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WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

STATE OF WISCONSIN

Before

ROBERT J. MUELLER, ARBITRATOR

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In the Matter of Mediation/Arbitration	:	
Between the	:	
	:	Case 40
OAK CREEK EDUCATION ASSOCIATION	:	No. 39393
	:	Med/Arb-4558
and	:	Decision No. 25048-B
	:	
OAK CREEK-FRANKLIN SCHOOL DISTRICT	:	
	:	
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APPEARANCES:

Mr. James Gibson, Executive Director, Council 10,  
for the Association.

Mulcahy & Wherry, S.C., Attorneys at Law, by Mr.  
Mark L. Olson, for the District.

INTRODUCTION

The Oak Creek Education Association, hereinafter referred to as the Association and the Oak Creek-Franklin School District, hereinafter referred to as the District or Board, reached an impasse in negotiations on the single issue of the appropriate salary increase for the 1987-88 contract year of their two year 1986-88 labor agreement. A petition initiating Mediation/Arbitration was filed by the Association and final offers were exchanged on December 4, 1987. The undersigned was subsequently selected by the parties and appointed by the WERC to serve as Mediator/Arbitrator to resolve the issue in dispute between the parties.

A hearing was held on February 23, 1988. The Parties were present and were afforded full opportunity to present such evidence and testimony as they deemed relevant. Post hearing and reply briefs along with supplemental exhibits were filed by the parties in conformance with agreement reached at the hearing.

#### FINAL OFFERS

##### ASSOCIATION FINAL OFFER:

The Association proposed to increase the 1986-87 salary schedule by multiplying steps 1 through 12 by 4.3% and increasing each longevity step by 5.0%. Such offer generates an average teacher salary increase of \$2,000.00 or 6.6%.

##### BOARD FINAL OFFER:

The Board proposed to increase the 1986-87 salary schedule by increasing each step by 3.0%. Such offer generates an average increase per returning teacher of \$1,460.00 or 4.82%.

#### THE CRITERIA

The arbitrator is required to apply the following statutory criteria to the record evidence. Section 111.70 (cm) (7) of the Wisconsin Statutes provides as follows:

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"(7) 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 financial ability of the unit of government to meet the costs of any proposed settlement.

- (d) comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees generally in public employment in the same communities and in private employment in the same community and in comparable communities.
- (e) the average consumer prices for goods and services, commonly known as the cost of living.
- (f) the overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pension, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (g) changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) such other factors not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact finding, arbitration or otherwise between the parties in the public service or in private employment."

#### POSITIONS OF THE PARTIES

##### ASSOCIATION POSITION:

The Association's arguments will be more fully discussed in the Discussion section hereinafter. Their arguments in brief summary form are as follows:

1. The most appropriate group of comparables to be utilized in this case includes the twenty-two (22) districts in the Milwaukee metropolitan area because there is insufficient settlement data in the 'most comparable' and the 'regionally comparable group' as those groupings are comprised by Arbitrator Zeidler in South Milwaukee Board of Education and South Milwaukee Education Association, 1980.

2. The interests and welfare of the public criteria, factor (c), is more supportive of the Association offer.

3. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages , hours and conditions of employment of other employees generally in public employment in the same community and in private employment in the same community and in comparable communities is more supportive of the Association offer than that of the Board.

4. The cost of living factor should be given less weight than the settlement patterns of comparables whose levels of settlements reflect the appropriate weight that each of the comparables have given the cost of living factor.

5. The overall compensation factor (f) is not subject to any degree of consideration because of differences in methods of compensation ( salary, longevity, credit pay, tuition reimbursement, etc.) and because of the difficulty in obtaining data that is subject to comparative analysis.

BOARD POSITION:

A summary description of the Board's arguments are as follows:

1. The eight districts in the southern part of Milwaukee County constitutes the most appropriate group of comparables, namely Cudahy, South Milwaukee, Franklin, St. Francis, Greenfield, Greendale, Whitnall and Oak Creek-Franklin.

2. The Board's offer maintains the rank order position of Oak Creek-Franklin teachers at the various benchmark positions among the comparables and the cumulative increase over the past five years is greater than the average of the comparables at the majority of the benchmarks.

3. The Board offer is supported by comparison to other private sector settlements in the district.

4. The Board offer is supported by comparison to the level of increases gained by other City of Oak Creek bargaining units and other area public sector units.

