STATE OF WISCONSIN

BEFORE THE ARBITRATOR

In the Matter of the Petition of DEERFIELD COMMUNITY SCHOOL DISTRICT To Initiate Arbitration Between said Petitioner and DEERFIELD EDUCATION ASSOCIATION	Case 26 No. 43958 INT/ARB-5664 Decision No. 26712 - A

Appearances:

Davis & Kuelthau, S. C., Attorneys at Law, by Mr. Daniel G. Vliet, appearing on behalf of the Employer.

Mr. A. Phillip Borkenhagen, Executive Director, Capital Area UniServ-North, appearing on behalf of the Association.

ARBITRATION AWARD:

On January 22, 1991, the Wisconsin Employment Relations Commission appointed the undersigned Arbitrator, pursuant to 111.70 (4) (cm) 6. and 7. of the Wisconsin Municipal Employment Relations Act, to resolve an impasse existing between Deerfield Community School District, referred to herein as the District or the Employer, and Deerfield Education Association, referred to herein as the Association, with respect to the issues specified below. The proceedings were conducted pursuant to Wis. Stats. 111.70 (4) (cm) and pursuant to procedural agreements executed by the parties on February 28, 1991. That agreement read in relevant part:

1. Given the extensive and protracted efforts to settle this dispute during negotiations and in mediation with Investigator Marshall Gratz of the Wisconsin Employment Relations Commission, the parties agree that further efforts to mediate a settlement by Arbitrator Kerkman would be inappropriate. Therefore, the parties agree to proceed directly with the arbitration as scheduled.

2. The parties agree to exchange exhibits and provide a copy of said exhibits to the Arbitrator prior to the hearing, as noted hereafter. The cost-

ing of each party's offer shall be exchanged by mail, postmarked no later than March 1, 1991, for purposes of verification before March 13, 1991. The remaining exhibits shall be mailed and postmarked to the other party and to the Arbitrator no later than March 13, 1991. The parties agree to review the exhibits and attempt to answer any questions or clarify any concerns regarding the exhibits or the costing of either side's wage and benefit offer prior to the hearing.

3. The parties agree that testimony shall be limited to the parties' exhibits, the Arbitrator's questions about the exhibits, and the parties' questions about the other party's exhibits.

4. At the hearing, the parties may also make any necessary corrections in the exhibits previously exchanged or introduce exhibits based on their review of the other party's earlier exhibits.

5. At the close of the arbitration hearing, the record shall be closed and no further testimony or exhibits shall be considered by the Arbitrator. A post-hearing briefing schedule will be arranged by the parties and the Arbitrator.

Hearing was held at Deerfield, Wisconsin, on March 22, 1991, at which time the parties were present and given full opportunity to present oral and written evidence and to make relevant argument. The proceedings were not transcribed, however, briefs and reply briefs were filed in the matter. Final briefs were received by the Arbitrator on May 29, 1991.

THE ISSUES:

The final offers of the parties include ten issues. Six of the issues, however, are undisputed because the final offer of both parties is the same for those issues. Consequently, the issues of preparation time remuneration, group life insurance, group LTD insurance (part-time), physical exam contribution, reassignment clause, and extra-curricular schedule will not be addressed in the discussion section of this Award. The disputed issues are identified and set forth accurately in Association Exhibit No. 2 as set forth below:

		Association Position	Board Position
1.	WRS Contribution Employee Share	Increase contribution up to 6.1%; reversion to status quo clause.	Status Quo - remains at 6.0%, both years.
2.	Part-time Teacher Dental Insurance Benefits	Status Quo - fully paid dental benefits.	Reduce benefit to contracted prorata amount.

3. Layoff/Recall Grievability	Delete restriction which limits grieving layoff-recall decisions.	Status Quo-retain limits on grieving layoff-recall decisions.
4. Salary:		
(1990-91)	$19,300 base salary $600-675-750 step increments; $600-675-750-825 lane increments; longevity @ $500.	$19,010 base salary $575-650-750 step increments; $550-750-800-825 lane increments; longevity @ $500.
(1991-92)	$20,600 base salary $600-700-800 step increments; $600-700-800-900 lane increments; longevity @ $500.	$19,535 base salary $575-650-750 step increments; $550-750-800-825 lane increments; longevity @ $500.

DISCUSSION:

Wis. Stats. 111.70 (4) (cm) 7. direct the Arbitrator to give weight to the factors found at subsections a through j when making decisions under the arbitration procedures authorized in that paragraph. The undersigned, therefore, will review the evidence adduced at hearing, and consider the arguments of the parties in light of that statutory criteria.

