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WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

BEFORE THE ARBITRATOR

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In the Matter of the Petition of	:	
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RHINELANDER EDUCATION ASSOCIATION	:	
	:	Case 23
To Initiate Arbitration	:	No. 40187 INT/ARB-4806
Between Said Petitioner and	:	Decision No. 25368-A
	:	
RHINELANDER SCHOOL DISTRICT	:	
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APPEARANCES: GENE DEGNER, Director, WEAC UniServ Council No. 18, appearing on behalf of the Association.

Mulcahy & Wherry, S.C., Attorneys at Law, by RONALD J. RUTLIN, appearing on behalf of the District.

ARBITRATION AWARD

Rhineland School District, hereinafter referred to as the District or Board, and Rhineland Education Association, hereinafter referred to as the Association or Union, were parties to a collective bargaining agreement covering teaching and related personnel, which expired on August 28, 1987. The parties were unable to resolve a number of issues in their negotiations over the terms to be included in a new, successor collective bargaining agreement and, on February 10, 1988, the Association filed a petition with the Wisconsin Employment Relations Commission (WERC) to initiate interest arbitration pursuant to Section 111.70(4)(cm) 6. of the Municipal Employment Relations Act. The petition was investigated by a mediator from the staff of

the WERC and the WERC certified the existence of an impasse and issued an order requiring interest arbitration on April 20, 1988. Thereafter, the parties selected the undersigned, from a panel of interest arbitrators provided by the WERC, and the Commission issued an order, dated May 5, 1988, appointing the undersigned as arbitrator. A hearing was held at Rhinelander, Wisconsin on June 30, 1988, at which time the parties presented their evidence. Post hearing briefs and reply briefs were filed and received by the arbitrator by August 4, 1988. Full consideration has been given to the evidence and arguments presented in rendering the award which follows.

#### ISSUES IN DISPUTE

While both parties agree that the principal issue in dispute relates to the increases in the salary schedules for the 1987-1988 and 1988-1989 school years, their respective final offers also raise issues with regard to personal leave; maternity leave/disability leave; insurance provisions; layoff procedure; and the percentage increase to be applied to the rates for substitute teaching and extra curricular employment.

#### SALARY SCHEDULES

The 1986-1987 salary schedule consisted of two basic lanes, a BA lane and an MA lane, each providing for 13 steps. However, teachers who had earned credits beyond the BA or MA, up to a maximum of 30, received additional compensation of \$35.00 for

each credit. Thus, the established salary schedule can be viewed as having an essentially unlimited number of "lanes," for credits up to the maximum found in most collective bargaining agreements.

Neither party proposes to change the basic structure of the salary schedule thus described. However, as part of their stipulated agreements, the parties have agreed to increase the compensation per credit for past credits earned from \$35.00 to \$50.00 each. In addition, they have agreed that all credits earned under the terms of the new agreement and thereafter, will be compensated at the rate of \$100.00 per credit.

#### Association's Proposal

The Association proposes to increase each step of the existing salary schedule by 5% in each of the two years. According to the Association's calculations, this will generate an average increase in compensation for the 199.63 FTE teachers in the District, of approximately \$1,863.13 (or 7.3%) in the first year of the agreement and \$1,968.88 (or 7.22%) in the second year of the agreement.

Under the Association's final offer, the BA base would increase from \$17,413.00 to \$18,284.00 in the first year and from \$18,284.00 to \$19,198.00 in the second year. The BA seventh step would increase from \$21,769.00 to \$22,857.00 in the first year and from \$22,857.00 to \$24,000.00 in the second year.

The BA maximum would increase from \$27,258.00 to \$28,621.00 in the first year and from \$28,621.00 to \$30,052.00 in the second year. The MA minimum would increase from \$20,471.00 to \$21,495.00 in the first year and from \$21,495.00 to \$22,570.00 in the second year. The MA step 10 rate would increase from \$27,447.00 to \$28,819.00 in the first year and from \$28,819.00 to \$30,260.00 in the second year. The MA maximum rate would increase from \$30,086.00 to \$31,590.00 in the first year and from \$31,590.00 to \$33,170.00 in the second year. Finally, assuming a teacher's graduate credits are compensated at the \$50.00 rate for the two years of the agreement, the schedule maximum rate would increase from \$31,136.00 to \$33,090.00 in the first year and from \$33,090.00 to \$34,670.00 in the second year. Appendix A sets out the BA and MA rates for 1986-1987, along with the rates for those two lanes, as they would appear under the Association's final offer.

#### District's Proposal

The District proposes to increase each step of the existing salary schedule by 3.5% in the first year and 4.2% in the second year. Using the Association's method of calculation, this would generate an average increase in compensation for the 199.63 FTE teachers in the District, of approximately \$1,473.93 (or 5.81%) in the first year of the agreement and \$1,721.23 (or 6.41%) in the second year of the agreement.

## INSURANCE

Under the terms of the expired agreement, the District agreed to provide various insurance benefits, including medical and hospitalization, disability insurance, and dental insurance. The District has self-insured the medical and hospitalization coverage in the past and has agreed to pick up the full dollar amount of the premium for single and family coverage, with provision that any cost savings be applied toward the economic package for the balance of the agreement. The relevant portion of the medical and hospitalization provision read as follows:

- "B. Medical and Hospitalization: The District agrees to make monthly deposits towards health care benefit plan coverage for eligible employees who request it pursuant to the following schedule:

Single \$76.18 -- Family \$204.44

Any increase in the cost of insurance premiums prior to August 1, 1985, shall be paid by the District and will be costed as part of the contract for the following year. Any savings in the cost of health insurance, as a result of the decrease in the contributions prior to August 1, 1985, shall be applied to the economic package the following year.