5. Total compensation comparisons show the Board offer as the more reasonable.

6. The cost of living factor supports the Board offer.

#### DISCUSSION

The Association argued that there is not enough settlement data within the eight district 'regional' group of comparables to constitute a reliable settlement pattern. Only two of the eight districts have settlements and both are a result of arbitration awards. They contend one must look to the next appropriate group of comparables when the most appropriate group and the second most appropriate group of comparables are unsettled or only one or two are settled. No sufficient settlement base exists when only one or two comparables are settled. In this case there are twelve voluntary settlements among the fourteen districts that comprise the 'generally comparable' group under the Zeidler categorization. With such broad data base available,

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particularly where it is comprised of voluntary settlements, one would be ignoring the statutory mandate to compare similar employees to similar employees doing similar work.

The Board contends the Association has deviated considerably from the groupings first developed by Arbitrator Zeidler in the case of South Milwaukee, (1980) whereby the Association has utilized West Allis and Wauwatosa, which were excluded by Arbitrator Zeidler because of size. Additionally, Whitefish Bay was not included in the South Milwaukee case. Also the K-9 feeder schools to Nicolet were not included in the South Milwaukee case. They are Fox Point-Bayside, Glendale-River Hills and Maple Dale Indian Hills.

The Board argues that none of the other fourteen districts relied on by the Association are contiguous to this district. The Board contends the average number of pupils in the South Shore group of eight is smaller than the average of the group of fourteen. Oak Creek has approximately 40% less taxable property per pupil to support its educational need than does the average of the group of districts used by the Association. Oak Creek is at \$168,580 per pupil compared to the average of eleven districts used by the Association which is \$252,468 per pupil.

The Board further argued that the average net taxable income of Oak Creek taxpayers was exceeded by the other districts excluding the southern eight by 46.2%. The average taxable income of taxpayers in the southern districts for 1986 was \$25,038 compared to \$38,138 average in the other districts.

In the South Milwaukee case, supra, Arbitrator Zeidler concluded that the districts of Cudahy, South Milwaukee, St. Francis and Oak Creek constituted the 'most comparable' group, one to the other. He concluded that the other four southern tier districts of Greendale, Greenfield, Franklin and Whitnall were the next most comparable and referred to them as 'regionally comparable'. The third group, which he labeled as 'generally comparable' consisted of the other Milwaukee metropolitan districts. He listed ten such districts and observed that while such grouping was relevant for comparison purposes, the size of West Allis and Wauwatosa militated against "full comparability with South Milwaukee and other smaller suburbs."

The Zeidler case was followed by subsequent arbitrators Yaffe in Oak Creek-Franklin, (1983) and by Kerkman in Greendale School, (1988). Both followed the general groupings established by arbitrator Zeidler.

I note in reading the Zeidler decision, that he did not say that the larger districts of West Allis and Wauwatosa were not usable at all but what he did say is that because of the size difference they would be afforded less weight and consideration. Kerkman, on the other hand excluded those two from the data base schools he considered in the Greendale case. He didn't explain why. I have been somewhat perplexed at times as to why it is concluded by some that simply because one employer unit is larger than another the larger somehow is not then an equal for comparison purposes. Bigger, it would seem, does not necessarily mean richer or

more efficient or better, etc. It would seem that the larger district would, among others, have more problems and possibly bigger and more expensive problems. Simply because a particular employing unit is larger doesn't necessarily mean they are more able to pay more. The ability of residents in a big district may be less able to pay than are those in a small district.

I note that arbitrator Yaffe did not reject West Allis and Wauwatosa from the group of 'generally comparable' and that he included Whitefish Bay in such group. Yaffe, however did reject using the three K-9 feeder districts, which are the same three feeder districts included in the group of fourteen by the Association in this case. He did so on the basis of reasons cited by the District, but those reasons were not identified or set forth.

It seems to me that one should not reject a district located in the same labor market and bread basket area out of hand simply because it may be larger than the rest or because it may involve K-9 as compared to k-12 or some other combination. They all have some degree of value for comparison purposes. Some may have very limited value for a limited purpose or as it applies to a particular issue, but where they are all in the general same labor market and bread basket area, they should be considered. The relevance and weight to be afforded particular data from one district in the comparative exercise to another will depend on the data that is available and their relationship to the issues involved. Each must be determined on an issue by issue and case by case basis.