The principle issues in dispute are the salary schedules for 1990-91 and 1991-92. There are three other issues disputed, however, after careful review, the Arbitrator determines that those issues are of secondary importance, and the outcome of these proceedings will be controlled by the salary dispute.

THE SALARY SCHEDULE DISPUTE

In support of its position with respect to the salary schedule dispute, the Association makes the following argument:

" 1. The bench mark analysis of salaries of Deerfield teachers compared to the eight other eastern suburban conference districts reveals that Deerfield is well under the norm of the ESC; that by the District offer, the teachers would have their status compositely eroded further.

2. The Deerfield teachers deserve a "catchup" allowance; but even by their proposal, the amount being sought is conservatively appropriate and proper to be granted, as they could then creep from the cellar of rank.

3. Although the Deerfield teachers have recently achieved the longer local tenure compared with comparable districts, coupled with a longer-than-average increment step system, they have found their average salaries greatly diminish (sic) in comparable value and rank from a few hundred dollars to several thousand dollars in just five years, whether by comparable district or state-wide comparison.

4. The Association approached costing by actual and most current figures, rates, placements, etc. is not only reasonable but one adopted by arbitrators, even in this very District; the antics of the District to pick and choose either current or past data to suit their costing purposes should not be condoned; the District's use of inflated rates and data for projection of costs is equally unmeritorious as it fluffs its coffers.

5. The Association offer is more attuned to the settlement pattern than is the District, especially for the 1990-91 term.

6. As a process evolved, and to the dismay of the Board, the Association has met the prime concern of the Board in holding its package cost to 8% for each year of the Contract, as well as fall within the District's budgeted amount for salaries; the Union has done so within the interest and welfare of the public, as both parties continue to seek the highest level of education that can be delivered to taxpayers; in its accomplishment, the Union has allowed the Board to retain its surplus budget status.

7. The overall compensation criteria favors the Association, as the combination of low salaries, less than average health insurance rates and life insurance coverage, coupled with only an average level of other paid fringe benefits, determine the need for improvement in compensation for Deerfield teachers."

The Employer makes the following argument in support of its salary schedule offer:

"1. The parties should utilize the Eastern Suburban Athletic Conference as comparable school districts based on the historical pattern established by Arbitrator Slavney.

2. The normal indicia of comparability, i. e. total enrollment, teacher FTE and cost per member confirm that the athletic conference comparable pool is sound.

3. The costs of this dispute should be determined using the cast forward method of costing based on the 1989-90 staff. The majority of the comparable schools use this method and it is a standard in the industry.

4. The average teacher salary increases in total compensation under the Board offer exceed the pattern of settlements in the comparable schools for both contract years.

5. The Board's final offer either improves or maintains the rank and relationship to the comparable average at a majority of the bench marks.

6. The Board's 1990-91 salary offer exceeds the comparable bench mark

increases over 1989-90 in three of the bench marks and is closer to the average in the remaining two bench marks than that of the Association.

7. The salary increases in Deerfield have historically exceeded the cost of living. The Board's final offer continues this pattern."

THE PATTERNS OF SETTLEMENT

The undersigned will first consider the parties' offers compared to the patterns of settlement in the Eastern Suburban Athletic Conference. Both parties rely on the ESC as the primary set of comparables. The Association also provides evidence and makes argument with respect to the erosion of the salary position. For the purpose of establishing patterns of settlement, the undersigned will limit his comparisons to the Athletic Conference as the set of comparables. Later, when comparing actual salaries at specific points of the salary schedule, it is appropriate to consider both the Conference as a comparable as well as comparisons to the state average to determine whether teachers in this District continue to enjoy the same relationship with respect to the state averages that they heretofore enjoyed.

Prior to making the comparisons of patterns of settlement, it is necessary to determine which party's method of costing for the first year of the Agreement should be utilized. The Association, in calculating its costs for 1990-91, uses actual budget data to determine the cost of the salary and package increases. In the second year, the Association uses the cast forward method of costing, moving all those teachers in the employ of the District in the 1990-91 school year forward one year on the salary schedule. The Employer uses the cast forward method in both 1990-91 and 1991-92 school years. The Association argues that actual costs be utilized when they are known. The Association cites the Slavney arbitration decision involving these same parties which was issued on October 5, 1989. The Association also argues that in at least two of the comparable school

districts in this conference, actual costs are the basis for costing. The Employer, on the other hand, argues that the cast forward method is the one traditionally utilized in the majority of instances, both in negotiations and in interest arbitration matters involving teacher disputes.

