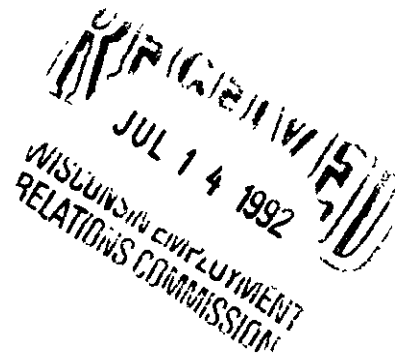


STATE OF WISCONSIN  
BEFORE THE ARBITRATOR



In the Matter of the Petition of

WISCONSIN FEDERATION OF TEACHERS  
LOCAL 395, WFT, AFT, AFL-CIO

To Initiate Arbitration Between  
Said Petitioner and

Case 46  
No. 46302 INT/ARB-6156  
Decision No. 27114-A

WISCONSIN INDIANHEAD VOCATIONAL,  
TECHNICAL & ADULT EDUCATION DISTRICT

APPEARANCES:

Stephen L. Weld, Esq. on behalf of the District  
William Kalin. on behalf of the Union

On January 22, 1992 the Wisconsin Employment Relations Commission appointed the undersigned Arbitrator pursuant to Section 111.70 (4) (cm) 6 and 7 of the Municipal Employment Relations Act in the dispute existing between the above named parties. A hearing in the matter was conducted on March 19, 1992 at Shell Lake, WI. Briefs were exchanged by the parties and the record was closed by June 29, 1992. Based upon a review of the foregoing record, and utilizing the criteria set forth in Section 111.70(4)(cm) Wis. Stats. the undersigned renders the following arbitration award.

ISSUES:

This dispute is over the terms of the parties' collective bargaining agreement covering the 1991-93 school years. There are several issues in dispute:

Wages--

District Proposal--

Increase salary schedule by 4.5% per cell both years of proposed agreement.

Union Proposal--

Increase salary schedule by 5% per cell both years, and increase credit reimbursement/lane differentials from \$40 to \$50/credit (or \$500 between lanes)

Retirement--

District Proposal--

Increase District contribution to employee's share of WRS to 6.2% effective January 1, 1992

Union Proposal--

Increase District contribution to employee's share of WRS to 6.1% effective July 1, 1991 and to 6.2% effective January 1, 1992

Early Retirement--

District Position--

Early retirement provision sunsets on June 30, 1991

Union Position--

Extend early retirement provision by changing expiration date from June 30, 1991 to June 30, 1993

Health and Dental Insurance--

District Position--

Status quo, which provides regular teachers with full health and dental insurance as long as they work a 50% schedule, and which provides project instructors who are full time with full coverage, and project instructors who are less than full time with prorated coverage.

Union Position--

For those employees employed for 17.5 hours or more per week for a total of 38 weeks or more per calendar year, the District shall pay the full premium for the entire year. For employees with less hours per year premiums will be prorated based on the number of hours worked.

## Comparables--

### District Position--

The primary comparables should be the three contiguous VTAE Districts, Chippewa Valley, Northcentral, and Nicolet. A secondary set of comparables should include four VTAEs which are geographically proximate to the District. These VTAEs include Western Wisconsin, Mid-State, Fox Valley, and Northeast.

The undersigned will first discuss the relative merit of the parties' proposals on each of the individual issues in dispute, and thereafter, the relative merit of the parties' proposed total packages will be addressed.

## COMPARABLES:

### District Position--

This is the first time the parties have required an arbitration decision to resolve an impasse. Consequently, the District's comparables have not yet been arbitrarily established.

The District's proposed primary comparables share substantially similar geographic, demographic, and economic foundations. The District's proposed secondary set of comparables, though more geographically distant, are demographically similar.

In contrast, the Union's proposed statewide comparables contain VTAEs so widely diverse in terms of size, location, demographics, and economic environment that they cannot be properly compared. Especially divergent are the highly urbanized VTAEs in the southeast: Madison, Milwaukee, Waukesha, and Gateway. Not only are they dissimilar in terms of their proximity, population and urbanization, but their economies are highly industrialized, unlike the the District's rural based economy.

It should be readily apparent that the Union's proposed comparables have been proposed chiefly because they support the Union's offer, not because they are truly comparable.

Although the District's proposed comparables contain some districts which are somewhat larger or smaller than the District, these districts are all located in the same geographic area of the state. The Union's proposed

comparables, on the other hand, contain districts which are far larger than the District and which are located all over the state.

