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STATE OF WISCONSIN
BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the Petition of	:
	:
ASHWAUBENON EDUCATION ASSOCIATION	:
	:
To Initiate Arbitration	:Case 25
Between Said Petitioner and	:No. 46414 INT/ARB-6178
	:Decision No. 27189-A
	:
ASHWAUBENON SCHOOL DISTRICT	:
	:
	:

Appearances:

Ashwaubenon Education Association by Mr. Lawrence
J. Gerue, Director, Bayland United Northeast Educators.

Ashwaubenon School District by Godfrey & Kahn, S.C.
attorneys, by Dennis W. Rader, Esq.

ARBITRATION AWARD

Ashwaubenon Education Association filed a petition with the Wisconsin Employment Relations Commission, on October 21, 1991, wherein it requested the Commission to initiate arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act. The Commission caused an investigation to be conducted by a member of its staff. After the parties submitted their final offers on February 25, 1992, an impasse was declared. On April 13, 1992, the undersigned was appointed to arbitrate the dispute.

The arbitration hearing was conducted on June 17, 1992, at the Ashwaubenon School District offices in Green Bay, Wisconsin. Both parties submitted a series of exhibits into evidence and the record was closed at the conclusion of the hearing. Initial briefs were exchanged by the parties on July 28; extensive reply briefs dated August 17, 1992, were also exchanged. The Employer submitted a correction to its reply brief on August 26.

DISPUTED ISSUE

The prior agreement expired on June 30, 1991. Both offers in this proceeding would extend that agreement with stipulated modifications to June 30, 1993. The only issue which the parties have been unable to resolve is the level of wage increases over the two year period. The Board has offered an average wage increase of \$2,100 per teacher during the first-year of the contract and \$2,135 during the second year. This offer amounts to 4.22% on cell the first-year and 4.24% during the second year, compared to the Union offer of 4.93% and 4.81% respectively. The Board's offer would result in an overall wage increase of 5.31% during the first-year compared to the Union's 6.03 percent. The Union's second year offer would raise wages by 5.7% compared to the Board's 5.13 percent. The Union offer would cost \$54,417 more in wages and have a package cost of \$66,816 more than the Board's offer during 1991-92. During the second year of the contract the disparity would increase to \$103,036 in wages and \$128,170 total additional package costs. The two-year difference between the two offers totals \$157,453 in wages and \$194,986 in total package costs.

THE ASSOCIATION'S ARGUMENT

The Union noted that neither party had questioned the District's ability to pay the Union's offer. It argued that Union exhibits show that the Village of Ashwaubenon is one of the wealthiest municipalities in the state. Equalized valuation per member has improved more dramatically in Ashwaubenon than in Green Bay and other comparable districts. Between 1988 and 1991, this district's equalized value per member climbed from 132 to 87 in statewide rankings, while Green Bay went from 145 to 141 and the average equalized value of other Bay conference members decreased from 243.6 in 1988 to 242.1 in 1991. The levy rate in Ashwaubenon has dropped from being the fourth highest among comparables in 1985-86 to tenth out of eleven districts in 1991-92. Its mill rate is about the same in 1991 as the 16.26 mills

assessed in 1986. These favorable ratios have developed even though Ashwaubenon has the second highest school cost per member among Bay conference schools and Green Bay. In spite of relatively high teacher salaries and high school cost per member, the school tax burden is comparatively low in Ashwaubenon.

The Association stated that comparing the parties' offers to the Consumer Price Index is meaningless in this case. It argued that if such comparisons are made, arbitral authority supports comparing the wage offers in this case to CPI data "for the year preceding the expiration date of the collective bargaining agreement prior to the one that is in dispute." The Association concluded that both parties' first-year offers exceed the 1990-91 CPI wage adjustment of 3.5 percent. The Union's second-year offer exceeds the 1991-92 CPI increase of 4.6 by .21 percent and the Board's offer is .36 percent low. The Union objected to the Board's method of comparing past wage increases by projecting the value of present offers in increments that include both step and schedule increases. It argued that it is more appropriate to compare proposed schedule adjustments to the CPI and cited the most recent arbitration award affecting these parties in support of its position. The Union argued that there was no relevance in comparing the total of CPI increases from 1983-84 to date, to settlements between these parties during that period. Since the parties have reached voluntary agreements since 1982-83, CPI data obviously was of little importance to them during previous negotiations. That historic data should have little or no bearing in this dispute.

The Association alleged that Employer exhibits relating to B.A. and M.A. minimum salaries contain incorrect or misleading information for the Green Bay School District for the period after 1985-86. It explained that starting in 1986, step 2 became the hiring step for new inexperienced teachers hired after July 1. New hires with prior teaching experience continue to be placed upon the schedule based upon their years of experience starting with step one. The Union argued that, as a result, the

Board's exhibits do not contain accurate comparisons of minimum salaries at the B.A. and M.A. levels.

