

JUL 21 1987

WISCONSIN EMPLOYMENT
RELATIONS COMMISSIONSTATE OF WISCONSIN
BEFORE THE MEDIATOR/ARBITRATOR

In the Matter of the Stipulation of	Case 19 No. 37643
STURGEON BAY SCHOOL DISTRICT	MED/ARB-4070
and	Decision No. 24174-A
STURGEON BAY EDUCATION ASSOCIATION	Sherwood Malamud
To Initiate Mediation/Arbitration	Mediator/Arbitrator
Between Said Parties	

APPEARANCES:

Davis & Kuelthau, S.C., Attorneys at Law, by Clifford B. Buelow, 250 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, appearing on behalf of the Municipal Employer.

Dennis Muehl, Director, Bayland Teachers United, 1136 North Military Avenue, Green Bay, Wisconsin 54303, appearing on behalf of the Association.

JURISDICTION OF MEDIATOR/ARBITRATOR

On January 20, 1987, the Wisconsin Employment Relations Commission appointed Sherwood Malamud to serve as the Mediator/Arbitrator to attempt to mediate issues in dispute between the Sturgeon Bay School District, hereinafter the District or the Employer, and the Sturgeon Bay Education Association, hereinafter the Association. If mediation should prove unsuccessful, said appointment empowers the Mediator/Arbitrator to issue a final and binding award pursuant to Sec. 111.70(4)(cm)6.c of the Municipal Employment Relations Act. A mediation session was conducted on March 25, 1987. Mediation proved unsuccessful. An arbitration hearing was conducted immediately subsequent to the mediation on March 25, 1987. At the hearing, the parties presented documentary evidence. Additional exhibits were submitted post-hearing by April 17, 1987.¹

Briefs and reply briefs were exchanged through the Arbitrator by June 3, 1987. Based upon a review of the evidence, testimony and argument submitted and upon the application of the criteria set forth in Sec. 111.70(4)(cm)7.a-h Wis. Stats., to the issues in dispute herein, the Mediator/Arbitrator renders the following Arbitration Award.

I. On April 22, 1987, the District forwarded a copy of the award issued by Arbitrator Fleischli in Luxemburg-Casco School District, (24049-A) 4/15/87. By letter dated 4/28/87, the Association objected to the submission of the Luxemburg-Casco Award. On April 29, 1987, the District responded to that objection. On May 1, 1987, the Mediator/Arbitrator rejected the submission of the Luxemburg-Casco Award for purposes of establishing the salary levels paid to teachers in that district, but agreed to receive said award as a citation of authority. The District then moved to reopen the hearing to permit the submission of the additional exhibit. The Association objected. The Arbitrator denied the motion to reopen the hearing on the grounds that in the Med/Arb process, with the passage of time, additional data and information will become available. If the hearing is reopened to receive such data, then, it would be difficult to bring the dispute to a close.

SUMMARY OF THE ISSUES IN DISPUTE

Both the District and the Association propose salary increases covering two school years, i.e., 1986-87 and 1987-88 school years.

	<u>DISTRICT</u>		<u>ASSOCIATION</u>	
	<u>1986-87</u>	<u>1987-88</u>	<u>1986-87</u>	<u>1987-88</u>
Salary Increase	5.81%	5.13%	7.91%	7.32%
Package Increase	5.94%	5.79%	7.89%	7.80%
Package Per Teacher	\$1,898	\$1,959	\$2,520	\$2,690

The District suggests that the group of comparables be altered by including Oconto and Oconto Falls as school districts comparable to Sturgeon Bay and deleting Mishicot and Denmark from the group of comparables. The Association argues that the Packerland Athletic Conference as identified by Arbitrator Grenig in a 1983 award involving these parties should remain as the districts to which Sturgeon Bay is compared, despite the removal of Denmark and Mishicot from the athletic conference by the WIAA.

STATUTORY CRITERIA

The criteria to be used to resolve this dispute are contained in Sec. 111.70(4)(cm)7, Wis. Stats. It provides that the:

Factors considered. In making any decision under the arbitration procedures authorized by this subsection, the Mediator/Arbitrator shall give weight to the following factors:

- a. The lawful authority of the municipal employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services and with other employes generally in public employment in the same community and in comparable communities and in private employment in the same community and in comparable communities.
- e. The average consumer prices for goods and services, commonly known as the cost-of-living.
- f. The overall compensation presently received by the municipal employes, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- g. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- h. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding arbitration or otherwise between the parties, in the public service or in private employment.

BACKGROUND

The Sturgeon Bay School District is located in Door County. Sturgeon Bay is the county seat. Shipbuilding is a major industry and employer in this community. The major shipbuilders are: Bay Shipbuilding, Peterson Builders, Inc. and Palmer Johnson. In addition, tourism is a major industry in the Door County peninsula.

In the 1985-86 school year, the pupil enrollment in the Sturgeon Bay School District was 1,342 students who were taught by a faculty of 86 teachers.

The Packerland Athletic Conference, at present, includes the following school districts: Algoma, Gibraltar, Kewaunee, Luxemburg-Casco, Oconto, Oconto Falls, Sevastapol, Southern Door and Sturgeon Bay. The pupil enrollments range from 590 students at Sevastapol to 1,565 in Oconto Falls. The size of the faculties of these districts range from 42 in Gibraltar to 97 in Oconto Falls. Denmark School District has a pupil population of 1,515 and Mishicot a pupil population of 943 students in 1985-86. Denmark and Oconto School Districts are the only primary comparables suggested by either party which have settled for the 1986-87 school year. There are no settlements for the 1987-88 school year among the primary comparables suggested by either party.

POSITIONS OF THE PARTIES

The arguments of the parties are summarized below. To sharpen the presentation of the parties' positions, the position of a party is followed by the response of the other party: District argument, Association response; Association argument, District response.

The Employer Argument

The Employer argues that when Arbitrator Grenig rendered his award in 1983, the school districts of Denmark and Mishicot participated on a limited basis in the Packerland Conference. Today, those two districts are included in the Olympian Conference. Accordingly, the District argues that the comparables should be updated. Furthermore, the Employer notes that Arbitrator Weisberger in Southern Door County School District, (22136-A), 1985 determined that Oconto and Oconto Falls were appropriate comparables to the Southern Door School District. The Employer notes that Southern Door lies immediately to the south and is contiguous to Sturgeon Bay. The Employer argues that the resolution of this comparability issue will in all probability, not be determinative of this Med/Arb proceeding. Consequently, the Employer argues that it is appropriate that this matter be determined in this case rather than in a case where the outcome turns on this comparability issue.

The District argues that the settlements in Denmark and Oconto school districts should be given limited weight. The Employer concedes that both on the basis of percentage and total package dollar per returning teacher, the Denmark settlement favors the Association offer. The Denmark faculty received a salary increase of 7.58%; that increase generates a total package increase of 7.62% or \$2,311 per returning teacher. The Employer discounts that settlement. It argues that Denmark has the highest pupil-teacher ratio of any of the comparable districts at 19.4 students per teacher. In Sturgeon Bay, the pupil-teacher ratio is 15.6. It argues that Denmark has the highest income per household at \$19,173 as compared to Sturgeon Bay's \$17,213. Nonetheless, Denmark lagged behind all the other comparables at the BA Base, Step 7 and BA Maximum benchmarks. In addition, the Employer notes that the Denmark settlement is for only one year, the 1986-87 school year.

The Employer notes that the 7% salary increase in Oconto generates a 6.5% total package or \$1,929 per returning teacher. That settlement is for one year. However, the Employer argues that Oconto's settlement more closely approximates the final offer of the Employer rather than the Association, in this case.

The Employer argues that an analysis of prior years' settlements among the comparables and the level of salary paid in Sturgeon Bay as a result of the prior year settlements through 1985-86, reflects that the Sturgeon Bay

salary schedule has improved substantially at each of the benchmarks relative to salary levels paid by comparable districts. The Employer emphasizes that the Bayland Teachers United submitted exhibits in the Luxemburg-Casco case in support of an argument for catch-up. Here, no such argument was made. The Employer submitted the following chart showing the improvements at the benchmarks in the Sturgeon Bay salary schedule over the period of 1983-84 through 1985-86. By 1985-86, the Association was either first or second at the 7 traditional benchmarks.