In addition, property values in the District's proposed comparables are increasing at a rate much closer to the District's rate of increase than is the case in the Union's proposed comparable pool. In this regard the District's proposed primary comparables are experiencing the same slow growth in property values as is the District. The District's proposed secondary comparables, on the other hand, are fast growing, populous areas whose property values have far outstripped the District's increase in property values during the past decade.

The maximum mill rate that can be assessed for purposes of operating and maintaining a VTAE district is 1.5 mills, which is where the District is at. Districts which are levying the top tax rate possible can thus generate additional monies only if property values increase. All of the District's proposed primary comparables are at the tax rate limit. Conversely, the Union's proposed comparables, for the most part, are not. Because their operational budgets have increased at a faster pace than the District's, the districts not at the cap can also take a larger portion of the State VTAE aids which is a fixed pot of money allocated to districts on the basis of the relative size of their operational budget. The bigger the increase in the operational budget, the more State aid becomes available.

Additionally, the average adjusted gross income per capita in the District's proposed primary comparables very closely approximates the figures for the District. The income per capita in the District's proposed secondary comparables is significantly higher due to the industry and urbanization found in the Fox Valley and Green Bay areas.

In response to the Union's contention that Nicolet should not be treated as a comparable because of its somewhat nontraditional salary schedule, the fact that Nicolet's salary schedule lacks lane differentials in no way diminishes its value as a primary comparable. The percent per cell increases awarded in Nicolet are just as valid comparables as the increases awarded in other districts.

The fact that the District's proposed secondary comparables lack a 1992-93 settlement pattern does not mandate expansion of the comparable pool to include all of the other VTAEs in the State. In the absence of settlements, arbitrators do not extend the comparable pool; they look at the other statutory criteria. (Citation omitted)

### Union Position--

Historically, VTAE districts have compared their wages, hours, and conditions of employment with all other VTAE districts in the state, with special consideration given to those most comparable to the district in question. The primary comparables in this case should include the primary and secondary comparables proposed by the District, and the secondary comparables should include the remaining districts in the state.

Nicolet should not be included as a primary comparable because of its non traditional salary schedule.

The District's proposed comparables contain only two settled districts for 1992-93. If all state VTAE districts are utilized, there for seven 1992-93 settlements available for comparison.

### Discussion--

In the undersigned's opinion, the most appropriate comparables to utilize in this proceeding are the seven VTAE districts identified by both parties as either primary or secondary comparables since said districts are significantly more similar to the District than are the larger districts located in urban areas in the southeastern part of the State. In addition, the seven comparable districts all have 1991-92 agreements, which will allow the undersigned to analyze the parties' proposals in the context of a clear and well established settlement pattern.

### WAGES:

#### District Position--

The Union's wage demand is out of line with the settlement pattern in the District's primary comparables. When settlements in the District's secondary set of comparables are looked out, the District's wage offer is also closer to the settlement pattern.

In fact, the big four VTAEs (Gateway, Madison, Milwaukee, and Waukesha) are the only proposed comparables which support the Union's wage proposal.

The District does not dispute the fact that its salaries are, on several benchmarks, lower than the salaries of the comparable districts; indeed, the District is not, and never has been a wage leader. However, all of the salary rates have been mutually agreed to over an extended period of years. The

Union should not therefore now claim that the District's teachers are suddenly in a wage catch-up position.

A historical comparison of benchmark salaries reveals that the District's offer essentially maintains the District's salary ranking at the majority of the benchmarks. It is only at the MA 10th and BA maximum benchmarks where the District's ranking drops a notch under the District's offer--indeed, the District does not particularly want a high ranking at the BA maximum benchmarks since it wants the salary schedule to encourage movement through the lanes of the salary schedule by credit advancement.

It is also noteworthy that none of the District's other employee groups received a wage increase as high as that which the District's final offer would provide the teachers.

The District's wage offer is also more consistent with the wage increases awarded to other public and private sector employees.

The Union's wage proposal also results in a fundamental change to the structure of the salary schedule, and to the status quo. Such a change should not be imposed through arbitration unless there is a demonstrated need for such a change and unless a quid pro quo is offered for such a change. (Citation omitted) The Union has offered neither evidence of the need for such a change nor a corresponding quid pro quo.

Comparisons with the increment structure of comparable districts must take into account that the salary schedules are not structured in the same manner. In comparable districts intervening credit attainment lanes are not increased by a uniform amount for credit reimbursement, as is the case in the District. When percent per cell increases are applied to comparable schedules, they are applied to every single cell in the schedule, not just the "anchor" lanes. Thus, the salary schedules in the primary comparables are not appropriate comparables on this issue.