It argued that other Board exhibits reflect some longevity at B.A. and M.A. maximum "but selectively cut the longevity off at the 26th step of the salary schedule (not the 25th as noted in the exhibits)." The Green Bay salary schedule doesn't stop at step 26; 215 staff members collect longevity up to step 42. "This means that the Board has artificially assigned some 215 members a top salary (referring to Green Bay) which is in fact not true." The Union argued that the usual and preferred method to report and compare B.A. and M.A. maximum salaries is to limit the data to that information contained on the salary schedules not including longevity. Since Ashwaubenon longevity extends ad infinitum, while Seymour stops after twenty-two years, and Marinette extends only one year beyond its fifteen-year schedule, any attempt to compare maximum salaries with longevity is misleading. The Union argued that other Employer exhibits might mislead one to conclude that some school districts pay more to teachers with a master's degree than those with an M.A. plus additional credits. It urged that certain Board exhibits should be ignored and that the data provided by the Union should be relied upon.

The Association suggested the nine other members of the Bay Athletic Conference and the non-conference Green Bay City School District as comparables to Ashwaubenon in this proceeding. It argued that similarities in size, proximity to Green Bay and the Brown County Metro area, comparable student enrollments and FTEs, as well as arbitral precedent and the 1981 award involving these parties, support the Union's position. The Union distinguished the arbitrator's more restrictive choice of comparables in a 1983 decision by saying that both of the parties had advanced a more limited set of comparables in that proceeding.

The Union said that both parties had relied upon comparable data from the entire Bay conference while negotiating the current contract. Data from Green Bay was not available to the parties

during negotiations, because Green Bay had not settled until after these parties had submitted their final offers.

The Board has suggested using only the five Brown County Metro school districts and ignoring Green Bay because that choice of comparables is advantageous to the Board's position. Both arbitrators who previously decided cases involving these parties included Green Bay among Ashwaubenon's comparables. The Board should not be permitted to argue that Green Bay should be excluded just because Green Bay's recent settlement is disadvantageous to the Board's position.

The Union addressed the principal issue in this proceeding by saying that since wages were the only issue, only wages should be compared. It argued further that percentage increases are the only appropriate measure of wage comparisons. Ashwaubenon has traditionally been a salary leader in the area. Comparing slightly above average dollar increases will not allow Ashwaubenon to maintain its traditional leadership rank. Arbitrators in both previous Ashwaubenon cases have utilized wage percentages in fashioning awards in favor of the Association.

Since 1986-87, the Union has agreed to voluntary settlements which have been slightly below the comparable averages. As a result Ashwaubenon's leadership in wages has slipped over the past seven years. That slippage will continue through the period of this contract no matter which offer is accepted. If the Association's offer is accepted, Ashwaubenon's lead will have slipped by a cumulative 2.87% below the comparable average through 1992-93; that number would increase to 4.51% under the Board's offer. The Union anticipated that the Board would argue its case in terms of dollar increases. It reiterated its reasons for urging that the Board's position be rejected and urged that the Union offer be adopted.

The Association argued that Green Bay's 1991-93 settlement supports its offer. The B.A. base salary is an important benchmark for comparison. It presented data and compared Ashwaubenon's B.A. base salary with Green Bay's base for the

period 1983-84 through the party's 1992-93 offers. The data showed that between 1983-1985 Green Bay base salaries were from \$50 to \$110 above Ashwaubenon's. Since 1985-86, Ashwaubenon's base has been from \$643 to \$865 above Green Bay's. The Board's offer would reduce that margin from \$667 in 1990-91 to \$489 in 1991-92 and \$154 in 1992-93. The Union's offer would reduce Ashwaubenon's lead at base to \$644 during the first-year of this contract and \$444 during 1992-93. The Green Bay settlement, a 5.84% benchmark increase, was arrived at after these parties had submitted their final offers. The Board's offer in this proceeding would "result in a significant loss of position in terms of the B.A. base and causes a great dollar erosion at each of the salary steps - except for schedule maximum for the 1991-92 contract term." The Union offer would maintain the traditional relationship for 1991-92 but will result in some erosion in 1992-93.

