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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

In the Matter of the Arbitration
of a Dispute Between

SCHOOL DISTRICT OF ELMBROOK
(SECRETARIAL UNIT)

and

WISCONSIN COUNCIL 40, AFSCME, AFL-CIO

Case 31
No. 50769
INT/ARB-7252
Decision No. 28237-A

APPEARANCES:

Nancy L. Pirkey, Esq., Davis & Kuelthau, S.C., on behalf of the Elmbrook School District

Michael J. Wilson, Representative, on behalf of Wisconsin Council 40, AFSCME, AFL-CIO

## BACKGROUND

On March 29, 1994, the School District of Elmbrook (Secretarial Unit) (hereinafter "the Board") filed a stipulation with the Wisconsin Employment Relations Commission (WERC) alleging that an impasse existed between the Board and the Wisconsin Council 40, AFSCME, AFL-CIO (hereinafter "the Union") in their collective bargaining concerning a new collective bargaining agreement covering all secretarial and clerical employees of the Board and further requesting the WERC to initiate arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act (MERA).

On November 21, 1994, following investigation and report by a member of the WERC staff, the WERC found that an impasse existed within the meaning of Section 111.70(4)(cm)6 of MERA and ordered that arbitration be initiated. On December 1, 1994, after the parties notified the WERC that they had selected the undersigned, Richard B. Bilder of Madison, Wisconsin, the WERC appointed him to serve as arbitrator to resolve the impasse pursuant to Section 111.70(4)(cm)6 and 7 of the MERA. Five citizens of the Elmbrook School District having filed a petition requesting a public hearing pursuant to Section 111.70(4)(cm)6b, the undersigned on January 10, 1995 gave public notice that the initial arbitration session scheduled for February 6, 1995 would be a public hearing affording opportunity to members of the public to offer their comments and suggestions.

On February 6, 1995, the undersigned met with the parties and interested members of the public at the Elmbrook School District Office, Brookfield, Wisconsin, to conduct the public hearing and arbitrate the dispute. At the public hearing, the parties each made brief statements of their position and a number of members of the public made statements. At the subsequent arbitration hearing, which was without transcript but with a taped recording, the parties were given full opportunity to present evidence and oral arguments. Extensive exhibits, and post-hearing briefs and reply briefs totaling more than 150 pages, were submitted by both parties, the last being received by the Arbitrator on March 22, 1995.

This arbitration is based upon a review of the evidence, exhibits and arguments, utilizing the statutory criteria set forth in Section 111.74(4)(cm)7.

## CONTRACT HISTORY

Since the parties in their arguments have each referred extensively to the history of the various contractual provisions, negotiations and studies concerning the secretarial unit employee's compensation system and salary schedule, a brief description of that history is appropriate. The Elmbrook School District secretarial and clerical employees have had a collective bargaining relationship with the Board since 1985. However, prior to the present agreement, the Elmbrook employees were represented by a local union, the Elmbrook Secretarial Association (hereafter "the Association") and this is the first agreement in which they have been represented by the Union.

The first 1985-1986 Agreement between the Board and the Association provided for 42 different job titles organized into five different classifications, hourly rates of pay with a minimum and maximum rate for each classification, initial placement on the salary schedule as "determined by mutual agreement of the employee, Supervisor and Assistant Supervisor for Personnel . . . subject to the approval of the Superintendent of Schools," and eligibility for merit increases. There were no steps to the salary schedule in that Agreement and employees did not automatically progress through the salary schedule. Negotiations for a successor agreement reached an impasse but were successfully mediated by the WERC; the resultant second 1986-88 Agreement essentially continued the basic framework of the prior agreement.

During negotiations for a third successor contract in 1988 the parties both recognized that there were inequities in the secretarial salaries which needed to be addressed. The Association requested that an outside consultant be hired to study and recommend changes to the secretary's compensation system and the Board agreed to that request. The Board and Association together selected the Arthur Young firm to conduct this study. In the meantime, the parties agreed upon an interim third agreement, running from July 1, 1988 to June 30, 1989, which continued the minimum and maximum and merit concepts of the prior agreements.