Union Position--

Both parties' wage offers for 1991-92 are below the average dollar increases and the average percentage increases on all benchmarks for the 15 settled districts. However, the Union's offer more closely reflects the average dollar and percentage increases

For 1992-93, based upon settlements in seven districts, the Union's offer is supported by both the average dollar increases and the percentage increases of the settled districts.

The District's offer for 1991-92 causes the District's teachers to drop substantially when average benchmarks of the District's proposed comparables are compared.

Comparable payments for credits also support the reasonableness of the Union's offer.

Relatedly, the Union's proposal regarding credit reimbursement is not a change in the structure of the salary schedule. It is merely an increase in the credit reimbursement rate.

#### Discussion--

Since a wage settlement pattern has not emerged amongst the District's comparables for 1992-93, the determination as to the relative reasonableness of the parties' proposals with respect to this issue will be based primarily on 1991-92 data.

In that regard the District's proposed 4.5% per cell increase is closer to the comparable average than the Union's proposal. When dollars per teacher generated by the parties wage proposals are compared, the Union's proposal is closer to the comparable average. When the average percent wage increase teachers will receive is compared, the District's proposal is slightly closer to the comparable average than the Union's, however, using this measure, neither of the parties' proposals is significantly more comparable.

When benchmarks are compared, the District's proposal is closer to the comparable average at the BA and MA minimums, but once teachers begin to acquire seniority in the District, the Union's proposed wages at traditionally compared benchmarks is uniformly more comparable to the comparable average than is the District's proposed schedule. Furthermore, in this regard, at the BA maximum, MA 10th step, MA maximum, and Schedule maximum, teachers in the District under both parties' proposals will be thousands of dollars behind the comparable average, justifying, in the undersigned's opinion, some catch up adjustment, and, in this specific setting, the increased credit reimbursement rate the Union is proposing.

Though comparisons with other public and private sector employees, and internal comparable settlements support the reasonableness of the District's

wage proposal, the record does not contain evidence pertaining to settlements covering public sector teachers in the area, which in the undersigned opinion, is the most relevant comparability data which might be considered in a proceeding such as this.

Based upon all of the foregoing considerations, the undersigned deems the Union's wage proposal to be more comparable and reasonable than the District's.

#### HEALTH AND DENTAL INSURANCE:

##### District Position--

The District's health insurance program is self funded. The District contracts with a third party administrator to handle the administrative aspects of the claims process and program maintenance. It then buys those claims which are covered. Pursuant to the third party administrator's recommendation, it has a certain sum of dollars reserved to pay claims.

In 1989 an actuarial study was conducted to determine the dollar premiums the plan would require if it were funded through a regular insurance plan. The study indicated that a conversion plan would require monthly premiums of \$100.80 for single and \$261.12 for family coverage. Because the District has not undertaken an updated actuarial analysis since 1989, these rates have not change for purposes of comparing premium rates.

In early 1992 the District changed the amount over which the District's stop loss carrier assumes full liability for payment of claims. Prior to 1992, the District had a \$30,000 deductible on each individual covered by the plan. The District raised that deductible amount to \$40,000 in 1992 in order to lower the stop loss carrier premium. The result was an increase in the District's total potential liability.

In fact there are no "real" health insurance premiums that the District pays. The District's costs depend upon a number of factors, including the rates of the stop loss carrier, the District's claims experience, the operational costs of administering the plan, and so on.

The District has therefore had to estimate the costs of the plan based upon data provided by the third party administrator.

The Union's suggestion that the District's reserve fund somehow offsets the premium rates it would have to pay in order to obtain the same benefits in



the open health insurance market is misplaced. The reserve fund is needed to pay future claims based on prior and estimated future events. The District's reserve fund is a fiscal requirement without which the self funded health program could not exist.

The District does not dispute the fact that it has kept its health costs relatively low. This is true even when comparing the District's estimated \$340.76 family premium to the premiums paid by other VTAE districts.

The most important aspect of the parties' dispute over health and dental insurance pertains to coverage for federally funded part time project instructors.

The District has always treated its federally funded project instructors as a separate and distinct employe group, and the Union has agreed to this practice. Not only do project instructors receive different benefits, but they are also paid on an hourly (vs. salaried) basis, and they are covered by an entirely separate addendum to the contract.