The Union argued that salary schedule comparables support its offer. Traditionally seven benchmarks including the B.A.-7 lane have been used in collective bargaining. It is becoming common to eliminate the B.A.-7 benchmark, because that lane has a limited number of steps and is similar to the B.A. maximum lane. B.A.-7 should be eliminated from comparison in these proceedings, because in Ashwaubenon, that lane contains only seven steps and that lane is identical to the B.A.-Maximum lane. The Union argued that only Pulaski, with eight increments in the B.A. column, ranks behind Ashwaubenon in the B.A.-Maximum lane. The Association offer is below the average of the comparable group at every benchmark except B.A.-Maximum; that is because Ashwaubenon's schedule stops after seven steps in that lane while most comparable contracts continue on. The Board's offer is lower than the average at every benchmark. In the event the arbitrator decides to restrict his comparison to Green Bay and the schools of the Brown County metro area, the results will be similar to those outlined above. The Board's offer of 4.22% is below the 4.74% to 4.76% average negotiated by comparables. The

Union offer of 4.93% is just slightly ahead of that average. The Union urged that its offer should be found most acceptable.

In its reply brief the Association emphasized its previous argument that the percentage increases offered by the parties in this proceeding should be compared with benchmark increases achieved in comparable districts. It cited four recent cases in which arbitrators, including the undersigned, have evaluated the competing offers either in terms of percentages or evaluated the offers in both percentages and dollar terms.

The Union criticized the Board's argument that it provides excellent health insurance benefits at no cost to the teachers. It argued that the Board had decided to save money by adopting a self-funded plan. If the Board is not satisfied with conditions relating to that plan, the Board should resolve that dispute at the bargaining table. The tentative agreements reached by the parties in this proceeding cover all health insurance issues. Since the Board voluntarily agreed to settle health insurance issues, it is unconscionable for the Board to attempt to bolster its position in this proceeding by raising the health insurance issue at this time.

The Union then presented its historical analysis of Ashwaubenon salaries with the next highest ranked or the highest ranked school at all seven benchmarks. Since Ashwaubenon and Green Bay have been salary leaders, this comparison demonstrated the comparative effect of the two offers in this proceeding with the impact of Green Bay's 1991-1993 contract upon Green Bay salaries. The Association summarized this analysis by concluding that, at most benchmarks, the leadership which Ashwaubenon has historically exhibited would erode under the Union's offer. That erosion would be even greater under the Board's offer.

Finally, the Association argued that the arbitrator should consider the welfare and interest of Ashwaubenon teachers. It argued that because the increase granted to the teachers has been delayed through no fault of the teachers, the financial loss incurred due to the delayed settlement will never be recovered;

"The District has had . . . an interest free loan from the teachers for over a year."

THE DISTRICT'S ARGUMENT

The Employer began by urging that its proposed list of primary comparable school districts including DePere, Howard-Suamico, Pulaski, Seymour and West DePere be considered as comparables in this proceeding. It noted that these districts and Green Bay had been considered comparable by the arbitrator in the last arbitration proceeding between these parties. In that case, Arbitrator Miller determined that the above listed Bay Conference school districts, all contiguous to Ashwaubenon, were comparable. He stated further that he was not convinced that Green Bay "should be made the primary benchmark. Certainly, it should be part of the set of comparables used for the instant case (1983) but the amount of influence to attribute to it should be determined on an ad hoc basis." The Employer cited previous arbitration awards which stated: that arbitrators avoid changing comparables in order to provide some stability and predictability in the collective bargaining process; and, there is no justification for changing a comparable group just because that change would support a different position; and, once established, those comparables should not be disturbed unless overwhelming, compelling proof to the contrary is introduced.

The Board supported its position that Green Bay should not be considered a primary comparable by citing previous Howard-Suamico, Pulaski and DePere arbitration awards. In those cases, arbitrators discussed those elements which supported findings of comparability such as similarity in enrollments, FTEs, tax base, nearness to labor markets and other factors. Green Bay was not considered comparable in any of those arbitration awards involving Bay Conference schools. The District reviewed data relating to the size of enrollments, numbers of FTEs and the full value of taxable property for Ashwaubenon, DePere, Howard-Suamico, Pulaski, Seymour, West DePere and Green Bay. It concluded that because Green Bay has over 15,000 more students,

800 more FTEs and 2.1 billion in taxable property than the average Bay Conference district, the amount of weight given to Green Bay as a comparable must be diminished. The Board concluded this argument by noting, that when the Green Bay area School District was involved in arbitration proceedings, neither the District nor the Association suggested Ashwaubenon or any other Bay Conference school as comparable to Green Bay. Rather, in that case the union argued that the fifteen largest school districts, and the employer argued that the ten largest school districts in the state comprised the comparables. The Board concluded this discussion by restating its position that DePere, Howard-Suamico, Pulaski, Seymour and West DePere constitute primary comparables and that Green Bay should be considered less comparable.