Averages, means, relative ranking, etc. are simply short cut methods of dealing with the comparative analysis. Despite the variances in the myriad of features that go to make one district different from another, such short cut methods are of usable value. In this case the Board has presented evidence and argument tending to establish distinctions between the district and in particular, the districts in the 'generally comparative' group, with the intent that data from such districts would be afforded little, if any, weight in the comparison analysis.

The Board presented evidence on enrollment, comparison of full time equivalency staff, equalized values, growth in school expenditures, tax base comparisons, average net earnings of the district taxpayers and other economic characteristics. The Association presented evidence and argument concerning the amount of money spent per pupil, the school tax rate, the average aggregate household income and other aspects tending to meet those advanced by the Board.

The evidence and arguments of each party negated those of the other. Each presented arguments, if taken alone, <sup>which</sup> had merit and were persuasive. For example, both parties made a persuasive argument on the average taxable income of the district taxpayers and comparison to others. By using basically the same data, the parties developed an argument favoring their position. The Board compared Oak Creek taxpayers to the average in the 'generally comparable' group and concluded their average taxable income was exceeded by the average in the other group by 46.2% The Association

compared the average income of the Oak Creek taxpayer to the average of the 'most comparable' group and concluded that the average aggregate household income of the district is \$2,447 higher than that in the four most comparable districts.

From a study of the record evidence and argument presented by the parties on the issue of comparables, I am persuaded to utilize all relevant comparative data from all sources and to afford weight thereto according to the relative comparative similarities of each to the Oak Creek district. In that respect I will utilize the general groupings found by Zeidler. The record evidence does not indicate the existence of any significant changes in any one or more features or characteristics that would call for repudiation of the general groupings found by Zeidler and generally followed by Yaffe and Kerkman.

I am of the belief that the best measure of a particular district's weighting of the districts ability or willingness to fund a particular level of education is the wage and benefit levels provided over a period of years as compared to others in the same labor market area. Presumably the taxpayers through their chosen Board members make judgments as to the amount of tax burden they are agreeable to imposing upon themselves to fund their desired level of education. In doing so they undoubtedly consider the

enrollment, the physical plant needs, staffing levels, amount of tax base, average net earnings of the district residents, and all other factors such as those raised by the parties in proceedings such as this arbitration. It seems to me that the rank order that a district maintains generally over a period of years through voluntary negotiations is the best measure of the districts judgment values applied to all considerations that determine the respective salary and benefit level.

Association exhibits # 11, 13, 15, 17, 19 and 21 are as follows:

February 23, 1988

## BENCHMARK COMPARISON

BA MINIMUM SALARY

<u>District</u>	<u>1984-1985</u>	<u>1985-1986</u>	<u>1986-1987</u>	
1. South Milwaukee	\$14,711	\$15,377	\$17,000	
2. Cudahy	15,000	15,900	16,956	
3. St. Francis	14,675	15,221	15,723	
4. Oak Creek	15,361	16,831	17,891	
AVERAGE OF 4	14,937	15,832	16,893	
5. Franklin	15,529	16,369	17,684	
6. Greendale	15,719	16,429	17,354	
7. Greenfield	14,475	16,188	17,622	
8. Whitnall	16,065	16,950	17,987	
AVERAGE OF 4	15,447	16,484	17,662	
(AVERAGE OF 8)	(15,192)	(16,158)	(17,277)	
9. Brown Deer	16,966	17,857	18,906	
10. Elmbrook	15,450	16,810	17,822	
11. Germantown	15,975	16,988	18,029	
12. Menomonee Falls	16,186	17,208	18,303	
13. Muskego	16,570	18,250	19,495	
14. New Berlin	15,240	15,620	18,409	
15. Nicolet	16,200	18,000	18,825	
16. Shorewood	15,802	18,416	19,048	
17. Wauwatosa	15,897	16,785	17,741	
18. West Allis	16,217	17,029	17,900	
19. Whitefish Bay	15,473	18,095	19,217	
20. Glendale	15,600	17,714	18,317	
21. Fox Point	16,945	17,870	18,460	
22. Maple Dale	15,824	17,816	18,182	
AVERAGE OF ALL	\$15,722	\$16,987	\$18,040	
OAK CREEK COMPARED TO AVERAGE OF	(4)	+424	+999	+998
	(8)	+169	+673	+614
	(22)	-361	-156	-149

