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STATE OF WISCONSIN
BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the Petition of	:
	:
AUBURNDALE EDUCATION ASSOCIATION	:Case 23
	:No. 47396 INT/ARB 6453
To Initiate Arbitration	:Decision No. 27533-A
Between Said Petitioner and	:
	:
AUBURNDALE SCHOOL DISTRICT	:
	:
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Appearances:

Auburndale Education Association by Thomas S. Ivey, Jr.
Executive Director, Central Wisconsin UNISERV Council

Auburndale School District by Ruder, Ware & Michler, S.C.,
by Jeffrey T. Jones, Esq.

ARBITRATION AWARD

The parties in this proceeding have had their last two contracts established in arbitration proceedings. The 1987-1989 contract was established by award dated November 1988. The 1989-1991 contract was established by award dated September 1990. In addition to those impasses, a June 1989 grievance award interpreted contract provisions relating to horizontal movement on the salary schedule. In the present case the parties have been unable to agree upon the terms to be included in their contract for the period July 1, 1991 through June 30, 1993. After exchanging their initial proposals on April 1, 1991, the parties met in four negotiating sessions. A mediation effort on February 12, 1992, also failed to resolve their differences. The Association filed the instant petition pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act on May

12, 1992. After a member of the WERC staff conducted an investigation, a deadlock was declared. The parties filed their final offers on December 18, 1992, and the impasse was certified. On February 2, 1993, the undersigned was appointed to act as the arbitrator in this proceeding.

The arbitration hearing was scheduled to commence at the School District Office at 5:30 p.m. on March 31, 1993. Prior to that session, an extensive mediation effort was attempted. That effort also failed. The arbitration session was completed at approximately 2:00 a.m. on April 1, 1993. The parties exchanged their initial briefs on May 21, 1993. Reply briefs were exchanged on June 7, 1993.

ISSUES IN DISPUTE

The principal issue in this proceeding relates to how virtually the same amount of money, provided by the respective offers, should be distributed across the salary schedule. The District would distribute \$3,734 in additional wages over the 1991-1993 contract term, compared to \$3,742 that would be paid under the Association's offer. The Employer proposes to distribute its 12.08% across the board. The Union has proposed to distribute a 12.20% wage increase in a manner that would result in a higher proportion of the increase going to the lower portion and right side of the salary schedule.

The Union offer includes three additional items which it said are, "of considerably less financial impact." These issues include adding health insurance benefits at the employees' expense, upgrading the Junior High Intramural Volleyball position and implementing a notification procedure relating to teacher evaluation. A fourth "minor issue" relates to the different levels of additional compensation the parties have offered for overload pay.

THE ASSOCIATION'S POSITION

The Association said that it would be appropriate to continue to rely upon the same comparables which were adopted in a 1990 arbitration proceeding between these parties. The

Cloverbelt Conference was designated as the primary comparable group. A group of districts within a 20 mile radius were designated as secondary comparables and statewide districts were given minor weight in comparisons.

SALARY SCHEDULE. The Association said that its salary proposal is more comparable to trends and patterns of settlements in the conference, and in districts within a 20 mile radius of Auburndale and around the state. It said that it is most appropriate to compare the proposals to other conference schools at the benchmarks, and reviewed data contained on its exhibits. That data evaluated the distribution of wage increases in all Cloverbelt Conference School Districts over the periods 1986-1987 and 1991-1992, and between 1986-1987 and 1992-1993 at BA, BA-7, MA, MA-10, MA Max and Schedule Maximum. The data was presented in chart form, which the Union said, "demonstrate the negative effect of the Board's proposal upon the salary of more experienced teachers with additional training." Between 1986-1987 and 1991-1992, the difference between BA Min and Schedule Max salaries grew by an average of \$4,000 more at salary max for the conference. Under the Board's first year offer, only \$1,253 in additional wage increases would be paid at schedule max compared to a \$2,704 difference under the Union's offer. "For 1992-1993, the respective figures are \$3,948 (Association), \$1,253 (Board) and over \$5,000 for the conference average. The Union said that in other districts, more experienced and better trained teachers generally received greater percentage increases than "less senior, less educated counterparts." It said that its offer begins to realign the increases received by Auburndale teachers with increases in the conference. The Board's proposal continues to, "skew the increases in favor of the less experienced, less educated teachers." The Union reviewed data which showed the relationship of dollar increases in terms of percentages at the benchmarks. Within the conference other districts had increased maximum salaries to between 158% and 257% more than minimum salaries during 1992-1993. The Union offer

would result in maximum salaries that are 166% of minimum compared to 117% for the Board's offer. The Union stated that, "the Board's proposal is not comparable to the structure of the schedules within other districts in the athletic conference."

The Association reviewed benchmark rankings of Auburndale within the conference for the period 1986-1987 through the parties offers herein. During the entire period, Auburndale teachers have been ranked number one at BA and MA minimum salaries. These rankings would continue under either parties' offer. Between 1986-1987 and the last arbitration award for 1989-1991, Auburndale teachers ranked either 3 or 4 at MA and Schedule Maximums. Under the Union's offer, Auburndale would rank 4 at MA Max in both 1991-1992 and 1991-1993 compared to 5 under the Board's offer. At Schedule Max, the Union offer would result in rankings of 5 and 4 compared to 7 and 10 under the Board's offer for 1991-1992 and 1992-1993 respectively. The Association said that its offer would maintain the Auburndale District's ranking and historic stability, but, the Board's offer would reduce rankings "in the higher registers of the salary schedule." The Union presented a chart which it said tracks Auburndale salaries at the benchmarks compared to conference averages over the period 1987-1988 through the parties' proposals for 1992-1993. That chart has been reproduced below.