The Board stated that its offer is the more reasonable based upon comparable district and statewide settlements. It argued that the two offers should be measured in terms of dollars. Percentage increases can be viewed differently depending on where one is on the economic spectrum. "The true test of a fair settlement is in terms of dollars received by workers." It cited previous arbitration decisions which held that greater weight should be placed upon monetary increases than on percentage increases. The Board reviewed average settlements for the other comparables with Ashwaubenon in 1990-91. In that year, Ashwaubenon's 5.56% generated a \$2,119 increase while the average increase among comparables of 5.88% generated \$1,850 more dollars. During 1991-92, the District's offer of 5.31% would generate \$2,100 or \$72 more than the \$2,028 generated by a 6.09% average granted to comparables. The Board's 5.13% offer in 1992-93, would result in a \$2,135 increase per teacher compared to the average increase of 6.08% or \$2,093 received by comparables. The Board cited Arbitrator Byron Yaffe's comments, in a Stockbridge School District decision, to support its argument that comparisons of dollar increases are preferable to percentage comparisons. It concluded that the Board's offer is by far the

more reasonable.

The Board stated that Green Bay's 1991-93 settlement resulted in abnormally high salary increases. In 1991-93, the average wage increase among the five Bay Conference comparables was \$2,028 or 6.09% compared to Green Bay's \$2,484 or 6.99 percent. Average package costs were \$2,850 or 6.50% for Bay Conference schools and \$3,600 or 7.50% in Green Bay. The data is soft because no percentages are available for Howard-Suamico and that \$2,050 wage settlement may be reduced by health insurance cost sharing; Pulaski data is from a tentative agreement which had not been approved. The average wage settlement for the remaining three conference schools was projected at \$2,126 or 6.08% compared to Green Bay's \$2,777 or 7.3 percent. Package costs are \$3,018 or 6.65% in the conference compared to \$3,723 or 7.2% in Green Bay. The Board argued that these abnormally high increases granted in Green Bay resulted from a number of factors. Those factors included examples of concessions Green Bay teachers made in health insurance coverage and deductibles, reduced security and lower schedule placement for new hires. This increase also included a salary "catch-up" in the base salary that teachers had lost as a result of a 1986-87 interest arbitration loss.

The Employer compared its salary increase offer of \$2,100 for 1991-92 and \$2,135 for the last year of the contract with average settlements among its comparables. Without Green Bay, the average increase equalled \$2,028 during the first-year and \$2,064 in the last year. If Green Bay is included, the average of six settlements increases to \$2,104 and \$2,206, compared to the Union's offer of \$2,383 in 1991-92 and \$2,387 during 1992-93. The Board concluded that, "[i]f Green Bay's extraordinary settlement is factored into the average, under the Association's proposal, teachers would still receive \$279 more than the average in 1991-92, and \$181 more than the average in 1992-93. The Board made similar comparisons with the Association's proposed comparable pool, which it called obsolete. The results are

similar to those outlined above. It completed this review by concluding that the Association's proposal, "serves to outdistance comparable settlements with excess increases ranging from \$456 to \$678 over the term of the contract."

The Board compared the two wage offers in this proceeding with average teacher settlements statewide for the three-year period ending 1992-93. It argued that the District's offer is \$111 greater in 1991-92 and \$90 above the average for 1992-93. The Association's offer is almost \$500 and \$342 above the statewide averages for these two years.

The Employer compared its offer of 5.31% for 1991-92 with three Village of Ashwaubenon settlements of 3.5% during that period, with fourteen Brown County settlements of 4% each in 1991 and twelve Brown County settlements averaging 4% in 1992. It concluded that its offer in this proceeding is more generous than those increases granted to other local municipal employees during the period 1990-1992. The Board cited an exhibit containing the results of a survey it had sent to twenty local private sector companies. The exhibit indicated that wage settlements among the eight employers who had responded to the survey averaged 3.8% in 1991 and 3.9% in 1992. It cited evidence that for settlements in the private sector, in the year ending March 1992, non-union workers received 3.3% wage increases and Union wage increases averaged 3.4 percent.

The Board argued and cited arbitral authority stating that special importance should be paid to the total cost of the compensation package. It criticized the Union for not presenting any data about the total cost of its offer. The Employer presented total cost data for its suggested comparables both with Green Bay included and without Green Bay. In both instances the Board has offered more in total compensation than the amount paid by comparable school districts. Similar results were noted when comparing the two offers in this proceeding with statewide average package settlements. In 1991-92 the Board offer was \$290 above the average compared to the Union offer being for \$630

above average. The numbers for 1992-93 are respectively \$221 and \$525 above the statewide average cost.