	<u>1983-84</u>	<u>1984-85</u>	<u>1985-86</u>	<u>change</u>
BA Base	5	3	2	+3
BA Step 7	5	3	2	+3
BA Max.	1	1	1	-
MA Base	6	3	1	+5
MA Step 10	7	4	2	+5
MA Max.	1	1	1	-
Sch. Max.	1	1	1	-

The Employer argues that it makes the third highest contribution for employee health insurance among the comparables. It emphasizes that it pays the full contribution for health and dental insurance. All the other comparable districts have agreements which call for some employee contribution towards the family health and dental plan. The District concludes that on the basis of the substantial improvement made in the salary schedule and the higher level of contribution toward fringe benefits paid in Sturgeon Bay, even if its offer is "below the market" that record supports some "fall back" at the benchmarks.

The thrust of the Employer's argument is that the comparability criterion be given little weight in this case because of the lack of information available on this criterion. The Employer urges this Arbitrator to give greater weight to the other statutory criteria. In this regard, the Employer argues that this Arbitrator should not expand the comparability pool to include state-wide averages. It cites the decisions of many arbitrators (citations omitted) who have stated that reliance on the athletic conference is more appropriate. Deviation from that comparability must be justified by substantial reason, the Employer asserts.

The Employer notes that comparability is established on the basis of several factors, such as geographic proximity, cost per admission, state aids, equalized values, levy rates, etc. The use of state-wide averages does not permit the application of such factors on a state-wide basis.

The Employer disputes the Association selection of school districts with faculties of between 70 to 130 FTEs. The Employer argues that the Sturgeon Bay FTE is 86.3. The more appropriate range is 56 to 116. The District argues that the Association attempts to distort the state-wide averages towards settlements among larger districts than Sturgeon Bay.

The Employer emphasizes other problems in using state-wide averages, such as, ascertaining whether any of the Districts noted froze increments or used any other device which would undermine the reliability of the published salary schedule. The Employer asks were these agreements reached one or two years prior to the 1986-87 or 1987-88 school years at issue, herein. In addition, the settlements cited by the Association constitute but 40% of the number of school districts in the 70 to 130 FTE school districts. The failure of 60% of the districts to achieve a settlement reflects that these school districts and their unions have not agreed upon or reached a consensus as to the appropriate settlement level for the period at issue.

The Employer quotes extensively from the decision of this Arbitrator in Cashton Schools, (22957-A) 6/86 where this Arbitrator eschewed the use of

secondary comparables as a basis for a decision where no data was available from the primary comparables.

The Employer argues in the alternative should this Arbitrator decide to expand the group of comparables that only districts which are geographically proximate to Sturgeon Bay and of similar size, and which have reached voluntary settlements, should be used. The District argues that DePere, West DePere, Seymour and Howard-Suamico should be used, if the comparability is expanded. The Employer argues that should the comparability pool be extended, geographically, then Clintonville, New London and Shawano-Gresham are larger but may be used as comparables to Sturgeon Bay. The Employer asserts that the data from the settlements achieved by these districts support the Employer's offer over that of the Association's.

The Employer argues that the criterion, the interest and welfare of the public, is the most critical in this case. The District emphasizes that shipbuilding is to Sturgeon Bay what AMC is to Kenosha and GM is to Janesville. Yet, the shipbuilding industry is in a depression. The three major shipbuilders located in Sturgeon Bay employed approximately 3,000 employees, at their peak. Yet, the projection for employment at Bay Ships is such that its work force may be reduced to under 100 employees by the end of 1987. Furthermore, Peterson Builders has reduced its work force by 30% during 1986.

The District emphasizes that it has suffered a substantial drop in the amount of state aids received. It notes that this Arbitrator gave substantial weight to that fact in determining the Green Bay Area Public School District, Voluntary Impasse Procedure, case earlier this year. In Green Bay, the drop in state aids was approximately 4%. Here, the District has suffered a decrease in aids amounting to 22.2%.

The District notes, further, that over the three year period of 1984-85 through 1986-87, the levy rate in Sturgeon Bay has increased by 13.7% when the average increase in levy rate among the comparable districts for that period of time was 5.1%.

The Employer concludes that this data supports the lower of the two offers.

The Employer argues that the Consumer Price Index criterion supports its position. During the year prior to the 1986-87 school year, the Consumer Price Index decreased by 1/10 of a percent under the Milwaukee index and increased by 1.2% under the US index. Furthermore, the District notes that where the CPI rose by 10.6% from July, 1982 through July, 1986, the salaries of Sturgeon Bay teachers increased by 32.1%.

The Employer notes that this Arbitrator in Green Bay Area Public School District, supra, noted that other public sector settlements may be appropriately considered to determine the rate of salary increase received by other public sector employees. In this regard, the District notes that City of Sturgeon Bay employees, who are organized, received a 5% increase in 1986 and a 4% increase in 1987. The police received no increase on January 1, 1986, but a 6% increase on July 1, 1986. They too, received a 4% increase in 1987. Door County unionized employees in the ambulance service, highway, social services and sheriff's departments received 3.3 to 3.9% increases in 1986 and a 5% increase in 1987.

The District notes that the support staff it employs received a 4% salary increase effective July 1, 1986 and the average increase paid to administrators for 1986 was 5.3%. The District concludes that this data supports the selection of its final offer.

The Employer notes that this Arbitrator in Green Bay Area Public School District noted that private sector settlements are to be considered in a mediation/arbitration proceeding concerning teacher salaries for the purpose

of determining the rate of salary increases prevalent in the community. In this regard, the school district notes that the salary increases paid to white collar and non-represented employees in 1986 and in 1987 ranged from 0 to 7.7% in 1986 and from 0 to 5.6% in 1987.

The District argues that this Arbitrator should reach the same conclusion reached by Arbitrator Fleischli in Luxemburg-Casco, supra, wherein he found that had the parties been able to achieve a voluntary settlement, it more than likely would have approximated the District's final offer rather than that of the Association.

The Association Response

The Association argues that the District's attempt to change the primary comparability group should be resisted by this Arbitrator. First, Arbitrator Fleischli, in Luxemburg-Casco, supra, did not change the comparability group. The Weisberger decision in Southern Door County School District, supra represents the exception, rather than the rule with regard to the use of non-peninsula school districts in the primary comparability group for peninsula schools.

The Association argues that a single settlement may serve as sufficient basis for the issuance of a decision citing Kerkman in Manitowoc Public Schools, Voluntary Impasse Procedure, 6/84.

However, if the Arbitrator deems that the data from one settlement, i.e., in Denmark, provides insufficient data on which to base a decision, then it argues that the evidence it presented, with regard to settlements in the world "outside" the Door county peninsula is relevant in this case.

The Association notes that it established the range of its state-wide comparables at 70 to 130 FTE, because the parties agreed that the FTE count in Sturgeon Bay was 93 for the 1986-87 school year. The Association emphasizes that there is no settlement reported in the 70 to 130 reference group that is as low as the District's offer in this case. The Association notes that the settlements in the extended group of comparables including DePere, etc., are higher than the District's offer, here.

The Association urges that the improvements in the Sturgeon Bay salary schedule level and rank made through the 1985-86 school year, returned Sturgeon Bay to its original ranking which it enjoyed prior to the decision by Arbitrator Grenig in Sturgeon Bay in 1983. The Association argues that the teachers in Sturgeon Bay should not be subjected to a "fall back" philosophy. The Association maintains that the District failed to present any persuasive evidence as to why the teachers in Sturgeon Bay should be paid "below the market."

The Association cautions the Arbitrator to give little or no weight to the District's argument with regard to the alleged higher level of fringe benefits and employer contribution towards those benefits enjoyed by Sturgeon Bay teachers. No extensive analysis of the usage of those benefits and the use of such devices such as front-end deductibles, co-insurance, etc. were presented. Accordingly, comparing health and dental fringe benefits is like comparing apples and oranges.

The Association emphasizes that the District has the ability to pay the Association offer. What is at issue here is the District's willingness to pay. The Association acknowledges that the District's share of state aid dropped in 1986-87. However, the District enjoyed the largest increase in state aids and property tax credits among the primary comparables over the past two years. The Association notes that this increase is almost double the amount received by Luxemburg-Casco and Mishicot. In addition, the Association notes that Sturgeon Bay Schools is likely to receive a substantial aid increase in the 1987-88 school year.

