

MAY 25 1988

STATE OF WISCONSIN  
BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

\* \* \* \* \*

* In the Matter of Interest Arbitration	* OPINION AND AWARD
*                   Between	*                   *
*       D. C. EVEREST SCHOOL DISTRICT	* Case No. 34
*                   And	* No. 38591
*       D. C. EVEREST TEACHERS' ASSOCIATION	* Arb-4365
	* Decision No. 24828-A

\* \* \* \* \*

APPEARANCES

On Behalf of the District: Ronald J. Rutlin, Attorney  
Mulcahy and Wherry, S. C.

On Behalf of the Association: Thomas J. Coffey, Executive Director  
Central Wisconsin UniServ Council-North

I. BACKGROUND

On March 19, 1987, the Parties exchanged their initial proposals on matters to be included in a new collective bargaining agreement to succeed the agreement which expired on August 16, 1987. Thereafter the parties met on one occasion in an effort to reach an accord on a new collective bargaining agreement. On March 24, 1987, the District filed the instant petition requesting that the Commission initiate Arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act. On May 18, 1987, a WERC Commissioner, conducted an investigation which reflected that the Parties were deadlocked in their negotiations, and, by September 7, 1987, the Parties submitted their final offers, written positions regarding authorization of inclusion of nonresidents of Wisconsin on the arbitration panel to be submitted by the Commission, as well as a stipulation on matters agreed upon, and thereafter the Investigator, by letter dated September 9, 1987, notified the Parties that the investigation was closed and advised the Commission that the Parties remained at impasse.

Subsequently the Parties were ordered to select an Arbitrator. The undersigned was so selected and appointed by the Commission on October 20, 1987. A hearing was scheduled and held on February 18, 1988. Post hearing briefs were filed and exchanged March 25, 1988.

## II. FINAL OFFERS AND ISSUES

There are three areas of disagreement in the final offers of the Parties. The first and major disagreement relates to the salary schedule for 1987-88 and 1988-89. The others have to do with fair share language and extra curricular pay. There is also an ancillary disagreement over the appropriate comparables, which will be detailed when reviewing the arguments of the Parties.

Regarding the salary schedule the Board proposes to retain the current salary schedule structure with a BA base of \$17,702 for 1987-88 and \$18,434 for 1988-89. This represents a 2.18% or \$377 increase in the base the first year and a 4.14% or \$732 increase in the base the second year. The Board's final offer also results in a cumulative wage increase for 1987-88 and 1988-89 of 11.17% on wages or \$3,057 per teacher with a total package increase of 11.16% or \$3,924 average per teacher. The Association proposes to retain the current salary schedule structure with a BA base of \$18,190 for 1987-88 and \$19,010 for 1988-89. This represents a 4.99% or \$865 increase in the base the first year and a 4.5% or \$820 increase in the second year. The Association's final offer on a cumulative basis results in a salary increase of 14.44% or \$3,984 per teacher with a total package increase of 14.28% or \$5,062.

With respect to fair share the Association is proposing to add language to the present fair share clause as follows:

"To the extent required by state or federal law, the Association will place in an interest-bearing escrow account any disputed fair share amounts."

The Board is proposing to add the following language to the current fair share clause:

"If any employee of the District challenges the validity of this Agreement in a court of law, the Employer may withhold 'Fair Share' dues in an interest-bearing escrow account until such litigation is concluded. During any period of legal challenge of this clause, the Employer will continue to deduct and remit the dues of all Association members as certified by the Association."

On extra-curricular rates the Board proposes to keep all the present percentages the same and is also proposing to add an additional position to the extra-curricular salary schedule as follows:

"16. After School Supervision/Jr.High - \$10.00/day."

The Association is proposing to modify the percentage of an existing position (school newspaper) and is also proposing to add five new positions to the extra-curricular schedule as follows:

3. School Newspaper - Junior High - change to 2 1/2%
17. Math Team (Junior High) - 1%
18. Folk Rock (Junior High) - 1 3/4%
19. FFA - 2%
20. DECA - 2%
21. FBLA - 2%