Arthur Young completed the study and made its recommendations in September 1989 for a substantial restructuring of the compensation system for the secretaries. The Board and Association thereupon negotiated a 3-year Agreement, running from July 1, 1989 to June 30, 1992 implementing the Arthur Young proposed compensation system or "matrix". This new system provided for seven pay grades (Grade 2-Grade 8) and 38 job titles, together with a matrix structure combining an automatic 4-step salary progression schedule, consisting of a minimum step, step 1, and mid-point and a maximum step, with a merit increase component. Under this system, employees were hired at the minimum step, automatically moved to step 1 after one year of service, and to the mid-point after two years, but thereafter progressed to further steps on the matrix only through merit increases, to be determined by an elaborate evaluation procedure. The merit increases were varied depending on performance and length of service, and larger increases were granted to employees at the mid-point of the range than those close to maximum step of the range. Employees at the maximum could receive a wage increase only when the parties raised the salary schedule rates as a whole. As the parties explain the concept, to maintain competitiveness employees were expected to stay off-step in the range between the mid-point and the maximum of the pay grade and to progressively work their way to the maximum of the range based solely on merit increases.

However, during the period of the 1989-92 agreement, the parties identified certain problems in the operation of the Arthur Young matrix system. The cost of placing all employees on the new matrix system resulted in a first year average wage increase of 18.4%. In particular, it appeared that the matrix system required wage increases of over 7% simply to support the automatic step progression and merit components of the schedule, independent of any new money being put into the salary schedule. Although the wage increase provided in the first year of the 3-year agreement exceeded this 7% amount, the second and third year wage increases were below the amount required to fund the operation of the matrix system. Moreover, it became evident that the matrix system offered disparate increases to employees depending on their placement on the matrix schedule; employees below the mid-point of the range received substantial increases because of the automatic step progression, while those above the mid-point received much smaller increases based on merit. Also, it appeared that the available salary increase money was being "eaten up" by the step movement and merit components of the matrix, with little left to increase the minimum and maximum rates of the salary schedule; as a result, the District began having trouble recruiting qualified applicants because its starting salaries were not competitive.

During negotiations for a successor to the 1989-92 Agreement, it was evident that neither the Board nor Association were satisfied with the way the Arthur Young matrix was working, and that further study and discussion was necessary. However, the Board and Association could not immediately agree on an alternative compensation system. Consequently, as an interim measure, they agreed to compromise on a one-year contract running from July 1, 1992-June 1, 1993, with a flat 4.2% across-the-board wage increase; this increase was to apply regardless of where the employee was placed on the matrix

system and regardless of the amount they would otherwise have received as a step movement or as a merit increase under the Arthur Young matrix system.

Subsequently, by agreement of the parties and beginning in February 1993, the Secretarial Steering Committee, a joint Board-Association committee created pursuant to the Arthur Young study to help implement the matrix system, began meeting to further identify various problems with the Arthur Young matrix system. The problems noted by this joint committee included: (1) inequity in increases given to individual employees because of differences between moneys allocated for the step progression and merit components of the matrix; (2) the expense of administering the matrix structure; (3) the starting salaries in each pay grade were too low and the District was having trouble recruiting qualified experienced secretaries; (4) the merit component of the matrix system was too nebulous and difficult to understand; (5) the secretaries perceived that favoritism and subjectivity played a part in the evaluation process and affected the amount of merit increases granted to individual employees; and (6) the parties needed to develop a salary structure that would endure for a long period of time and withstand year-to-year fluctuations in wage increases.

On June 2, 1993 the secretarial employees elected to be represented by the AFSCME, and, as indicated, this contract is the first negotiated between the Board and this Union. During the negotiations for a 1993-95 contract, the Board and Union discussed at length the problems inherent in the Arthur Young matrix system. As will be indicated, the parties have agreed in their negotiations to eliminate the current merit system and replace it with a salary schedule in which employees automatically advance to the next step of the salary schedule each year on July 1. The Board and Union also agreed on the number of pay grades and job titles within each pay grade and the minimum and maximum salary for each pay grade. However, the Board and Union have disagreed on the number of steps for the salary schedule, with the Board proposing a 4-step schedule and the Union proposing a 5-step schedule. Moreover, the Board and Union have differed on how quickly employees should be placed on a step of the new salary schedule structure. These differences will be more fully described in the next section.