**DOLLARS ABOVE/BELOW THE CONFERENCE AVERAGE
COMPARED TO THE PREVIOUS YEAR**

YEAR	BA Min.	BA 7	MA Min.	MA 10	MA Max.	Sched. Max.
1987-88	-251	-329	-379	-525	-610	-732
1988-89	+583	+672	+536	+634	+764	+757
1989-90	+310	+94	+148	-174	-253	-385
1990-91	+403	+185	+272	-65	-185	-421
1991-92 Assoc. Proposal	-254	-229	-183	-163	-106	-41

YEAR	BA Min.	BA 7	MA Min.	MA 10	MA Max.	Sched. Max.
1991-92 Board Proposal	+385	+194	+256	-54	-616	-762
1992-93 Assoc. Proposal	-276	-253	-117	-90	+45	+75
1992-93 Board Proposal	+343	+169	+150	-117	-205	-473

The Union presented a benchmark comparison for Auburndale with the 14 school districts located within a 20 mile radius of Auburndale. Three of these districts are also Cloverbelt Conference members. The results were very similar to the previous comparisons within the Conference. It then reviewed summaries of similar statewide benchmark data which was stated both terms of average salaries in dollars and in benchmark rankings. The Board's proposed minimum salary would rank 10th in the state in 1991-1992, and 4th in 1992-1993 in comparison to 17th and 16th rankings under the Union offer. The salary maximum offers for the two year contract are 1991-1992, Union 234th compared to the Board 270th; 1992-1993, Union 186th compared the Board's 245th ranking. The Union argued that its offer was much more in line with maintaining Auburndale's 1986-1987 ranking which was 33rd at BA Min. and 171st for Schedule Maximum.

The Union compared the two offers by dollar and percent increases per returning teacher with other conference settlements. Although the results are close, these comparisons demonstrate that, "the Association's proposal deviates less in dollars and percent for returning teachers within the Conference than the Board's proposal." The Union said that the fact that the two proposals are close in cost demonstrates that, "there is no reason to discriminate between the two proposals on the basis of ability to pay, CPI, overall compensation, or wage increases of other employees within the community." It reiterated that, its offer was most comparable to districts within the athletic

conference, and, "is necessary to bring balance to the schedule and to begin the process of returning experienced, well-educated teachers to a position of comparability within the conference and surrounding schools."

The Union stated that the District had failed to prove that its proposal is necessary to attract and retain teachers in the district. It reviewed evidence relating to 16 teachers who had left the district over the past four years. It concluded that review by stating that of six teachers who took positions in other districts, none had told the Superintendent that they were leaving because of the salary schedule. "The Association's proposal provides competitive compensation for beginning teachers."

The Association argued that its offer, which would pay more for seniority and course work beyond the basic Bachelor's degree, is in the public interest. It would encourage teachers to continue their education, explore additional areas of learning, update skills and knowledge and let teachers examine their own methodologies in light of new experiences. It said that the State recognized the welfare of the public when it required teachers to return to school every six years for continuing education. It cited a prior arbitration decision in which the arbitrator expressed concern that a proposal which rewards those teachers who remain at the top of the BA Schedule at the sacrifice of those who seek advanced training, "raises a serious question concerning the interests and welfare of the public." Auburndale has a traditional salary structure which reflects other schedules in the conference and the state. The District's proposal would add an equal fixed dollar amount to each step of the schedule. Doing so would circumvent "the historical basis of the schedule structure and fails to meet the factors of comparability of 'wages, hours and conditions of employment . . . of other employees performing similar services' and the 'interests and welfare of the public.'" It said that the

Association's schedule meets this standard, and is, therefore, the most appropriate choice.

The Union said that the Board's argument that, "unlike other districts, it lacks the ability to control what credits are taken between the BA and MA lanes and therefore, it should not be required to pay for courses or Master's degrees which are not beneficial to the District" does not withstand scrutiny. It reviewed contract language; and argued that, the district has advanced approval for undergraduate and post-Master's courses. It only lacks approval for graduate courses between BA and MA; this is the area that benefits the most under the Board's offer. The Association reviewed graduate credit policies contained in other conference school contracts. It argued that there are a few restrictions on graduate courses in other districts "as long as the courses are in the teacher's field of study or in an approved degree program." It said that Auburndale "is not in an isolated position with respect to advanced credit approval." The Union cited the 1989 grievance award in which the arbitrator held that this District could not require prior approval for post Master's graduate credits as a condition for advancement on the Auburndale salary schedule. It concluded that, "the District's argument for exemption from comparables should be discounted."

The Association noted that the dollar difference between the two offers is \$1,257 or \$628.50 a year. "It is costing the District considerably more to go through the arbitration process." Financial ability should not be a bar to the Association's final offer. It said that "other factors" should not play a role in determining an outcome in this case, because, data professing to represent economic conditions in the community is selective and general in nature. "Therefore, it is not instructive to the instant case"

OTHER ISSUES. The Association reviewed its position with regard to the additional items about which the parties were unable to agree. The Union's request that the employees be permitted to have a waiver of health insurance premium provision

and annual physical exams at their own expense, places no financial liability upon the District. The argument that in future years the Union will ask the District to pick up the cost of these benefits is not a sufficient reason to deny the requests. Both of these benefits would be good for both the health and welfare of both the employees and the Employer. The Employer could save health insurance premium costs for disabled employees if the waiver of premium plan was adopted. Among comparables, two-thirds pay for their employees' annual physicals and over twenty-five percent include waiver of premium.

The Association said that its proposal to raise the increment for increased teaching load, overload compensation, is comparable to that in other conference schools. The offer would raise the increment from \$750 a semester to \$797 a semester per period in 1991-1992, and to \$843 per semester per period in 1992-1993. The Board's offer would raise the increment to \$775 per period per semester for both years. The Union said that for 1991-1992 the conference average pay for overload is from \$1,541 to \$1,953. "For 1992-1993 the span is from \$1,686 to \$2,058. The Union's offer is low, but, it is the only offer that is comparable under 111.70 Wis. Stat. Its offer would maintain the same relationship between overload pay and the salary schedule as the present rate for overload compensation. The Board's offer, which would reduce the relative value of overload pay, is not justified.

The Union said that its proposal for compensating the Junior High Volleyball position is the fairest of the two proposals. It said that employees should be compared to other employees doing similar work "for the purpose of determining the appropriateness of a final offer. It reviewed evidence it had submitted relating to the number of practices, length of practices and hours of practice attended by the Junior High Intramural Coach, and compared those hours of work to the amount of time other coaches spend in performing their responsibilities. The Association concluded that its offer for \$300 in 1991-1992 and \$500 for 1992-

1993 reflects equal pay for equal work. The District's offer of \$150 per semester is not comparable. The Association said that when the Board decided to have a Junior High Intramural Volleyball program it was incumbent to negotiate with the Union for a stipend for that program. It said that the Superintendent's testimony that, "he individually bargained the stipend with the teacher," is a violation of the District's duty to bargain with the Association. "The real issue is fair compensation. The District should be prepared to pay an appropriate stipend. If they do not want to, they can terminate the program."