### III. ARGUMENTS OF THE PARTIES

#### A. Comparables

##### 1. The Association

The Association doesn't disagree with the District that the primary comparable group should be the Wisconsin Valley Athletic Conference. It is their position that the two schools with voluntary settlements in the athletic conference (Stevens Point and Wisconsin Rapids) provide sufficient data for the Arbitrator's decision-making process. Yet because, in their opinion, the District wishes to nullify the comparability factor by ignoring these settlements, the Association has utilized secondary comparables to provide further guidance to the Arbitrator and to show the Wisconsin Valley settlements are not isolated aberrations. They look to similar sized schools with relevant settlements in the Fox River Valley Athletic Conference and similar sized schools statewide. The Fox River schools include Menasha, Fond du Lac, Neenah, Kimberly and Manitowoc. The statewide schools include in addition to the Fox River schools and Stevens Point/Wisconsin Rapids the following: Ashwaubenon, New Berlin, Mukwonago, Hudson, Chippewa Falls and Middleton.

The Association submits that the only commonly used comparability factor that does not match fully among the Fox River Valley schools in particular is geographic proximity. The Association also states they recognize the futility of comparability shopping or selection of comparables solely for partisan value. They argue the evidence shows that the Association used objective standards commonly accepted by arbitrators in choosing its secondary comparables.

##### 2. The District

It is the position of the District that the appropriate comparable school districts should be limited to the Wisconsin Valley Athletic Conference. These include Antigo, Rhinelander, Merrill, Marshfield, Wausau, Wisconsin Rapids, and Stevens Point. However, only the last two are settled.

They offer a number of arguments in support of this. They include:

1. The fact that the Wisconsin Valley Athletic Conference has traditionally been the comparable pool utilized by these Parties.
2. The fact that generally a substantial number of decisions rendered pursuant to impasse procedures under Sec. 111.70(4)(cm), Wis. Stats., have held that, absent extraordinary circumstances, the districts within the athletic conference shall be determined to be a valid comparable pool for purposes of measuring wages, hours and conditions of employment.
3. Their belief that the Association's attempt to expand the comparable districts to include select districts from the Fox Valley Athletic Conference is a blatant act of comparability shopping. In this regard they noted that based upon a review of the decisions rendered within the Fox Valley Conference, it is conclusively demonstrated that these districts do not utilize D.C. Everest as a comparable. Moreover, the Board suspects, that these "comparable" districts were chosen, at least in part, to bolster the dollar and percentage increase position of the Association.
4. Their belief that the Board's comparable pool is supported by an analysis of the historical settlement patterns within the Wisconsin Valley Athletic Conference. In this regard they contend that comparability is most valid among athletic conference districts which are geographically proximate and share a common labor market. In this regard one characteristic of a common labor market is similar starting rates.

They assert there is great similarities between D.C. Everest and the Wisconsin Valley Athletic Conference in starting rates, but very little similarity between D.C. Everest and the Fox Valley Athletic Conference. To them this means that the Wisconsin Valley Conference is significantly closer to the market construct underlying the legal concept of comparability for D.C. Everest than is the Association's proposed secondary collection of districts. They also note that there has historically been a very tight distribution of salary settlements in the Wisconsin Valley Conference. This, in their opinion, is characteristic of a true market which reflects the pressure of the market that forces pay rates and rate increases toward common levels.

The District also argues that the Association's references to statewide salary data must also be rejected. It is their belief that this approach has been rejected consistently by Arbitrators.

Last they argue the comparable pool for this dispute should not be expanded simply because of a lack of settlements within the Wisconsin Valley Athletic Conference. In this regard, they argue (1) the Board feels that the historical relationships within this conference should not be jeopardized and (2) in view of the lack of settlements that the remaining criteria must control this dispute.

B. Salary Schedule

1. The Association

Utilizing three different measures of salary comparisons, the Association believes their offer is more reasonable. First they review the average salary dollar increase per full-time equivalency (FTE) evidence. They state that they recognize that the dollar per teacher measure might be given more weight since Stevens Point, Wisconsin Rapids, and D.C. Everest have voluntarily modified their salary schedules.

