be reimbursed at the rate of ten dollars ($10.00).

Working Day Definition Issue

At the present time the Agreement makes no reference to the working day. The language sought by each side while it would attempt to make explicit the standard of an eight hour day also differs in several concrete ways. The Board, for example, would include language governing emergencies or extreme weather conditions while the Association's version contains no such language. In addition, the Board would permit teachers to leave on certain days after the buses depart and the Association's language would permit teachers to leave after students are dismissed. Finally, the Board's definition of eight hour day makes no mention of time before and after the student's day. On the other hand, the Association would include this time within its definition of eight hour day.

Board Position. In the first place, the Board argues that its proposal "gives recognition to unforseen events and what the parties may expect because of these events but also with the safeguard for the employees that 'total hours of work' will not be increased." The Board also argues that under the Association's proposal in the event of a circumstance such as a fire or an ill child the teachers would have no obligation to remain on the scene once the eight hours were put in.

Second, the Board also contends that if the specification of the working day as eight hours includes the time before and after the students' day the Board will lose control over the scheduling of work. That is, a teacher could report one hour early, perform some work and then leave one hour early.

With regard to the question of whether teachers would leave when students are dismissed, as the Association desires, or after the buses depart the Board asserts that its position is nearer the status quo than the Association's.

Finally, the Board concludes that the language on working day contained in comparable district contracts is not close to the final offers of either party. There is no prevailing practice, therefore, says the Board so that the issue must be judged on the reasonableness of each final offer.

Association Position. First, it argues that the majority of the comparables supports its proposed definition of working day. In this respect, it maintains that nine of fourteen districts have agreements with language similar to that which it proposes. No comparable, says the Association contains language like that proposed by the Board to cover emergencies and extreme weather

conditions.

Second, the Association contends that its proposal here is supported by the current practice. That is, the "normal" day has been eight hours, including a 30 minute duty-free lunch period and preparation time and that employees historically had been permitted to leave on Fridays and before holidays after students had been dismissed.

Third, the Association holds that its proposal implicitly allows the Board to act in emergency situations and therefore the Board's proposal in this regard is unnecessary. As support for this point, the Association relies, on the one hand, on Elkouri and Elkouri. On the other the Association points to the Board Rights and Responsibilities clause, Article III of the current Agreement as empowering the Board to act in cases of emergencies.

Discussion: While nine of the comparable districts have language pertaining to the working day in most cases such language often provides for little more than a mere statement that the "normal" work day shall consist of eight hours. In some instances starting and ending times are stated and in others the inclusion of the lunch period is mentioned. The language contained in both offers goes beyond the comparables, making difficult the application of this criterion.

However, as the Association indicates none of the comparison districts provides language on emergencies or weather conditions. The Arbitrator is inclined to agree that the right to make changes in the work day for emergencies or "acts of God"is provided by the Board's Rights clause within the constraints of good faith and reasonable cause. Moreover, the District has made no case by which the lack of explicit language is asserted to be burdensome and inequitable.

The Association, as well, adds language not found in the other district agreements. Here we refer to the inclusion of the phrase "time both before and after the student's day" as part of the regular eight hour work day. Neither the implications of this language nor its necessity are clear. The undersigned concludes that such language, without an expression of concrete intent would be productive of future confusion and disagreement. Under the circumstances such language as well should be avoided.

The existing custom and practice is also of little help. Both parties argue the status quo favors their respective positions but the record is devoid of evidence which would support one side or the other in this regard.

The Arbitrator must conclude that the criteria are mixed and that neither final offer with regard to the issue of the work day is significantly more reasonable or preferable than the other. In the resolution of the instant dispute other issues will therefore carry more weight.

Pay and Work Beyond Regular Contract Hours Issues

The language proposed by both parties accepts that professional work beyond the regular contract hours up to a point may be assigned to a teacher without additional compensation. Differences occur, however, over the limits to be placed on this additional time and the amount of pay to be received for any time required beyond the limit. For example, the Board's suggested language would permit a teacher to be assigned up to an additional one hour per day beyond the regular work day without additional pay for attendance at staff meetings, parent conferences, or other "job related meetings/activities to which they may be assigned." In addition, the Board would also require that teachers attend 15 general staffing meetings, I.E.P conferences, EEN assessment or M-Team meetings before extra

compensation would be paid. Any such meeting or conference in excess of 15 would be compensated at the rate of $10 each.