February 23, 1988

## BENCHMARK COMPARISON

BA MAXIMUM SALARY

<u>District</u>	<u>1984-1985</u>	<u>1985-1986</u>	<u>1986-1987</u>	
1. South Milwaukee	\$27,986	\$29,525	\$30,795	
2. Cudahy	26,798	28,218	29,714	
3. St. Francis	27,770	29,159	31,783	
4. Oak Creek	27,395	28,901	30,326	
AVERAGE OF 4	27,487	28,951	30,655	
5. Franklin	27,710	29,155	30,416	
6. Greendale	26,550	27,559	28,606	
7. Greenfield	26,471	27,847	29,239	
8. Whitnall	24,949	26,299	27,347	
AVERAGE OF 4	26,420	27,715	28,902	
(AVERAGE OF 8)	(26,954)	(28,333)	(29,778)	
9. Brown Deer	25,926	28,061	29,709	
10. Elmbrook	26,486	28,206	29,905	
11. Germantown	23,164	24,633	26,142	
12. Menomonee Falls	25,412	27,017	28,736	
13. Muskego	27,570	29,166	31,156	
14. New Berlin	27,274	28,930	30,901	
15. Nicolet	23,100	24,200	25,000	
16. Shorewood	26,863	28,461	29,988	
17. Wauwatosa	26,389	27,863	29,450	
18. West Allis	29,447	30,660	32,226	
19. Whitefish Bay	27,429	29,203	31,014	
20. Glendale	25,622	27,498	28,435	
21. Fox Point	25,945	27,500	28,410	
22. Maple Dale	25,959	27,461	28,740	
AVERAGE OF ALL	\$26,464	\$27,978	\$29,456	
OAK CREEK COMPARED TO AVERAGE OF	(4)	-92	-50	-329
	(8)	+441	+568	+548
	(22)	+931	+923	+870

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## BENCHMARK COMPARISON

MA MINIMUM SALARY

<u>District</u>	<u>1984-1985</u>	<u>1985-1986</u>	<u>1986-1987</u>
1. South Milwaukee	\$16,427	\$17,171	\$18,980
2. Cudahy	16,650	17,649	18,822
3. St. Francis	16,876	18,265	18,868
4. Oak Creek	17,266	18,965	20,575
AVERAGE OF 4	16,805	18,013	19,311
5. Franklin	18,324	19,315	20,867
6. Greendale	17,134	17,908	18,916
7. Greenfield	16,791	18,631	20,947
8. Whitnall	18,423	19,419	20,192
AVERAGE OF 4	17,668	18,818	20,230
(AVERAGE OF 8)	(17,236)	(18,415)	(19,771)
9. Brown Deer	18,081	20,640	21,852
10. Elmbrook	17,451	18,901	20,039
11. Germantown	18,910	19,536	20,733
12. Menomonee Falls	18,290	19,455	20,682
13. Muskego	18,480	19,550	20,884
14. New Berlin	16,655	16,655	20,620
15. Nicolet	17,500	18,850	20,000
16. Shorewood	18,015	20,927	21,778
17. Wauwatosa	17,805	18,799	19,870
18. West Allis	18,340	19,259	20,243
19. Whitefish Bay	17,023	19,908	21,142
20. Glendale	18,200	20,000	20,963
21. Fox Point	18,910	19,740	20,390
22. Maple Dale	18,200	20,650	21,285
AVERAGE OF ALL	\$17,716	\$19,100	\$20,393
OAK CREEK COMPARED TO AVERAGE OF			
(4)	+461	+952	+1,264
(8)	+30	+550	+804
(22)	-450	-135	+182