The Association argues that the equalized value of property in the Sturgeon Bay School District is increasing rather than decreasing, as it is in farming communities, such as Luxemburg-Casco and Denmark. The Association notes that the local newspaper ran a story indicating that taxes are not bad in the area. The County Treasurer is quoted as saying that there has been no increases in tax delinquencies. With regard to the increase in the levy rate, the Association cautions the Arbitrator that comparing levy rate increases over a fixed period of time will yield a different result depending on the period of time compared. Thus, if the levy rate increase from 1983-84 through 1986-87 were compared, then Sturgeon Bay would not be the percentage increase leader in the levy rate. Furthermore, tax revenues in Sturgeon Bay may increase, because of the increase in equalized value. As a result, the amount of state aid may decrease. The Association concludes there is no evidence in this record which demonstrates a revenue shortfall or that the Sturgeon Bay taxpayer cannot afford to pay the Association offer.

The Association argues that the use of non-teacher public and private sector settlements is inappropriate in this proceeding. In this regard, it cites the decisions of Arbitrators Stern in Outagamie County (18286-A) 4/81; Krinsky in Rock County Handicapped Children's Education Board, (22537-A) 11/85 and Rice in Rock County Handicapped Children's Education Board, (23688-A) 12/86. Furthermore, the Association maintains that there is sufficient data on a state-wide basis upon which to base the decision. The inappropriateness of non-teacher settlements is summarized in the Association's reply brief through its extensive quote from the award of Arbitrator Kerkman in School District of Sheboygan Falls, Voluntary Impasse Procedure, 7/86 in which he made the following statement regarding the settlements in the City of Sheboygan Falls and Sheboygan County:

. . . The undersigned finds the foregoing unpersuasive by reason of the dissimilarity of the positions and the methods by which those increases are calculated compared to the methods traditionally used in teacher units. Furthermore, the undersigned is of the opinion that the percentage of settlements and teacher settlements has consistently exceeded the percentage of settlements in the type of units contained within Employer Exhibit No. 33.

The Association argues that in other public and private settlements, the wage increases do not include increments. However, in the teacher setting, increments are included. If increments are deleted from the proposals of the parties, herein, then the 5% increase received by Door County Social Services employees compares favorably to the Association rate adjustment of 5.7 to 5.9% in 1986-87 and 5.3 to 5.4% in 1987-88 as compared to the District's offer of 3.7 to 3.7% in 1986-87 and 3.2 to 3.3% in 1987-88.

The Association emphasizes that the interests and welfare of the public are best served through the adoption of the Association offer. In this regard, the Association refers to the report titled A Nation at Risk. The report emphasizes the need to improve the quality of the educational system and the performance of teachers. The best way of achieving that end is to increase teacher salaries. The Association notes that the American public does not desire to hold the line on teachers' salaries. The Association points to the exhibits it submitted which demonstrates that teachers are entitled to a fair increase in the view of the American public. The Association emphasizes that better salaries will attract and retain the best teachers. In this regard, the Association quotes with approval the observations of Arbitrator Ziedler in Watertown Unified School District, decided on March 11, 1987, in which he stated that:

On this issue, the arbitrator is of the opinion that the national public interest for a competitive level for teachers' salaries outweighs the current interest of the farm operators for lower school costs, and hence, salaries, because of a slight competitive disadvantage. The arbitrator is persuaded by the evidence presented that farm relief must be provided by the State and Federal

government in a form other than non-competitive salaries for educational professionals . . .

This brings the matter to a major consideration: is the public interest, short-term and long-term, best served by the higher movement upward in the ULE offer in teachers' salaries than in the District's offer.

. . .

As to the long-term public interest, the Arbitrator is persuaded by exhibits both of the District and the ULE that the public interest is served by improving the level of teachers' salaries, especially at the entry level. The ULE offer more nearly meets this interest now, despite the other factors such as the cost-of-living changes, budgetary conditions and mill rate, in which the District's offer is more comparable.

The Association refers to its exhibit no. 68, a report prepared by the Door County Chamber of Commerce and the Door County Board of Supervisors and Wisconsin Bell titled Wisconsin Industrial Business Retention and Expansion Study, to provide prospective employers who contemplate locating a business in the Door County area with information on the Door County economy. The Association notes that shipbuilding is an important industry, in the area. However, so is tourism. In addition, the study notes that over the past five years, Door County has not experienced the effects of the recession. The industries located in Door County are less likely to relocate. In addition, the school system is noted as a positive factor. Personal income taxes are the negative factor cited by executives who are located in Door County.

The Association concludes that its demand for a rate increase of 5.3 to 5.4% is not unreasonable. The Association argues that the District can afford to meet this demand without any layoffs or reduction in educational programs. The Association concludes its reply brief with the following observation:

There will be few settlements within the "Peninsula Schools" as long as the School Boards march to the beat of the WASB drummer and attempt to utilize arbitration patterns in areas without comparables to force substandard wage increases.

The Association concludes that its offer should be selected by the Arbitrator for inclusion in the two year successor agreement.

The Association Argument

The Association notes that under its offer, the base salary is increased by \$925 for 1986-87 and \$900 in 1987-88. The District proposes a \$600 increase in the base salary in 1986-87 and a \$535 increase in 1987-88. The Association notes further that under its proposal, the salary schedule generated on the basis of its proposed increases at the base will yield benchmark increases of 5.7 to 5.9% in 1986-87 and 5.3 to 5.4% in 1987-88. The District proposal yields increases at the benchmarks under the salary schedule proposed by the District of 3.7 to 3.8% in 1986-87 and 3.2 to 3.3% in 1987-88.

The structure of the salary schedule is not at issue in this case.

The Association argues that the comparability issue, in this case, is created by the District. The comparable school districts to Sturgeon Bay have been identified in the Grenig award. With the exception of the decision of Arbitrator Weisberger in Southern Door County School District (22136) 6/85, who included Oconto and Oconto Falls in the comparability group on the basis of their inclusion in the athletic conference, other arbitrators have resisted changing the comparable grouping. Yaffe in School District of Kewaunee, (23382-A) 9/86 and Rice in School District of Kewaunee, (21233-A) 4/84 maintained that peninsula schools are the appropriate comparability grouping.

The Association notes that the peninsula schools are included in CESA 7; Oconto Falls and Oconto are located in CESA 8. The Association argues that:

If parties rely on WIAA determination of athletic conferences for the selection of comparables in teacher bargaining, then the parties will no longer have a consistent standard for evaluating their offers, but, rather, a "moving target" established by an entity which should have no interest in the collective bargaining process. It's very difficult to view "shifting comparability groups" as being conducive to a positive labor relation environment and as an incentive to voluntary settlement. Association brief at pg. 9.

The Association argues that non-teacher public sector settlements should not be considered, here. The Association raised an objection to Board Exhibits 9 and 10 as being irrelevant to this proceeding. In support of its argument, the Association quotes from the decision of Arbitrator Kerkman in Appleton Schools, (17202-A), in which he stated that:

Given the unique salary structures which parties bargain in teacher disputes as compared to salary structures found in non-teacher disputes; and given the disparity in methods of costing utilized by parties for non-teacher units, vis a vis teacher units, there is insufficient evidence in this record for the undersigned to conclude that the patterns of settlement with non-teaching units constitute accurate comparisons. Consequently, the evidence contained in Employer Exhibit II-N will be given no weight in the instant dispute.

In this regard, the Association quotes from the decision of Arbitrator Christenson who in Two Rivers School District decided on March 20, 1987, states that:

The statutory criterion requiring comparison of wages, hours and conditions of employment of the employees involved in arbitration with other comparable employees is, by its own terms and interpretation, over the years, a market oriented criterion. It instructs arbitrators to consider market conditions for the employees whose compensation is under consideration. This, of course, is consistent with the market economy within which we operate. Compensation for services is, in a free market system, determined not by what someone thinks is fair or just, but by the market rate for those services. The task of an arbitrator applying the statute is to determine from the available evidence which of the competing offers is closer to the market rate for the services under consideration. That is determined by looking at rates paid to comparable employees in comparable employment situations. There is no evidence that the employees in private employment cited by the Board are in the same or similar market as teachers employed by the District.