The Board stated that it provides a superior health insurance benefit with no cost to Ashwaubenon teachers. It reviewed data showing that in 1991-92 only one of the comparables, including Green Bay, would pay 100% of health insurance premium cost. Ashwaubenon's cost for health insurance is 30% higher than the cost for the average comparable and has increased by 13% and 10.8% during the two year term of the present contract. Ashwaubenon's health insurance costs have increased by \$94,437 to a total of \$831,835 in 1991-92 and will increase by an additional \$90,421 during 1992-93. All of this increased cost will be paid by the District. In 5 of 6 other districts, employees will be required to contribute between \$159 and \$396 in 1991-92 and between \$134 and \$295 in 1992-93. When these employee costs are deducted from the wage increases granted in comparable districts the net average salary increases are \$1,896 and \$2,024, compared to the Board's offer of \$2,100 and \$2,135 compared to the Union's offer of \$2,383 and \$2,387. The Board cited a 1990 Plymouth School District award in which the arbitrator said that total package cost should be given considerable weight. The Board cited evidence that private sector employees in ten of eleven cases were required to contribute an average of \$97 per month toward family health insurance premiums. It discussed the growing trend to require employees to contribute increasing amounts toward the cost of health insurance and pointed out that Ashwaubenon teachers are insulated from these costs under the Board's offer.

The Board argued that it would maintain its traditional rank as the wage leader at all benchmarks except B.A. max. if its offer is accepted. Its rank will not be affected by either party's offer. It cited a prior arbitrator's opinion that a municipal employer in a leadership position should not suffer for

not offering a percentage of increase as great as those employers who may be obligated to catch-up.

The Board compared both offers to cumulative consumer price index increases over periods of eight and ten years. It concluded that Ashwaubenon salaries have far outstripped the CPI. Both parties' offers would exceed projected CPI increases through 1992-93. The Board argued that its offer of 10.44% over two years is more reasonable than the Union's offer of 11.73 percent. The Employer reiterated that it had absorbed a 23.8% increase in health insurance costs over the two year period of this contract, and argued that the value of those benefits to the teachers must be considered in evaluating the Board's offer. It cited prior decisions in which arbitrators had discussed the increased costs of health insurance benefits paid for by the employer as significant in evaluating the total economic value of the parties' offers. It stated that, by this measure, the District's final offer emerges as the more reasonable.

The Employer argued that its offer strikes a reasonable balance in the competing interests of the teachers and the general public. The Board argued that its 10.44% salary offer over the term of this contract "clearly represents a balancing of all the statutory criteria." The interest of the public will not be served by granting the Association's offer for an 11.73% salary increase. The District's offer reflects a realistic approach which best serves the interest and welfare of the public.

In a 39 page reply brief the Board reiterated its positions that: those Bay Conference School Districts contiguous to Ashwaubenon should be selected as primary comparables; dollar comparisons are more relevant than percentage comparisons; its presentation of data relating to Green Bay salary schedules and its having included longevity pay in salary comparisons was justified and consumer price increase data and cost of living adjustments supported its offer.

In regard to the question of including longevity compensation in benchmark salary comparisons, the Employer argued the practice, "is wholly appropriate given the location of the teaching staff on the salary schedule." It summarized exhibits which show that 145.27 of Ashwaubenon's 192.52 teachers or 75% of the teaching staff are off the schedule. The District's benchmark comparisons utilized available data for 55.35 FTE's compared to only 13.18 FTE's affected by the Association's data. The Board stated that the comparable data it had presented reflects the competitive earning capacity of Ashwaubenon teachers under present conditions. The Board reviewed the dollar increases that Ashwaubenon teachers would receive under its offer compared to dollar increases the Board's comparables plus Green Bay will receive during 1991-92. That analysis included longevity to 25 years for 8 benchmarks, three of which included longevity. These comparisons showed that Ashwaubenon teachers would receive salaries from \$1,582 to \$5,045 above the average at all benchmarks except BA MAX where they would receive \$3,061 less and BA MAX with longevity where they would receive \$1,682 less, than the comparable average. The Board compared both parties' offers in terms of dollars with the Union's preferred comparables including Green Bay, and concluded that Ashwaubenon teachers would receive salaries averaging \$2,532 above average under the Board offer and \$3,215 above average under the Union offer. The Board argued that Ashwaubenon which has been a wage leader will maintain its leadership under the Board's offer. It accused the Union of manufacturing the theory that salary leadership would erode in order to obtain even higher salaries.

The Board noted that its offer would maintain the relationship of Ashwaubenon with comparables and cited arbitral authority for the position that "it should be more difficult for a union to propel itself further from the average when it is already ranked No. 1 at the benchmark."

The Board reviewed and restated arguments it had previously made relating to: dollar comparisons with Green Bay's settlement, the relevance of concessions made by Green Bay teachers to Green Bay's wage settlement, the fact that the Board's offer would maintain Ashwaubenon rankings at all benchmarks except for Green Bay. It criticized the Union's statewide benchmark analysis as inappropriate and inadequate.