February 23, 1988

## BENCHMARK COMPARISON

MA, STEP 10 SALARY

<u>District</u>	<u>1984-1985</u>	<u>1985-1986</u>	<u>1986-1987</u>
1. South Milwaukee	\$24,032	\$25,091	\$27,530
2. Cudahy	24,300	25,758	27,469
3. St. Francis	24,140	27,170	28,067
4. Oak Creek	25,453	27,686	30,236
AVERAGE OF 4	24,481	26,426	28,326
5. Franklin	26,710	28,155	30,416
6. Greendale	26,214	27,398	28,940
7. Greenfield	24,608	26,877	29,925
8. Whitnall	26,071	27,487	28,587
AVERAGE OF 4	25,901	27,479	29,467
(AVERAGE OF 8)	(25,191)	(26,953)	(28,896)
9. Brown Deer	26,655	29,917	31,674
10. Elmbrook	26,172	28,420	30,132
11. Germantown	26,359	28,030	27,945
12. Menomonee Falls	27,192	28,909	30,749
13. Muskego	26,730	28,278	30,207
14. New Berlin	25,945	26,940	29,950
15. Nicolet	28,250	28,500	30,125
16. Shorewood	26,863	30,637	32,377
17. Wauwatosa	27,343	27,863	29,450
18. West Allis	31,738	33,328	35,031
19. Whitefish Bay	N/A	N/A	N/A
20. Glendale	29,816	30,944	32,433
21. Fox Point	30,160	31,940	31,735
22. Maple Dale	29,514	32,204	33,932
AVERAGE OF ALL	\$26,870	\$28,644	\$30,329
OAK CREEK COMPARED TO AVERAGE OF			
(4)	+972	+1,260	+1,910
(8)	+262	+733	+1,340
(22)	-1,417	-958	-93

February 23, 1988

## BENCHMARK COMPARISON

MA MAXIMUM SALARY

<u>District</u>	<u>1984-1985</u>	<u>1985-1986</u>	<u>1986-1987</u>
1. South Milwaukee	\$32,236	\$34,008	\$35,470
2. Cudahy	30,486	32,102	33,803
3. St. Francis	29,246	32,171	35,066
4. Oak Creek	30,690	32,378	33,977
AVERAGE OF 4	30,665	32,665	34,579
5. Franklin	31,437	33,083	34,661
6. Greendale	33,858	35,145	36,480
7. Greenfield	30,743	32,342	34,121
8. Whitnall	33,978	35,825	37,259
AVERAGE OF 4	32,504	34,099	35,630
(AVERAGE OF 8)	(31,584)	(33,382)	(35,105)
9. Brown Deer	31,081	32,700	34,621
10. Elmbrook	31,400	33,440	35,454
11. Germantown	28,755	30,758	32,452
12. Menomonee Falls	30,429	32,351	34,410
13. Muskego	31,675	33,509	35,795
14. New Berlin	31,315	33,215	35,478
15. Nicolet	33,850	35,600	37,350
16. Shorewood	31,999	33,903	35,930
17. Wauwatosa	31,158	32,899	34,772
18. West Allis	33,810	34,716	36,490
19. Whitefish Bay	31,921	33,982	36,089
20. Glendale	33,795	35,600	37,400
21. Fox Point	33,535	35,600	36,775
22. Maple Dale	33,933	36,133	38,233
AVERAGE OF ALL	\$31,879	\$33,703	\$35,549
OAK CREEK COMPARED TO AVERAGE OF			
(4)	+25	-287	-602
(8)	-894	-1,004	-1,128
(22)	-1,189	-1,325	-1,572



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## BENCHMARK COMPARISON

MA+30 MAXIMUM SALARY

<u>District</u>	<u>1984-1985</u>	<u>1985-1986</u>	<u>1986-1987</u>	
1. South Milwaukee	\$33,136	\$34,908	\$36,670	
2. Cudahy	33,056	34,808	36,653	
3. St. Francis	30,596	33,521	36,416	
4. Oak Creek	33,605	35,454	37,207	
AVERAGE OF 4	32,598	34,673	36,737	
5. Franklin	33,300	35,048	36,783	
6. Greendale	36,650	38,043	39,488	
7. Greenfield	33,518	35,261	37,200	
8. Whitnall	36,709	38,706	40,257	
AVERAGE OF 4	35,044	36,765	38,432	
(AVERAGE OF 8)	(33,821)	(35,719)	(37,584)	
9. Brown Deer	32,128	34,556	36,586	
10. Elmbrook	32,554	34,669	37,407	
11. Germantown	31,950	33,976	36,058	
12. Menomonee Falls	32,372	34,416	36,606	
13. Muskego	34,540	36,500	38,990	
14. New Berlin	33,330	35,350	37,758	
15. Nicolet	35,600	37,650	39,475	
16. Shorewood	33,263	35,911	38,118	
17. Wauwatosa	34,973	36,927	39,030	
18. West Allis	35,050	36,543	38,411	
19. Whitefish Bay	33,306	35,271	37,458	
20. Glendale	34,395	36,800	38,600	
21. Fox Point	34,135	36,800	37,975	
22. Maple Dale	34,483	36,683	38,783	
AVERAGE OF ALL	\$33,757	\$35,809	\$37,815	
OAK CREEK COMPARED TO AVERAGE OF	(4)	+1,007	+781	+470
	(8)	-216	-265	-377
	(22)	-152	-364	-617