The daily hospital room allowance will be based on the charge made for a semi-private room at St. Mary's Hospital. If such room rate should change during the course of the contract year, the adjustment will be made by the Superintendent after approval by the Board."

In connection with its agreement to provide disability insurance and dental insurance, the District has specifically reserved the right to change insurance carriers with language which reads as follows:

"The Board shall determine the insurance carrier and may change carriers during the term of this agreement so long as the benefits of the insurance program in effect as of the effective date of this agreement are not substantially reduced."

#### Association's Proposal

The Association proposes to delete the first three paragraphs of Item 17B quoted above and substitute the following two paragraphs therefor:

B. Medical and Hospitalization: The District shall provide health insurance benefits to all eligible bargaining unit members, which are equal to or better in all respects to the benefits of the present self-funding plan. The District agrees to make the full monthly deposits necessary for the present self-fund plan.

The District agrees at all times to keep reserve funds to pay incurred but unreported claims. Such reserves, within DPI guidelines, shall be based upon competent actuarial projections."

#### District's Proposal

The District's proposal would make no change in the existing language dealing with medical and hospitalization insurance, except that which is necessary to reflect the change in the term of the agreement. Thus, it would revise the second paragraph of Item 17B to read as follows:

"Any increase in the cost of insurance premiums during the term of this Agreement shall be paid by the District and will be costed as part of the contract for the following year. Any savings in the cost of health insurance, as a result of a decrease in the contributions shall be applied to the economic package the following year."

In addition, the District proposes to delete the two paragraphs specifically reserving the right to change insurance carriers in the case of disability insurance and dental insurance and to insert a new numbered paragraph in the "miscellaneous" section of the insurance provision, applicable to all of the insurances referred to, which would read as follows:

"4. The Board shall determine the insurance carrier for all insurances paid under this provision and may change carriers and/or self-fund during the term of this Agreement so long as the benefits in the insurance program in effect as of the effective date of this Agreement are not substantially reduced."

#### LAYOFF PROCEDURE

The expired agreement contains a negotiated layoff procedure which, inter alia, categorizes teachers within certain specialties, i.e., emotionally disturbed and professional school counselors, as either K-6 or 7-12 for purposes of spelling out their layoff and recall rights.

#### Association's Proposal

The Association proposes to make no change in the layoff

procedure and argues that the District has failed to justify its proposed changes in the status quo. Also, one change, in its view, would adversely impact on one school counselor who would become the least senior in his new category of 6-12, whereas he was the second most senior in the existing category of K-6.

#### District's Proposal

First, the District would add the following:

"The parties agree that in the event the Board decides to layoff, teachers effected shall be notified no later than May 1. In such event, this provision shall supercede the individual contract."

The District also would revise the wording of the layoff procedure, wherein it sets out the categories of special teachers to change the reference from K-6 to K-5 and the reference from 7-12 to 6-12. According to the District, this change is appropriate, in view of the fact that its junior high school now covers grades 6, 7, and 8. The District denies that its proposal would adversely impact on any teacher.

#### INCREASES FOR SUBSTITUTE TEACHING AND EXTRA CURRICULAR

As noted above, the hourly rate for substitute teaching under the terms of the expired agreement, provided for compensation at the rate of \$5.50 per hour. Both parties propose to increase that rate, consistent with their proposal on salary schedule. In addition, both parties propose to increase the rates of compensation for extra curricular work, as agreed to under the expired agreement and pursuant to their stipulations, in a similar fashion.

#### Association's Proposal

The Association proposes to increase the substitute teaching



rate by 5% in each year, which would result in hourly rates of \$5.78 per hour and \$6.06 per hour for each of the two years, respectively. All of the agreed to extra curricular rates would be increased in a similar fashion.

#### District's Proposal

The District proposes to increase the hourly rate for substitute teaching by 3.5% and 4.2% for each of the two years of the agreement, resulting in an hourly rate of \$5.69 per hour in 1987-1988 and \$5.93 per hour in 1988-1989. Similar percentage increases would be provided for in the case of the extra curricular activities provided for under the terms of the expired agreement and the parties' stipulations.

#### DISCUSSION

In their arguments, the parties fundamentally disagree on the other school districts which should be deemed comparable for purposes of comparisons under Section 111.70 (4)(cm) 7.d. On the other hand, both agree that the differences between them on the salary schedules are of sufficient importance, in comparison to the other issues in dispute, that the resolution of the salary schedules issue, will probably determine the outcome of this proceeding. In view of these positions, the undersigned deems it appropriate to first resolve the question of the appropriate comparables and the salary schedules issue, before evaluating the strength of their respective positions on the other issues

in dispute.