The Union defended its proposal, that "within the first three weeks of the teachers' work year, the District shall distribute and review the observation and evaluation forms and procedures with all teachers," as a good management practice which will improve the effectiveness of the evaluation procedure. It said that over half of the comparables, "who have language in their contract, provide for notice procedure to be given to teachers. Some of these districts specifically mention 'new teachers.'" It would not be a burden to provide notice to all teachers.

The Association completed its initial presentation by reviewing the statutory criteria for decisions under Wis. Stat. 111.70(4)(cm)7. It argued that its offer was more reasonable under the standards which are applicable to evidence in this proceeding. In addition to the arguments previously reviewed, the Association noted that Auburndale has the lowest levy rate in the conference. Adoption of the Union's offer, which costs about the same amount as the Board offer, will not put an undue burden on Auburndale's tax structure. Comparisons with other public employees in the same community are not available in this case, because, there are no comparable jobs within the community. "There is no evidence in the record to support strong consideration of" private employee wages and working conditions. CPI comparisons and overall compensation are not issues in this

case, because there is not a significant difference in the costs of the final offers.

REPLY BRIEF. In its reply brief, the Association responded to the Districts' arguments in the following manner. It denied that it had proposed an indexed salary schedule. The Auburndale schedule has been overtaken by settlements in comparable districts since 1986-1987. It cited prior decisions and argued that the adoption of the Association's proposed schedules does not require a quid pro quo. "Salary schedules must provide fair and adequate compensation for all members of the bargaining unit. In cases where the schedule fails to do so, change is warranted without a quid pro quo."

The Association argued that it was improper for the District to include educational lane movement in its costing schedules for Auburndale, because, "there is no evidence to indicate the cost of educational lane movement for comparable school districts. It pointed to an alleged error in one of the District's exhibits. It said that that error significantly affects the basis for a conclusion upon which the Board has based its arguments." Data errors and reliance upon flawed costing procedures (Inclusion of Educational Lane movement costs) renders the District's arguments and conclusions unreliable.

The Union said that the District had failed to include all of the relevant data relating to overload pay in its analysis. As a result it had seriously distorted this issue. It pointed to data included on the Union's exhibit to provide the "complete picture," and argued that its proposal is the most reasonable choice. The Association reviewed other arguments that have been summarized previously. It concluded by arguing that its offer provides the fairest and most comparable solution and urged the adoption of the Association's final offer.

THE DISTRICT'S POSITION

After reviewing the issues in dispute, the District summarized background information which it said, "may be helpful in resolving this dispute and evaluating the parties' final

offers." The Board reviewed contract language relating to educational requirements for lane advancement. That language was the subject of a grievance proceeding which was decided by an award dated June 29, 1989. The District summarized the effect of that decision and evidence in the record, "Thus, for example, a chemistry teacher preparing to enter a new profession, such as law, would receive automatic horizontal advancement on the salary schedule for graduate law courses." It said all 15 comparables require prior approval of the course being taken, if a teacher is to receive horizontal movement for that course.

The District said that prior to these parties' 1986-1987 agreement, teachers received wage increases based upon an index system. It explained how that index was built outward and down from BS Base, with cumulative increments moving both horizontally and vertically on the salary schedule. The Board said that during negotiations for the parties 1986-1987 settlement, "the School District 'bought out' the index system. In so doing, the Board was given the right to negotiate a varying dollar amount increase for any specific point on the salary schedule." The District said that as part of that 1986-1987 "buy out," the first 3 steps on the salary schedule were eliminated and the teachers received a \$1,900 wage increase. That increase exceeded both conference and state average increases in 1986-1987. The Union's bargaining team was aware of the District's intent that the salary index should be eliminated from Auburndale's Master Agreement.

The District summarized the cost of the two offers as follows. In 1991-1992, the Board's offer would result in a \$24,257 minimum salary and a \$37,736 schedule maximum salary compared to \$23,575 and \$38,505 under the Union's offer. During 1992-1993, the minimums would be Board - \$25,667, Union - \$24,325; the maximums would be \$39,146 or \$40,499 under the Board and Union offers respectively. These offers would result in the following costs. First year wage only costs of the Board offer are equal to 6.41% or \$1,905 per teacher without lane movement

and 6.67% or \$1,985 per teacher with lane movement. The Union's first year offer without lane movement would increase wages by an average of 6.47% or \$1,912 per teacher. With lane movement, the Union offer would increase average wages by 6.74% or \$1,996 per teacher. During 1992-1993 the Board's offer with lane movement would increase wages by 5.86% or \$1,884 for each teacher compared to 5.97% or a \$1,923 average increase for each Auburndale teacher under the Union's offer. The two year package cost increases of the two offers are, Board 1991-1992, 6.34% or \$2,561 per teacher compared to the Union's 6.41% or \$2,589 per teacher. In 1992-1993, the Board offer would increase costs by 6.61%, an average of \$2,840 for each teacher compared to 6.75% or \$2,900 for each teacher under the Union's offer.

COMPARABLES. The District argued that its proposed comparable pool consists of all of the school districts in the Cloverbelt Conference. In addition to Auburndale, the conference includes the districts of Altoona, Augusta, Cadott, Colby, Cornell, Fall Creek, Gilman, Greenwood, Loyal, Mosinee, Neillsville, Osseo-Fairchild, Owen-Withee, Stanley-Boyd and Thorp. The District presented a wide ranging and extensive argument in support of its position that "little, if any weight should be given to comparative data provided by the Association. in regard to school districts in its '20 mile radius' pool and the statewide averages." It appears that the parties are in essential agreement about which school districts constitute primary external comparables. That being the case, the District's argument in support of that position has not been reviewed herein.