With this in mind they submit that among the primary comparables, (Stevens Point and Wisconsin Rapids) the Association's offer at \$2,040 per teacher is \$67 below the average increase for 1987-88. The District, at \$1,273 per teacher on the other hand, is \$834 below the average increase in the primary comparables. For 1988-89, the Association at \$1,947 per teacher is again clearly closer to the going rate of increase at \$73 above the average in contrast to the District's \$90 below the going rate (\$1,784 per teacher). Thus, in the two year context, the Association's offer is only \$6 above average while the District's offer is \$924 below the average. They also emphasize that the relationship of their 1987-88 and 1988-89 offer to Wisconsin Rapids and Stevens Point is quite consistent with the historical relationship between the three districts. In this regard they submit the following:

	<u>Average</u>	<u>Dollars</u>	<u>Increase</u>	<u>Per</u>	<u>Returning</u>	<u>Teacher</u>	
<u>1980-81</u>	<u>1981-82</u>	<u>1982-83</u>	<u>1983-84</u>	<u>1984-85</u>	<u>1985-86</u>	<u>1986-87</u>	
Stevens Point/ Wisconsin Rapids (average)	1570	1819	1915	1490	1509	1798	2104
D.C. Everest	+8	+7	+59	-148	-110	+91	-123

On the other hand the Board offer particularly in 1987-88 is not consistent with the historical relationship.

They also contend that the secondary comparables show that the Stevens Point and Wisconsin Rapids settlements are not aberrations. For similar size districts in the state, the

Association's offer is only \$110 above the average increase of \$1,930 a teacher. The District, on the other hand, is \$657 below the average increase. For 1988-89, the Association offer is \$82 above the average of \$1,865 and the District is \$81 below. In the two year context, the Association's offer is only \$192 above the two averages of \$3,795 while the District's offer is \$738 below the average. In the similar size schools in the Fox Valley, the Association's offer is \$247 above average of \$1,793 for 1987-88 while the District's offer is \$520 below average. For 1988-89, the Association's offer is \$41 above the average of \$1,947 while the District's offer is \$122 below the average. In the two year context, the Association's offer is \$288 above the two averages of \$3,740 while the District's offer is \$642 below the average.

In similar fashion, the Association next reviews the data on the percentage increase per full-time equivalency. For the primary comparables, the Association's offer is on the average of 7.66% for 1987-88 while the District's offer is 2.88% below average. In the two year context, the Association offer is .39% above average of 14.45% while the District's offer is 2.89% below average. Again they submit that D.C. Everest's percent increases have been consistent historically with Stevens Point and Wisconsin Rapids. Thus they argue the 2.89% below average figure for the District's offer has no justification from the standpoint of the historical pattern. They also contend their offer on a percentage basis is more consistent with their two secondary groupings.

Their last statistical comparison relates to the benchmarks. Looking at the average increases (dollars and percents) they offer the following comparisons to Stevens Point and Wisconsin Rapids:

Dollar Increase to Average Increase on Five Benchmarks  
Of the Association's and the District's Offer - Settled Schools  
In Athletic Conference (1987-88)

	<u>Association</u> <u>+/- Average</u>	<u>District</u> <u>+/- Average</u>
BA Minimum	-128	-616
BA Maximum	+124	-646
MA Minimum	-130	-716
MA Maximum	+6	-862
Scheduled Maximum	-107	-1036

Percentage Increase to Average Increase on Five Benchmarks  
Of the Association's and the District's Final Offers - Settled  
Schools in Athletic Conference (1987-1988)

	<u>Association</u> +/- Average	<u>District</u> +/- Average
BA Minimum	-.67	-3.51
BA Maximum	+.07	-2.73
MA Minimum	-.68	-3.50
MA Maximum	+.03	-2.77
Scheduled Maximum	+.05	-2.75

They believe these benchmark comparisons favor their offer as do the benchmark comparisons in the secondary comparables. They also contend the relative relationships under their 1987-88 and 1988-89 offer are most consistent with the 1986-87 benchmark relationships in Stevens Point and Wisconsin Rapids.

The Association next addresses the 'Interest and Welfare of the Public Criterion.' It is their position that their offer best meets this criteria. First they note the District does not make an ability to pay argument. They also argue that the tax burden in D.C. Everest to be less than average. In fact, the average homeowner in the D.C. Everest District will have a decrease in their property tax paid for schools this year when compared to the preceding year. Moreover they contend the economic climate in the area is generally good. They also contend that arbitrators generally have found that absent a showing that a particular school district's economy was any more adversely affected than economies in comparable districts, the public interest is not served by a settlement that is inconsistent with the voluntary pattern.

Regarding the cost of living criteria, it is their position that the settlement pattern is the commonly accepted method of measuring this factor. Since the District's offer is less than the settlement pattern they argue it is defective. In addition they argue the District's offer is defective in another way when measuring the cost of living criterion. There are 136 career teachers at the top of the salary schedule and they will receive only a 2.18% increase under the District's offer which is 2.1% below the Consumer Price Index increase. This fact provides more evidence that illustrates how far off a reasonable mark is the District's offer.