The Board reviewed its position that the historical CPI data is appropriate and that experience increments should be included in the salary increases that teachers receive for cost of living comparisons. It reviewed cost of living data and concluded that its offer exceeded that index both with and without including incremental step increases. The Board critically reviewed the Association's newspaper exhibits and concluded that not one of these articles supported the Union's offer.

The Board concluded by arguing that its employees should be paid for the fair market value of their skills, not upon the ability of the employer to pay. Comparable settlements in Ashwaubenon, Howard-Suamico, Pulaski, West DePere, DePere and Green Bay, all located in Brown County, during the instant time provide an indication of the fair market value of teacher services.

DISCUSSION

Both of the parties have cited a number of the statutory criteria to support their arguments. Though the only issue to be decided in this case is wages, a number of ancillary arguments merit consideration. In order to give some structure to this discussion, the party's arguments are discussed in the order set forth in Wis. Stat. 111.70(4)(cm)7. There are no disagreements relating to the first two criteria, the authority of the District to implement either of the offers or about the stipulations of the parties.

The third standard asks that ability to pay and the welfare of the public be considered. The Association has argued that Ashwaubenon is a wealthy municipality. The equalized valuation

supporting each member of the school district has increased over recent years. Its equalized valuation is first among comparables and has improved from 132 to 87 of 429 districts statewide. Its levy rate is relatively low and the school district mill rate was about the same in 1991 as it was in 1986. Because of the successful development of a TIF district, the municipality will be able to retire general obligation debt five years ahead of schedule resulting in a three million dollar windfall for the school district in 1991-92. From the foregoing the Union has argued that the ability to pay is not an issue in the proceeding. The Board has argued that the interest and welfare of the public will not be served by granting the Union request, and that granting that increase would ignore relevant economic indicators and perpetuate teacher wage increases that have no relationship to what is happening in the real world. Both parties have referred to the criteria "interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement." The Union has argued, "that the arbitrator should consider the welfare and interest of the Ashwaubenon teacher." The Board has not claimed that it is unable to pay either of the offers, therefore, ability to pay is not an issue. Though both parties have argued creatively that their offer is more in the interest and welfare of the public, neither party has been convincing in arguing its point.

Arbitrators recognize the merit of maintaining a consistent set of comparables to guide the parties during negotiations and for arbitral comparisons under Wis. Stat. 111.70(4)(cm)7d, e, h and j. Arbitrators generally accept the member schools of an athletic conference as primary peer institutions for comparison and then add districts to that base or subtract from it, depending upon the circumstances, until the decision maker believes that an optional base has been established for comparison purposes.

When these parties went to arbitration in 1981, the Union offered Green Bay, other members of the Bay athletic conference and four larger school districts in the Fox River Valley as comparables. At that time the Employer suggested eleven school districts including DePere, West DePere, Howard-Suamico, Seymour and New London from the conference as primary comparables. It also suggested that six non-conference schools including Green Bay were less comparable. Arbitrator Hutchinson concluded that "the historical relationship within the athletic conference and with Green Bay are the most relevant for purposes of comparability."

Two years later the Union suggested that Green Bay should be the primary comparable and the "metropolitan area school districts from Ashwaubenon's athletic conference, namely Howard-Suamico, DePere, West DePere, Seymour and Pulaski" should be given secondary consideration. The Union argued in 1983 that New London, Clintonville, Marinette and Seymour from the conference were too geographically remote to be considered as comparable. At that time the Employer suggested that all nine other conference districts were comparable. It argued that Green Bay, because it was five times larger than Ashwaubenon, assessed at a much higher rate and with a much larger tax base, was not comparable. Arbitrator Miller determined that DePere, West DePere, Howard-Suamico, Pulaski and Seymour, all Bay conference districts contiguous or very close to Ashwaubenon, constituted a valid and useful set of benchmarks. Those five conference districts and Green Bay were considered comparable for the 1983 arbitration award. It is clear from Arbitrator Miller's discussion, however, that he was not comfortable with including Green Bay in the comparable pool. He qualified Green Bay's inclusion by saying, "the amount of influence attributable to it should be determined on an ad hoc basis."

For these proceedings, the Union has suggested that all of the members of the Bay Conference and Green Bay should be compared to Ashwaubenon. The Employer has recommended that

DePere, West DePere, Howard-Suamico, Pulaski and Seymour be considered primary comparables and that Green Bay should be considered to a lesser degree. The parties have reversed the positions that they argued in 1983 relative to which Bay Conference Districts are comparable. The District appears to have accepted the previously adopted comparable pool subject to the Caveat that Green Bay is less comparable. The Union has emphasized comparisons with the entire conference and relied heavily upon Green Bay as a comparable. It is exactly the circumstances that exist in this case that have caused arbitrators to recognize that once a comparable group has been established, that group should be recognized during subsequent negotiations and proceedings unless there is some objective basis for altering its composition. No objective basis for changing the previously established group has been presented on the record. Accordingly, Howard-Suamico, DePere, West DePere, Seymour and Pulaski constitute appropriate comparables herein. Occurrences in the remaining Districts of the Bay Conference and the Green Bay School District cannot be ignored in this proceeding. Occurrences in those districts, however, are of limited value in evaluating the positions of the parties in this proceeding.