The 1986-87 wage settlements for other public sector employees in the area have also been at a level lower than either the Board or the Association offer. Again, however, these employees are not in comparable jobs. Evidence of settlements in this sector, like that of settlements in the private sector, is not irrelevant to the evaluation of the final offers under consideration. No doubt, the overall level of public and private employee compensation in the community has some impact on the market for teachers. That impact, however, is indirect and not as significant as the impact of salaries paid teachers in comparable communities. Moreover, the evidence with respect to non-teaching employees in both private and public sector pertain solely to increases in compensation and not to the level of compensation. There is no way of knowing from the record whether the percentage of increase is applied to a relatively high base or a low one. That fact, too, makes this information less

persuasive than the much more complete information about teacher salaries in comparable districts. Association brief at pgs. 13-14.

The Association argues that teachers are not comparable to shipbuilding employees. Accordingly, it argues that the data for non-teaching and private sector employees is irrelevant. The Association argues that this evidence should not have been admitted into the record.

The Association refers to the Northwestern Endicott-Linquist-1987 report in support of its offer. In that report, the Association argues that it has documented how teachers' salaries have lapsed behind salaries of other college graduates. The Association argues that the salary level for beginning teachers in Sturgeon Bay is \$6,655 below the average of equally credentialed professions.

Since there is only one voluntary settlement in the primary comparability group, the Association argues that it is appropriate to use settlements which have occurred on a state-wide basis. The Association refers to Arbitrator Christenson's observation that the use of state-wide data is useful for the identification of deviant patterns where there is insufficient data from the direct comparability group.

The Association notes that the increases at the benchmarks provided by settlements on a state-wide basis "unweighted" is 6.4 to 7.1% in 1986-87. The District offer is 3.2 to 3.3%. The Association offer is below the state-wide average at 5.7 to 5.9% in 1986-87.

Similarly, the Association notes that the increases generated by its offer for 1987-88 of 5.3 to 5.4% at the benchmarks is below the state-wide average of 5.9 to 6.7%.

The Association refers to the use of state-wide comparables by Arbitrator Haferbecker in School District of Crandon where he confronted a few conference settlements, but he employed state-wide average salaries to determine whether the District was gaining or losing ground relative to the state-wide average.

The Association notes that the settlement in Denmark supports its position. The total package increase is 7.63% and generates \$1,754 in salary only for the Denmark teacher. Furthermore, the Association notes that in 1985-86, the Denmark settlement was higher than that achieved in Sturgeon Bay. The rate was similar. Therefore, the Association concludes that acceptance of the District offer would only serve to erode the position of Sturgeon Bay relative to that of Denmark. In addition, the Association notes that the Denmark settlement includes significantly higher benchmark adjustments than even those proposed by the Association. The salary dollar increase received by the Denmark teachers at \$1,754 more closely approximates the Association's offer of \$1,914 per teacher than the District's at \$1,405.

The Association emphasizes that 37 of 88 schools with faculties ranging in size from 7 to 130 teachers have settled their agreements for 1986-87. Twenty-three of these 37 report an average increase per teacher, salary only, of \$1,860. The total package increase averaged 7.84%. The Association offer is for a salary increase of \$1,914 per teacher and a package increase of 7.89%. The Association offer is much closer to this average than the Board offer of 5.94% total package. The Association included the following table to demonstrate the preferability of its final offer over that of the District.

BENCHMARK COMPARISONS

	<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>
<u>AVERAGE</u> <u>INCLUDES</u> 33 DISTRICTS							
1986-87	\$16,804	\$21,008	\$24,364	\$18,587	\$25,730	\$29,331	\$31,503
\$ Inc.	1,109	1,308	1,377	1,206	1,600	1,698	1,939
% Inc.	7.1%	6.6%	6.0%	6.9%	6.6%	6.1%	6.6%

ASSOC. OFFER

1986-87	16,700	21,710	28,557	18,871	26,386	31,396	32,146
1985-86	15,775	20,508	26,975	17,826	24,925	29,657	30,407
\$ Inc.	925	1,202	1,582	1,045	1,461	1,739	1,739
% Inc.	5.9%	5.9%	5.9%	5.9%	5.9%	5.9%	5.7%

BOARD OFFER

1986-87	16,375	21,288	28,001	18,504	25,873	30,785	31,535
1985-86	15,775	20,508	26,975	17,826	24,925	29,657	30,407
\$ Inc.	600	780	1,026	678	948	1,128	1,128
% Inc.	3.8%	3.8%	3.8%	3.8%	3.8%	3.8%	3.7%

SOURCE: AX19 and AX 34. The District of New Holstein, Two Rivers, and East Troy are not included in the average. If anything, these districts would increase the size of the average benchmark in each case.

The Association argues that the taxing effort in this District is not unusual and does not justify the selection of a substandard wage offer. The Association notes that its exhibits demonstrate that the Sturgeon Bay School District is the fourth largest of the nine comparable districts. Its population base is not rural or agricultural. Tourism and manufacturing are the major components of the local Sturgeon Bay economy. The Association emphasizes that the average income per income tax filer in 1985 was \$20,394. It is the highest income per filer among the comparables. Sevastapol School District is in second place at \$17,938.

The cost of educating a child in Sturgeon Bay is fourth among the nine comparables. Yet, the District has received an increase in state support of \$590,959 from 1984-85 to 1986-87 which represents the largest increase among the comparable school districts. In addition, the assessed evaluation of property located in the District is increasing. Although the levy has increased, the taxpayer has experienced a small levy rate increase from 1985-86 to 1986-87. The Association argues that:

Clearly, ability to pay and the community income base are not negative factors in this case. The Sturgeon Bay School District is not a poverty stricken, overtaxed, un-aided provider of education. It does not, however, want to pay its teachers a fair wage-again, the reason for that position is not economic, but it is bargaining strategy (Association exhibit no. 13) orchestrated by the WASB. Without the distraction of outside pressures, a voluntary settlement in Sturgeon Bay would be much closer to the Association's offer, not the Board's. Association brief, pgs. 27-28.

The Association argues that this Arbitrator should discount the District's general exhibitry pertaining to the state of the economy. In this regard, the Association quotes from the decision of Arbitrator Richard U. Miller in Ashwaubenon School District (20227-A) 7/83 wherein he noted that there are many publics in a school district, including the taxpayer, the student, the teacher. Arbitrator Miller also noted that it is necessary to show the state of the economy in a local school district in order for such data to be given any weight in an interest arbitration proceeding. The Association notes many other arbitrators have expressed similar views (citations omitted).

The Association makes the following charge in the concluding section of its brief:

. . . , the Association would ask the Arbitrator to consider the ramifications of the Board's bargaining strategy in terms of future negotiations. AX 13 (Association Exhibit 13) sets forth the WASB bargaining goals and strategy for 1986-87. "WASB recommends a settlement goal no higher than 5% or \$1,200 salary only increase (including increment) and a 5% total package increase including

salary, all fringes, increment and retirement." (AX 65, pg. 5-their emphasis)

Obviously, the Sturgeon Bay Board is closely following the WASB recommendations as are the other Peninsula Schools with the exception of Denmark, and, as a result, only one 1986-87 voluntary settlement in the primary area was available for the Arbitrator's consideration.

The Board offers no justifiable reason why Sturgeon Bay teachers should take a 3.7% to 3.8% wage rate adjustment this year and a 3.2% to 3.3% increase next year. We respectfully request that the Arbitrator consider the long-range ramifications in terms of voluntary collective bargaining should the Board be successful in implementing the WASB arbitration strategy. If successful as proposed by the Board, voluntary settlements in the future will be premised on the arbitration process, instead of the arbitration process following a voluntary settlement pattern.

We would further point out, that while the Arbitrator considers the welfare and interests of the public in this matter, the welfare and interests of the Sturgeon Bay teachers is also a consideration. By the time an award is issued in this matter, Sturgeon Bay teachers, through no fault of theirs, other than attempting to exercise their statutory right to bargain collectively with their employer, will see the value of their settlement depreciate considerably. The award will be retroactive to August 27, 1986, but the financial loss incurred due to the delayed settlement will never be recovered. On the other hand, the District had the luxury, in effect, of receiving an interest-free loan from the teachers over the past year.