## ISSUES

The parties have reached agreement on all terms of a two-year July 1, 1993-June 30, 1995 collective bargaining agreement, except for certain issues relating to salary, as to which the parties in their final offers have proposed differing language both for "Article VI, Section 6.01 - Advancement Salary" and "Appendix A - Secretarial Salary Guide and Benefits" for each of the two years.

Under the Board's proposal, Article VI, Section 6.01 - Advancement Salary would read:

If a secretary is advanced in job classification category because of a promotion, monetary compensation shall be based on the employee's current salary plus one-half (1/2) the difference between the employee's current salary and the same step of the new classification. For individuals above the mid-point, the employee will receive one-half (1/2) the difference between the salary maximums in their present classification and their new classification. Upon successful completion of the trial period, the employee shall receive the other one-half.

If a secretary is advanced in job classification category because of a reclassification, monetary compensation shall be based on the employee's current salary and shall move to the same step in the new classification. If the employee is above the mid-point, monetary compensation will be based on the difference between the salary maximums in their present classification and the new classification.

In either a promotion or reclassification, the new salary cannot exceed the maximum of the new pay grade.

The Board's proposal for Appendix A is:

1993-94 SALARY SCHEDULE

| Grade | Minimum | Step 2 | Step 3 (Mid-Point) | Medium |
|---|---|---|---|---|
| 2 | $ 7.10 | $ 7.34 | $ 7.58 | $ 8.54 |
| 3 | 7.65 | 7.92 | 8.18 | 9.21 |
| 4 | 8.25 | 8.53 | 8.81 | 9.93 |
| 5 | 8.89 | 9.20 | 9.50 | 10.71 |
| 6 | 9.59 | 9.92 | 10.25 | 11.57 |
| 7 | 10.36 | 10.72 | 11.07 | 12.46 |
| 8 | 11.16 | 11.55 | 11.93 | 13.46 |

1994-95 SALARY SCHEDULE

| Grade | Minimum | Step 2 | Step 3 (Mid-Point) | Medium |
|---|---|---|---|---|
| 2 | $ 7.57 | $ 7.81 | $ 8.05 | $ 8.77 |
| 3 | 8.15 | 8.41 | 8.67 | 9.44 |
| 4 | 8.76 | 9.04 | 9.32 | 10.16 |
| 5 | 9.43 | 9.73 | 10.03 | 10.94 |
| 6 | 10.15 | 10.48 | 10.81 | 11.80 |
| 7 | 10.95 | 11.30 | 11.65 | 12.69 |
| 8 | 11.78 | 12.16 | 12.54 | 13.69 |

Under the Union's proposal, Article VI - Section 6.01 - Advancement Salary, would read:

> If an employee is advanced in job classification category because of a promotion, monetary compensation shall be based on the employee's current salary plus one-half (1/2) the difference between the employee's current salary and the same pay step of the new classification. Upon successful completion of the trial period the employee shall receive the other one-half (1/2).
>
> If an employee is advanced in job classification category because of a reclassification, monetary compensation shall be based on the employee's current salary and shall move to the same step in the new classification.
>
> In either a promotion or reclassification, the new salary cannot exceed the maximum of the new pay grade.

The Union's proposal for Appendix A is:

July 1, 1993-June 30-1994 SECRETARIAL SALARY GUIDE AND BENEFITS

| | Step 1 Hire | Step 2 Next July 1st | Step 3 2nd July 1st | Step 4 3rd July 1st | Step 5 4th July 1st |
|---|---|---|---|---|---|
| Grade Two | 7.10 | 7.34 | 7.58 | 8.06 | 8.54 |
| Grade Three | 7.65 | 7.92 | 8.18 | 8.70 | 9.21 |
| Grade Four | 8.25 | 8.53 | 8.81 | 9.37 | 9.93 |
| Grade Five | 8.89 | 9.20 | 9.50 | 10.11 | 10.71 |
| Grade Six | 9.59 | 9.92 | 10.25 | 10.91 | 11.57 |
| Grade Seven | 10.36 | 10.72 | 11.07 | 11.77 | 12.46 |
| Grade Eight | 11.16 | 11.55 | 11.93 | 12.70 | 13.46 |