If one takes the average of districts 9 through 19 of Ex.#11, which is the group categorized by Zeidler as 'generally comparable', one finds the average BA minimum for 1984-85 to be \$15,998. For that year the corresponding salary at Oak Creek was \$15,361 or \$637 less than the average of the group. If one looks at the rate paid at Oak Creek compared to the other three districts regarded as most comparable, one finds that Oak Creek is considerably higher. In fact, on such rate comparisons, Oak Creek is more comparable to the northern tier group of eleven.

For years 1985-86 it appears that the district of New Berlin for some reason is substantially lower than all others in the group. If one therefore excludes New Berlin and makes the same type computation as above, one finds the average of the group of ten to be \$17,544 as compared to the rate at Oak Creek of \$16,831. The Oak Creek rate is \$713 less than the average. Again, Oak Creek maintained its higher position over the three most comparable schools of South Milwaukee, Cudahy and St. Francis.

For 1986-87 one finds that the district of New Berlin is now found to be in a relatively comparable position to all others in its group. The average of the eleven districts for 1986-87 is \$18,518 compared to \$17,891 at Oak Creek or a difference of \$627.

In making the same type calculations on Ex. #13, BA maximum salary, I have excluded from the computation of averages those districts that are disproportionately too high or too low in general comparison with the other members of the group. For example, for 1984-85 I have excluded the

rate at West Allis because it appears to be disproportionately high compared to the majority in the group and I have also excluded Germantown and Nicolet because they both appear to be disproportionately low in comparison to the majority in the group. Applying the same exclusionary principles throughout Ex.13, 15, 19 and 21 one finds the following:

	<u>1984-85</u>	<u>1985-86</u>	<u>1986-87</u>
BA MINIMUM			
average	15,998	17,544	18,518
Oak Creek	<u>15,361</u>	<u>16,831</u>	<u>17,891</u>
difference	-637	-713	-627
BA MAXIMUM			
average	26,669	28,619	30,343
Oak Creek	<u>27,395</u>	<u>28,901</u>	<u>30,326</u>
difference	+726	+282	+ 17
MA MINIMUM			
average	17,868	19,583	20,713
Oak Creek	<u>17,266</u>	<u>18,965</u>	<u>20,575</u>
difference	-602	-618	-138
MA MAXIMUM			
average	31,581	33,370	35,349
Oak Creek	<u>30,690</u>	<u>32,378</u>	<u>33,977</u>
difference	-891	-992	-1,372
MA+30 MAXIMUM			
average	33,551	35,615	37,809
Oak Creek	<u>33,605</u>	<u>35,454</u>	<u>37,207</u>
difference	+ 54	-161	-602

The above statistics yield a mixed message. From a broad perspective, it shows that Oak Creek has applied fewer dollars each year at the maximum end of the salary schedules than have the districts in the analyzed group. While the above data shows the northern tier of districts to be higher at the maximum portion of the MA lanes, it shows that Oak Creek has been higher at the BA maximum, although that difference has significantly decreased in the three years observed.

The district has a staff of 219.5 FTE. Of the staff, 59% or 129.6 FTE are at the top longevity step of their respective lanes.

It therefore appears that those in the BA lane at the maximum have been paid above the average of the group surveyed. In the MA lanes they have fared at a lesser level than those in the group.

If one examines the Oak Creek maximum rates at both the BA and MA lanes and compares them with the districts in the 'most comparable' group, one sees that all four districts have been very comparable over the same three year period one to the other. Also it appears that the four districts in the 'most comparable ' group compares more than favorably at the BA maximum/<sup>but</sup> slightly below the average at the MA maximums.

From an overview of the above data and exhibits from which such data was extracted, it would appear that all

nineteen districts have generally maintained step with one another from an overall average standpoint. Apparently the contended economic differences between the various districts has not caused one or the other district to stray far from the averages of all other districts.