The Association concludes that the statutory criteria support the selection of its final offer for inclusion in the successor two year agreement.

The District Response

The District takes exception to the Association's charge that the Employer is following the WASB recommendation in this case. First, the District notes there is no evidence in the record to indicate that the Employer is following such a recommendation. The District notes that the WASB is not representing the District, in this case. The District has proposed an increase of \$1,405 in salary only rather than \$1,200 settlement level recommended by the WASB. The District notes that Arbitrator Fleischli rejected this argument in Luxemburg-Casco, supra, wherein he found that evidence of state-wide goals which are followed either by the union or employer is at best evidence of what led up to the bargaining impasse.

The District notes that in 1982-83, it did agree to use the Packerland Conference as the comparability grouping for the Grenig decision. However, the District notes that since the issuance of that decision, the composition of the conference has changed. The comparability grouping should be updated. In light of the fact that Southern Door has a comparability group which includes Oconto and Oconto Falls, the bargaining in Sturgeon Bay will suffer if its comparability grouping is not updated.

The District emphasizes that a benchmark analysis and comparison of the Denmark settlement to Sturgeon Bay should not be undertaken by this Arbitrator. In Denmark, the parties froze the increment to achieve the salary increases. Arbitrators have rejected a benchmark analysis where a district has frozen an increment. Furthermore, the District notes that Denmark is a district where catch-up was necessary. The Employer cites the decision of Arbitrator Vernon in DePere School District (19728-A) 1982 where he observed that some erosion is inevitable in the relationship between a school district which is the wage leader relative to lower ranked schools.

The Employer quotes the decision of Arbitrator Fleischli in Luxemburg-Casco as to why state-wide settlements should be given limited consideration. Arbitrator Fleischli observed that:

The Association would have the undersigned substitute state-wide comparisons for the absent local comparisons in this case. In the view of the undersigned, such an approach would lose sight of the reason why local comparisons are given such important consideration in the first place. Further, such an approach would ignore the obvious implications of a failure to achieve local settlements, i.e., that no consensus has developed within the primary comparable group of employers and unions at the appropriate accomodation of their differences, under the statutory criteria. . . .

For these reasons, the undersigned believes that some consideration should be given to the state-wide comparisons drawn by the Association, but that those comparisons have far less significance than would local comparisons. In addition, as the District points out, there are a number of potential problems with such general data, not just limited to non-conventional salary schedule arrangements. Those problems include time frame and the fact that it is easier to achieve agreements where the relative level of settlement is "high" for reasons such as a recognized need for "catch-up."

The Employer takes issue with the Association contention that tourism is a significant industry in Sturgeon Bay. The Employer argues that it is not Washington Island or Fish Creek. The service industry component of the local economy is significant in size because that employment is related to the location of the county seat in Sturgeon Bay and the large shipbuilding industry located in the District.

The Employer concedes that for the period from 1984-85 to 1986-87, Sturgeon Bay has received the largest increase in state support of any of the comparable school districts. The Employer asserts this is irrelevant. The issue in this case is the increase in salaries for 1986-87 over 1985-86. It is during that period that Sturgeon Bay has suffered a decrease of \$232,037 in state aids, the largest decrease of any of the comparable school districts. The District asserts that if state aids and credits are added together, Sturgeon Bay suffered a \$74,881 decrease during the 1986-87 school year over the 1985-86 school year. The decrease in aids amounts to a decrease of \$805 in aids and credits per teacher. The Employer asserts that the level of state support for education in this District for the 1987-88 school year has not been established with sufficient certainty so as to serve as a basis for a decision. The projection of state aid and credits for 1987-88 remains a ballpark guess.

DISCUSSION

In this section, the Arbitrator will apply each of the statutory criteria, seriatum, to the final offer of each party for the 1986-87 school year. Then, the statutory criteria will be applied to the salary issue for the 1987-88 school year. The Arbitrator concludes this Award by detailing the basis for selecting the final offer of the Sturgeon Bay Education Association or the School District of Sturgeon Bay for inclusion in their two-year successor Agreement.

The Salary Issue: 1986-87

The Lawful Authority of the Municipal Employer

Neither party presented any argument with regard to this criterion. The application of this criterion does not serve to distinguish between the final offers of the parties.

Stipulations of the Parties

Neither party identified any agreement in the stipulation of the parties which would serve to distinguish between their offers or have a material impact on the outcome of this case.

The Interests and Welfare of the Public and the Financial Ability of the Unit of Government to Meet the Costs of any Proposed Settlement

The parties presented several independent arguments under this criterion. The parties presented data with regard to the state of the local economy in Sturgeon Bay. Second, the parties presented data and argument concerning the tax base of the Sturgeon Bay School District, including the average income of District households, levy rates, equalized value of property and the level of state aids and credits. Third, both the Association and the Employer introduced studies and reports on the debate as to the existence of a teacher shortage, the level of salaries teachers should receive as compared to other professionals, etc. All three arguments are addressed below.

The Employer presented convincing evidence with regard to the economic significance of the shipbuilding industry to the Sturgeon Bay economy. The Employer presented documentation from the largest shipbuilder, in which levels of employment are to decline from 1,740 to fewer than 100 employees during 1986 and 1987. Furthermore, this Employer has received no additional orders for the large ships which it builds. Worst of all, it appears that neither this employer nor any of its competitors in the United States have received any orders for ships in the last several years.

The other major shipbuilder, which employs approximately 25% of the shipbuilding employees in the area, has received contracts from the Navy. But, it too, has reduced its work force by approximately 30% during the 1986 and 1987 period.

The Association counters this evidence with a report prepared by the Door County Chamber of Commerce, the Door County Board of Supervisors and Wisconsin Bell concerning business retention and expansion in the Sturgeon Bay area. The composition of the industrial sector of the Sturgeon Bay economy is described at page 12 of this report, as follows:

The Door County industrial base has a predominance of fabricated metal and marine related businesses. Six firms, or 26%, are metal business and 5, or 22%, are marine related. Six firms were in the food industry, machinery tool and dye or electronic business. The remainder included textiles and apparel; lumber and wood, furniture and fixtures; chemicals, petroleum, rubber and plastics; rulers and measuring devices; wholesale nursery; and computer systems.

This report was prepared in May, 1986. It concludes that:

Over 3,000 people are employed on a full-time basis by the Door County manufacturing sector. Over the past five years, employment opportunities have increased but are expected to decrease slightly in the next year.

The authors of the report identify small firms as the source for the growth of employment in the area. Although local government was rated by the executives surveyed in preparation of this report, little data was collected relative to education or the effectiveness of the Sturgeon Bay School District. The report focused on agencies, such as, the planning commission, building inspection, etc. This report does not paint the bleak view of the Sturgeon Bay economy which one might obtain from a narrow focus on the shipbuilding industry. However, the report confirms the importance of this industry to the local economy in Sturgeon Bay.

The purpose of this analysis is to determine the capacity of the Sturgeon Bay taxpayer to pay higher taxes to support education. On balance, the data indicates that the economy of the area could support the funding of either the Association or District offer.

However, a substantial percentage of the income of the District which it uses to support its educational program, i.e., the levy for a particular year, comes from state aid and credits from the State of Wisconsin rather than from the Sturgeon Bay taxpayer. In 1985-86, state aid and credits equaled 26.5% of the levy. In 1986-87, state aid and credits comprised but 19% of the levy. This decline is the result of the \$342,452 increase in the amount of the levy from 1985-86 to 1986-87 and the decline in state aids and credits from \$1,424,126 in 1985-86 to \$1,349,246 in 1986-87. This decline in state support for education in the Sturgeon Bay School District amounts to \$74,880.

