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STATE OF WISCONSIN  
BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

\*\*\*\*\*

In the Matter of the Petition of

BROWN DEER SCHOOL DISTRICT

Case 27

No. 47110 INT/ARB-6393

Decision No. 27408-A

To Initiate Arbitration  
Between Said Petitioner and

BROWN DEER EDUCATION ASSOCIATION

\*\*\*\*\*

APPEARANCES:

On Behalf of the Employer: Patrick A. Connolly, Executive Director -  
North Shore United Educators

On Behalf of the Union: Warren L. Kreunen and Susan M. Love - Attorneys  
von Briesen and Purtell, S. C.

I. BACKGROUND

On February 3 and 17, 1992, the Parties exchanged their initial proposals on matters to be included in a collective bargaining agreement to succeed the agreement which expired July 31, 1992. Thereafter, the Parties met on one occasion in an effort to reach an accord on a new collective bargaining agreement. On March 3, 1992, the District filed a petition requesting that the Wisconsin Employment Relations Commission initiate arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act. On May 6, 1992, a member of the Wisconsin Employment Relations Commission's staff conducted an investigation which reflected that the Parties were deadlocked in their negotiations, and, by September 21, 1992, the Parties submitted to the Investigator their final offers, written positions regarding authorization of inclusion of nonresidents of Wisconsin on the arbitration panel to be submitted

by the Commission, and thereupon the Investigator notified the Parties that the investigation was closed and advised the Commission that the Parties remain at impasse.

On September 24, 1992, the Commission ordered the Parties to select an arbitrator. The undersigned was so selected. Pursuant to a timely request, a public hearing was held on March 9, 1993 after which an arbitration hearing was held for the purposes of the Parties submitting evidence. Post hearing briefs and reply briefs were filed, the final brief being received May 3, 1993.

## II. FINAL OFFERS

The issues before the Arbitrator relate to (1) how much to increase the 1992-93 and 1993-94 basic salary schedule and (2) how much to increase the 1992-93 and 1993-94 supplemental salary schedule.

The Association proposes to increase each step in the 1991-92 basic salary schedule by 4.43%. This will generate an average salary increase of \$2325 per teacher or 5.66% in 1992-93. For 1993-94, they propose to increase the scheduled steps by 4.47% yielding an increase of \$2375. The District proposes increasing each step in the 1991-92 salary schedule by 3.65% generating an average increase of \$2003 per teacher. This amounts to a total of 4.89%. In 1993-94 they propose salary step increases of 4.40% amounting to an average increase of \$2325 per teacher. Side by side the offers concerning the basic salary schedule are reflected below:

	<u>1992-93</u>		<u>1993-94</u>	
	<u>Step Increase</u>	<u>Average Teacher Increase</u>	<u>Step Increase</u>	<u>Average Teacher Increase</u>
Association	4.43%	\$2325 (4.55%)	4.47%	\$2375 (5.48%)
Board	3.65%	\$2003 (4.89%)	4.40%	\$2325 (5.40%)
Differences	.78%	\$ 322 (.77%)	.07%	\$ 50 (.08%)

The differences in the offers as they relate to the supplemental salary increases are similar. The Association is proposing to increase the salaries in the Supplemental Salary Schedule by 4.43% for 1992-93 and by 4.5% for 1993-94. The District is proposing to increase the salaries in the Supplemental Salary Schedule by 3.7% for 1992-93 and by 4.5% for 1993-94.

### **III. ARGUMENTS OF THE PARTIES (Summary)**

#### **A. The Association**

At the outset, the Association defends its selection of other school districts for the purposes of comparisons under criteria (D). This group includes both those within the Parkland Conference of which Brown Deer School District is a member and the remaining districts within the immediate vicinity around the Brown Deer School District. They are:

Nicolet UHS	Shorewood
Maple Dale	Whitnall
Glendale	Cedarburg
Fox Pt. - Bayside	Grafton
Mequon-Thiensville	Germantown
New Berlin	Hamilton-Sussex
Menomonee Falls	Slinger
Pewaukee	Franklin
Whitefish Bay	St. Francis

They believe their selection of comparables is appropriate based on (1) the fact in a previous arbitration between the Parties the Arbitrator relied on the athletic conference (A/C), (2) the fact that some of the schools used to be in the same A/C and all of them are geographically proximate and similar in size and (3) the fact that only two of the A/C school are settled for 1993-94 which necessitates the use of other comparables.