Previous arbitrators have commented on their reluctance to find Green Bay comparable to Ashwaubenon. There are so many similarities between these two school districts that it doesn't seem satisfactory to simply make the finding that they are not comparable. The fact is that Green Bay is one of the larger metropolitan school districts in Wisconsin. Decision makers are aware that in many instances there are environmental and logistical characteristics present in large urban school districts which do not exist in proximately located suburban districts. It is for that reason that when larger metropolitan districts select comparables, they look for other school districts, often geographically distant, with similar urban characteristics. It is significant to note, that while members

of the Bay Conference including these parties have from time to time asserted that Green Bay was comparable to Bay Conference Districts including Ashwaubenon, the converse has not happened.

Both parties have relied heavily, in this proceeding, upon comparisons of their wage offers with settlements and resulting wage schedules in "comparable school districts." The Union has compared the offers in terms of percentages; the District has compared the impact of both offers in dollars. Both parties noted that Ashwaubenon has historically been a salary leader, paying the highest wages at all benchmarks except B.A. Maximum, in the geographic area. Each party insisted that because of that historic relationship, its methodology was preferable.

The Association calculated the average benchmark percentage increase granted to its preferred comparables including Green Bay from 1986-87 through 1990-91 at a cumulative 25.89 percent. During this period, Ashwaubenon teachers received 22.94% in cumulative increases. For 1991-92 the Union's comparables received 4.97% and in 1992-93 an additional 5.12%, bringing the group totals to 32.15% through 1991-92 and 38.07% through 1992-93. Under the Union's offer, Ashwaubenon teachers would receive a total 28.99% through 1991-92 and 35.2% through 1992-93 compared to the Board's 28.12% and 33.56 percent. The problem with this analysis is the inclusion of the entire conference and Green Bay in the peer group. When the comparison is made with Bay Conference Metro schools the cumulative average through 1990-91 totals 22.89% compared to 22.94% in Ashwaubenon. During the period of the present contract, the comparable group total is 27.53% through 1991-92 compared to the Board offer of 28.12% and the Union offer of 28.99 percent. Only two comparables have settled for 1992-93 at an average 4.83 percent. When this limited data is included, the averages through the last year of the contract are 32.36% for the comparables, compared to the Board's 33.56% and the Union's 35.2% cumulative seven-year wage increase total.

The Board presented its comparative analysis in terms of total package increases measured in dollars in those districts which have been found to be comparable. It offered comparisons for the group both with and without Green Bay, and also compared the offers to total package settlements statewide. This analysis showed that the Employer had offered between \$408 and \$283 more than received by comparables, and \$290 more than the statewide average in 1991-92. The Union's offer exceeded these average increases by \$748, \$623 and \$630; 1992-93 settlements among comparables were between \$267 and \$91 less than the Board offer and either \$571 or \$395 less than the Union offer. The Union compared both offers in dollars to its expanded comparable group and concluded that the Board's offer was \$21 less than average for 1991-92 compared to its offer which was \$262 above average. For 1992-93, the Board offer was \$119 below and the Union offer \$133 above average. The foregoing and other financial comparisons made by the parties demonstrate that the outcome of the analysis depends upon which methodology is employed.

Both parties discussed the impact of the offers upon the salary schedule. The Board correctly noted that only 47.25 of the 192.52 affected employees fit on that schedule. Because the faculty at Ashwaubenon is very experienced, 145.27 FTEs have both scheduled salary and longevity increments included in base wages. (Note: the parties agreed that there are 173.1 teachers. Their schedules and exhibits variously include data for between 189.4 and 192.52 employees, at least 16.39 of which are non-teaching staff.) Longevity is also included in some comparative data for the parties' comparables. It should be noted that the disagreement over wages in this instance amounts to the Board offer being \$21 less than average in 1991-92 and \$119 below average in 1992-93 using the Union's comparables or \$72 and \$42 respectively above average using the Employers comparables. The arbitrator does not want to suggest that these differences are not important. In order to place the issue into perspective, however, it is noted that 120.8 of the teachers listed on Exhibit

ER-5; have masters degrees or above. The average salaries for those individuals range from \$41,952 for 12.23 FTEs in the M.A. lane, \$43,309 for 20.57 individuals in the M.A. + 8 lane, \$43,956 for 11 M.A. + 16, \$46,377 for 38 M.A. + 24 and \$47,770 for 39 individuals with M.A. + 32 graduate credits. At the lowest end of the scale 13.35 FTEs in the B.A. lane receive an average of \$27,918 in wages and longevity. (This salary analysis compares the lower of the two offers for 1991-92 per ER Ex 5 i).