July 1, 1994-June 30-1995 SECRETARIAL SALARY GUIDE AND BENEFITS

| | Step 1 Hire | Step 2 Next July 1st | Step 3 2nd July 1st | Step 4 3rd July 1st | Step 5 4th July 1st |
|---|---|---|---|---|---|
| Grade Two | 7.57 | 7.81 | 8.05 | 8.41 | 8.77 |
| Grade Three | 8.15 | 8.41 | 8.67 | 9.11 | 9.44 |
| Grade Four | 8.76 | 9.04 | 9.32 | 9.74 | 10.16 |
| Grade Five | 9.43 | 9.73 | 10.03 | 10.49 | 10.94 |
| Grade Six | 10.15 | 10.48 | 10.81 | 11.31 | 11.80 |
| Grade Seven | 10.95 | 11.30 | 11.65 | 12.17 | 12.69 |
| Grade Eight | 11.78 | 12.16 | 12.54 | 13.12 | 13.69 |

The parties agree, however, that the principal issue in dispute relates to the salary schedule -- and more particularly, the way incumbent employees should be placed on it -- rather than to the contractual language of Article VI - Section 6.01 - Advancement

Salary, which both parties view as essentially an adjunct to whatever salary schedule is selected. Consequently, the parties have indicated that Section 6.01 is not to be considered by the Arbitrator in his deliberations as to which final offer to adopt. In explanation, they have pointed out that Section 6.01 is intended only to describe the amount of monetary compensation an employee will receive after a promotion or reclassification. Both parties propose the same methodology for compensating a promoted or reclassified employee: if the employee is promoted, the employee receives one-half (1/2) the pay raise upon promotion and the other one-half (1/2) upon completion of the trial period, if the employee is reclassified, the employee moves to the same step in the new classification. Because the parties disagree on the number of steps and placement of employees on the schedule each of the party's proposed language for Section 6.01 differs somewhat. However, this difference in language goes to how salary is computed rather than the essential methodology described above, and, as indicated, the parties agree that the choice of appropriate contract provision will essentially follow from the choice of one or the other party's proposal concerning the salary schedule.

The issues between the parties can be further narrowed by noting that they are in fact in agreement on many aspects of the salary schedule. Thus both parties have proposed a change in the prior status quo as to the structure of the salary schedule. Both have proposed basically the same salary schedules for 1993-94 and 1994-95, the identical amount of increase ($.23 per hour) in each year of the contract, the same number of classifications, and the same range in pay for each classification. Both parties propose elimination of the current merit compensation system, and both propose to replace it with a standard step progression salary schedule, whereby employees will automatically move to a new step of the salary schedule on July 1st of each year.

Consequently, the issue here before the Arbitrator appears to relate solely to differences between the parties proposals as to the placement of incumbent employees on the salary schedule and the cost associated with such salary placement. The Union's final offer would place almost all employees on a step of the proposed salary schedule according to length of service, effective July 1, 1993 in the first year of the contract. The Board's final offer, on the other hand, would place all employees on a step of the salary schedule over a period of 5 years, using a graduated system to place or "phase in" employees on the appropriate step of the salary schedule over that time frame. In its final offer, the Board more fully describes its proposal in this respect, and explains its "rationale", as follows:

> Wage Increases: Those employees above Step 3 (mid-point) of the pay grade will receive an increase of $.23 per hour for the 1993-94 school year and an increase of $.23 per hour for the 1994-95 school year.
>
> Red-Circled Employees: There are currently three employees (Schmitt, Berg, and Wise) who are above the maximum of the salary range for their particular job classification. As in the Union's final offer, these three individuals are "red-

circled" and do not receive any wage increase until the salary range catches up to the employee's hourly rate.

Movement through the Salary Schedule: Newly hired employees must be employed for at least sixty (60) calendar days in a particular job classification to be eligible for movement to the next step of the salary schedule.

Salary Schedule Structure: The structure of the 1993-94 and 1994-95 salary schedules is based on the existing structure as created by a joint secretarial/administration team in conjunction with the Arthur Young compensation study, except the schedules replace the merit component of the Arthur Young compensation system with an across-the-board increase for employees above the mid-point of the range.

The current salary range from minimum to maximum is too large to place all employees on schedule within two years. The Board uses a 5 year plan to place all employees on step. Within 5 years, the range from the minimum to the maximum step would be reduced from 30% to 9%.

The Board's goal is to convert the existing structure to a "traditional" step schedule over a period of 5 years. In addition, the Board seeks to raise the hiring rates at each classification to a more competitive level.