For its part, the Association would set a limit of five M-Team meetings and two other "professionally related events" per year which could be required without additional compensation. In the event that excess assignments were made by the District the teacher would be compensated at the rate of $10.00 per hour. Separate from M-Team and related assignments other required meetings or conferences would be considered overtime by the Association with compensation required at the rate of $10.00 per hour.

The current Agreement provides no limits on the number of meetings, conferences or other activities which the District can require of a teacher beyond the regular work day. Language is also absent that would establish a rate of compensation for these assignments.

Board Position. According to the Board, this issue stems in part from the experience of the Elementary School Counselor who was required to attend more than 30 M-Team meetings of approximately one hour and 15 minutes each during the last school year. The Board agrees that this is a lot of meetings but responds in the following fashion. First, a second elementary counselor has been hired which should reduce the original counselor's meeting load by half. Second, the Board also argues that such meetings are inherent in the nature of the counselor's job and counselors are aware of the necessity of such meetings when they begin their training.

Third, the Board calculates the cost of the Association's proposal on this issue to be $5,390 for the elementary school alone. Under the circustances, contends the Board, if the Association prevails on this issue the Board will have to curtail many activities to the detriment of the education process.

Fourth, teachers cover many activities through voluntarism at the present time. As a consequence of the Association's offer, says the Board, voluntarism would end and the activities would cease.

Finally, the Board points to the comparables and concludes, "The evidence is overwhelmingly against the Association's proposal as none of the other schools have a provision like that demanded by the Association."

Association Position. The Association argues, first of all, that its proposal is supported by the comparables to a greater extent than that of the District. Five of the comparison districts, says the RCEA, have no language while the remaining nine contain a variety of clauses, all of which place restriction's on the employer's ability to require after-hours work. "Nowhere, in any of the Agreements in comparable districts, is there a provision granting the employer such broad and unrestricted authority over its employee's working lives."

Second, the Association also contends that its proposal is the more reasonable of the two. By way of examples, the Association offers figures that purport to show that 55 (45%) of the staff had at least one M-Team meeting during the school year, 19 participated in six or more meetings, three participated in more than 15 and one who attended more that 48 such after-hours meetings. Further, asserts the Association, "The District's proposal gives it the absolute right to require a minimum of nine (9) hours' work from every employee, every working day, and allows the District to require any employee to work an unlimited number of hours when assigned to any special education project."

Third, the Association maintains that the RCEA's proposal is supported by arbitral precedent. In this regard it quotes from Elkouri and Elkouri to the effect that while employers have a right to assign overtime there is a concomitant obligation to pay employees for overtime work. In addition, the Association also cites Arbitrator Rice in Drummond (9/9/86) in the same vein.

With regard to the matter of an appropriate level of overtime pay, the Association raises several points. It argues, on the one hand that the Board has agreed elsewhere in the Contract for after-hours work involving drivers training instructors and those teaching in their professional capacity on non-contract days or beyond the regular school term at the rate of $10.00 per hour. It is clear, says the Association, "that the District is willing to pay $10.00 per hour for certain after-hours work."

In addition, the Association also contends that its offer treats teachers more equitably. That is, the District, according to the Association would up to $20 per hour for some work and nothing for other after-hours work.

Finally, the Association disputes the cost estimates for overtime compensation offered by the Board, but argues that even if once accepts these estimates they amount to only .003 of one percent of the total package cost. This is minimal and justifiable, concludes the Association.

Discussion. First, each side offers comparables in support of its position. Examination of the contract language on after-hours work and pay indicates that there is no prevailing practice among the comparables of limiting either the total number of hours beyond the regular work day or that such after-hours will be compensated. By the Arbitrator's reckoning, therefore the comparables favor the Board on this issue. Thus, in the case of six districts contracts are silent on this issue. In several others, Cuba City for example, the Agreement establishes a contractual obligation for teacher attendance at staff, inservice and parent meetings without providing that such attendance be compensated. To the extent contractual constraints are imposed on the employer they may be stated as requiring attendance at a "reasonable number of staff meetings,"(Iowa-Grant) or that "a reasonable effort" will be made to limit departmental meetings to one per month (Boscobel).