The District anticipated that the Union would argue that data from other school districts within a 20 mile radius of Auburndale would "demonstrate that because Auburndale's benchmarks at certain of the B.S. levels are generally higher than that of the school districts in the '20 mile radius' pool and statewide, its wage offer . . . is the more reasonable." It argued that each school district "is subject to differing

economic conditions and labor considerations depending upon the location of the school district. Auburndale does not have any significant metropolitan areas within its borders. There are extremely limited recreational opportunities and municipal services provided for people who reside in the district. Auburndale is a marginal labor market. It said that it is extremely difficult for Auburndale "to attract, and retain new, qualified teachers." It cited testimony that some prospective new teachers, who were scheduled for interviews, "on arrival in Auburndale, proceeded home without even stopping for an interview."

The Board reviewed evidence and argued that it does not need to increase salaries at the lower and right side of the salary schedule to retain experienced teachers. "The District is not losing experienced teachers. Rather, the school district is experiencing difficulty hiring and retaining new teachers." It said that Auburndale is losing newly hired teachers to other school districts located in metropolitan areas or to other pursuits in metropolitan areas. Since 1988-1989 the District has lost nine (9) teachers with two or less years of experience; it has lost 11 teachers with four or less years of experience and 13 teachers with eight or less years of experience since 1988-1989. The Board argued that it is in the public's best interest for the District to maintain "more than competitive salaries at the BA entry levels."

WAGE OFFER. The District argued that its wage offer is more reasonable than the Association's offer. All of the other fifteen school districts in the Cloverbelt Conference have arrived at settlements for the July 1, 1991 through June 30 period of this contract. The cumulative average wage only increase over the two year period is \$3,732 per teacher among comparables, compared to \$3,734 offered by the District and \$3,742 offered by the Association. "As such, the Board's wage offer is closer to the Conference average." It said that the primary issue is the distribution of the wage increases. It said

that it had proposed "a traditional across-the-board increase as has been utilized in the past." It said that the Association proposed to implement an "index system" which would benefit those teachers in the lower and right portions of the salary schedule. "Adoption of the Association's proposal would represent a fundamental change in the structure of the salary schedule and, consequently, a change in the status quo."

The District noted that when a party proposes a fundamental change in the status quo, arbitrators require a quid pro quo for that change. It cited prior decisions in support of this argument. The Board reviewed the Union's offer, which it said contained: above average wage increases, changed health insurance language, additional evaluation language and increased overload pay. It said that the Union had not offered a quid pro quo for any of those changes. "Imposition of a change in the fundamental structure of the salary schedule, and incorporation of the Association's other requested items, without a quid pro quo, would be inappropriate and contrary to arbitral law."

The Board said that if the Union's objective is to reward experienced teachers and attract and retain qualified teachers, "its proposal is unjustified and counterproductive." The salary schedule automatically rewards teachers as they progress through the schedule. Of Auburndale's 60.5 FTEs, 47 or 77% are placed within the BS to MS lanes. Only 13.5 teachers, or 22.3% are in the M+6 lane or beyond. Only one teacher is at the M+18 maximum and two teachers at M+24 maximum. The District is not losing experienced teachers to other school districts; it is experiencing a high loss of newly hired teachers. The Association's offer, "which distributes an unproportionately high increase to the fewest teachers, is counterproductive to its intentions." The Board's offer spreads wage increases more equally, and maintains competitive salaries on the B.S. lanes. It is the more reasonable offer.

The District argued that the Union offer "contravenes the parties' past bargaining in regard to the salary schedule"

without a quid pro quo. It emphasized language in a prior decision in which an arbitration stated that, "the arbitrator cannot totally disregard the effect of past bargaining." The Board reviewed the parties 1986-1987 negotiations which have previously been summarized at page 11 above. It argued that the Union is attempting to contravene "the agreement reached by the parties during 1986-1987 contract negotiations. The Association has proposed an index system," without proposing to delete contract language which prohibits the re-implementation of an index system . . . This would be totally inappropriate."

The Board presented an analysis of 1992-1993 salary schedules for other Cloverbelt Conference districts. The exhibits reflected the value of 1992-1993 wage increases at each benchmark as a percent of the District's BA base salary. It argued that the exhibit "demonstrates that no school district within the Cloverbelt Conference has an index system similar to that proposed by the Association in this dispute." It concluded that the Union's proposal is not supported by comparables, and "would represent an aberration within the comparable pool."

The Board said that when lane movement is considered, its offer "is unequivocally the most reasonable and, in fact generous." It argued that in light of the 1989 grievance award, (page 11 above) it is imperative to consider horizontal lane movement costs. It cited two prior arbitration awards in which arbitrators held that, it is appropriate to consider lane movement in order to calculate total package costs. The Board argued that "in light of Arbitrator Buffet's (grievance) ruling and the teachers' actions in taking full advantage of that ruling, educational lane movement should be taken into consideration in evaluating the parties' salary offers." It said that the ruling, which requires teachers to be granted horizontal lane movement for graduate courses completed even if the courses do not relate to a teacher's field, impacts a vast majority of the Auburndale teachers. "Sixty-nine point four percent (69.4%) of the teachers are on the B.S. lanes of the salary schedule.

These facts create a financial burden over which the District has virtually no control. Other conference districts do have control over such costs. When lane movement is included in the cost of the two offers, the Board's 1991-1992 wage offer amounts to a 6.67% or \$1,985 increase per teacher. The Union offer would increase wages by 6.74% or \$1,996 per teacher, compared to the average conference settlement of 6.59% or \$1,912 per teacher. The Board has offered \$73 more than the conference average, compared to the \$84 more that was offered by the Union during 1991-1992. During 1992-1993 the numbers are: Board 5.86% = \$1,884; Union 5.99% = \$1,923 and Cloverbelt Conference average 5.93% = \$1,820. During the second year, the Board offer exceeds the average conference settlement by \$64 compared to \$103 under the Union offer. Over the two year term of this contract, the average wage increase received by teachers in other conference school districts is \$3,732. The Board's offer exceeds this average by \$137 per teacher and the Association's by \$187 per teacher.