To accomplish the above goals, the Board's final offer uses the following measures to generate a "traditional" step schedule:

1. Eliminate the minimum step from the 1992-93 salary schedule. Step 2 becomes the new minimum on the 1993-94 salary schedule.

2. For the next 5 years, drop the minimum step so that the current Step 2 becomes the new minimum. In addition, create a new Step 3 (mid-point) between the prior year's Step 3 and the Maximum step.

3. The new year's salary schedule rolls off the maximum step of the schedule. The maximum step is created by adding an across-the-board increase to the previous year's maximum rate. The remaining steps are generated off of the maximum rate.

4. Employees move through the salary schedule on July 1st each year based on their years of experience. For example, an employee hired on August 15, 1993 is placed at the minimum step of the classification. On July 1, 1994, the employee moves to Step 2 of the classification. On July 1, 1995, the employee moves to Step 3 (mid-point) of the classification. On July 1, 1996, the employee moves to the Maximum step of the classification.

5. Employees at Step 3 (mid-point) of the salary range as of June 30, 1993 remain at Step 3 (mid-point) each year until they reach the Maximum step. Although employees remain at Step 3 (mid-point) for several years, employees do receive wage increases because Step 3 (mid-point) increases as the schedule range is compressed.

   For example, an employee is placed at Step 3 (mid-point) of Grade 4 on July 1, 1992. On July 1, 1993, the employee remains at Step 3 of Grade 4, at a pay rage of $8.81 (an increase of $.23). On July 1, 1994, the employee remains at Step 3, but at a rate of $9.32 (increase of $.51). Thereafter, the employee moves to the Maximum step when the maximum rate catches up to the employee's salary.

   Employees at Step 3 (mid-point) of the salary range will reach the Maximum rate no later than year 5.

6. Employees above Step 3 (mid-point) but not at the Maximum step will receive the general wage increase each year ($.23 in 1993-94 and $.23 in 1994-95). Thereafter, the employee is placed on a step (either Step 3 or the Maximum) when the employee's wage rate matches the pay rate for the step.

7. Employees at the Maximum step remain at the Maximum step and receive the general wage increase each year ($.23 in 1993-94 and 1994-95).

The Union and Board also disagree as to how to cost the agreement, and particularly the costs of placing employees on or moving them within the schedule. As will be indicated, the Union believes that the $.23 per hour increase is a wage or "cost-of-living" increase, but that the costs of an employee's progression on the schedule should not be regarded as a wage or "cost-of-living" increase or computed in such a way as to reduce the broad wage increase for employees. The Board, on the other hand, regards the costs of placing almost all employees immediately on the proposed schedule as properly included in the employees' wage increase and any calculation of the cost of the proposed contract. Thus, the Board contends that the cost of the Board and Union final offers differ dramatically, with the Board offering a 4.68% average increase in the first year and 3.35% increase in the second year, or total of 8.03% wage increase over the term of the 2-year contract, and the Union offering a 9.57% average increase in the first year and 3.15% increase in the second year, or total of 12.72% wage increase over the term of the two year contract.

## CONTENTIONS OF THE PARTIES

### The Board's Position

The Board argues that the Arbitrator should accept its proposal for a graduated system to place almost all employees on the appropriate step of the salary schedule over a five-year period, because:

1. The Board's proposed method of implementing the new salary structure is fair and reasonable, particularly in terms of the history of the contractual compensation system and negotiations and the problems raised by the preexisting matrix system.

2. The Board's final offer provides a fair and reasonable compromise for addressing the needs of the bargaining unit, provides employees with the automatic step progression they desire while also addressing concerns with the prior wage schedule identified by the Secretarial Steering Committee (including too low starting salaries, too high costs of administering step increases, inequities in increases, and absence of durability and flexibility), and will be easier to administer and more equitable than the Union's proposal.

3. The Board's final offer is supported by the internal settlement pattern, which reflects wage increases in only the 4-5% range in 1993-94 and 1994-95.

4. The Board's comparable pool of school districts is a sufficient basis for the Arbitrator to determine comparability.

5. The Board's final offer is supported by the settlements in the comparable school districts.

6. The interests and welfare of the public are better served if the Board's final offer is awarded.

7. Local economic conditions support the Board's final offer; these include settlements with other internal employee groups, settlements for other employee groups in the same community, the cost of living in the area, as well as state legislative directives limiting wage and benefit increases for school district professional employees.