COMPARABLES

According to the Association, the 16 school districts utilized for comparison purposes by the District in the one prior arbitration proceeding between the parties<sup>1</sup> should be utilized for purposes of drawing comparisons under sub paragraph d of the statutory criteria. This grouping includes a number of contiguous school districts, along with the other members of the Wisconsin Valley Athletic Conference. The Association advances a number of reasons in support of its position on comparables. The Association acknowledges that Rhinelander is smaller than some of the schools in the athletic conference but notes that it is larger than others and the contiguous districts. It points to numerous factors, traditionally taken into account in selecting comparables, which support a finding that this group of 16 districts should be deemed a primary comparability grouping. It notes that arbitrators are reluctant to encourage parties to manipulate the use of comparables for short term advantage and notes that it has always agreed that the athletic conference should be included within the primary comparability grouping. It argues

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<sup>1</sup>Decision No. 19838-A, issued by Robert J. Mueller on January 20, 1983.

that it is simply "acquiescing" to the Board's position in the arbitration over the 1982-1983 agreement, by agreeing to include the contiguous districts among the primary comparables.

The District contends that the Association has attempted to distort its position in the 1982-1983 arbitration proceeding and argues that the primary comparables advocated here (Antigo, Merrill, Northland Pines, and Tomahawk) are exactly the same districts advocated as primary comparables in that proceeding. According to the District, the Union conveniently ignores that portion of the arbitrator's decision in that case which reflects the District's position in this regard. Because of the close geographic proximity and other similarities relating to economic circumstances and labor market, those four districts should be deemed to be the primary comparables in this case, it argues. In addition, a total of five districts included in the athletic conference (D. C. Everest, Marshfield, Stevens Point, Wausau, and Wisconsin Rapids) should be treated as secondary comparables, according to the District, even though those districts are quite different because of their lack of proximity and because of major differences in size, property valuation, and the nature of the local economy generally.

The undersigned must agree with the District that, a close reading of the Mueller arbitration award discloses that its position on primary comparables was the same in that proceeding as it is in this proceeding. Further, Arbitrator Mueller

did not resolve the question of the appropriate comparables in that proceeding and there has apparently been no agreement reached between the parties in their negotiations since that proceeding. However, a careful analysis of all of the evidence in the record and the arguments of the parties, satisfies the undersigned that, with one qualification, a single group of primary comparables consisting of the 16 school districts in question, is an appropriate primary grouping for comparison purposes. The qualification which the undersigned believes to be appropriate relates to Minocqua Union High School and the four elementary districts which feed into that high school. That grouping should either be considered the equivalent of one comparison or eliminated from comparison, because of the difficulties inherent in comparing a K-12 district with a union high school and elementary districts.

Unlike the District's proposed group of primary comparables, this larger group of primary comparables offers a balance between districts which are smaller and districts which are larger, placing Rhinelander roughly in the middle in that regard. It gives considerable weight to proximity, but not at the sacrifice of size. While some of the districts, particularly districts like Wausau and Stevens Point are obviously less comparable because of their size and differences in the local economy, Rhinelander is essentially an urban district, as

reflected by the District's own argument that its property values are largely residential as opposed to agricultural or industrial. Similarly, there are other differences among the comparables based on traditional factors such as equalized valuation, and related, relative tax effort, which are reflective of the differing sources of property value. However, those various factors tend to balance each other out, particularly when consideration is given to the overall balance which is achieved by utilizing the much larger group of primary comparables.

#### SALARY SCHEDULES

Both parties introduced numerous exhibits and filed extensive arguments focusing on this issue. Before proceeding to evaluate the issue, an effort will be made to summarize that evidence and those arguments.

#### Association's Position

The Association's fundamental position is that its proposal of 5% increases for each of the two years is strongly supported by the settlements and arbitration awards among the primary comparables, the athletic conference itself, districts within CESA No. 9, and the State as a whole. The average "benchmark" increase under the terms of settled agreements within all of those groups--the majority of which are settled for both years--are all equal to 5% or more, with the exception of the second

year for the primary comparables. In that case, the settled agreements, which represent 68% of the agreements in question, average 4.86%. This data all strongly favors the Association's position for both years of the agreement, it argues. In fact, its proposal is slightly below average in nearly all instances.

Turning to its analysis of the average additional compensation and percentage increase which will be received by the average teacher under the two offers, in comparison to the primary comparables, the Association argues that its offer again must be favored if the adjustment in credits is excluded as "catch up," as the Association contends it should be. The dollar increase in the first year of the agreement under the Association's offer is \$72.00 below average and only .03% above average in terms of percentage increase in wages alone. In the second year it is \$72.00 above average or .23% above average in terms of percentage.

In support of its position that the increase in compensation per credit should be disregarded as necessary "catch up," the Union analyzes the per credit compensation earned by teachers working in the various districts deemed comparable and notes that the average for 1986-1987 was \$75.00, compared to \$35.00 at Rhinelander. Viewed in this light, the dollars necessary to increase the compensation per credit really reflect "dollars teachers in other districts have been enjoying all along."

Further, even if the dollar and percentage value of the two offers for each of the two years is adjusted to reflect the approximate \$143.00 per teacher value of the credit adjustment, the Association's offer in each year and overall is closer to the average among the comparables than is the District's. Over the two-year period, the Association's proposal would generate \$3,975.00 or 15% over the two years, which is \$143.00 or one percentage point above average; whereas the Board's proposal would only generate \$3,337.00 or 12.67%, which is \$495.00 or 1.33 percentage points below average.