Next they argue that the District's evidence on the criteria of other private and public employment wage comparisons is fragmentary and does not meet the commonly accepted standards of the best evidence for this type of case. For instance it is noted that the District put a number of percentage increases for area private employees into the record, over objection by the Association, without matching a particular area business with a particular wage increase. No actual wage rates or salary were given. Additionally it is their opinion such information is

very misleading since the professionals referenced in the Employer's exhibit reached their top salary level in two years.

Last they argue that the overall compensation criterion supports the Association's position. This is because the insurance costs in D.C. Everest are substantially below average among the primary comparables as well as the secondary comparables. Thus, they argue the insurance contributions by the District do not justify giving a substantially lower than average salary increase.

#### B. The District

The District's first argument relates to the interest and welfare of the public. It, in their opinion, is better served by their offer. They submit there are a number of relevant facts in this regard. They are: (1) the fact that teaching salaries and benefits comprise 78% of the total budget, (2) the fact that on a historical basis the salary and benefit portion of Fund 10 have increased at an alarming rate, particularly in relation to the non-salary portion, (3) the total compensation package proposed under the Association offer will result in the District spending over \$596,000 more than is anticipated under the Board offer, (4) an increase in the tax levy of 20.49% since 1982-83 (5) declining land values (6.44% in five years) (6) lack of adequate space and teacher layoffs (7) the fact that the District maintains the second highest tax rate in the comparable pool while only the fourth highest cost per pupil, and (8) a poor local economy demonstrated by increasing unemployment in Marathon County, wage cuts and increasing farm bankruptcies.

Based on these various factors it is argued that the additional \$596,614 increase in costs predicated by the Association's offer is simply not supported by any evidence in the record, and that there is simply no public or private precedent or justification for the 14.28% wage and benefit increase demanded under the Association offer. It is asserted that the economic base for financing District programs cannot support the increases of over \$596,000 predicated by the adoption of the Association offer.

The cost of living factor is reviewed next. The District submits that the CPI should, standing alone on an historical basis, be used to measure the reasonableness of the respective offers before the Arbitrator. On a historical basis (1980-81 through 1988-89) the settlements plus the Board's offer exceed the CPI by 29.32%. Limited to the two year contract period they note the Board's total package increase of 11.16% for the term of the two-year contract provides for a cumulative increase in excess of the December 1987 CPI of 4.5%. Moreover they contend the cost of living criteria assumes even greater significance in this dispute due to the lack of a settlement pattern for 1987-88 and 1988-89 among the comparable pool.



Next the District draws attention to the fact that the Wisconsin Statutes specifically direct the Arbitrator to consider not only comparisons with individuals performing similar work, but also other public and private sector employees, and also other employees within the District. They also argue that the recent changes in the statute which separated former criteria (d) into three distinct subsections are significant. They suggest the Legislature was not engaging in mere editorial changes. Rather, the District submits that this change was made with the express intent of requiring arbitrators to give greater independent weight to wage comparisons with other public and private sector employees. Accordingly, the District submits that these factors must be given serious consideration by the Arbitrator in resolving this dispute.

More specifically they review public sector segments in the Marathon County area which are clearly below that which the Board has proposed to its teachers. These include employees in the city of Wausau, village of Rothschild, city of Schofield, town of Weston, Marathon County, North Central Health Care Facilities, and North Central Technical College. None of these public sector bargaining unit employees negotiated wage increase of 11+% over the two-year period of 1987 and 1988. Accordingly, the Board submits to the Arbitrator that there is absolutely no justification offered by the D.C. Everest Teachers Association for the disparity between municipal settlements in the District area, some of which cover professional employees, and the increase sought by the Association.

Turning its attention to private sector salaries with regard to the salary levels for Accountants, Mechanical Engineers, Occupational Therapists, Registered Nurses, and Social Workers, in each and every instance the minimum and average monthly salaries paid in these occupations were considerably less than the average salary received by the D.C. Everest School District teachers in 1986-87. The same comparison is true for public sector professionals. Additionally, private sector settlements have ranges from a reduction of 14% to a high of 4%. Last, it is noted internally that the Food Service and Custodial employees received a 4.52% and a 4.47% increase, respectively in 1987-88. For 1988-89, the EPU employees will receive a 6.69% total package increase.