In only one district (Riverdale) is payment provided for after-hours work and there the language indicates that it will be provided at the rate of $12 for an M-Team meeting that lasts for one hour beyond 4:00 p.m. or begins after 4:00 p.m. No mention is made, however, of payment for other after-hours work.

Second, the parties are in disagreement over the impact of the Association's proposal in two respects: cost and voluntarism. It is not possible on the basis of the facts submitted to resolve this disagreement. It is likely that some observable impact will occur in both cases. In terms of cost, as the RCEA points out, the Board is in a position to control an appreciable amount of the potential cost by virtue of the frequency and length of time it schedules after-hours work. Moreover, to the extent that a cost is imposed it would provide an incentive to the Board to be cautious in assignment of after-hours work.

As a generalization, one can accept the principle that after-hours or overtime work should be compensated. By labor contract and law for nonprofessionals this is invariably the situation. At the same time, however, the practice of paying overtime to professionals is not widespread. This is especially evident as one examines the contracts of the comparable school districts. Thus, the RCEA's proposal that M-Team and related meetings be compensated after five such meetings and that all

other instances of after-hours work be compensated after the end of the normal work day is a significant departure from current practice. The Arbitrator concurs with Arbitrator Rice but believes that the Board's offer on this issue is a reasonable step in the direction the parties should be going. The Arbitrator would have to conclude therefore, that the Board's offer on after-hour work and its payment is the more reasonable of the two.

The Issue of Subbing Pay

Under Article IV, Section C.2 the Agreement presently states:

> "Secondary teachers agree to utilize a maximum of two preparation periods per month, if requested, to substitute for teachers who are absent."

And in Section C.3 it states further:

> "Beyond the requirement above (C2), teachers may be requested to substitute during their preparation periods and be reimbursed at the rate of $7.50 per period. No reimbursement will be made for partial periods."

The Board proposes that the current language be modified as follows:

> High School teachers (not teaching an overload seventh class) may be requested to substitute during their preparation periods and be reimbursed at the rate of $9.00 per period. No reimbursement will be made for partial periods."

The Association counteroffer states:

> "Secondary teachers agree to utilize a maximum of two (2) preparation periods per month, if requested, to substitute for teachers who are absent. Teachers who are requested to substitute during their preparation periods shall be reimbursed at the rate of ten dollars ($10.00).

Board Position. The Board begins with this issue by asserting that no comparable school district has the restrictive language proposed by the Association. Second, the Board also maintains that by the RCEA's own witness once per month substitution was normal for the high school. Why then, asks the Board, "does the Association need a provision that limits substituting to twice a month?"

Finally, the Board argues that the Association has not demonstrated a compelling need for this language nor has it shown any abuse by the District in utilizing substitutes. Therefore, concludes the Board, its position should prevail.

Association Position. According to the RCEA "The concept of overload pay for teaching a prescribed class beyond the prescribed workload is well-established in the current Agreement, at twelve per cent (12%) of regular salary." It continues that the $10.00 the Association proposes is less than most employees' regular rate and considerably less than what the Board proposes to pay for participation in M-Team and related meetings. In this regard, contends the Association, the Board has offered no justification or rationale for its proposal.

Discussion. The parties' offers on this issue would depart

from the current Agreement in the following manner. First, currently, teachers may be asked to substitute during their preparation time twice per month without extra pay. Each time thereafter would require compensation at the rate of $7.50 per period. The Board offer would essentially pay for all substitution that resulted in loss of preparation time at the rate of $9.00 per period.

Second, the Association's offer would place a limit of two preparation periods lost for subbing per month and raise the amount paid in each instance to $10.00.

The comparables do not support the Association's position on subbing pay. On the one hand only three of the seven comparison districts with language on this issue pay $10.00 per period and the average of all seven is $8.64. In addition, in none of the comparables' contracts are there limitations on the number of times per month that a teacher can be requested to give up a preparation period to teach as a substitute.

In addition, the RCEA has made no case that the present set of circumstances is onerous or that the Board's offer would create such a condition. As the Board points out, the norm for the use of preparation periods for subbing seems to be once per month which is unpaid. The Board proposes to pay all such instances and to raise the amount paid in the process. The Arbitrator's inescapable conclusion is that the Board's offer on subbing pay is preferable.