Regarding the salary schedule issue, the Association believes that their offer is more reasonable than the District's offer. They make a number of arguments in support of this proposition. They are as follows:

- (1) Their offer is more consistent with the average dollar increases in other districts. This is an important relative measure of the offers according to other arbitrators. They note in this regard that a comparison of these increases with the increases already established among the Parkland Conference and area comparables shows that ten of those districts provided higher average dollar increases and six provided lower average increases than those contained in the Association's final offer for 1992-93. In fact, the Association's proposal is \$50 below the settlement pattern median of \$2375.00 whereas the Board's average salary increase per teacher is the second lowest among the Parkland Conference and area

districts. The district's proposed average salary increase is \$372 per teacher below the median. Regarding the 1993-94 offer, they note that seven schools are settled--five of those seven districts have established higher average dollar increases than that proposed by the Association. The District's proposal is the second lowest. The Association's proposal is \$125 per teacher below the median of the settlement pattern. The Board's proposal is \$175 per teacher below the median.

- (2) Their offer is more consistent with the average percent increases. They direct attention to the fact that thirteen (13) of the sixteen (16) settled districts among the Parkland Conference and area districts have established a higher average percentage increase for 1992-93 than that provided by the Association's proposal. Only three (3) districts have established a lower percentage increase than that proposed by the Association. The District's proposed average percent increase is the lowest among the primary comparables. Its proposal is not only the lowest, but it is far lower than the next lowest. Regarding medians, the Association's increase is .34% below the median. The District's proposal is 1.11% below the median and .36% below the next lowest settlement in New Berlin. Regarding 1993-94, six (6) of the seven (7) settled districts have established higher increases than those provided by either proposal.
- (3) Their offer is more consistent with the career earnings provided in other districts. They believe this to be an important measuring stick since there have been so many alterations in schedules. In this regard, they concentrate on salary schedule maximums. In 1991-92 the Brown Deer salary schedule maximum ranked tenth when compared to the sixteen districts within the primary grouping which have settled contracts for 1992-93. Under the Association's final offer, the Brown Deer schedule maximum would make a slight drop in ranking to eleventh. The District's final offer would drop the career salary to thirteenth.
- (4) Their offer is more consistent with the dollar increases at the schedule maximums. At the schedule maximum the dollar increase of the Association's final offer ranks eleventh when compared to the sixteen settled districts. The Association's percent increase at this benchmark also ranks eleventh. The District's dollar increase at this benchmark ranks sixteenth and its percent increase ranks sixteenth. At the MA Max the Association's dollar increase ranks eighth compared to the sixteen settled districts. The District's dollar increase at this benchmark ranks fifteenth and its percent increase at this step ranks fifteenth. At the BA

Max the Association's dollar increase ranks seventh compared to the sixteen settled districts. The District's dollar increase at this benchmark ranks thirteenth. Its percent increase at this step ranks fifteenth compared to the sixteen other settlements.

- (5) Their offer will best serve the interest and welfare of the public. The Association contends that it is in the interest and welfare of the public to maintain a high quality education system. This cannot occur if teacher morale is low and low morale results when teachers know that their salary increases are not keeping pace with the salary increases of teachers in nearby districts. They also suggest that the Brown Deer community has enjoyed economic prosperity and is in an excellent position financially to maintain its teachers' salaries at the previous 1991-92 levels, relative to the primary comparables. For instance, it had the third highest property value per student in 1991-92 and the third lowest tax rate. During the five year period from 1987 through 1992, the Brown Deer School District reduced its property tax rate by 17.5%, the greatest reduction enjoyed by any district among the primary comparables. During that same five-year period it increased its actual property taxes by the lowest percentage among the comparable districts.

#### B. The District

The District at the outset identifies the schools it believes should be used for comparables. It is their belief that no clear comparables have emerged from the historic bargaining relationship or in prior arbitrations. At the time of a previous arbitration, the District was in the Braveland A/C. Now they are in the Parkland conference. At this time they believe that the application of arbitral comparability standards of size, staffing and equalized value results in a primary comparable group of five schools. They are St. Francis, Whitnall, Slinger, Pewaukee and Shorewood. They note these districts and Brown Deer have the lowest number of teachers of the 28 suburban districts. Likewise, they have the lowest FTE enrollment, taking six of the bottom seven positions. Ranging from St. Francis with 1206 students to Whitnall with 2264 students this primary comparable group is almost 30% below the average of 3143 students of the other suburban districts. In district equalized value and school district budget the six districts rank in the bottom half of the suburban districts. Finally, all of these districts are in the same A/C. This is an adequate group for the first year since all but one of the primary comparable districts have settled for 1992-93. For 1993-94, none of the districts in the Board's primary grouping of comparables has settled so expansion of the comparables will have

to be expanded. They suggest, for 1993-94, the use of a "second tier" of schools consisting of Grafton, Greendale, Cedarburg, Whitefish Bay, Hamilton and Port Washington. If the Arbitrator believes further expansion is necessary, the analysis can be carried one step further to identify a "third tier" consisting of Germantown, Mequon-Thiensville, Franklin, New Berlin and Menomonie Falls. The District also rejects the "North Shore" school districts proposed by the Association as too dissimilar. This is because they are much larger and wealthier than Brown Deer. In fact, even the Association recognized this distinction in arbitration in Glendale-River Hills and Maple Dale, excluding Brown Deer in its primary comparables.