Because the faculty at Ashwaubenon is more experienced than any comparable faculty, it is better compensated than any comparable faculty. Both offers generate more dollars per average teacher than any comparable offer or settlement. The Union's comparables and comparable data are heavily influenced because Green Bay is included in the Union's data base. Green Bay is not fully comparable to Ashwaubenon. Green Bay's 1991-93 settlement appears to be high in comparison to settlements deemed comparable in this proceeding. The Employer has cited a number of concessions by Green Bay teachers which may account for that wage settlement. Those elements are not present in this proceeding. If Green Bay's settlement is disregarded, there is insufficient evidence to support the Union's argument that serious erosion will result if the Board's offer is adopted. Though there will be some erosion when the offers are measured in terms of percentage increases, the magnitude of the dollar increase offered by the Employer is substantial. The impact of the Employer's offer upon the salaries of this experienced faculty measured in terms of dollar increase is sufficient to maintain the relationship of the salaries which will be received by Ashwaubenon teachers during the term of this contract. The faculty in this district will continue its historic salary leadership under the Employer's offer. The Board's wage offer of 10.44% over the two-year period of this contract is more comparable to the wage settlements arrived at in DePere, West DePere, Howard-Suamico, Seymour and Pulaski than the Union's two year offer of 11.73 percent.

Comparisons of the two offers in this proceeding with other public employee settlements in Ashwaubenon and Brown County show that both offers exceed comparable settlements. Three Ashwaubenon 1991-92 settlements were at 3.5 percent. There are fourteen 1991 and twelve 1992 Brown County settlements, all at 4 percent. The 5.4% increase granted Ashwaubenon superintendent in 1991-92 is closer to the Employer's 5.31 offer to the teachers than the Union's 6.03% for 1991-92. The 4.88% average increase granted to eight other administrators is less than either party's offer. (Assn. Ex's 63 & 65)

The evidence of private sector settlements which was presented by the Board does have its limitations. Recognizing that the data has limited value, this arbitrator has not relied too heavily upon the conclusion that private sector salary increases in Brown County averaged 3.81% in 1991 and 3.9% in 1992. To the extent that the data is reliable it supports the Employer's offer.

Both offers exceed relevant Consumer Price Index increases. The arbitrator agrees with the Union that there is little merit to the Board's historic compilation of salary settlements in this district with accumulated CPI increases over time for the purpose of comparing the offers in this proceeding under standard 7g. The Board is justified, however, in submitting this evidence to refute the Union's argument that serious historic wage erosion will occur if the Employer's offer is accepted.

The Union has objected to the Employer's argument that the value of health insurance benefits received by Ashwaubenon's teachers should be included in the consideration of the two parties' wage offers. The Union argued that since all of the health insurance issues have been agreed to it is unconscionable for the Board to raise health insurance coverage in this proceeding which is limited to wage issues. If the Board was attempting to change any of the agreed upon terms, the Union argument would be correct. The Board is not attempting to change the stipulations previously agreed to. It has merely cited the

cost of that agreement as an element which has contributed to the overall package cost of the two wage offers in this proceeding. The Union's argument flies into the face of the requirement that the arbitrator consider "the overall compensation presently received by the municipal employees, including . . . insurance and pensions, medical and hospitalization benefits . . . and all other benefits received." The Board's arguments which are summarized at pages 11 and 12 above are significant and remain unrefuted. When the total cost increase of the two benefit packages are compared, the Employer's offer appears to be the most reasonable.

The Union argued that because the increase granted to the teachers has been delayed through no fault of the teachers, the teachers financial loss will never be recovered. It argued that the welfare and interest of the teachers should be considered by the arbitrator. It is an established principal that neither party to an arbitration proceeding should be advantaged or disadvantaged as a result of their good faith participation in the process. There has been no suggestion that this proceeding involves anything other than an honest disagreement between these parties. That being the case, whatever advantage or disadvantage may have incidentally accrued to either of the parties arising out of their participation in this process may not be considered herein.

Based upon the entire record in this proceeding, it appears that the offer of the Ashwaubenon School District is more reasonable than that of the Association. The Board's offer shall be incorporated into the 1991-93 collective bargaining agreement between these parties.

Dated at Madison, Wisconsin, this 14th day of September, 1992.


John C. Oestreicher, Arbitrator