Regarding settlements in the Athletic Conference, first they believe both are distinguishable based on the timing and duration of the agreements. The Stevens Point settlement, which covers a three year duration, 1985-86, 1986-87 and 1987-88, was settled in October of 1985. Similarly the Wisconsin Rapids settlement which commenced in 1987-88 is for a three year term. Additionally, it is noted that the last two years of the expired contract, 1985-86 and 1986-87, represent settlements which were substantially below average vis-a-vis the Wisconsin Valley comparables. Thus, they suggest there is an element of catch up

involved in the Rapids' settlement. Thus, they suggest the Rapids' settlement is high because they must make up the approximately \$535 or 2.5% lost over the term of the last two years of the prior agreement.

Even so, they assert the Board dollar offer is consistent with the average of the settled contracts and D.C. Everest's historical position among the comparables. In this regard they compile averages excluding Stevens Point but including Wisconsin Rapids along with all the certified final offers in other Athletic Conference schools. Over two years D.C. Everest relates to the average as follows:

	<u>Average With Board Offers</u>	<u>Average With Union Offers</u>
Board Offer	-\$66	-\$426
Association Offer	+\$397	+\$37

Based on this the Board acknowledges at first blush it may appear that the Board's final offer falls short of other Board offers while the Association's offer is closer to the mark. However when viewed in conjunction with the historical dollar increases both in D.C. Everest and the other Wisconsin Valley Athletic Conference districts, they contend the Board offer is actually more in line with the historical pattern. They present data which they assert shows that the District's salary settlements have consistently hovered only slightly above or below the settlement pattern and if the Association's offer were to be accepted, the District would, without justification, face a settlement uncharacteristically above and beyond the settlement pattern, no matter which pattern of offers is accepted. They also contend that in addition to maintaining its "relative settlement level" position, the Board's final offer maintains the historical position by rank of the D.C. Everest School District. This analysis utilizes only those districts who have either settled or final offered for both 1987-88 and 1988-89.

Anticipating an argument from the Association that two national studies support their offer, the Board offers extensive rebuttal arguments. However, since the Union didn't rely on these studies in their brief, the District's arguments in this regard are merely noted here.

Last, the District believes its offer is more reasonable concerning the fair share proposals and the extra curricular proposals. Regarding the fair share language, they submit that given the Union's obligation under Chicago Teachers Union, Local No. 1, AFT, AFL-CIO vs. Hudson, No. 84-1503, 3-4-1986, to have their fair share agreements provide for a prompt impartial decision. It is only logical for the Employer to withhold the fair share dues in an interest bearing account. Moreover since the Employer must continue to deduct the fair share dues, and

would be less of an administrative burden if the Employer maintains control over the process.

Regarding the other ancillary issue, the District argues that the Union has failed to justify its proposal to add five new positions to the extra curricular schedule. There is no need for these changes in their opinion since only a few of the other Conference districts provide pay for these positions. Furthermore, where additional pay is afforded, there is no evidence that D.C. Everest teachers expend the same effort on these activities as the comparable positions cited by the Association.

#### V. OPINION AND DISCUSSION

At the base of this dispute is a disagreement over the proper avenue of analysis given the fact that only two traditional comparables are settled for 1987-88, and only one is settled for 1988-89. The Association looks beyond the traditionals while giving little weight to other criteria. The District gives no weight to settlements outside the traditional group and, for this reason and because of the recent changes in the statute, gives greater weight to other criteria.

Thus, the Parties essentially pose the following question - when there is a dearth of settlements in the traditional comparable group, does one expand the comparables or give greater weight to the other criteria? The answer is that you do both. It is appropriate to look to other settlements and the weight to be given to the other criteria depends on the strength of the inferences one can draw from these non-traditional settlements.

It is not reasonable to put blinders on when there are a lack of settlements in the traditional comparable group. Moreover, it is fairly common for parties (both districts and unions), particularly when it supports their position, to turn to "secondary comparables." The District did argue that the fact the former criteria (d) split into three groups should require the Arbitrator to give greater ingredient weight to private sector and municipal employee comparisons. If this was the legislative intent, it is not necessarily evidenced in this record. Simply, there is no reason to think that these criteria deserve more weight than the particular evidence in each individual case would warrant.