The undersigned has considered all of the evidence and prefers the cast forward method for both years. The actual costing proposed by the Association for the 1990-91 school year includes cost savings that were generated by reason of senior teachers retiring or leaving the District's employ and being replaced by less senior employees who then occupy a lower spot on the salary schedule than did their predecessors. Without question, the Association method accurately defines the expenditures for teacher salaries and constitutes an accurate budget figure. That, however, in the opinion of this Arbitrator, is not the measure of the worth of a salary increase on a salary schedule. A salary or wage increase is measured by the percentage or dollar increase over the predecessor salary schedule. Were it not for the practice of including step increases when costing the dollar and percentage increases in teacher negotiations, it would be simple to calculate the percentage of increase per cell at the same spot in the salary schedule from the predecessor schedule to the new schedule. Because the practice is to cost the step increase, it is necessary to "cast forward" in order to take into account the step increases that are generated in addition to the negotiated increases to the salary schedule itself. When replacements are factored into the equation at a different step on the salary schedule than the one occupied by the replacement's predecessor, there is no longer a measure of the percentage increase negotiated for the improvement in the salary schedule and the movement of one step. Therefore, while the actual costing is an appropriate budgetary measure, it does not accurately reflect the amount of the negotiated increase. The actual costing becomes significant if the Employer pleads poverty

or inability to pay because, then, it becomes a matter of whether there are sufficient dollars in the budget to cover the cost of the negotiated settlement. The actual costing, however, does not measure the amount of the negotiated increase in the opinion of the undersigned.

Buttressing the conclusions in the preceding paragraph is the method the parties have elected to use when negotiating an increase in the extra-curricular salary schedule. For 1990-91, the parties both offered a 5% increase rounded to the nearest dollar over the rates that were effective in the predecessor Contract and in 1991-92 another 5% over the rates in effect for 1990-91. Thus, the parties have measured the amount of increase as 5%, irrespective of whether there has been turnover among the incumbents who occupied positions on that schedule. This is significant in the view of the undersigned in this Contract, because there was a provision which provides for $5 per year of paid experience for extra-curricular duties where the base salary is $500 or less, and $10 per year of paid experience where the base salary is $501 or more.

Finally, the cast forward method is preferred for comparison purposes when comparing patterns of settlement because it provides a more consistent and more reliable method of costing when making those comparisons than does the actual costing method. When comparing actual costing, the numbers of teachers turning over from one year to another, and the salary schedule that the departing teacher occupied compared to the salary level that a new teacher is hired, creates variables from one District to another which are not present in the cast forward method of costing. Because the actual costing method skews the results, depending on the amount of and levels of turnover, the comparisons are not as accurate as the cast forward method.

For all of the reasons stated in the preceding paragraphs, the undersigned will use the cast forward method for the purpose of comparing patterns of settlement among the comparable districts in the conference, except for Johnson Creek

and Dodgeland where actual costing data has been presented. For the year 1990-91, Johnson Creek and Dodgeland used actual costing, and the undersigned has removed them from the data contained within revised Board Exhibit No. 189. In recalculating the average dollar increase per returning teacher found in Board Exhibit No. 189, we find that the average of the six remaining school districts is $1,913. This compares to the Board's offer which generates $1,936 and the Association offer which generates $2,386. As a percentage, the six remaining school districts in the comparable grouping generate a salary percentage increase of 6.79% compared to the Employer offer of 7.3% and the Association offer of 9%. When comparing total dollars for the package per returning teacher, the six remaining school districts in the comparable pool generate an average of $2,935 compared to an Employer offer of $2,887 and an Association offer of $3,474. The package percentage for the six remaining districts is 7.7% compared to the Employer offer of 8% and the Association offer of 9.62%. The foregoing data establishes a clear preference for the Employer offer when considering patterns of settlement using the cast forward method.