Relating its salary proposal to the statutory criteria, the Association makes the following points:

a. There is no question that the District has the lawful authority to implement either offer and the difference between the two offers would only result in a .7% increase in the budget (from 4.5% increase to 5.2% increase).

b. While the stipulation relating to credit compensation should be considered, the evidence discloses that only one of the districts settled for 1988-1989 will be paying less than \$50.00 per credit and four of the sixteen districts deemed comparable already pay more than \$100.00 per credit.

c. It is in the interest and welfare of the public to provide salary schedules which are consistent with those offered by comparable districts, especially when consideration

is given to the relatively favorable standing of the District on measures such as per pupil cost, state aid received per pupil, and various measures of income. Further, numerous studies of the existing educational system, which were introduced into evidence, support a greater financial commitment to teacher salaries, sufficient to bring them in line with salaries enjoyed by other professionals. Public opinion strongly rejects the District's argument that teacher salaries should not be compared with other professionals on an annual basis because they are in the classroom for only ten months of the year. Also, the studies reject this position based on the opinion that teacher salaries and benefits are not sufficiently competitive to attract and maintain qualified teachers.

d. This criterion supports the Association's proposal when the two offers are compared to the primary comparables or the other comparables advocated by the Association. Because of changes in the wording in this criterion, it is arguable that the legislature intended to expand the school districts deemed comparable and, it is noted, the other comparability groupings relied upon by the Association also support its offer. This support is not limited to the per cell rate of increase or the increase in actual dollars or percentage terms which will be enjoyed by the average teacher. It is also supported by an analysis of the impact on ranking at the seven traditional



benchmarks under the two offers. After two years under the Association's offer the District's ranking at those benchmarks will either be the same (in three cases) or lower (in four cases). The districts ranking under the Board's offer will be less at all seven benchmarks. (The Association notes that its analysis assumes unsettled districts which have historically been ahead of Rhinelander will stay ahead and that districts which have been behind Rhinelander will stay behind.)

e. Comparisons to other employees generally in public employment are not nearly as relevant as comparisons to other employees performing similar services. Even so, the evidence introduced by the Employer in this regard is flawed in numerous respects. The Board's exhibit comparing Rhinelander teachers to Oneida County professional positions misrepresents the top salary which can be earned in the District; the comparison fails to note that the top salary in the District requires an MA plus 30, not just a BA degree; other comparisons are limited to percentage increases and fail to disclose the salary base or costing methods; and the use of an hourly rate for teachers incorrectly assumes that teachers only work when they are required to be "on the job."

f. Comparisons to other employees in private employment can be valid when they relate to the starting salaries for positions also requiring a bachelor's degree or a master's

degree and the Association's exhibits demonstrate that the salaries for teachers are unjustifiably low compared to other professionals. While the Employer attempted to find similar positions within the Rhinelander community, that data was adversely affected by the reluctance of private employers to provide useful information concerning professional employees and therefore the Association's data based on national statistics should be deemed preferable under this criterion.

g. Under the cost of living criterion, the District's arguments should be evaluated in light of certain inconsistencies contained therein and in light of the long term impact of increases in the cost of living on the salary of classroom teachers. The Association's data demonstrates that, for example, in the ten years ending in 1986-1987, the average classroom teachers' salary in the nation only grew \$873.00 or 6.5%, in terms of constant dollars. Further, this criterion should be evaluated in terms of the emphasis it is given by other comparable employers, as reflected in the pattern of settlements, consistent with the analysis of numerous arbitrators who have applied this criterion under the statute.

h. Contrary to the District's contention, overall compensation in the District is no better than average, since the value of compensation for fringe benefits paid out by nine of the other sixteen primary comparable districts is higher than

at Rhinelander.

i. There were no changes in the foregoing factors during the pendency of this proceeding which were not brought out at the time the record was closed, at the conclusion of the hearing.

j. There are no considerations under the criterion referring to "other factors" which impact upon the choice between the two final offers on salary schedules.

In reply to various District arguments, the Association contends that the District is attempting to establish a set of primary comparables which is inappropriately small and of limited utility; the District is making an argument without factual foundation concerning the "rate of increase" in its budget; the District unreasonably assumes that a drop in enrollment should result in a drop in expenditures per pupil, notwithstanding statewide educational policies; the District's arguments continue to misrepresent the top salary achievable under the salary schedules; the District fails to acknowledge that school districts in other counties relied upon in its arguments have paid similar increases to those sought by the Association here; the District has no basis for comparison in alleging that the salaries in the District are "nothing short of outstanding;" the District persists in using unreliable private sector data; the District fails to take into account changes in the wording

in the statutory criteria, in arguing about the appropriateness of the Association's additional comparisons; and contrary to the District's position, the Association's offer is reasonable when viewed in light of other voluntary and arbitrated settlements in school districts which ought to be deemed comparable for purposes of this proceeding.

#### District's Position

According to the District, the interest and welfare of the public will be better served by the selection of its final offer. It notes that salary and benefits are the largest component of District costs and have grown at a more rapid rate than non-salary items in recent years. This evidence requires that a balance be struck between the Association's desire for improvements in wages and benefits and the interests of the taxpayers who must fund those increases. The Association's offer would require the District to spend over a quarter of a million dollars more on teachers' salaries and benefits than would the Board's offer, for a cumulative 14.71% increase in the cost of wages and benefits. The increase in general expenditures in the last six years, combined with an increase in the percentage of costs which must be funded with local tax dollars and the modest increase in equalized valuation, has resulted in the need to increase the tax rate by 31% since 1981-1982. Further, a decrease in the number of pupils has not resulted in a decrease in per

pupil expenditures, which have actually increased, resulting in a lesser return per dollar of taxpayers' money. The District is primarily residential and the earning capacity of taxpayers in the District is relatively low, because of a concentration in the sales and service sectors.