As to the record evidence in this case, I find the evidence insufficient to establish that the economic condition of Oak Creek has changed substantially or significantly in comparison to the comparables to justify any significant deviation from the levels of settlement voluntarily arrived at by the other comparables.

The evidence is that none of the districts in the "most comparable" group, as labeled by Mr. Zeidler, are settled for 1987-88. Two of the four districts in the group identified as "regionally comparable" are also not settled. The two that are settled did so via the arbitration route. I find the voluntary settlements of the remaining Milwaukee Metropolitan area districts to be the best available settlement data for comparative purposes in this case.

Association exhibit No. 34 as amended by date 3-18-88 is relevant for such purpose and is as follows:

Assn. Exhibit # 34  
 Amended 3/18/88

COUNCIL #10  
 SETTLEMENT/FINAL OFFER COMPARISONS  
 MARCH 4, 1988

	<u>1987-1988</u>	<u>1988-1989</u>	<u>1989-1990</u>
New Berlin (9/86)	\$2,670 (8.3%)	\$2,765 (7.9%)	NS
Maple Dale (8/87)	\$2,000 (6.6%)	\$2,000 (6.2%)	\$2,000 (5.8%)
Wauwatosa (8/87)	\$1,950 (6.1%)	\$2,050 (6.1%)	NS
Whitnall (Arb. award, 9/87)	\$1,914 (5.4%)	NS	NS
Fox Point/Bayside	N/A		
Germanstown (10/87)	\$1,850 (6.3%)	\$2,000 (6.4%)	NS
Nicolet (10/87)	\$2,000 (6.3%)	\$2,000 (6.3%)	\$2,000 (5.6%)
Glendale (10/87)	\$2,074 (6.5%)	\$2,039 (6.0%)	\$2,000 (5.6%)
Whitefish Bay (1/88)	\$2,100 (6.4%)	\$2,000 (5.7%)	\$2,000 (5.4%)
Brown Deer (2/88)	\$2,025 (6.3%)	\$2,025 (5.9%)	\$2,025 (5.6%)
Franklin (Final Offers, 10/87)			
Association	\$2,001 (6.3%)	\$2,003 (5.9%)	
District	\$1,271 (4.0%)	\$1,322 (4.0%)	
Greenfield (Final Offers, 10/87)			
Association	\$2,006 (6.6%)		
District	\$1,601 (5.3%)		
West Allis-West Milwaukee (Final Offers, 12/87)			
Association	\$1,903 (5.8%)	\$2,050 (5.9%)	
District	\$1,614 (4.9%)	\$1,669 (4.9%)	
South Milwaukee (Final Offers, 1/88)			
Association	\$1,901 (6.4%)		
District	\$1,600 (5.3%)		
Oak Creek (Final Offers, 1/88)			
Association	\$2,000 (6.6%)		
District	\$1,460 (4.8%)		
Cudahy (Final Offers, 1/88)			
Association	\$2,000 (6.4%)	\$2,002 (6.1%)	
District	\$1,380 (4.4%)	\$1,735 (5.3%)	
Menomonee Falls (TA, 3/88)	\$1,950 (6.1%)	\$2,064 (6.1%)	
Elmbrook (TA, 3/88)	\$2,000 (6.2%)	\$2,000 (5.8%)	\$2,000 (5.5%)
Muskego (TA, 3/88)	\$1,940 (6.6%)		
Greendale (Arb. award, 3/88)	\$1,600 (4.8%)	\$1,800 (5.1%)	

If one again excludes those districts that are disproportionately high or low, one would exclude the district of New Berlin. The average of all others reaching voluntary settlements or tentative settlements is 6.34%.or \$1,989 per teacher.

It goes without further discussion and analysis that the Association's final offer is to be favored on the basis of comparison to other employees performing similar services in comparable communities within the application of that portion of factor 'd' of the Wisconsin Statutes.