The undersigned, for the purpose of verification, will compare the Association actual cost data with the patterns of settlement which emerged at Dodgeland and Johnson Creek, who also reported their settlements using actual costs for 1990-91. While the undersigned has concluded that these comparisons are less valid because of the variables involved as discussed in the preceding paragraphs of this Award, the undersigned, nevertheless, views the comparison to be appropriate for the purpose of verifying the conclusions reached when using the cast forward method. Dodgeland settled for $1,441 per teacher and Johnson Creek settled for $1,452 per teacher, which calculated to a percentage of 5.1% and 5.29% respectively. For total dollars and package percentage, the Dodgeland settlement generated $2,813 (7.2%) and Johnson Creek generated $2,494 (6.58%). Association Exhibit Nos. 10 and 13 set forth the actual costing method for the Association and the Board's offer for 1990-91. The Association salary offer calculates to $1,914 per returning teacher (7.21%) and the

Employer offer calculates to $1,471 per returning teacher (5.54%). The package percentage increase calculates to 7.95% for the Association offer, using actual costs, compared to 6.43% for the Employer offer. The Exhibits fail to set forth the total package dollars for using the actual costing method. The undersigned has interpolated that number as follows, using actual costs: Association offer, $2,789; Employer offer, $2,257. From the foregoing, we see that when comparing settlements in Dodgeland and Johnson Creek to the final offer of the Employer and the Association for 1990-91, using the actual costing method, the Employer offer, when comparing dollars per returning teacher, salary only, is higher than either the Dodgeland or Johnson Creek settlement, and the Association offer exceeds that number by $443 per returning teacher. The percentage comparisons, when considering salary only, establish the same results. The total compensation dollars of the Association offer are closer to the Dodgeland settlement, and the Employer offer is closer to the Johnson Creek settlement. Percentagewise, the Association offer exceeds either the total package percentage at Dodgeland by .75% and Johnson Creek by 1.37%. The Employer offer, as a package percentage, is approximately the same as the package percentage at Johnson Creek, and is .77% lower than the Dodgeland settlement when comparing the actual costings. On balance, when using the actual costing method, the Employer offer is still preferred when considering patterns of settlement at Dodgeland and Johnson Creek.

It follows from all of the preceding discussion that when considering patterns of settlement for 1990-91 among the comparables, the Employer offer is preferred. The Employer offer conforms to the patterns of settlement for 1990-91; the Association offer does not. The Arbitrator has considered the settlement data for 1991-92; however, there is insufficient data in the record to make valid conclusions.

SALARY BENCH POINT COMPARISONS

The patterns of settlement have favored the Employer offer, and unless the

catchup argument of the Association is supported by the record evidence, the patterns of settlement will control the outcome of this dispute. In order to determine whether there is a valid need for catchup, we need to look at comparisons of salaries paid at the significant points of the salary schedule, comparing the salaries proposed by these parties to the salaries which have been negotiated at the significant points of the salary schedule by the comparable school districts. To make that comparison, we look to Employer Exhibit Nos. 157 through 162 and Association Exhibit No. 44. The data contained within the Association and Board Exhibits provide information with respect to the BA minimum, the BA maximum, the MA minimum, the MA maximum and the Schedule maximum. The Employer exhibits include longevity when making the maximum comparisons at the BA maximum, MA maximum and Schedule maximum. The Association exhibit does not include the longevity in making the maximum comparisons. For the purpose of maximum comparisons, the undersigned will include the longevity, and, therefore, rely on Employer Exhibit Nos. 157 through 162 for the data necessary to make these comparisons. The comparisons, again, will be limited to the 1990-91 school year because of the insufficiency of data for 1991-92 only Dodgeland having arrived at settlement for that year.

The undersigned will limit his comparisons to the most significant comparisons in this Arbitrator's view, i. e., BA minimum, BA maximum, MA maximum, and Schedule maximum. From Employer Exhibit No. 152, we find that the Association offers a BA minimum of $19,300 and the Employer offers a BA minimum of $19,010. This compares to an average among the comparables of $19,610. The Employer offer improves the ranking at the BA minimum from 9 to 7; the Association offer improves the ranking at the BA minimum from 9 to 5.

At the BA maximum, we find that the Employer offer generates $29,385; the Association offer generates $29,925; the average among the comparables is $28,261. The Employer offer maintains the ranking at 5, whereas, the Association offer improves

the ranking to 4.

At the MA maximum, we find that the Employer offer generates $32,785 and the Association offer generates $33,225. The Employer offer maintains the ranking at 8, whereas, the Association offer improves the ranking to 7.

At the Schedule maximum the Employer offer generates $36,035 and the Association offer generates $36,375. The average among the comparables is $37,423. The Employer offer maintains the ranking at Schedule maximum at 8th position, as does the Association offer.