Citing a legislative audit bureau study of the effect of salary and fringe benefit increases on local spending, the District argues that its findings are particularly applicable to the situation the District finds itself in. Thus, while teacher pay in Wisconsin is now above average, based upon increases which have exceeded the rate of inflation, the income of taxpayers who have been required to support those increases has not increased in a similar fashion.

Secondly, the Board argues that its offer is equitable and serves to maintain the relative position of teachers in comparison to the Districts in its group of primary comparables. In three of five benchmarks used (not including BA+7 or MA+10) the rank will stay the same and rank will decrease slightly at the MA maximum, but increase at the MA+30 step. Further, the District's offer will continue the practice unequalled among comparables, of granting pay for each and every credit earned beyond the bachelors and masters.

Among its primary comparables, the District's offer would be above average in both years, if it is assumed that the Board's

offer is selected in Merrill. Thus, the District's offer will not result in a salary settlement that is below average among the primary comparables, either in terms of dollars or percentage, it argues.

When compared to increases in the cost of living, salary and fringe benefit increases in the District will continue to exceed that criterion, according to the Board. The cumulative salary increase of District teachers since 1980-1981 will have exceeded the Consumer Price Index increases in that same period by nearly 20% under the District's offer. Therefore, it argues, there is no justification for the 14.75% increase in salary proposed by the Association over the two years of the agreement, when the Board's offer would generate 12.44% and continue to exceed increases in the cost of living.

Next, the District argues that its offer provides increases which are in excess of those provided to other area public sector employees. The District argues that, under amendments to the interest arbitration law in Wisconsin, this criterion must be given separate consideration and the District's evidence demonstrates that increases in 1987, 1988, and 1989 among such employees in the County and in surrounding counties, have been consistently below those proposed by the Board for its teachers. Thus, taxpayers who have agreed to provide salary increases ranging from 3% to 4½% for municipal employees during those years, are being asked to pay for a 14.75% increase for a two-year period, under

the Association's offer. Clearly, this statutory criterion militates against selection of the Association's offer, according to the District.

The District's offer will also provide the Association with compensation that significantly exceeds the compensation received by other area professionals and private sector employees, according to the District. Employees in north central Wisconsin and in Wisconsin generally in various professional positions, have received average hourly wages which are considerably less than the average hourly wage earned by District teachers, under the District's method of calculation. In fact, the expectation of Rhinelander teachers, with regard to maximum salary achievable, exceeds other professional positions within Oneida County. Private sector wages have ranged from an 8% wage cut (at Rhinelander Medical Center) to a high of 5.5% at Rhinelander Foods, Inc. While some of the data is incomplete, the evidence concerning the private sector in Rhinelander clearly demonstrates that the District's offer is generous by comparison to wage increases being granted locally.

The District takes issue with the use of statewide data by the Association. The use of such data as a "secondary" comparable pool is contrary to the decision of numerous arbitrators, according to the District. The purpose of establishing a primary comparable grouping is to insure that such comparisons are appropriate, based upon similarities in size, equalized valuation,

cost per pupil, state aid per pupil, and full value tax rate. The use of statewide data ignores those considerations. Even so, according to the District, some of the Association's data actually supports the District's contention that teacher salaries have grown positively when compared to the increase in consumer prices. Utilizing four benchmark positions to demonstrate its point, the District notes that, on average, there has been a small gain in relation to increases in the CPI, according to the Association's own data.

Turning to the national studies of education relied upon by the Association, the District argues that they do not in fact support the Association's higher wage proposal. In effect, the Association has extracted only those portions of the reports in question which favor higher salaries, while ignoring the other recommendations which, according to the reports, must be taken as a whole. The Association's offer would not further any of the other recommendations, in particular those dealing with the establishment of teaching standards; restructuring of the teaching force; and the creation of relative incentives for teachers in relation to student performance. Put differently, the Association's effort is to isolate recommendations regarding increases in compensation and ignore questions concerning student performance, teacher productivity, and accountability. In addition, certain studies relied upon by the Association ignore differences in the work



year of teachers and other professionals to whom they are compared and rely upon national trends which are not necessarily accurate for purposes of comparisons within Wisconsin. Citing a number of arbitration awards, the District argues that the interest arbitration forum is not the appropriate forum for bringing about the kinds of changes in educational policy referred to in the reports in question.

Turning to internal comparisons, the District argues that the available examples all support the District's final offer. Thus, 1987-1988 wage increases for the non-teaching employees (other than the support staff which have not settled) will be 2% across the board and 2.24% average bonus for employees in the "administrative group." These figures clearly support the Board's offer rather than the Association's offer, it argues.

The Board maintains that the criterion referring to continuity and stability of employment likewise favors its offer. Citing data with regard to low teacher turnover and the relatively high concentration of teachers in the master's degree lanes, the Board argues that the Association's higher wage proposal is not necessary to maintain continuity and stability of the work force.