The Association notes, correctly, that the equalized value of property in Sturgeon Bay increased by 0.61% or by \$1,635,862 from 1985-86 to 1986-87. The Arbitrator was presented with data showing the mill rate netting out state aid and credits. As a result, precise calculations as to the gross revenue generated by the increase in equalized value is not possible. Nonetheless, the increase in equalized value does generate additional tax dollars. In fact, the school aid formula works to decrease state aid when the equalized value of property increases. However, from the data available, there does not appear to be a direct dollar for dollar relationship between the operation of the state aid formula and its generation of an increase or decrease in state aids relative to the increase in equalized valuation of property located in the District. Obviously, the state aid formula divides among the state school districts the total dollars appropriated by the state legislature to support education. The larger the sum, the more dollars available to be distributed. From the data available to the Arbitrator, it appears that in 1986-87, a larger share of the tax burden is to be borne by the Sturgeon Bay taxpayer. However, as a result of an increase in equalized value of property in the District together with the state aid and credits apportioned to the District in 1986-87, the increase in the mill rate needed to make up the shortfall is small. Certainly, the total impact of this shift of burden and mill rate increase is far smaller than the impact noted by this Arbitrator in his decision in Green Bay Area Public School District, Voluntary Impasse Procedure.

The Association correctly notes that in 1985-86, the District enjoyed a substantial increase in state aid over the level received in 1984-85. Nonetheless, state funding for education is calculated from one year to the next just as the salaries to be paid to teachers are bargained from one year to the next. One must look to the revenue resources for the year in question to determine its impact on the local taxpayer. In fact, it is the increase in state aids to local school districts that has provided the resources to fund increases in teacher salaries which are substantially larger than increases paid to other public sector employees. See this Arbitrator's award in Reedsville School District, (22935-A) 3/86. This factor provides slight support to the District position.

The above analysis details the level of funding from state and local sources to pay for the educational program in Sturgeon Bay. The parties presented extensive data concerning the appropriate salary level to be paid to teachers as a result of the operation of market forces and the desirability of retaining and attracting competent teachers to teach in the school district.

For its part, the Association presented a report published in 1983 summarizing the major reports on education issued to that date. The Association presented data published in 1986 based on a 1985 public survey conducted by the Office of Educational Research and Improvement of the U.S. Department of Education. In addition, data from a 1984 task force report on supply and demand for teachers in Wisconsin was presented, as were many editorials and commentaries from newspapers throughout the state, concerning the desirability of providing higher salaries to teachers.

For its part, the District submitted a state-by-state analysis published in 1986 by C. Emily Feistritz of the National Center for Education Information and the January, 1987 report of the Wisconsin Expenditure Commission appointed by former Governor Anthony Earl. All of the above data appears to indicate that there is no overall shortage of teachers in Wisconsin. However, there is a shortage of teachers in specific areas or subjects, such as, science, math, learning disabilities and English. The prediction for the immediate future is that the shortages in specific areas will be spotty, but they are likely to continue. No data was presented which would indicate that the Sturgeon Bay School District was incurring any difficulty in filling any vacant positions in any subject matter.

The Arbitrator concludes from the extensive documentary evidence presented on this criterion that the Sturgeon Bay economy may well suffer a dislocation from the depression which has hit the shipbuilding economy which is so important in this school district. However, it appears that other segments of the local economy comprising smaller firms may well be able to maintain the health of the economy despite the large decrease in employment suffered in the shipbuilding area. The mill rate for Sturgeon Bay has increased slightly. The decrease in state aids for 1986-87 is offset substantially by the increase in equalized value in the District. However, there does not appear to be a large increase in the funds made available to the District from the state of Wisconsin to underwrite a large increase in teacher salaries.

This district will incur little difficulty in attracting teachers in the short term. There is nothing in the final offers of either party which would hamper the ability of the District to compete in the marketplace for teachers. In fact, it is apparent from Table 3 which is reproduced in this Arbitrator's summary of the Association position above, that the salary level offered by the District at five of seven benchmarks for 1986-87 is above the average salary level to be paid by the 33 school districts with 70 to 130 FTE who have settled agreements for the 1986-87 school year. It is only at the BA Minimum and the MA Minimum that the District offer would generate a salary level below the average salary to be paid at these benchmarks by the 33 school districts which have settled for 1986-87. It appears from the Association data, that the District, if the Employer offer were selected, would pay salary levels equal to or better than the average to be paid by school districts of similar size to Sturgeon Bay and located throughout the State. The above data indicates that this District, even if the Employer offer were selected, would fare at least, as well as, all other districts of its size in the state of Wisconsin in competing in the labor market for teachers.²

On the basis of all the data submitted, the Arbitrator concludes the slight overall decline in state funding for education in this District leads this Arbitrator to conclude that this criterion provides slight support to the selection of the final offer of the District for the 1986-87 school year.

Comparison of Wages . . . of the Municipal Employees Involved . . .
With the Wages . . . of Other Employees Performing Similar Services . . .
With Other Employees Generally in Public Employment in the Same
Community and in Comparable Communities . . . in Private Employment in
the Same Community and in Comparable Communities

2. The Arbitrator uses this data for the sole purpose of making the above point. The Arbitrator agrees with the objection raised by the District to the range of districts suggested by the Association, a range of 70 to 130 FTE rather than one from 56 to 120+. It appears from the Association data, that the FTE refers to DPI computations of the FTE. These computations are universally lower than the FTE normally used by the parties in calculating the cost of their final offers.

The Employer suggests that the comparables be updated. However, that suggestion occurs in a case where there is little available data from comparable school districts, whatever the comparables are, on which to base a decision. If the Arbitrator were to adopt the comparables suggested by the Employer, then the Denmark District would be deleted as a comparable and, therefore, that settlement would not be used to determine this case. If the Arbitrator selects the comparables presented by the Association, then the settlement in Oconto could not be used. If both sets of comparables are used, then these are two settlements available for use, in this case.

In the first instance, comparability should be determined by the parties. If they have not or cannot decide for themselves what districts constitute the appropriate group of comparables, only then should an arbitrator determine comparability.

There is insufficient data available from any group of primary comparables on which to base a decision in this instance. If the Arbitrator were to determine the comparability issue, here, such a determination would serve no purpose in the resolution of this case. The Arbitrator would be resolving comparability for the sake of comparability alone. It would have no relationship to or assist in the application of the statutory criteria to the issues, in this case. Accordingly, the Arbitrator believes that it is inappropriate for him to decide this issue. The parties will have an opportunity to address that question during their negotiations for a successor to this Agreement.

The Association argues that the Arbitrator should employ data from state-wide comparables, because of the lack of settlements among the primary comparables. This Arbitrator finds that state-wide comparables may be useful in supplementing the data available from a group of primary comparables. However, state-wide comparables should not be used to supplant the primary comparables. Although Arbitrator Fleischli in Luxemburg-Casco School District, (24049-A) 4/87, gave very limited weight to such data, he states at page 14 of his award that:

The Association would have the undersigned substitute state-wide comparison for the absent local comparisons in this case. In the view of the undersigned, such an approach would lose sight of the reason why local comparisons are given such important consideration in the first place. Further, such an approach would ignore the obvious implications of the failure to achieve local settlements, i.e., that no consensus has developed with the primary comparable group of employers and unions as to the appropriate accommodation of their differences under the statutory criteria.

This Arbitrator agrees with Arbitrator Fleischli's observations. It is inappropriate to use state-wide settlements in the absence of other data from primary comparables. Accordingly, because of the lack of data from primary comparables, the Arbitrator concludes that this portion of this criterion provides little basis for distinguishing between the final offers of the parties.

The statute at 111.70(4)(cm)7.d. goes on to provide that the wages of the municipal employees involved in the arbitration proceeding, the Sturgeon Bay School District teacher, be compared to the wages of other employees generally in public employment. Despite this specific statutory instruction to an arbitrator to consider the wages of other public employees in the same community, the Association argues that this Arbitrator should ignore this specific statutory instruction and refuse to receive evidence relating to the salary increases paid to public employees during calendar years 1986 and 1987 in the City of Sturgeon Bay, Door County, and the local water utility. The Association objection was denied at the hearing. It chose to renew that objection in its brief.

Arbitrators Kerkman and Christenson, contrary to the reading of those awards by the Association, carefully considered the evidence presented to them with regard to the wages paid to other employees generally in public employment in the same community in the cases cited by the Association. Arbitrator Kerkman in Appleton Schools (17202-A) found that because of the disparity in the method of costing teacher and non-teacher settlements, the differences in the salary structures between teacher salary schedules and other public employee salary schedules, that the evidence he received and thoroughly analyzed should be given no weight. Similarly, Arbitrator Christenson observed most recently in his award in Two Rivers School District, decided on March 20, 1987 that:

The 1986-87 wage settlements for other public sector employees in the area have also been at a level lower than either the Board or the Association offer. Again, however, these employees are not in comparable jobs. Evidence of settlements in this sector, like that of settlements in the private sector, is not irrelevant to the evaluation of the final offers under consideration.