The first criteria addressed by the Board is the interest and welfare of the public. It is best served, they argue, by their offer. There are certain economic realities in the communities which must be considered including job loss, pay cuts and wage increases significantly lower than those offered the teachers. Moreover, the economic reality is that Brown Deer taxpayers can no longer afford to be the leader, head and shoulders above the rest. The District rejects as well the Association's insistence on pattern bargaining. They argue that Brown Deer School District is distinguishable from the comparable communities in a relevant and material way. Thus, the differences should be considered against the weight ordinarily given to the settlement pattern. These differences relate to the fact that (1) the average net taxable income in Brown Deer rose at a much lower rate (1.56%) on average than in other communities. (2) Brown Deer taxpayer income is lower than average. (3) Brown Deer is unique with very high property values and very low income. Brown Deer ranks 10th in property value and 25th in income of the 28 suburban schools. In fact, they contend that the cost of the Association's offer will be fiscally oppressive to Brown Deer taxpayers.

The District also contends that acceptance of the Board's offer is supported by both the primary comparable group and the seventeen suburban school districts. They note that the District salaries rank among the highest of the comparables and that it is not necessary to remain a wage leader forever. Brown Deer is in first place of 28 districts in average salary, first in BA and MA base pay and is in the top 50% in BA maximum, MA maximum and maximum salary. Evaluating the overall value of the pay structure of Brown Deer teachers they rank 4th of 28. Under either the Board's or the Association's offer Brown Deer will move from its first place rank in average salary to third in 1992-93 and second in 1993-94. The District argues that the insubstantial modification of ranking does not warrant rejection of their offer. In fact, among the 28 Milwaukee suburban districts, the Board's final offer

maintains the ranking at all benchmarks and improves the MA maximum salary ranking one place. On the other hand, the Association's offer improves the ranking two places at both the MA maximum ranking and maximum salary ranking.

The Board also makes comparisons to employees generally in Wisconsin and the country, as well as to other employees internal to the District. These comparisons, they assert, favor their offer. The CPI data also supports their offer.

The Board also argues that a total compensation analysis supports its offer. They note a number of facts along these lines. For instance, (1) Brown Deer insurance premiums exceed the average of the suburban districts by 19% (\$1194) and the primary comparables by 22.6% (\$1392). And, (2) that when salary increases in other districts are adjusted for increased employee insurance contributions, the Association's offer exceeds the pattern for the two years by \$183 whereas the Board's is shy of the average by the same amount. Thus, they contend given the Brown Deer's current salary and composition position, an increase in excess of the settlements with comparable districts is unwarranted. The basis of their argument is that salary settlements must be adjusted for increases in employee health insurance contributions. Additionally, they maintain that the Brown Deer total compensation exceeds the average of the districts by \$9037 or 17%.

#### **IV. OPINION AND DISCUSSION**

The Parties have essentially presented three issues for resolution. Two issues relate to the final offers and the other is an ancillary analytical issue. The issues in the final offers are the basic salary schedule and the supplementary salary schedule. Of these two, the basic salary schedule issue is by far the most important. The supplemental schedule is purely secondary in importance. Thus, the offers on the basic schedule will control. The ancillary issue relates to which schools should be used for comparability purposes under criteria (D).

It is appropriate to first resolve the comparability issue. Ordinarily, it would be appropriate to rely solely on the A/C for comparability purposes. This would not be inappropriate in this case since, for the most part, the A/C represents schools of relatively the same size. The exceptions, based on size, are Franklin and New Berlin. They are significantly larger than the other

schools. Indeed, Franklin, no doubt in part because of its size, is leaving the A/C in 1993-94. New Berlin is even bigger and this might, depending on the circumstances, diminish the weight to be attached to it. Even so the A/C is a reasonable basis for comparability in this case, particularly for 1992-93 since all but one school (Shorewood) is settled.

There is a problem, however, with utilizing the A/C for 1993-94 comparisons. This is because only one of those schools (New Berlin) is settled for that school year. Accordingly, it is necessary, in this case, to look to other schools. It is not unusual to look to so called "secondary comparables" for guidance. Although it must be kept in mind that because of differences in comparability factors these secondary comparables can be less instructive than the primary comparables and thus the weight accorded this criteria factor might be appropriately diminished.

The Arbitrator believes the following schools are relevant as secondary comparables:

Grafton	Fox Point
Cedarburg	Glendale
Whitefish Bay	Maple Dale
Hamilton	Nicolet
Port Washington	Menomonie Falls

The following reflects the average teacher wage increases for 1992-93 in the primary comparables:

Franklin	\$2124
New Berlin	\$2254
Pewaukee	\$2400
Slinger	\$1934
St. Francis	\$2175
Whitnall	\$2462
Shorewood	NS
Average	<u>\$2224</u>
Board	\$2003 (-221)
Association	\$2325 (+101)



This data favors the Association since they exceed the average by a lesser margin than the Board is shy of it.