Finally, for the reasons discussed below, the District argues that its position on the five language issues should be favored over the Association's position on those issues and that, for this reason as well, its final offer should be preferred.

In reply to Association arguments, the District contends that the Association has "blatantly misrepresented" the District's prior position on comparability, by suggesting that the District proposed the same comparables now proposed by the Association in 1982 and that those comparables have served as a basis for negotiations between the parties since then. The District also contends that the Association, by its arguments, has failed to recognize the significance of the improvement in salary schedule agreed to as part of the stipulated items. That increase, which is worth the equivalent of .47% for 1987-1988 in salary alone, cannot be discounted or ignored, especially when it is remembered that teachers in the District receive compensation for each and every credit beyond the Bachelor's or Master's.

Reviewing the increase which will be enjoyed by the average teacher in the District, in comparison to the three settled districts in its primary comparables, with the value of the improvement in credits included, results in a finding that the District's offer is closer to the average than is the Association's. Thus, not only is its offer more strongly supported, when compared to the voluntary settlements in this group, but its per credit compensation, which did lag behind before, has begun to pull ahead. For these reasons as well, the District argues that its offer strikes a more appropriate balance between the needs of the teachers and the taxpaying public.

## Analysis

The lawful authority of the Employer is not implicated under either offer or under the evidence and arguments presented. The stipulations of the parties are largely irrelevant, except for the stipulation concerning the increase in compensation per credit for credits earned beyond the BA and MA lanes. As the Employer correctly argues, that stipulation is relevant for purposes of evaluating and comparing the two final offers on wage schedules.

While both parties invoke the criterion referring to the interest and welfare of the public in reference to their final offers, that criterion is only helpful in a general way. Thus, it is true, as the District argues, that the interest and welfare of the public requires that a balance be struck between the desire of the teachers for more compensation and better benefits and the ability of the public to pay the necessary cost. However, this is the function of the overall statutory scheme and the criteria thereunder. Similarly, the Association is correct when it argues that the interest and welfare of the public is generally served by the establishment of teaching salaries and fringe benefits which are fair and competitive. However, as the District argues, a balance must be struck and, as noted, that balance must be struck under the statutory scheme and criteria. Some of the other Association arguments,

based upon recommendations of national and state studies, while arguably related to the interest and welfare of the public in the broadest sense, are unduly focused on the recommendations having to do with compensation, as the District argues, and raise issues which go beyond the appropriate function of an interest arbitrator applying that statutory criterion in the context of a wage dispute. As the District correctly argues, changes in the nature of those recommended by the studies in question, will have to be brought about legislatively, if they are to occur.

Turning to the various comparisons referred to by the parties in their evidence and arguments, it is first noted that the undersigned has already concluded that, with one qualification, the Association's proposed primary comparisons should be utilized in this proceeding. Those comparisons can be drawn in various ways, including comparisons of the average increase in compensation received by a teacher in the various districts; the average percentage increase received by teachers in the various districts; and comparisons of actual teacher salaries at various points or "benchmarks." A review of the available data confirms the Association's contention that, even when the value of the increase in the compensation for credits earned is taken into account, the average increase in compensation which will be received by a teacher in the District and the average

percentage increase in compensation which will be received by a teacher in the District under its offer, is somewhat closer to the average of the districts in the primary comparability group.

The third, common method of comparison, utilizing "benchmarks," is arguably more valid in the long run, since it represents actual wages earned by teachers at the various points in the salary schedule at a given point in time. Unusually large or unusually small increases in dollars or percentages received by average teachers in a district can often reflect more on the need for "catch up" or the lack thereof, or placement on the salary schedule.<sup>2</sup>

The Association's benchmark analysis demonstrates that the District's placement among comparables is somewhat average and would not be adversely affected by its final offer; whereas, benchmark salaries would be adversely affected by the District's offer. The undersigned recognizes that the use of benchmark analysis tends to "ignore" the value of the increase in compensation per credit, because most of the benchmark points are unaffected by that increase. However, that increase in compensation is more appropriately compared in terms of the average dollar

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<sup>2</sup>The undersigned recognizes that benchmark analysis can also be distorted by some of the "manipulations" in salary schedules referred to by the District in its brief. However, those manipulations lose significance over time and the group of primary comparables does not include many examples.

increase and average percentage increase and, as the Association notes, the increase in per credit compensation was clearly called for under the comparative data. Thus, even though the District remains somewhat unique in its provision for an "unlimited" number of lanes, its compensation per credit will remain somewhat below average, until the \$100.00 per credit increase begins to have an impact over time.

In summary, under the comparison criterion among employees "performing similar services,"<sup>3</sup> the Association's offer on salary schedules is deemed to be the superior offer, regardless of which method of comparison is utilized. However, under the important benchmark comparison analysis, the Association's offer is deemed to be better because it reflects a "tendency to the mean" whereas the District's offer demonstrates the opposite tendency and will, as the Association argues, create pressure for "catch up" increases in the future.

The available comparisons to other public sector employees does support the District's offer, when viewed in terms of percentage increase alone. However, as the Association points out, it is difficult to compare teachers with other public sector employees, even those holding professional positions. This has

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<sup>3</sup>In view of the conclusions reached herein, it is unnecessary to consider whether, by changing the grammatical structure of the statutory criteria, the legislature meant to change the meaning of this particular criterion. In any event, that issue is one which may ultimately have to be answered by the WERC and/or the courts.

to do not only with differences in education and training and working conditions (including length of the work year), but also differences in pay systems and the labor market. The "internal" comparisons used by the Employer do not reflect negotiated settlements and suffer from many of the same problems that affect the data with regard to employees of other public employers, outside the teaching field.