This Arbitrator affirms his ruling that the evidence presented by the Employer concerning public sector settlements are relevant and indeed must be considered under the statutory framework.

This Arbitrator observed in Green Bay Area Public School District, supra, that the settlements and wages paid to other public employees in the community be considered, because the statute requires that consideration be given to such data. This Arbitrator added that:

In order to measure the size of an increase, it is necessary to look to the percentage increase in salary and benefits provided. When comparing increases in salary to total compensation, inclusive of all benefits, by comparing the increases received, for example, by the clerical employees of Brown County or those of the District, there is no implication that the salary paid to teachers should be the same as that paid to school secretaries. Rather, by measuring the percentage increase in salary, it is possible to measure the level of change, if any, which (occurs) in a particular community with regard to the increase in salaries levels paid to different categories of employees.

The District provides information in the exhibits received in evidence demonstrating the salary increases provided by the City of Sturgeon Bay and Door County to its organized public employees. However, no data was presented with regard to the total package value of such increases to said public employees. The Arbitrator believes that the total package data is most important because it reflects the percentage change in costs experienced by the particular public employer. By comparing such percentage increases in total package costs, the increase in fringe benefits may be accounted for. In the absence of such data, the Arbitrator concludes that a portion of the comparability criterion provides little to distinguish between the final offers of the Association and the Employer, here.

In the final portion of this comparability criterion, the Arbitrator is directed to compare the wages and fringe benefits and conditions of employment of private sector employees in the community to those of the municipal employees who are the subject of the arbitration proceeding, Sturgeon Bay School District teachers. The Association objected to the submission of data which relates to the increases paid to private sector employees. The Arbitrator overruled the objection of the Association, at the hearing, and that ruling is affirmed here for the same reasons stated above concerning the relevancy of the data concerning public sector settlements.

With the exception of the data submitted concerning the salary increase paid to the employees of Bay Shipbuilding, the employees of the other private sector firms cited by the District are not organized. Such data would be meaningful, if representatives of these employers opened their books to demonstrate that the total cost of employee salaries and benefits were increased from one year to another by a certain percent. Where employees are unionized, it is possible to obtain a costing analysis which was used by the particular union in obtaining ratification of the settlement from its membership. Thus, where the data of unionized employers is presented in an arbitration proceeding, normally the percentage figures attributed to the salary and fringe benefit cost increases have been checked and agreed to by both employer and union. They are not the product of some unilateral statement of what increases were paid to a category of employees. Furthermore, in a nonorganized setting, it is possible that one or a group of employees' salaries and benefits are increased at one level, while another employee or group of employees' salaries are increased at a different rate.

With regard to the 7% wage increase paid to Bay Ship's unionized employees, that increase was originally scheduled to be implemented approximately two years earlier. It has little bearing on this case, here.

The Arbitrator concludes that there is insufficient data and information available on this segment of the comparability criterion on which the Arbitrator may distinguish between the final offers of the parties.

Cost-of-Living

There are a number of measures which may be used to determine the cost of living. The U.S. Department of Labor Bureau of Labor Statistics, publishes a monthly Consumer Price Index which measures the average change in prices over a period of time in a fixed market basket of goods and services. Certainly, this is one measure of the cost-of-living.

Another measure of the cost-of-living, is generated by employers and unions who negotiate agreements and settlement patterns which recognize, among other things, the cost-of-living in a particular area or community.

Employers and unions look at the increase in the CPI for the year prior to the year at issue to measure the change in the CPI and relate that to the change in salary to occur the following year. In an interest arbitration proceeding, the increase in the cost-of-living in the preceding year is used as a measure of the percentage increase necessary to retain the same standard of living. An increase in salary equal to what is determined to be the cost-of-living means that the affected employees' standard of living would not decline nor improve under such an increase. The question of whether, in a particular case, the standard of living of affected employees should be improved or reduced would in all probability be determined by other statutory criteria.

It is unclear from this record whether Sturgeon Bay should be included in the Green Bay Area for purposes of reference to the Small Metro Area index or the Non Metro Urban index which are maintained by the Bureau of Labor Statistics. The May, 1985 through May, 1986 increase for All Urban Consumers for the United States Index was 1.6; for Small Metro Areas, -0.1%; and for Non

Metro Urban, 0.5%. Clearly, the total package increase provided by the District is much closer to the cost-of-living increase than that of the Association. The District's offer improves the salary level of teachers in Sturgeon Bay by a factor of at least 3, depending on which index is used.

There is no data available from the other measure of cost-of-living, the pattern of settlement achieved among comparable Districts. There are insufficient settlements among comparable school districts from which this Arbitrator can identify a pattern of settlement. Accordingly, the measure of the cost-of-living is the measure to be used in weighing this criterion. Based upon the above analysis, this statutory criterion provides strong support for selection of the District salary offer for the 1986-87 school year for inclusion in the successor Agreement.

Overall Compensation

The District argues that it makes a larger contribution on behalf of employee benefits, specifically, it pays the full premium for health and dental insurance for employees of the District when other districts require an employee contribution to obtain this benefit. It argues that this factor supports its position.

There does not appear to be an issue with regard to the change in benefits, change in the level of benefits, or in the cost of providing those benefits to the teachers of Sturgeon Bay. Any increases incurred in providing said benefits to these employees have been carefully considered in the total package comparisons and analysis employed by this Arbitrator throughout this Award. The Arbitrator finds that the data available with regard to this criterion provides little basis for distinguishing between the final offers of the parties.

Changes in any of the Foregoing Circumstances and Such Other Factors. . .

Neither party presented any argument concerning the above two criteria and its application to the salary level to be paid to teachers for the 1986-87 school year. Accordingly, these two criteria do not serve as a basis for distinguishing between the final offers of the parties.

The 1987-88 Salary Schedule Issue

Based on the data presented in this case, the Arbitrator finds that the criteria, the interests and welfare of the public, cost-of-living, changes in any of the foregoing . . . and such other factors, are applicable to the resolution of the 1987-88 salary schedule issue. Either there is insufficient data or no data presented with regard to other four criteria. Accordingly, those criteria cannot serve as a basis for distinguishing between the final offers of the parties on the salary issue for the second year of the successor Agreement.

The Interests and Welfare of the Public

The Association presented a newspaper article in which the state aids and credits to be allocated to the Sturgeon Bay School District for the 1987-88 school year are projected. That initial projection contained a substantial increase in state aids and credits. The increase was large enough to more than offset the decrease in aids and credits suffered by the District in the 1986-87 school year.

The Arbitrator gives little weight to this data. It is preliminary in nature. The data is clearly subject to change. Unfortunately, state support for education, and specifically for the Sturgeon Bay School District for the 1987-88 school year is unavailable at the time of the hearing and at the time this decision will issue. Accordingly, the Arbitrator concludes that this

criterion provides no basis for distinguishing between the final offers of the parties.

Cost-of-Living and Changes in the Foregoing Circumstances

In 1987, the Bureau of Labor Statistics altered the data collection process for the Small Metro Areas and Non Metro Areas indices. Consequently, it is inappropriate to compare such data for 1986 to the index figures for 1987. However, the index for the United States and All Urban Consumers for May, 1986 to May, 1987 may be compared. The percentage increase in the cost-of-living is 3.8%. It reflects a substantial increase by a factor of 2 1/2 over the increase in the cost-of-living in 1985-86. The District offer of an increase of 5.79% in total package for the 1987-88 school year is substantially above the increase in the cost-of-living for 1987-88. However, the difference between the salary offer made by the District and the increase in the cost-of-living is substantially less than it was in 1986-87. The Association offer for the 1987-88 school year is approximately double that of the cost-of-living increase for 1986-87. Again, this criterion provides substantial support for selection of the final offer of the District for inclusion in the successor Agreement.

There are no settlements among any of the comparables for the 1987-88 school year. There is no pattern of settlement by which to measure the cost-of-living. Accordingly, the Arbitrator has given full weight to the CPI data in applying this criterion to distinguish between the salary offers of the parties.