Moreover, it is noted that when revising the former criteria (d), the statute no longer requires that comparisons to similar employees be limited to similar employees in similar or comparable communities. This limitation exists only when comparing the employees at bar to employees in private employment or public employment generally. Accordingly, an argument could be made when comparing teachers to teachers,

comparisons need not necessarily be between similar communities. Thus, it could be argued that state-wide comparisons are perfectly appropriate.

The Arbitrator wouldn't go this far however. Just as the evidence isn't clear that comparisons to other public and private employees deserve greater weight under the revised statute, it is also not clear that traditional comparables went out the window. After all, for comparisons to be meaningful between schools there must be some commonality. Yet this Arbitrator does believe that the fact the statute doesn't limit teacher comparisons to those in similar communities does loosen up the law to some extent. Under the new law, the Arbitrator believes that there should be somewhat less reluctance than there has been to go beyond the traditional comparables when there is limited evidence among this group.

With these thoughts in mind, the Arbitrator's job under the revised statute hasn't changed that much. It is his or her job to make a judgement in light of the criteria as to which offer is more reasonable and consistent with what the Parties might have agreed to voluntarily.

It is the Arbitrator's judgement that the Association's final offer is marginally more reasonable and consistent with what a voluntary agreement would most likely be. This is not to say that in an absolute sense a \$3,987 two year salary increase for teachers is reasonable. However relatively speaking, it is closer to a likely settlement than the Board's two year increase at \$3,057. Moreover the Board is particularly low in the first year.

In arriving at this conclusion, a certain amount of weight was given to Wisconsin Rapids. While it doesn't set a pattern, there has, as both Parties recognize, been a great deal of historical consistency existing among the comparable settlements. Wisconsin Rapids settled at \$1,992 in the first year and \$1,874 (\$3,866 for two years) in the second.

The Employer argued the Rapids' settlement should be discounted because the parties were settling higher than normal because they were "catching up" from their less-than-the-pattern settlement in 1985-86 and 1986-87. However, there isn't any evidence to support this theory. It is pure speculation. It could also be speculated that the settlements were low in 1985-86 and 1986-87 due to some other quid pro quo and that no catch-up was involved in the 1987-88 and 1988-89 settlement. Moreover, the timing of the agreement isn't particularly distinguishing.

Nonetheless assuming there was some catch-up involved, it is difficult to discount the two year settlement to less than \$3,600 over two years.

This suggests a reasonable settlement would be around \$3,600 over two years or \$1,800 per year. This does seem to be underlined by the two year settlement pattern in the Fox Valley Conference. Disregarding the highest settlement (Menasha) and the lowest settlement (Kimberly) which are somewhat dissonant with the other two year settlements, the average was \$1,875 per year or \$3,750.

This analysis would tend to favor the Association. If the theoretical reasonable settlement was \$3,600 over two years they are +\$387 over this target while the District is -\$543 under it.

Does this deserve more weight than the other criteria? In this case it does. First of all the evidence doesn't particularly distinguish either offer as being inconsistent with the interest and welfare of the public. Nor does the evidence distinguish the economic situation in D.C. Everest as substantially different than Wisconsin Rapids. It too has had its share of problems, perhaps more than the D.C. Everest District.

Comparisons to other public sector employees tend to favor the Board, but this data, even when combined with the private sector data and cost of living, just doesn't cause the Arbitrator to conclude that the District is more reasonable. First, public sector settlements have never had a one to one relationship to teacher increases. Moreover, these settlements impress the Arbitrator as fairly typical for County and City employees which tend to support the idea D.C. Everest isn't much different than other areas. Next, the private sector comparisons in this record are fraught with problems and provide little valuable information as to how much of an increase is more reasonable for teachers. Moreover, to a certain extent, just as the comparable data subsumes the cost of living data to a great extent, the comparable data also takes public and private settlements into account to some extent.

In conclusion, the comparability factor is more instructive than the other criteria in this case. Even giving the benefit of the doubt to the District by discounting Wisconsin Rapids to some extent and ignoring Stevens Point, all of the comparable data suggests the Association's offer has eeked through marginally, by the smallest of standards, as more consistent with and closer to what a reasonable person would anticipate to be a voluntary settlement. The District's offer was reasonable in the second year, but their low first year offer brought them to below a level at which the Parties could have been thought to have settled voluntarily. It would have been a different story had their offer in the first year been equivalent to their second year offer.

AWARD

The Association's offer is adopted.



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Gil Vernon, Arbitrator

Dated this 22<sup>ND</sup> day of May, 1988 at Eau Claire, Wisconsin.