The data with regard to the private sector is poorly developed, for reasons having to do with availability rather than the efforts on the District's part to provide meaningful data, and reflect a wide variation, when compared on a percentage increase basis. This variation undoubtedly reflects differences in labor market and product market forces which operate in the private sector, perhaps most notably exemplified by the data concerning the professional health care employees. While the District did endeavor to present hourly salary data for comparison purposes, those comparisons are filled with problems, not the least of which are those emphasized by the Association in its arguments -- differences in the work year and requisite educational training in order to achieve the wages in question.

When the most recent Consumer Price Index increases are compared to the total percentage increase in wages and the total percentage increase in cost under the two offers, this criterion favors the District's offer, if the objective of the

comparison is viewed as picking the offer which comes closest to holding employees "harmless" from the impact of recent inflation. However, as the historical data reflects, there has been a tendency in recent years to grant salary increases to teachers which reflect some progress in terms of real wages and that progress, in Wisconsin, has resulted in a modest increase. The recent data concerning statewide settlements introduced into evidence by the Union, suggests that this progress in real wages is continuing to occur in Wisconsin and the Association's proposal would appear to be more consistent with that trend, both locally and statewide, than the Board's.

While the available data concerning overall compensation and benefits suggests that the District is in the mainstream in relation to the primary comparables, there is nothing in the data to suggest that the District is above average or out of line in that regard. Put differently, the District would appear to be reasonably competitive in this regard, within the local labor market and relevant area of comparison, but it would be slightly less so if the District's offer were accepted.

As noted in the arguments, there would appear to be no changes in the data with regard to the statutory criteria which were not brought out at the hearing, when the record was closed, and there would appear to be no "other factors" which have a significant impact on the salary issue.



Giving consideration to all of the above points, the undersigned concludes that the Association's final offer on wage schedules is to be preferred over that of the District. However, even though both parties remain confident that their position on the salary schedules is not only sufficient to carry that issue, but the other issues as well, the undersigned believes that an analysis of those issues is required to insure that they do not alter the outcome suggested by the conclusion reached herein.

#### PERSONAL LEAVE

As the District argues, the Association would change the status quo under its proposal. The only evidence relied upon by the Association in support of its position in this regard is the evidence to the effect that a number of other districts in the comparable group have granted teachers one or two days of personal leave and allowed them to use sick leave for that purpose. However, it is apparent that the existing arrangement at Rhineland reflects an agreed to resolution of this issue, which is apparently of longstanding duration, and there is no evidence to demonstrate that the compromise reached by the parties has proven to be onesided or unreasonable. Nor is there any evidence of changed circumstances which would justify the new approach taken by the Association, by its proposal. For these reasons, the undersigned favors the District's position on this issue.

#### MATERNITY LEAVE/DISABILITY LEAVE

A careful comparison of the existing provision with the newly

worded provision proposed by the District, discloses that it clearly proposes no change in the status quo, at least with regard to maternity leave as such. However, the record is silent as to the District's practice, if any, in granting disability leaves for other reasons. While at first blush this lack of evidence might arguably be deemed fatal to the District's proposed change, the District would appear to be correct in its contention that it could not legally treat employees differently merely because the cause of their disability was or was not due to pregnancy and child birth. Therefore, even though the undersigned is somewhat uneasy about the matter, due to the lack of a full evidentiary record, he does not believe that this proposed change should be treated as a material or negative factor for purposes of evaluating the District's overall final offer.

#### INSURANCE

The Association's proposed change in the wording of the medical and hospitalization provision of the agreement represents a material change in two respects. First, it would require the District to fund the cost of any increase in the cost of such coverage, without regard to the term of the agreement or the relationship of such increase to the cost of the economic package and, secondly, it would incorporate a reserve fund requirement which may be consistent with requirements imposed by state law or regulation, but would appear to have no place in a

collective bargaining agreement. At the hearing, the Association presented two "position papers" wherein it took issue with a number of things, including the manner in which the District has exercised its right to change insurance carriers. However, as noted by the District at the hearing, the Association's proposals would not appear to have any direct impact on those concerns.

Again, the existing language of the agreement with regard to medical and hospitalization insurance, would appear to represent an existing compromise with regard to the cost of such program and the District's agreement to pick up the entire cost for the term of the agreement. The Association would propose to change that arrangement without offering sufficient justification, in the view of the undersigned. Also, there would appear to be no need for the language dealing with reserve funds. On the other hand, the District's proposal would change the agreement in a way which may well go beyond a mere "clarification" of intent. Thus, it would give the District the right, if it does not already have that right, to change its arrangements with regard to medical and hospitalization insurance. Giving consideration to all of these factors, the undersigned believes that the District's proposal should be preferred, but only slightly, because it would arguably have less of an unjustified impact on the status quo reflected in the terms of the expired agreement.