The foregoing comparisons fail to establish a case for catchup, because the rankings are maintained or improved by the Employer offer as they had existed in the year 1989-90. While it is true that there has been some erosion ($210) compared to the average of the comparables at the Schedule maximum, the MA maximum and the BA maximum, if the Employer offer is adopted, the undersigned is unpersuaded that the case for "catchup" has been made. At the Schedule maximum, the differential between the average and the position generated by the Employer offer causes an erosion from the average of $210. The Association offer improves the relationship to the average by $130. At the MA maximum, the Employer offer loses $198 to the average compared in 1989-90, whereas, the Association offer would improve the relationship to the average by $242. At the BA maximum, the Employer offer improves the relationship to the average by $44, whereas, the Association offer improves that relationship by $584. In the opinion of this Arbitrator, the foregoing data fails to establish a persuasive case for catchup. Unless the erosion from state averages is so severe that catchup is warranted, the undersigned is persuaded that the patterns of settlement which support the Employer offer should control the outcome of this dispute.

Association Exhibit No. 58 sets forth the state averages for BA minimum, BA maximum, MA maximum and Schedule maximum. Association Exhibit No. 59 sets forth the same information for 1990-91. We find in making the comparisons that in 1989-90

the BA minimum in this District was $1,864 under the state-wide average. In 1990-91, the Board offer would improve that relationship to $1,539 under the average, and the Association offer would improve it to $1,249 under the average. The BA maximum is not set forth in Association Exhibit No. 59, and, consequently, the BA maximum comparison cannot be made. At the MA maximum, the differential between this District and the state-wide average for 1989-90 was a negative $2,404. If the 1990-91 Employer offer is adopted, the differential becomes a negative $2,451, and if the Association offer is adopted it becomes a negative $2,011. At the Schedule maximum, the differential in 1989-90 was a negative $1,603 when comparing this District to the state-wide average. If the 1990-91 Employer offer is adopted, the differential becomes a negative $1,632, and if the Association offer is adopted it becomes a negative $1,292. The Employer offer, thus, improves the relationship to the state-wide average at the BA minimum and holds essentially the same differential at the MA max and the Schedule max. The Association offer narrows the differential by approximately $400 at the MA max and Schedule max, and approximately $600 at the BA minimum. Because there is little or no erosion if the Employer offer is adopted, the undersigned concludes that the Association has failed to make a "catchup" case by the state-wide comparisons.

There is in evidence in this record state-wide settlements for 1991-92. The undersigned has reviewed those settlements and notes that the data includes only 142 of 432 districts (32.9% complete). The undersigned views these numbers to be insufficient to establish a valid comparison for these purposes, and, therefore, no comparisons are made for 1991-92.

The Association has argued that the total compensation criteria supports its position. The undersigned has reviewed all of the evidence with respect to total compensation, and concludes that the Association reliance on the total compensation criteria is misplaced. The principal difference in the total compensation costs

is attributable to the fact that the health insurance premiums in this School District are lower than the health insurance premiums among the comparable districts. Notwithstanding the foregoing, the percentage increase in the package dollar increases generated for 1990-91 satisfies the undersigned that the total compensation proposal of the Employer is adequate, and, therefore, preferable, because it meets the patterns of settlement and the Association proposal significantly exceeds those patterns.

The undersigned has also considered the cost of living criteria, and the record establishes that the Employer offer generates increases which exceed the increase in the Consumer Price Index. It follows therefrom that the Employer offer meets the cost of living criteria as does that of the Association.

The Arbitrator has determined that the salary schedule dispute is the primary and controlling issue in this matter, and that the remaining three issues will necessarily have to be awarded to the party who prevails on the salary schedule issue. In the foregoing discussion, the undersigned has concluded that the salary schedule proposed by the Employer is preferred, and it follows therefrom that the Employer offer will be adopted in its entirety.

Therefore, based on the discussion set forth above, and the record in its entirety, after considering all of the arguments of the parties, and all of the statutory criteria, the undersigned makes the following:

AWARD

The final offer of the Employer, along with the stipulations of the parties as furnished to the Wisconsin Employment Relations Commission, as well as those terms of the predecessor Collective Bargaining Agreement which remain unchanged through the course of bargaining, are to be incorporated into the parties' written Collective Bargaining Agreement for the school years 1990-91 and 1991-92.

Dated at Fond du Lac, Wisconsin, this 5th day of August, 1991.

JBK:rr

Jos. B. Kerkman, Arbitrator