8. High School Teaching Load and Related Issues

The parties are also in disagreement over the number of teaching periods, preparation periods and additional compensation for extra teaching which should be assigned to the District's high school teachers. In this regard, the Board has proposed the following language for Article IV in its final offer:

> The parties recognize the right of the District to determine the teaching load for the work day. In the eight-period day, the normal teaching load will be six teaching periods, one preparation period, and one office period when the teacher would be available to students wanting special help. A teaching load of five instructional class periods in the eight-period day will also be considered a full teaching load and, when feasible, those teachers who have a teaching load of five periods a day will be given extra duty assignments such as student supervision, extra student help, and chairing committees first before asking teachers carrying a load of six classes a day to assume those extra duties. Extra duty as used herein does not include extracurricular assignments.
>
> A seventh regular classroom teaching assignment shall be considered an overload and teachers assigned such an overload class shall be reimbursed at a rate of 12.5% of that teacher's salary for the duration of the overload.

The Association's proposed language for the same issue states:

> The parties recognize the right of the District to determine the number of classes in the work day. In an eight-period day, the normal secondary teaching load is five (5) teaching periods, one (1) non-teaching assignment, and two (2) preparation periods.
>
> In a seven-period day, the normal secondary teaching

load is five (5) teaching periods and two (2) preparation periods.

If an additional teaching period is assigned, additional compensation shall be 12.5% of scheduled salary in an eight-period day, and 14.25% of scheduled salary in a seven-period day. No teacher who is assigned six teaching periods shall be required to accept an additional non-teaching assignment during the regular work-day, until all teachers who are assigned five teaching periods have been given a non-teaching assignment.

Finally, the Agreement currently covers the high school teaching load in the following manner:

Article IV, D. Teaching Load, High School

The normal weekly teaching load in grades 9-12 is twenty-five scheduled teaching periods in a seven-period day and then scheduled preparations or special assignments whenever possible. It is recognized that exceptions to the normal workload will occur. Where a sixth class in a seven-period day is assigned by the administration, additional compensation will be twelve percent (12%) of the teacher's regular salary.

The parties' respective offers differ from each other and from the current Agreement at several points. First, the present language provides for a seven period day composed of five teaching periods and two preparation periods. If a sixth class is required overload compensation of 12 percent is paid. Second, the Board would create an eight-period day in which the teacher would have six classes, one preparation period and one office period. Overload compensation would be paid at the rate of 12.5 percent for a seventh teaching period.

The Association's offer is comprised of either a seven or eight-period work day which in either case would require five teaching periods. For an eight-period day there would be two preparation periods and one non-teaching assignment period. Overload would begin with a sixth teaching period which would be paid either 12.5 percent or 14.25 percent depending on whether the teacher was assigned to a seven or eight period-day.

Board Position. Counsel for the Board labels the high school teaching load as one of the more major issues and states "It concerns the very existence and continuation of the education program thoughtfully and painstakenly developed and implemented by the School District." The Board contends that the State has mandated new graduation requirements effective September 1, 1988. Further, during April 1984 a team of educators from the North Central Accreditation Association evaluated Richland High School and recommended an eight-period day "to accommodate scheduling for new state mandated requirements and to open up the day for more student electives."

According to the Board it would be impossible to implement the new mandates without additional space or a change in scheduling. In the Board's view the most feasible approach to solving a perceived space crunch would be to go to the eight-period day in which the number of teaching periods would increase to six. By doing so, argues the Board, class size could be reduced and educational offerings improved.

The Board also maintains that the Association's offer is not in step with other conferences schools. In this respect, the Board adduces as evidence figures on average instructional time which it believes show that the District's teachers' rate is the lowest in the Conference.

Finally, the Board asserts that the Association's proposal will result in an additional cost of $79,962.70 to the District or about 2.59 percent. This amount is calculated by applying the RCEA overload pay rate of 12.5 percent to the 1985-86 salary schedule.