Comparability evidence indicates that while most districts treat part time project instructors the same as regular part time instructors, they do not provide the level of health insurance benefits demanded by the Union for either group. Nicolet is the only district which provides fully paid insurance for part time project instructors. Every other comparable district prorates health and dental insurance benefits for project people, just as the District does. Indeed, the proration of benefits for part time employees is a commonly accepted method of providing equal benefits for equal work. (Citation omitted)

The Union's emphasis on equal treatment for project instructors is therefore misplaced. When actual benefit levels are compared, it becomes obvious that the Union demands a higher level of health and dental insurance benefits for project instructors than are found in six of the seven comparable districts. This lack of comparable support is crucial with respect to this issue since the Union's demand seeks to change the status quo. In order to change the status quo, most arbitrators require the moving party to show a compelling reason for the change and an overwhelming pattern in the comparables. (Citation omitted) In addition, the Union has failed to provide any semblance of a quid pro quo in order to gain its requested change in benefits.

Another factor supporting the District's position on this issue is the level of insurance benefits which exists in the local communities, where the vast

majority of part time employees in the private sector do not receive full benefits, or even prorated benefits.

#### Union Position--

The issue in dispute is whether there should be equal benefits for all employees in the bargaining unit. The full time teaching load for project instructors is 35 hours per week. The full time work load for regular teachers varies from 22 hours per week to 30 hours per week, depending on the type of class taught. Regular teachers receive full health and dental insurance paid by the District for the entire year if they teach 50% or more of a full load for 38 weeks. A 50% load of lecture discussion teachers equals 11 hours; lecture lab teachers equals 12.5 hours; skill, laboratory, and shop teachers equals 12.5 hours, cosmetologist instructors equals 15 hours.

Thus, internal comparables clearly support the Union's position on this issue.

In addition, in all other VTAE districts, federally funded teachers receive fringe benefits at the same rate as nonfederally funded instructors.

#### Discussion--

The record indicates that though similarly situated part time project teachers are treated the same in this area as regular part time teachers, a clear pattern of prorated benefits for such individuals, consistent with the District's position herein, prevails. In addition, it is clear that the parties' have long agreed in the District that the project teachers in question would not be entitled to the same wages and benefits as regular teachers. Lastly, in support of the reasonableness of the District's position on this issue, it must be noted that the coverage provided and paid for by the District is superior to at least four of the seven comparable districts which require even full time employees to contribute toward family health insurance premiums.

Based upon all of these considerations, the undersigned deems the District's position on this issue to be more reasonable than the Union's

#### RETIREMENT CONTRIBUTIONS:

##### District Position--

The Union's demand is not supported by a majority of the comparables, wherein there is a 50/50 split with respect to 6.1% contribution in 1991.

Effective January 1992 however, most of the comparables agreed to pay the full 6.2%, which is consistent with the District's offer.

Though the Union asserts that the District fails to provide project instructors with the same WRS contribution increase as proposed for regular instructors, it is not the District's intention to so exclude project instructors. Though the District's final offer does not make that intent clear, the District's proposal is meant to provide identical increases to both project and regular employees.

#### Union Position--

The effect of the District's offer is that the teachers covered under the main body of the agreement will have deducted from their salary .1% from January 1, 1991 through December 31, 1991.

The District's final offer in this regard also discriminates against federally funded employees in that it doesn't cover said employees. The Union's offer treats federally funded teachers in the same manner as non federally funded teachers.

#### Discussion--

The record indicates that the Union's proposal in this regard is more consistent with the implementation dates utilized by a majority of the District's comparables (five out of seven) than is the District's proposal, and for that reason, the Union's proposal is deemed to be more comparable and reasonable than the District's.

#### EARLY RETIREMENT:

##### District Position--

*The Union's proposal in this regard results in a major change in the status quo.*

The early retirement provision was agreed to at the arbitration hearing for the 1989-91 contract. The agreement clearly states that the early retirement program would end on June 30, 1991. Thus, absent an agreement to extend said proviso, the status quo requires that the provision sunset. Simply put, the Union is attempting to gain via arbitration that which it was unable to obtain through collective bargaining. Lastly in this regard, for reasons discussed elsewhere the Union has failed to meet accepted arbitral standards for changing the status quo.

### Union Position--

The early retirement plan in the past agreement was specifically designed to insure a savings to the District. The District administration enjoys the same early retirement package that the Union is seeking to continue for its members.

Nicolet and North Central both have early retirement plans with benefits in excess of what is contained in the District's early retirement plan. All of the districts in the secondary set of comparables have early retirement plans equal to or better than the District's plan. Thus, the Union's proposal in this regard is more comparable and reasonable than the District's.