OTHER ISSUES. Currently Auburndale teachers receive \$750 additional pay each semester for each period of increased teaching load. The District has proposed to increase this amount by 3.3% to \$775 during the term of the contract. The Association has proposed a 1991-1992 increase of 6.2% to \$797 and an additional second year increase of 5.7% to \$843. The Board argued that the Union's offer is not supported by comparable settlements. "Augusta, Gillman and Osseo provide no overload pay at all." Cornell pays an additional 3% of the teachers' base salary. Stanley-Boyd compensates teachers for additional hours worked at their base pay rate. The District said that the nine remaining comparables had an arrangement similar to Auburndale, based upon a per semester basis. Only one of these nine pays on the basis of per period per semester. It reviewed the data and concluded that, median compensation provided to teachers for overload pay among comparables is \$500-\$600 per semester. "Presently, the Auburndale teachers are more than adequately

compensated for additional teaching responsibilities." The Board said that evidence that eight other Wood County bargaining units received 1992 and 1993 wage increases averaging approximately 4% "demonstrates that the Association's wage proposal with respect to overload pay is exorbitant."

The District said that the Association's proposal that:

Within the first three weeks of the teachers' work year, the District shall distribute and review the observation and evaluation forms and procedures with all teachers

is unjustified and unsupported by comparables. The Union has not provided any evidence to justify the inclusion of this language in the contract. "No teacher has ever complained that they did not understand the evaluation/observation forms." The Board argued that the Union was proposing an unjustified change in the status quo. It reviewed the provisions contained in comparable contracts, and concluded that, "the comparable pool certainly does not support the Association's proposal to include a provision within the parties' Labor Agreement which mandates reviewing the evaluation instruments with all teachers every year." The Board took issue with the Union's assertion that 7 of the 15 comparables had a "notice of evaluation procedure in their contracts." It said that, "Whatever 'Notice of Procedure' may refer to, it does not refer to a provision, as proposed by the Association." It concluded that the contract has an extensive evaluation procedure. "An additional unjustified and unnecessary evaluation procedure should not be imposed upon the Administrative Staff."

The District said that the Union had proposed to mandate the creation of a Junior High Volleyball Coaching position. It reviewed evidence that Auburndale did not have a Junior High Volleyball program. A volunteer previously offered to start such a program and coach the students without compensation. That volunteer later resigned from the position. A teacher then volunteered to take the position without compensation. "The

School Board subsequently authorized a payment of \$150 to the teacher to offset expenses that the teacher was incurring." The Board informed the teacher that it was a voluntary position and would remain a voluntary position. The Board would not establish a regular Junior High Volleyball coaching position. No teacher is assigned to the position. If a teacher volunteers and acts in the position, he or she will receive \$150 to offset expenses. The Board said that, by proposing "that a new position be included within the Labor Agreement entitled 'Junior High Intramural Volleyball Coach' and that the person performing the duties of the position receive \$300 for the 1991-1992 school year and \$500 for the 1992-1993 school year," the Union is attempting to mandate that the Board adopt a Junior High Volleyball program. Creation of a program or position is a permissive subject of bargaining. The Board is vested with the exclusive right of control and management of the affairs of the District. "If the Board does not desire the program or position, it should not be forced to pay for it."

The Board noted the Union's proposals to amend contract language relating to health insurance. Waiver of premium and annual physicals would be available, and the cost of the new benefits paid for by the employees. It argued that, "the majority of the school districts in the Cloverbelt Conference do not provide these benefits." The Board's principal objection to these proposals are that it is a change in the status quo, and that, in the future the District will be expected to pick up the cost of these additional benefits.

REPLY BRIEF. The Board responded to the Union's arguments as follows. The Union exhibits do not indicate whether or not longevity payments are included in the reported data. As a result, the data is not reliable. The Union's argument that the Board's offer would result in the loss of ranking at schedule maximum would only effect two of the existing teachers. It is logical to spread the wage increase more equally across the

schedule so as to benefit the majority of teachers rather than a tiny fraction thereof.

The Union's argument that its offer will compensate experienced teachers is not correct. Seventeen teachers are at step 19 and will not receive step movement based upon work experience. If the Union wants to reward experience, "it should be proposing that teachers who have 'bottomed out' on the salary schedule receive longevity payments such as that provided by other school districts within the Cloverbelt Conference." If the Union wants to provide additional compensation for increased education, it should propose adding additional educational lanes. A number of conference districts have such additional educational lanes.

The District said that it had proven the necessity of adopting its proposal to attract and retain new teachers. It reviewed the Union's evidence that teachers had not said they were leaving because of the salary schedule. It argued that since 1988-1989 the District has lost nine teachers with two or less years of experience, and eleven teachers with four or less years of experience. It said that "If the District is to attract and retain qualified new teachers, a higher than normal salary must be maintained on the B.S. lanes."

In response to the Union's assertion that other conference districts have few restrictions on graduate courses, as long as those courses are in the teachers' field of study or in an approved degree program, the Board said that the Union has admitted that other districts have authority to disapprove of a course for advancement. The Auburndale district does not have that right. The Board argued that it must pay for courses for which it receives no benefit.

The Board reviewed many of both parties arguments relating to the "other issues" in this proceeding. In each instance it argued that the Union's position was not supported by evidence in the record.

DISCUSSION

It seems to be unusual that these two parties, having submitted final offers bearing virtually identical cost to the District, have such a vigorous disagreement about which members of the bargaining unit should receive the greatest amount of benefit in their 1991-1993 contract. The depth of the parties' feelings about the righteousness of their positions permeated the April 1 hearing. It is also apparent in the briefs that they filed herein. The last time these parties successfully negotiated an agreement was for the 1986-1987 school year. As a result of those negotiations the first three steps on the 1985-1986 salary schedule were eliminated and the District "bought out the index system within the salary schedule." The parties' 1987-1989 contract was fashioned in an arbitration consent decree. That decree incorporated the District's proposed 1987-1988 salary schedule and the Association's proposed 1988-1989 salary schedule into the parties 1987-1989 contract. In June 1989, Arbitrator Jane B. Buffett issued the arbitration award which held that Auburndale teachers must receive advancement on the salary schedule for graduate credits received up to the Masters Degree column. Those credits do not have to be in the teachers' field of instruction; prior approval of the District Administrator is not required. No comparable school district is required to grant advancement on the salary schedule for courses outside a teacher's field of instruction.