Association Position. The first argument raised by the RCEA is that its offer provides a reasonable increase in the workload to accommodate the District. Thus, says the Association, the addition of one non-teaching assignment period to the 1985-86 schedule increases assigned time for teachers from 240 to 282 minutes, or an increase of 17.5 percent. The District, on the other hand, by raising the teaching load from five to six classes, would increase the class load by 20 percent. In fact, asserts the Association, "Whether we measure class loads, assigned time loads, or student loads, the increase proposed by the District is significant and, RCEA believes, unwarranted."

In further support of its stand on the teaching workload the Association cites Arbitrator Malamud (Bangor, Dec. No. 21121-A, May 18, 1984) that parties who seek change in a collective bargaining agreement offer either additional income or other benefits as a quid pro quo. The District in the instant dispute has offered a salary increase of 6.99 percent which, in the RCEA's estimation, is an inadequate increase in compensation for the work demanded.

Third, the Association challenges the need for the changes in workload proposed by the Board. In doing so, the Association contends that the District, when it established a requirement for graduation of 23 credits, has gone beyond the mandates of the State by 1.5 credits. The Association finds this commendable "if the District did not propose to subsidize its expanded program by demanding more work from its teachers without offering commensurately 'expanded' salaries."

Next, the Association contests the Board's high school work load proposal on the basis that it not only demands a significant increase in the workload but also a 50 percent decrease in preparation time. This would result, says the RCEA, either in less thorough preparation and lower quality instruction or the voluntary use by teachers of their own, outside time, to prepare for classes. Neither option does the Association find reasonable in light of the District's professed concerns with quality education or the size of the salary increase offered.

Fifth, the Association also maintains that the District's proposal will have an adverse effect on part-time teachers. In this regard the RCEA offers as an example the situation of a teacher assigned to a three class schedule. Under the former five class system the teacher was paid three-fifths of the regular salary. With the implementation of a six class work load the teacher's salary will drop to one-half. Thus, concludes the Association, the teacher will have the same work load as before but with a reduced salary.

Sixth, the Association has proposed the overload above five classes for an eight-period day be compensated at 12.5 per cent or 14.15 percent for a seven-period day. In the Association's view this procedure would more nearly reflect the actual proportionate increase in class load resulting from the assignment of an additional class. On the other hand, says the Association, the Board's offer would increase the workload by 25 percent but increase the overload compensation by only 12.5 percent.

Seventh, the Association next raises the matter of deviation from the status quo, arguing that the District proposes a radical change. Citing Arbitrator Krinsky (Chilton, Dec. No. 22891-A,

March 28, 1986) to the effect that major changes in contracts should be bargained rather than arbitrated, the Association comments that the instant dispute is the first one between the parties in which interest arbitration has been necessary. "[The parties] have been forced to do so because the District demands a significant deviation from the status quo, and appears unwilling to offer a reasonable quid pro quo in order to achieve its ends through voluntary agreement with the RCEA."

Finally, the Association challenges the Board's evidence with regard to practices on work load among comparable districts. As support for this point, the RCEA calls the Arbitrator's attention to the Board's use of information on the Boscobel School District, contending that the Board's evidence is inaccurate. Specifically, the Association finds fault with the Board's description of Boscobel as a district with a required six class teaching load rather than five as apparently set out in the Boscobel Agreement. The Association would generalize to conclude that all 'undocumented" District evidence be viewed with skepticism.

Discussion: There is much to be said in favor of the Board's position on this issue. There is no doubt in the Arbitrator's mind that public education is currently, and will continue to be for some time to come, a focal point of controversy. On the one hand, the debate rages over the cost and quality of education provided to school children. While on the other, it is joined over the quality and compensation of the teachers.

The issue of workload considered here exemplifies the complexities of this controversy. The Board argues, operating under state mandates, that it's proposal would reduce class size, increase the number of electives available to the District's students and increase the number of credits required for graduation. Given the daily barrage of criticisms directed against American educational systems the Board's objectives in this respect should be applauded.

The Board considered several options by which to pursue its educational goals and ultimately decided that the most feasible approach would be to move to an eight period school day in which the teaching load would increase from five to six classes per day. An additional consequence of the change would be to reduce the number of preparation periods from two to one.