### Discussion--

It is clear that the parties intended that the early retirement program agreed upon in their last agreement would expire at the end of that agreement. However, comparability evidence indicates that a majority of the District's comparables have similar programs. In addition, the District has not disputed the Union's assertion that the program was designed to save the District money. In view of these two facts, and absent a persuasive reason why the early retirement program should not be continued, the undersigned deems the Union's position on this issue to be more comparable and reasonable than the District's.

### TOTAL PACKAGE:

The Board's costing of the parties' proposals is:

1991-92		Wages	Total Pkg.
	Board	5.78%	6.42%
	Union	6.42%	7.21%

The District's offer significantly exceeds the increase in the cost of living, and the same phenomenon has occurred since at least the 1982-83 school year. This becomes even more evident when one considers that teachers receive, in addition to percent per cell increases on the salary schedule, an increment increase as they move through the salary grid.

Though the Union argues that the District is losing ground with regard to its benchmark rankings, one must consider the fact that regular full time teachers in the District receive full health and dental insurance coverage,

while the majority of the teachers in comparable districts do not. With this in mind, when the parties' offers are analyzed with respect to actual average dollars received, the District's offer emerges as closer to the comparable 1991-92 average than the Union's offer.

Slow growth in property values combined with the statutorily capped tax rate has limited the District's ability to tax to meet rising operational costs. These factors have resulted in reduced state aids for the District.

The District experienced a budget shortfall in 1991-92, and one is also projected in 1992-93. That means that budget cuts cannot be avoided.

The District has tried to avoid making program cuts. The District's instructional costs per FTE rank the District 4 out of 16 VTAEs in that regard. Though the District is not unable to pay the Union's higher wage and benefit demands, if said demands are granted, the District will be required to make cuts in current programs, or, at the very least, postpone implementation of new programs.

Despite serious financial constraints, the District's offer provides a generous increase in wages while maintaining a higher level of insurances and other benefits than are enjoyed by most of the taxpayers who fund the teachers' salaries.

#### Union Position--

The District is attempting to inflate the total package costs of the parties' final offers by artificially increasing the monthly health insurance premium. At no time prior to the arbitration hearing did the District raise the issue of increasing the monthly premium either in 1991-92 or 1992-93. District witnesses admitted that the plan was adequately funded at the existing premium rate.

The actual value of the Board's 1991-92 total package offer is 5.4%, for 1992-93 it is 5.3%. The value of the Union's 1991-92 total package is 6.19%; for 1992-93 it is 5.79%.

The District's comparisons with other public employees does not take into consideration the performance of work comparable to the District's instructors. The District totally ignored wages and benefits granted K-12 teachers in the area.

In response to the District's cost of living arguments, all other VTAE districts were, and are aware of changes in the cost of living, and their granting of salaries and salary increases are in almost all cases equal to or in excess of those requested by the Union.

All VTAE districts have better fringe benefit packages for teachers than the District, yet the wages of the District's teachers are at the low end of the wage range.

Discussion--

Though it must be conceded that the Board's total package costing is an estimate only, because of increasing health care costs and because of the changes that the District has recently made in its self insured plan, it is highly unlikely that health care costs will remain unchanged during the life of this agreement. Based thereon, the undersigned deems the value of the District's total package proposal, which will probably exceed 6% or \$2800 per teacher for 1991-92, to be more in line with comparable averages (6.28%/ \$2931 per teacher) than the value of the Union's total package proposal.

The reasonableness of the District's total package is also supported by cost of living considerations, the demonstrated need by the District to moderate spending in order not to jeopardize instructional programs, and the fact that the District offers superior health and dental insurance coverage when compared with its comparables.

On the other hand, the undersigned has concluded that the Union's proposals regarding wages, WRS contributions, and early retirement are more reasonable than the District's.

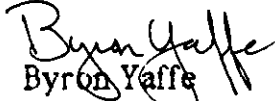
Based upon these considerations, it is obviously a difficult call to determine which of the two total package final offers should be selected. If the District's salaries for senior teachers were not so out of line, when viewed in the context of the District's comparables, the District's total package final offer would, in the undersigned's opinion, be deemed more reasonable than the Union's. However, because the disparity between the District's salaries and comparable averages for such individuals is so great, the undersigned feels compelled to conclude that the Union's total package final offer must be selected in order to move the District toward the comparable mainstream in this regard.

Based upon all of the foregoing considerations the undersigned hereby renders the following:

ARBITRATION AWARD

The Union's final offer shall be incorporated into the parties' collective bargaining agreement.

Dated this 13<sup>th</sup> day of July, 1992 at Madison, WI.

  
Byron Yaffe  
Arbitrator