The district presented data into evidence of wage settlements of other employees employed in the area in the private and public sector. Employer exhibit # 26 consisted of a listing of settlements in percent increase for custodians and maintenance, custodial aides, clericals, lunch program employees , data center employees and administrators employed by the district. Such data reveals that such increases ranged from 4.0% to 5.0% for 1988. Employer exhibit # 27 contained settlement data of other employees in public employment in the area and is as follows:

OAK CREEK-FRANKLIN SCHOOL DISTRICT  
 CITY OF OAK CREEK SETTLEMENTS  
 (WAGES ONLY)

	1986	1987	1988
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City Hall (Clerical)	4.25%	3.75%	Not Settled
DPW	4.25%	3.75%	Not Settled
Police	4.25%	3.75%	3.25%
Fire	4.25%	3.75%	3.25%

MILWAUKEE COUNTY

	1986	1987	1988
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Nurses	4.00%	3.00%	Not Settled
Hwy (Dist. Council 4B)	4.00%	3.00%	3.00%
Social Services Prof. (Dist. Council 4B)	4.00%	3.00%	3.00%
Non-Prof.	4.00%	3.00%	3.00%
Deputies 1/1	3.00%	3.00%	3.00%
7/1	2.00%	2.00%	2.00%
Asst. Attorneys (Dist. Council 4B)	4.00%	3.00%	3.00%
Courthouse (Dist. Council 4B)	4.00%	3.00%	3.00%

Source: MAMEA Survey and Milwaukee County  
 Personnel Director.

45/OKFRSET  
 02/16/88



One can see by a cursory view that the level of settlements among other public employees in the area is well below the final offers of both parties in this case.

When one then applies the settlement data for employees in both private and other public employment to the comparability test referred to in factor "d" of the Wisconsin Statutes, one must conclude that such comparison favors the District offer.

The District also contended an application of factor "f" of the statutes to the final offers adds favorability to the district offer.

In 1986-87 the district's cost of health insurance paid on behalf of employees was slightly below the average paid by the other seven districts in the southern tier. That changed drastically for 1987-88. A 30.0% increase was effective resulting in Oak Creek paying more than all but one of the other seven southern tier districts.

The board computed the additional cost per teacher for 1987-88 at \$472. Such additional amount will place an additional burden on the taxpayers and one that is greater than that in most other comparable districts.

From an analysis of such data I find that, in general, the overall benefits and compensation of Oak Creek is reasonably comparable to the comparables. The data, however does show that the insurance premium increase for 1987-88 serves to increase the total compensation expenditure by the district in 1987-88 by a measurable amount and one that is greater as to insurance costs than most of the comparables.

On the basis of the above facts, I find that the District final offer is most supported by application of factor "d" of the Wisconsin Statutes.

The Association conceded that the current cost of living data favors the District's final offer. They made an ingenious argument, however that,

"In May, 1986, the Milwaukee Area CPI (all urban consumers) had increased at an annual rate of 1.1% (District Exhibit #7). Despite knowing this fact, the District agreed to a 1986-87 average salary increase for its teachers of +6.9%, a difference of 5.8% above the CPI increase. The District's figures show that this same CPI has increased by 2.6% for the first half of 1987. (District Ex. #7). If the same differential between the CPI and the average Oak Creek teacher salary increase was applied for 1987-88 as was applied for 1986-87, an increase of +8.4% could be justified."

The above argument is interesting, but I find it to lack merit. In years of high inflation the contrary impact could be argued. It would simply magnify a roller coaster effect.

The simple conclusion to be drawn from application of the cost of living factor "e" of the statute to the evidence leads one to the conclusion that the District's final offer is most supported by said factor.

That brings one to the final analytical process of assessing weight to each of the areas addressed by the evidence and the applicable factors thereto.

As shown by the above discussion, the majority of the applicable factors as applied to the facts of the case favor the District's final offer. If one were to place controlling weight on the factor of comparing these employees to other employees doing similar work in

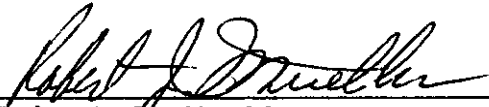
comparable communities over all other factors, one would be construing the statute contrary to its clear wording. Nowhere in Section 111.70 (4) (cm) 7 of the Wisconsin Statutes is there a provision specifying that one or more of the factors are to be weighted more heavily over others.

It therefore follows on the basis of the above facts and discussion thereon that the undersigned issues the following decision and

AWARD

The final offer of the District is to be incorporated into the Collective Bargaining Agreement along with such other reopener agreements reached between the parties for the contract year 1987-88.

Dated at Madison, Wisconsin, this 19th day of May, 1988.

  
Robert J. Mueller  
Mediator-Arbitrator