There are two sides to the educational quality coin, however, as we have indicated above. Thus, the Association contends that the reduction by half of teachers' preparation time will have an adverse impact on the quality for which the Board is seeking. But more importantly, says the Association, the additional class required raises the teachers' classload by 20 percent and assigned time load by 35 percent. All of this would be done, concludes the RCEA, without any quid pro quo.

The Arbitrator is hardpressed to fault either the logic or the facts of the Association position. However you measure the impact of the Board's offer on the high school work day it will result in a significant change for teachers from their present working conditions. Moreover, the RCEA contends that its members apparently are expected to bear this increased workload in the face of a salary offer below that of comparable districts not making such radical changes.

The Board complains that the Association's offer, if implemented, would cost the District $79,962.70. While it may be defined as a cost by the Board it is also the value of the teacher's classroom time. It is not reasonable, in the Arbitrator's mind, that the District should acquire the value of the teachers' services without appropriate consideration in the

contractual sense. That is, as the RCEA contends, to provide the quid for the quo. To do otherwise would confirm the Association's assertion that they are being asked to subsidize the educational quality improvements being adopted by the District.

The Association states that it is not unwilling to bargain this issue. The Arbitrator concurs that this would be in the best interests of all parties to this dispute. The issues are too important and too complex to be resolved in their final form through arbitration.

Under the circumstances, the Arbitrator concludes that the Association's offer on high school teaching load is to be preferred.

9. The Term of the Agreement

The Board proposes that the term of the Agreement for all items run from August 15, 1985 to August 14, 1987. The Association would also have the Agreement cover the same period with the exception of the Addendum, salary schedule and extra-curricular schedule. The latter items would be subject to reopening for 1986-87.

Association Position. The Association raises the following points in support of its position on contract term. First, it offers a status quo argument. That is, according to the Association where the parties have been involved in multi-year agreements, historically they have agreed to reopen compensation items in the final year. Illustrative of this point is the fact that the parties are coming off a three year agreement which provided for compensation reopening.

Second, the Association also believes that the general practice among comparable school districts is consistent with its offer on term. In this regard, the Association adduces information which purports to show that of ten settled contracts for its comparables only three have single year contracts.

Three, the uncertainty concerning the District's state aid is next raised by the Association. Thus, contends the Association, "Presently, the District does not know the amount of state aid it will receive for 1986-87." "With the re-valuation of property by the State Department of Revenue for purposes of calculating 1986-87 equalized aid to school districts, if the District's figures are reliable, Richland should receive substantially increased state aid for 1986-87."

Finally, the Association also maintains that very little discussion of the extra-pay schedule took place between the parties. The District proposes extensive revisions in this matter, over which the Association says it is not unwilling to bargain. Such bargaining, however, has not taken place but should. Reopening the contract would provide an opportunity to negotiate the issue.

Board Position. The Board asserts that anything less than a complete two year agreement will subject the parties to immediate and continuous negotiations. In the District's mind such a situation would cause "ongoing friction and stress for the parties and would not benefit the parties' relationship, the education process and the public".

In addition, the Board also cites its own conference comparables to the effect that one year agreements on compensation are in the minority.

The Board sums its position on this issue as follows: "It is simply not in the best interests of the school and the public to have labor unrest and contract instability on a continuous basis. The current negotiations began on February 25, 1985 and are still in progress. The parties and the public deserve some relief from negotiations over a retroactive labor agreement."

Discussion. This is an issue that is intimately and directly tied to the other issues in dispute between the parties. Unlike those issues, however, the question of duration is not subject to determination independently or by separate application of the statutory criteria. Therefore the Arbitrator concludes that resolution of the issue of contract duration in the instant case should be a function of the disposition of the totality of the matters at issue. As a consequence, the undersigned will state no preference for either party's position on this issue.

Summary

Nearly a dozen issues, including sub-issues, were placed before the Arbitrator for his resolution. The matters in contention run the gamut from salary schedules to work load. There is no doubt in the Arbitrator's mind that the outcome of this dispute will affect the parties for many years into the future. In that respect it is a monument to the failure of voluntary collective bargaining.

A summation of the Arbitrator's conclusions follows.

1. 1985-86 Salary Schedule.