### LAYOFF PROCEDURE

While the District argues that its proposed changes in the layoff procedure are reasonable, it is clear that they represent proposed changes in the status quo of a carefully negotiated lay-off procedure, which is full of apparent compromises and mutual accommodations. The proposed change in the breakdown of categories of special teachers would appear to be based upon a desire for symmetry; however, the District offers no evidentiary basis for its claim that it would not adversely impact upon any teacher. The Association is understandably concerned about the intent of this proposal and negotiations would appear to be the appropriate forum for insuring that the change does not single out any teacher in a way giving rise to suspicion as to true motivation. The other proposed change in language represents a significant improvement from the District's point of view which likewise would appear to represent a modification in the balance struck by the overall layoff procedure agreed to. In the view of the undersigned, the inclusion of a date and the choice of a date by which layoffs must be effected, is a matter which ought to be subject to bargaining, given the fact that the parties have already established a substantial layoff procedure which undoubtedly reflects provisions which the Association would like to change as well.

### INCREASES FOR SUBSTITUTE TEACHING AND EXTRA CURRICULAR

Both parties agree that their respective proposals are consistent

with their practice in bargaining over the years. Thus, there would appear to be no reason to favor one proposal over the other in a way which is inconsistent with the undersigned's conclusion as to which final offer on salary schedules should be accepted. Because the undersigned believes that the Association's final offer on salary schedules should be preferred under the statutory criteria, evidence and arguments, the Association's position on this issue is likewise favored.

In summary and conclusion, it would appear that even though the Board's position is accepted on three of these five issues, the weighting which the undersigned would add to these issues, based upon their importance or significance, leaves neither party with a significant edge, in the view of the undersigned. The most significant or material changes relate to personal leave, insurance, and layoff procedure language and the Board's position on insurance is only slightly favored, for the reasons noted. The establishment of a May 1 date for layoffs is of obvious importance and so is the District's proposed "clarification" in its right to change insurance arrangements in the case of medical and hospitalization insurance. Therefore, after careful consideration, the undersigned is satisfied that the parties are correct in their analysis that the relative weight attached to the preferred outcome on these issues is insufficient to require a different outcome than that required by the analysis of the

salary schedule issue.

For all of the above and foregoing reasons, the undersigned renders the following

AWARD

The final offer of the Association is selected as being the more reasonable in relation to the statutory criteria and shall be incorporated into the terms of the parties' 1987-1989 collective bargaining agreement along with the stipulated items and the provisions contained in the expired agreement which are to remain unchanged under the final offers and stipulations.

Dated at Madison, Wisconsin this 17<sup>th</sup> day of August, 1988.

  
George R. Fleischli  
Arbitrator

RHINELANDER SCHOOL DISTRICT 1986-87 SALARY SCHEDULE

STEP	BA	MA
	-----	-----
1.0	17413	20471
2.0	17761	20880
3.0	18110	21290
4.0	19024	22169
5.0	19939	23049
6.0	20854	23929
7.0	21769	24808
8.0	22684	25688
9.0	23599	26568
10.0	24514	27447
11.0	25429	28327
12.0	26343	29207
13.0	27258	30086

RHINELANDER EDUCATION ASSOCIATION 1987-88 SALARY SCHEDULE PROPOSAL (5%)

STEP	BA	MA
	-----	-----
1.0	18284	21495
2.0	18649	21924
3.0	19016	22354
4.0	19975	23277
5.0	20936	24201
6.0	21897	25125
7.0	22857	26048
8.0	23818	26972
9.0	24779	27896
10.0	25740	28819
11.0	26700	29743
12.0	27660	30667
13.0	28621	31590

RHINELANDER EDUCATION ASSOCIATION 1988-89 SALARY SCHEDULE PROPOSAL (5%)

STEP	BA	MA
	-----	-----
1.0	19198	22570
2.0	19581	23020
3.0	19967	23472
4.0	20974	24441
5.0	21983	25411
6.0	22992	26381
7.0	24000	27350
8.0	25009	28321
9.0	26018	29291
10.0	27027	30260
11.0	28035	31230
12.0	29043	32200
13.0	30052	33170

RHINELANDER SCHOOL DISTRICT 1986-87 SALARY SCHEDULE

STEP	BA	MA
	-----	-----
1.0	17413	20471
2.0	17761	20880
3.0	18110	21290
4.0	19024	22169
5.0	19939	23049
6.0	20854	23929
7.0	21769	24808
8.0	22684	25688
9.0	23599	26568
10.0	24514	27447
11.0	25429	28327
12.0	26343	29207
13.0	27258	30086

RHINELANDER SCHOOL DISTRICT 1987-88 SALARY SCHEDULE PROPOSAL (3.5%)

STEP	BA	MA
	-----	-----
1.0	18022	21187
2.0	18383	21611
3.0	18744	22035
4.0	19690	22945
5.0	20637	23856
6.0	21584	24767
7.0	22531	25676
8.0	23478	26587
9.0	24425	27498
10.0	25372	28408
11.0	26319	29318
12.0	27265	30229
13.0	28212	31139

RHINELANDER SCHOOL DISTRICT 1988-89 SALARY SCHEDULE PROPOSAL (4.2%)

STEP	BA	MA
	-----	-----
1.0	18779	22077
2.0	19155	22519
3.0	19531	22960
4.0	20517	23909
5.0	21504	24858
6.0	22491	25807
7.0	23477	26754
8.0	24464	27704
9.0	25451	28653
10.0	26438	29601
11.0	27424	30549
12.0	28410	31499
13.0	29397	32447