However, the Board argues that wage settlement must be adjusted for increased teacher insurance contributions. The Arbitrator agrees with this argument under these particular facts and circumstances. Given the pre-eminence of health insurance cost generally, and more specifically the issue of employee cost sharing in public collective bargaining, the linkage between employee contribution and salary increases cannot be ignored. This is particularly true in transition years where employers are willing to pay additional dollars in salary to induce employees from fully paid insurance to an employee contribution. Adjusting for increased employee health insurance contribution, the money actually received by teachers in the primary comparables in 1992-93 is as follows:

Franklin	\$2111
New Berlin	\$1799
Pewaukee	\$2370
Slinger	\$1934
St. Francis	\$2175
Whitnall	\$2462
Shorewood	NS
<hr/>	
Average	\$2141
Board	\$2003 (-138)
Association	\$2325 (+184)

While adjustments for insurance are generally helpful and appropriate, the average is skewed by a single school (New Berlin) where there was a particularly large jump in employee contribution (\$455).

Looking to 1993-94, the following reflects the average salary increases in the settled schools in the primary and secondary schools:

	<u>Salary Only</u>	<u>Adjusted for Employee Insurance</u>
New Berlin	\$2350	\$2350
Cedarburg	\$2286	\$2222
Whitefish Bay (1)	\$2451	\$2451
Fox Point	\$2500	\$2052
Glendale (2)	NA	NA
Maple Dale	\$2550	\$2099
Nicolet	\$2552	\$2468
Menomonie Falls	\$2400	\$2348
	—	—
Average	\$2441	\$2283
Association	\$2375 (-66)	\$2325 (+42)
Board	\$2325 (-116)	\$2275 (-8)

- (1) Technically not settled but salary offers only \$2 apart  
(2) Settled but conflicting data in record on salary settlement and incomplete information on insurance contribution.

It can be seen from the data above that the Board and Association final offers are, after adjustments, both very close to the pattern in the secondary comparables. The Arbitrator was curious to see how the offers compared to these same schools on a two-year basis, after adjustments. This data is below:

New Berlin	\$4149
Cedarburg	\$4393
Whitefish Bay	\$4832
Fox Point	\$4375
Glendale	NA
Maple Dale	\$4196
Nicolet	\$4842
Menomonie Falls	\$4597
	—
Average	\$4483
Association	\$4700 (+217)
Board	\$4328 (-155)

In looking at the data for the primary comparables in 1992-93, the District's offer appears to be lacking by a substantial margin. It is \$221 less than the average. While the Association offer exceeds the average by \$101, it is closer. At the surface, given the similarities in the Parties' final offers for 1993-94, this seems to weigh heavily in favor of the Association's two-year final offer. However, when looking at the secondary comparables particularly for the two-year period (after insurance adjustments), the picture isn't quite so clear. In fact, the data, if anything, slightly favors the Board.

The Board's two-year offer, adjusted for employee health insurance contribution, substantially exceeds the only primary comparable (New Berlin)--a substantially larger school. The two-year adjusted settlement there was \$4149. The Association's offer exceeds it by an unreasonable margin of \$551. Looking at the secondary comparables the District's offer exceeds Maple Dale and is very close (within \$65 and \$47 respectively) to Cedarburg and Fox Point. Over two years such a small difference is virtually insignificant. It is exceeded significantly only by Whitefish Bay, Nicolet and Menomonie Falls. In contrast, the Association final offer for two years exceeds all the secondary comparables except two (Whitefish Bay and Nicolet). It significantly exceeds Foxpoint, Cedarburg, Maple Dale and by a lesser margin Menomonie Falls.

In general, it must be concluded that the Board's offer taken as a whole is closer to the overall adjusted two-year pattern in the secondary comparables. This data is more reliable than the 1992-93 data for the primary comparables--which definitely favor the Association--since it covers both years of the contract. Clearly, the two-year data gives a better picture of the overall reasonableness of the offers and stipulations. Moreover, the extent to which the primary comparables favor the Association in 1992-93 is not only offset by the two-year pattern, it is militated by some quite healthy wage levels and some real differences in the economic profile of Brown Deer relative to other comparable school districts. It does have a remarkable disparity between property values and income. In conclusion, the District's offer is more consistent with all the statutory criteria.

AWARD

The final offer of the District is selected.

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Gil Vernon, Arbitrator

Dated this \_\_\_\_\_ day of June, 1993.

*( Report and Fee Statement  
indicates Award was dated*

*6-18-93.*

*WERC*

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