The Association's offer was judged more reasonable by virtue of the fact that it would result in the smallest change from historical rankings, the least deviation from dollar averages with comparable districts and was closet for dollar and percentage increases to the comparables across the seven salary benchmarks. With regard to the last point the comparison school districts settled for an average of $1,413 (7.52%) while the Board's offer would be an increase of $1,202 (5.36%) and the Association's offer $1,505 (7.81%).

While statutory criteria other than comparables were considered these did not offset the effect of salary changes occurring in the comparison school districts. Thus, the District did not deny it had the ability to pay the RCEA offer. And although the Board argued that the Association's offer was not in the public interest the evidence placed in the record does not support such a conclusion. That is, the economic circumstances of the District are similar to the schools in the two athletic conferences used as points of comparisons. Under the circumstances there was no basis by which Richland School District should for singled out for special treatment.

2. 1986-87 Salary Schedule. The Association's offer was preferred for this issue. There was no factual basis in the record to judge the merits of the Board's offer. Absent information on comparable settlements, cost of living changes, state aid or economic trends the Arbitrator concluded it was more reasonable, as the Association suggests, to reopen the contract and bargain the next salary schedule when much of the uncertainty will be removed.

3. Voluntary Lunch. The Board's offer was accepted as more reasonable. The evidence in the record does not support the Association's position.

4. Extended Contract Pay. The comparables support the Association's offer on this issue. The Board was seeking changes not supported by the evidence it adduced.

5. Personal Leave. The Arbitrator finds the Board's concern over the potential loss of control in the administration of personal leave compelling. Therefore he finds for the Board here.

6. Extra-Pay Schedule. The Association's position on this issue is found to be more reasonable. The Board seeks very significant changes in the extra-pay schedule yet is silent in the defense of its position. In the absence of either argument or evidence from the Board there is no basis to judge the justification for its offer.

7. Working Day and Related Issues. There were four sub-issues to be considered here: the contractual definition of the "regular" work day; The point at which the District would be required to begin paying overtime for work beyond the regular day; the amount of overtime pay; and the amount to be paid to teachers for giving up preparation time for "subbing".

The Arbitrator found that neither party's offer was more reasonable than the other on the issue of work day. For the remaining work day related issues the Arbitrator favored the Board's position. The comparables did not support the Association here and particularly with regard to the issue of pay for work beyond regular contract hours the Association proposes a very substantial departure from current practice in the District.

8. High School Work Load and Related Issues. The Arbitrator finds for the Association on this issue. The facts of the case indicate that the Board's offer would result in a substantial teaching load increase for the members of the RCEA coupled with a reduction in preparation time. This is a significant change from current teacher working conditions. While the Board's motives, educational improvement, for making the changes are without question the Arbitrator agrees that it is inequitable to expect the teachers to shoulder the cost of the improvements. The RCEA has stated its willingness to negotiate this issue and therefore in the interest of providing incentive to do so holds for the Association.

9. Duration of the Contract. The issue of the term of the Agreement can not be separated from the other matters at issue. Therefore, the Arbitrator declines to select either of the party's position on this issue.

To merely total the score for each side would show that the Association has predominated on the majority of issues. And by virtue of the fact that its position is to be preferred on a majority of the more significant issues the Arbitrator concludes that its overall position must prevail as well.

The District has sought to change the status quo in a very substantial way. Much of what it has sought deserves serious consideration. In the same vein, the appropriate forum for this consideration is the bargaining table not the arbitration hearing. The issues are complex and require extended mutual exchange of the sort not possible within the adversarial confines of the hearing room. If the problems that beset education are to be solved this must be done so on a cooperative basis. Surely, the instant dispute is evidence that any other approach will at best provide no real, long term answer to the parties' difficulties.

In light of the above discussion and after careful consideration of the statutory criteria enumerated in Section 111.70 (4)(cm)7 Wis. Stat. the undersigned concludes that the Association's final offer is to be preferred and on the basis of such finding renders the following:

AWARD

The final offer of the Association together with prior stipulations shall be incorporated into the Collective Bargaining Agreement for the period beginning August 15, 1985 and extending through August 14, 1987 with the exception of the 1986-87 salary schedule, the Addendum and the extra-curricular pay schedule which will be subject to reopening for 1986-87.

Dated at Madison, Wisconsin this 6th day of March, 1987.

Richard Ulric Miller, Arbitrator