The parties' 1989-1991 contract was established in an Arbitration Award by Arbitrator Frank P. Zeidler. In that proceeding the Association offered across the board wage increases of 5% for each 1989-1990 and 1990-1991. Arbitrator Zeidler summarized the District's offer in that proceeding as follows:

The District offer amounts to 2.3% less for teachers at the top of the schedule than to those at the beginning for 1989-1990 and 2.6% less in 1990-1991. The teachers at the top of the schedule on Step 19 receive only flat

dollar increases while those who are advancing through the schedule will receive the flat increase and an increment. However under the District offer the increments drop lower as the teacher goes through the salary schedule, and this for both years of the District's offer.

Zeidler summarized one of the District's arguments in support of its offer during the prior proceeding.

"Under the award by Arbitrator Buffett the District has no control over financial costs accruing from teachers who have not reached the Master's degree level taking courses. 71% of Auburndale teachers are in this category where they can take courses without administrative control, a fact unlike that which exists in any other district."

In that proceeding, the District's offer was incorporated into the parties' 1989-1991 agreement. Once again, the principal issue separating the parties from an agreement for 1991-1993 continues to be their ongoing disagreement about what constitutes an appropriate salary structure for the Auburndale School District. This time, the Board has offered across the board dollar increases for each year of the contract. The Association has proposed a series of incremental increases over the two year period which would add greater percentage wage increases for teachers with more experience and post Bachelors Degree graduate credits.

Auburndale is one of the sixteen school districts which comprise the Cloverbelt Athletic Conference. The fifteen other member schools of the conference have been found to be primary comparables during previous arbitration proceedings. All of those districts have settled 1991-1993 contracts. Both parties have acknowledged that all of the other conference districts should be considered as primary comparables in this proceeding. The Association has also suggested that all of the other school districts within a 20 mile radius of Auburndale should be considered as secondary comparables. Since all of the other

conference schools have settlements for the two year period of this contract, excellent comparative data from agreed upon comparable districts is available. There appears to be no reason to look beyond the Cloverbelt Conference for comparisons to the parties' offers in this proceeding.

The crux of the salary structure arguments is the effect that the two offers in this proceeding would have upon the wages received by the teachers during the term of this contract, and the effect of the two offers upon the existing salary structure in the Auburndale School District. Table I, which follows, summarizes those effects upon the highest and lowest wage levels at five benchmarks compared to 1990-1991 wages.

TABLE I - COMPARISON OF THE OFFERS'
EFFECTS UPON 1990-1991 WAGE SCALE

Benchmark	Min.	BA + 12	MA	MA + 12	MA & Sched. Max.
1990-1991	22,812	23,477	24,474	25,138	25,803
	29,044	33,249	34,529	35,410	36,291
Union: 1991-1992	23,575	24,325	25,450	26,200	26,950
	30,145	35,067	36,518	37,512	38,505
1992-1993	24,325	25,225	26,575	27,475	28,375
	31,209	36,506	38,195	39,347	40,499
Union's 2 yr. lift	1,513	1,748	2,101	2,337	2,572
	2,165	3,257	3,666	3,937	4,208
Board: 1991-1992	24,257	24,922	25,919	26,583	27,248
	30,289	34,694	35,974	36,855	37,736
1992-1993	25,667	26,332	27,329	27,993	28,658
	31,889	36,104	37,384	38,265	39,146

Benchmark	Min.	BA + 12	MA	MA + 12	MA & Sched. Max.
Board's 2 yr. lift	2,855	2,855	2,855	2,855	2,855
	2,855	2,855	2,855	2,855	2,855
2 yr. \$ difference	B+ 2,024	B+ 1,794	B+ 1,223	B+ 901	B+ 581
	B+ 1,034	U+ 775	U+ 1,355	U+ 1,739	U+ 2,122

The foregoing table demonstrates that the Board has offered across the board increases of \$1,445 for each teacher during 1991-1992 and \$1,410 for each teacher during 1992-1993. The Union offer would increase wages for beginning teachers at BA Min. by \$763 during 1991-1992, and by \$750 during 1992-1993. The Union's offer would result in larger increases for teachers having more than fourteen years of experience and more than twelve graduate credits. Other examples of increases that more senior teachers would receive under the Association's offer are: BA + 12 at step 20-an additional \$1,818 in 1991-1992 and \$1,429 more in 1992-1993; MA Min.-an additional \$1,989 in 1991-1992 and \$1,677 more in 1992-1993. At MA + 12 the Union would increase wages by \$2,102 during 1991-1992 and by \$1,835 during 1992-1993. In Auburndale MA + 24 is equal to both MA Max. and Schedule Max. The Union offer would increase wages in this category by \$2,214 during 1991-1992 and by \$1,944 during the final year of the contract.

The two offers which would result in similar cost to the District would spread the benefits in dramatically different ways. Those differences are demonstrated in the horizontal columns on Table I which identify the two year dollar differences and the differences in lift that teachers would receive over the two year period of this contract. At the extreme ends of the salary schedule, the Union's offer would result in two year wage increases of \$2,024 less at BA Minimum and \$1,034 less at BA

Maximum than the Board's offer. It would also result in \$1,342 less lift than the Board's offer at BA Minimum and \$680 less lift at BA Maximum than the Board's offer. Teachers at MA Max. or Schedule Max. would receive \$2,122 more in wages over the term of this contract under the Union offer than they would receive under the Board's offer. Teachers at this level would receive \$1,353 greater lift under the Union's offer. The Association has stated that the Board's offer is not comparable to other settlements, because, salaries earned by more senior teachers will continue to erode in comparison to senior teachers in comparable districts. It also charged that Auburndale teachers would drop in ranking among comparables at salary benchmarks MA Max. and Schedule Maximum.