Such Other Factors

The final offers of both parties generate similar, but not identical increases in each of the two years of the proposed agreement. In a stable economic environment and where no basis has been put forth for providing a higher or lower increase in salary in the first year as compared to the second year of a two-year agreement, this Arbitrator finds that it is appropriate that the increases in both years be approximately equal. Obviously, exact equality is impossible. The same flat dollar increase in salary over two years will generate a lower percentage in the second year than in the first. An exact percentage increase in each of two years will generate a higher dollar increase in the second year than in the first.

There are signs of a substantial increase in the cost-of-living in 1987-88. This data could support a larger second year increase. However, the two year proposals presented by each of the parties contain approximate equal raises in each year of the Agreement. Therefore, this criterion does not provide a basis for distinguishing between the final offers of the parties.

SELECTION OF THE FINAL OFFER

Six of the eight statutory criteria provide little basis for distinguishing between the final offers of the parties. The interests and welfare of the public provides some support for the District offer in the first year of the Agreement. The cost-of-living criterion is the only one which provides strong support for the position of either party. As noted in the above discussion, that criterion and its application to the salary schedule offers for 1986-87 and 1987-88 strongly support the District's final offer. Accordingly, in the Award below, that offer is selected for inclusion in the parties successor Agreement.

The Association raises an important argument with regard to the lack of available data for determining an interest arbitration case. The Association presented the game plan for the Wisconsin Association of School Boards for bargaining for the 1986-87 school year. The Association alleges that it is strict adherence to such bargaining commands which have prevented the

production of voluntary settlements to serve as a basis for arbitral determination of interest disputes.

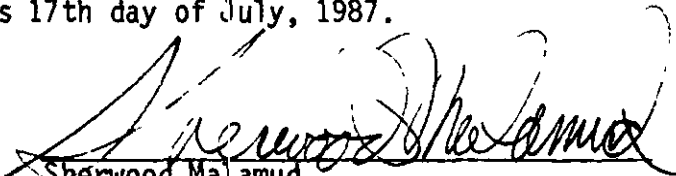
The Arbitrator agrees with the underlying assumption of the Association that the Med/Arb statute is not structured to supplant bargaining by the parties. The purpose of the statute, as the Association suggests, is the application of patterns of settlement to a particular dispute. The statute did not contemplate that arbitrators would serve as the creators of settlement patterns through arbitration awards. Yet, that is what the Association asks this Arbitrator to do in this case and apparently, the representative of the Association asked Arbitrator Fleischli to do in Luxemburg-Casco.

The Association asks the Arbitrator to render an award in its favor because the District has allegedly followed the dictates and commands of the WASB. As noted above in the summary of the positions of the parties, the District takes strong issue with this allegation. It asserts that its offer is the product of the exercise of its independent judgment. There is no basis in the statutory scheme for Arbitrators to sit in judgment over the alleged bargaining practices of parties. Such issues, if they are to be addressed at all, should be raised and addressed in another forum.

AWARD

Based upon the statutory criteria found in Sec. 111.70(4)(cm)7a-h of the Municipal Employment Relations Act, the evidence and arguments of the parties, and for the reasons discussed above, the Mediator/Arbitrator selects the final offer of the Sturgeon Bay School District, which is attached hereto, together with the stipulations of the parties to be included in the 1986-87 through 1987-88 Agreement between the District and the Association.

Dated, at Madison, Wisconsin this 17th day of July, 1987.


Sherwood Malamud
Mediator/Arbitrator

1986-87

FINAL OFFER
SCHOOL DISTRICT OF SOUTHWEST BAY

UP
12/15/86
CBP
12/15/86

COMPLETE SALARY SCHEDULE

BA:	Pcnt.	Base	:	MA:		
====			:	====		
0.0	1.000%	\$16,375	:	0.0	1.130%	\$18,504
.5	1.025%	\$16,784	:	.5	1.155%	\$18,913
1.0	1.050%	\$17,194	:	1.0	1.180%	\$19,322
1.5	1.075%	\$17,603	:	1.5	1.205%	\$19,732
2.0	1.100%	\$18,012	:	2.0	1.230%	\$20,141
2.5	1.125%	\$18,422	:	2.5	1.255%	\$20,551
3.0	1.150%	\$18,831	:	3.0	1.280%	\$20,960
3.5	1.175%	\$19,241	:	3.5	1.305%	\$21,369
4.0	1.200%	\$19,650	:	4.0	1.330%	\$21,779
4.5	1.225%	\$20,059	:	4.5	1.355%	\$22,188
5.0	1.250%	\$20,469	:	5.0	1.380%	\$22,598
5.5	1.275%	\$20,878	:	5.5	1.405%	\$23,007
6.0	1.300%	\$21,288	:	6.0	1.430%	\$23,416
6.5	1.325%	\$21,697	:	6.5	1.455%	\$23,826
7.0	1.350%	\$22,106	:	7.0	1.480%	\$24,235
7.5	1.375%	\$22,516	:	7.5	1.505%	\$24,644
8.0	1.400%	\$22,925	:	8.0	1.530%	\$25,054
8.5	1.425%	\$23,334	:	8.5	1.555%	\$25,463
9.0	1.450%	\$23,744	:	9.0	1.580%	\$25,873
9.5	1.482%	\$24,276	:	9.5	1.617%	\$26,487
10.0	1.515%	\$24,808	:	10.0	1.655%	\$27,101
10.5	1.548%	\$25,340	:	10.5	1.692%	\$27,715
11.0	1.580%	\$25,873	:	11.0	1.730%	\$28,329
11.5	1.613%	\$26,405	:	11.5	1.762%	\$28,861
12.0	1.645%	\$26,937	:	12.0	1.805%	\$29,557
12.5	1.678%	\$27,469	:	12.5	1.843%	\$30,171
13.0	1.710%	\$28,001	:	13.0	1.880%	\$30,785

FINAL ORDER
SCHOOL DISTRICT OF SARGENT BOND

1987-88

WR 12/15/86
CRB 12/15/86

COMPLETE SALARY SCHEDULE

BA:	Pcnt.	Base	:	MA:		
====			:	====		
0.0	1.000%	\$16,910	:	0.0	1.130%	\$19,103
.5	1.025%	\$17,333	:	.5	1.155%	\$19,531
1.0	1.050%	\$17,756	:	1.0	1.180%	\$19,954
1.5	1.075%	\$18,178	:	1.5	1.205%	\$20,377
2.0	1.100%	\$18,601	:	2.0	1.230%	\$20,799
2.5	1.125%	\$19,024	:	2.5	1.255%	\$21,222
3.0	1.150%	\$19,446	:	3.0	1.280%	\$21,645
3.5	1.175%	\$19,869	:	3.5	1.305%	\$22,068
4.0	1.200%	\$20,292	:	4.0	1.330%	\$22,490
4.5	1.225%	\$20,715	:	4.5	1.355%	\$22,913
5.0	1.250%	\$21,138	:	5.0	1.380%	\$23,336
5.5	1.275%	\$21,560	:	5.5	1.405%	\$23,759
6.0	1.300%	\$21,983	:	6.0	1.430%	\$24,181
6.5	1.325%	\$22,406	:	6.5	1.455%	\$24,604
7.0	1.350%	\$22,828	:	7.0	1.480%	\$25,027
7.5	1.375%	\$23,251	:	7.5	1.505%	\$25,450
8.0	1.400%	\$23,674	:	8.0	1.530%	\$25,872
8.5	1.425%	\$24,097	:	8.5	1.555%	\$26,295
9.0	1.450%	\$24,520	:	9.0	1.580%	\$26,718
9.5	1.482%	\$25,069	:	9.5	1.617%	\$27,352
10.0	1.515%	\$25,619	:	10.0	1.655%	\$27,986
10.5	1.548%	\$26,168	:	10.5	1.692%	\$28,620
11.0	1.580%	\$26,718	:	11.0	1.730%	\$29,254
11.5	1.613%	\$27,267	:	11.5	1.762%	\$29,884
12.0	1.645%	\$27,817	:	12.0	1.805%	\$30,523
12.5	1.678%	\$28,367	:	12.5	1.843%	\$31,157
13.0	1.710%	\$28,916	:	13.0	1.880%	\$31,791