It did not seem appropriate to compare the results of the parties 1992-1993 offers with the position that Auburndale teachers held in 1986-1987. To focus upon the salary schedule that resulted from that settlement would place undue emphasis upon a seven year old agreement. It would also ignore adjustments which have taken place in comparable districts over a period of years. When the last agreement between these parties was forged through arbitration, Arbitrator Zeidler weighed many of the same arguments that the parties are now making in this proceeding. It is clear from Mr. Zeidler's opinion (ER Ex 16) that he carefully considered those arguments. The arguments must now be considered in relation to present circumstances. The most relevant comparison at this time is the manner in which the two wage offers in this proceeding compare to other 1991-1993 wage settlements in comparable districts.

Association Exhibit 109 contained copies of salary schedules for all of the Cloverbelt Conference District for the period 1990-1991 through 1992-1993. Those schedules have been reviewed. There are some substantial differences in the structure of the salary schedules around the conference. The number of vertical steps at BA Minimum vary from 9 to 15; Auburndale has 10 steps at this benchmark. The number of steps at other benchmarks also

vary between 13 and 24. The majority of the other districts appear to have an average of 15 or 16 vertical steps at benchmarks beyond BA, compared to 20 steps in Auburndale. Salary schedules in three of the districts do not extend to MA + 24. In Augusta, credit is only given through MA + 12, while in Gilman the salary schedule tops out at MA + 15. In Osseo Fairchild, MA + 18 is schedule maximum. Auburndale teachers reach schedule maximum after achieving MS + 24 credits. Colby, Cornell and Loyal give credit for MA + 30, and Neillsville goes to MA + 32. Neillsville added the last step from MA + 24 in 1992-1993. The greatest rewards for horizontal movement are recognized in: Altoona, MA + 40; Cadott which added a step from MA + 36 to MA + 42 in 1992-1993 and Mosinee which has four steps beyond MS + 24 to MS + 48 credits. Those districts with the greatest number of horizontal steps have the highest Schedule Maximum salary scale. In addition to the foregoing variations in salary schedules among the comparables, Owen Withee, Stanley Boyd and Thorp compensate their more senior teachers, who are off their schedules, varying amounts for longevity. Thorp appears to have added longevity for teachers in the BA lane beyond 13 years during 1992-1993. Salary schedules in the fifteen comparable districts reflect the fact that these are autonomous units. One assumes that the differences represent the particular concerns of these individual units of government arrived at through the collective bargaining process.

Though their agreements vary, data relating to salary settlements in these comparable districts for the two year period, 1991-1993, is remarkably consistent. Since all fifteen comparables are settled for the period of this contract, patterns established in those wage settlements are very significant for comparison purposes herein. The arbitrator reviewed the wage increases which were granted in all 15 comparable school districts for the two year period of this contract. In each instance, except one, teachers with more seniority and additional graduate credits received greater wage increases than teachers

with less experience and less post bachelor's graduate credits. That exception was Mosinee, where beginning BS salaries increased by \$2,000 from \$21,400 in 1990-1991 to \$23,400 during 1992-1993. During that time salaries for teachers holding just a B.S. degree and no graduate credits with 9 years of experience increased by only \$1,801 from \$29,569 to \$31,370. A sampling of the trend that was observed can be seen on TABLE II which follows.

TABLE II

Average Total Wage Increases at Nine Steps 1991-1993

AVERAGES OF COMPARABLES								
BA Min	BA Max	BA+24	BA+24 Max	MA	MA Max	MA+24	MA+24 Max	Sch Max
\$2,078	\$2,849	\$2,317	\$3,316	\$2,428	\$3,410	\$2,624	\$3,625	\$3,801
BOARD OFFER								
\$2,855	\$2,855	\$2,855	\$2,855	\$2,855	\$2,855	\$2,855	\$2,855	\$2,855
+ \$777	+ \$6	+ \$538	-\$461	+\$427	-\$555	+\$231	-\$770	-\$946
ASSOCIATION OFFER								
\$1,513	\$2,165	\$1,983	\$3,528	\$2,101	\$3,666	\$2,572	\$4,208	\$4,208
-\$565	-\$684	-\$334	+\$212	-\$327	+\$256	-\$52	+\$583	+\$407

NOTE: No data for Osseo, Fairchild or Gilman is included in MA+24 calculations because their schedules top out at MA+18 and MA+15, those top salaries are included in salary maximum calculations

The data summarized on TABLE II only reflects the trends which are more clearly discernable in reviewing the complete salary schedules for the other fifteen conference members. Some lower wage districts like Augusta and Gilman have made above average efforts to improve salaries across their schedules. Some higher paying districts have fine tuned their schedules by adding benchmarks or additional steps. The pattern in all comparable districts during 1991-1993 has been to grant wage increases which produce nearly equal percentage increases for their benchmark steps. The combined effect of those increases is demonstrated in the summary of comparable average increases on TABLE II.

It can be seen that neither offer in this proceeding follows the pattern established in comparable districts. The District's offer would distribute a disproportionate percent of the increase to those teachers with less experience at the beginning salary level at all ten of Auburndale's horizontal lanes. The Association's offer would increase wages by substantially less than other comparables at the very same benchmarks where the District offer would add the most money. Conversely the Association would add the greatest increases to teachers with the greatest seniority where the District's offer would result in increases that are substantially below average comparable increases. The Association's offer comes closer to the trend set in comparable districts. It offers lesser percentage and dollar increases to newer teachers with less experience and greater percentage and dollar increases to more senior teachers, and to those teachers with more graduate credits. The District's offer runs contrary to the trend by awarding the greatest percentage increases, albeit the same dollar increase, to those teachers who have less experience and less graduate credits.

The Association has justified its offer by pointing out that beginning Auburndale teachers are already at the top of the conference pay scale. They will maintain that position under either offer in this proceeding. That assertion is accurate. The Union has justified its effort to increase salaries for more senior teachers and teachers with more graduate credits as being necessary to minimize the deterioration of Auburndale's placement in benchmark rankings among conference districts. Wisconsin interest arbitrators have traditionally, absent compelling reasons to the contrary, recognized that it is preferable to minimize the effect of changing benchmark rankings by arbitration decisions. The Association's offer would result in maintaining Auburndale's rankings at BA Min. (1), BA-7(2), MA Min. (1) and Schedule Max. (4). It would result in the loss of one rank from 3 to 4 at both MA-10 and MA Maximum. The Board's offer would improve Auburndale's rank from second to first at BA-7. It would

result in the loss of rankings at three benchmarks: 3 to 4 at MA-10; 3 to 5 at MA-Max.; and from 4 to 10 at Schedule Maximum. The Association's offer appears to be most comparable and most reasonable when compared to the trend established by other comparable settlements. It is also more reasonable when the impact of the District's offer on rankings at the benchmarks.

The District's argument that its offer is the more reasonable because it is eight dollars closer to the cumulative two year conference average increase of \$3,732 is not compelling. The difference in these two offers of \$3,734 and \$3,742 is de minimis. Its argument that the District has proposed a change in the salary structure and in the status quo is not correct. The District seems to be arguing that any wage offer that would impact one group of employees more than another group is proposing "a fundamental change in salary structure." That logic would prohibit a party from proposing anything other than across the board increases. There is no basis for that argument.

The Board's argument that the majority of Auburndale's teachers will receive automatic rewards for experience through advancement on the salary schedule is correct. It does not follow, however, that the Union is offering to raise the wages of senior teachers disproportionately. The comparison of the two wage offers, discussed above, concluded that the Union's offer would result in a loss of ranking at MA-10 and MA Maximum. The Board's offer, on the other hand, would result at the loss of 2 places at MA-Max. and the loss of 6 places at Schedule Maximum.

It is apparent that the District sees the Union's offer as an effort to frustrate the Board's 1986-1987 buy out of the index system. That frustration appears to be compounded by the Board's resentment of the outcome of the 1989 grievance award. It appears that the District's strong feelings about these two "matters of principle" has obstructed the District's view of the Union's offer in this proceeding. The prior agreement between these parties is part of their bargaining history. Recognition of that history does not require a determination that the result

of that bargain is etched in stone for the millennium. If the circumstances which caused the parties' 1986-1987 agreement to be reasonable have changed, it is incumbent upon the parties to recognize those changed circumstances. Such is the case in this proceeding. Between 1986-1987 and 1992-1993, other school districts also settled contracts. As a result of other settlements Auburndale's position at BA-7, MA-10, and Schedule Max. slipped a place or two between 1986-1987 and 1990-1991. If either of the parties had attempted to recapture Auburndale's 1986-1987 rankings in 1991-1992 or in 1992-1993, that party's offer would have cost substantially more than the cost of its offer in this proceeding. The Union's offer will come much closer to maintaining Auburndale's 1990-1991 rankings at all levels than the Board's offer. That fact appears to be ample justification for the Union's offer in light of the parties' bargaining history.

The Board's argument that it is at risk because it must pay for graduate credits even if the courses do not relate to a teachers field may be accurate. However, the Board has not introduced any evidence that existing teachers in Auburndale are abusing the system. Nor did it introduce any testimony that any course any teacher is currently taking would have been refused credit, if approval for those graduate credits had been required. Based upon the foregoing, it appears that the Association's wage proposal is the most reasonable offer in this proceeding.

OTHER ISSUES. The parties presented conflicting evidence in support of their positions on the "overload pay issue." Neither party presented evidence of how many Auburndale teachers are teaching additional courses. Neither party presented evidence about how many teachers are eligible for this additional compensation in comparable districts. It is apparent that the decision regarding which offer is the most reasonable relating to the overtime pay issue will not determine the outcome in this proceeding. It may have been possible for the arbitrator to sort through the selective and conflicting evidence which has been

presented on this issue in order to feel confident enough to express an opinion about which overload offer is the most reasonable. The effort that would be required to complete that analysis cannot be justified. Neither party's offer relative to the overtime pay issue is preferred.

The Association failed to demonstrate any need for its proposal that the District should distribute and review observation and evaluation forms and procedures with all teachers.

The District's criticism that the Union has attempted to mandate the creation of a Junior High Volleyball coaching position is well taken. There is no merit in the Union's position that a teacher volunteering to provide a service which was not designated or approved by the board is entitled to equal pay for equal time. That is particularly true where the volunteer determines the amount of time that is required to perform the responsibility of the position, which responsibilities are apparently also unilaterally decided by the volunteer.

The Union's position that teachers should be able to obtain a waiver of premium for health insurance coverage and obtain annual physical examinations at their own expense appears to be reasonable. The waiver of premium provision is a valuable option when it is included in insurance policies. Regular physical examinations are recognized as preventive medicine. Both of these proposals could provide at least speculative long term cost savings to the District. If the teachers want the benefits and are willing to pay for them, they should be permitted to do so. The Board's opposition to these proposals for the reason that some day the Association will ask the Board to pay the cost is not a sufficient reason to deny the teachers the option to purchase the additional benefits.

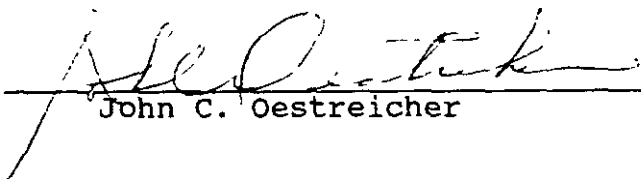
CONCLUSION. Recent bargaining history between the Auburndale Education Association and the Auburndale School District has been contentious. The principal issue in this

proceeding has been the question which of the two wage offers, both of which would have effected the structure of the salary schedule, is the most reasonable. Both parties presented forceful and articulate support for their positions during the course of this proceeding. One can hope that during the course of future contract negotiations the parties will spend some of their considerable talent and effort to better understand and attempt to accommodate the valid concerns of the other party. That is not an option which is available to the decision maker in an interest arbitration proceeding in Wisconsin.

Based upon the statutory criteria the wage offer of the Association has been found to be the most comparable and the most reasonable. The Union's offer regarding the Junior High Volleyball position is not reasonable. If the amount of money involved in funding that position had been greater, the outcome of this decision might have been changed by considerations relating to that issue. However, the questions of wage equity affecting all of the teachers in this district are too important to be swayed by the \$500 involved in the Volleyball dispute. Based upon all of the foregoing considerations the offer of the Auburndale Education Association shall be incorporated into the 1991-1993 collective bargaining agreement between these parties.

Dated at Madison, Wisconsin this 20th day of July, 1993.

BY THE ARBITRATOR:



John C. Oestreicher