### The Union's Position

The Union argues that the Arbitrator should accept its proposal to place almost all incumbent employees immediately on a step of the proposed salary schedule, according to their length of service, because (using the Union's "headings" of its points in

*its brief):*

1. The Board's proposed five-year plan, although negotiable in successor agreements, is unworkable.

2. The cost of living is measured by the percentage wage increase, not package costs.

3. Increment "step" increases for support staff are not considered by arbitrators to be a "rate increase."

4. Arbitrators find for the prevalent salary scheme where proposals are rational and realistic.

5. Internal comparables support the Union's position.

6. School district support staff are not covered under the recent "Qualified Economic Offer" (QEO) legislation.

7. Revenue caps are not a dominant factor, particularly where internal and external comparisons are impacted by the same legislation and the employer has not implemented other austerity measures.

8. The Elmbrook Teachers' and Nurses' (Professional Employees) increases are not meaningful as an internal comparable but are evidence of how Elmbrook is affected by revenue "caps" for 1993-94 and 1994-95.

9. Administrative groups are not comparable to groups of municipal employees.

10. The comparison pool of external school districts presented by the Union basically includes the Milwaukee/Waukesha labor market.

11. Elmbrook according to traditional criteria has all of the characteristics of a wage leader and such leadership is in accordance with the Board's assertions to its employees.

12. External comparisons of employees similarly employed are considered by arbitrators to carry great weight.

13. Primary comparables should include only other represented employee groups.

14. The Employer's exhibit #47 regarding external comparables is not substantiated nor can it be verified. However, there is proof that the exhibit is both inaccurate and misleading.

15. Quid pro quo is not required for "mainstream" requests which change the status quo.

16. Other public employees generally in the same community support the Union's position.

## DISCUSSION

The only significant issue in dispute between the parties is over the employees' placement on the new salary schedule which they both have proposed, and on the associated cost of such salary schedule placement. Otherwise, the parties are agreed on almost all other provisions of their proposed 1993-95 Agreement, including those relating to salaries and the salary schedule. Thus, both the Board and the Union propose basically the same salary schedules for 1993-94 and 1994-95. And they both propose a change in the status quo in the structure of the salary schedule, under which the current merit compensation system will be eliminated. Finally, they both propose to replace the existing system with a standard step progression salary schedule, under which employees will automatically move to a new step of the salary schedule on July 1st of each year. While their respective final offers each contain somewhat different contract language as to Article 6.01 - Advancement Salary, which describes the amount of monetary compensation an employee will receive after a promotion or reclassification, the parties have proposed the same methodology in this respect and both agree that the language dispute in this provision is an adjunct to the dispute on the salary schedule and should not be determinative of the Arbitrator's decision in this arbitration.

The Board's final offer proposes to place the majority of the incumbent employees on the new salary schedule immediately, but to "phase in" the remaining incumbent employees over a period of five years. The parties appear in agreement that, under the Board's proposal, about 65% of the incumbent employees would be placed on the schedule in the first year, and the remaining 35% -- those currently above the midpoint and "off schedule" under the Arthur Young matrix system -- would be "phased into" the schedule over that five year period. The Board's proposal also reduces over time the range between the minimum and maximum steps of the schedule, by dropping each year successively the base step of the preceding year. Supplementing its explanation in its final offer, the Board in its brief explains its proposal as follows:

> "The salary schedule included in the Board's final offer is not a new creation. Instead, the Board fine-tuned and modified the existing matrix system to correct the deficiencies inherent in the matrix system. First, the Board eliminated the merit component of the matrix system and created a traditional automatic step progression salary schedule. The Board then added one step between the mid-point and the maximum of the range. Next, the Board recognized it had to reduce the range between the minimum and the maximum steps because that

range was too costly, with too much money taken up by the steps. Therefore, the Board's final offer drops the minimum step to close the gap between the minimum and maximum rates. Dropping the base step also serves another purpose -- it raises the starting salaries to a more competitive level making it easier to attract qualified applicants. Finally, the Board's final offer places all employees on a step of the salary schedule based on their seniority. However, because the cost of such step placement was prohibitive, the Board's final offer phases-in the step placement over this contract term and a maximum of three additional years.

The Board's salary schedule is quite simple to administer. The Board's final offer simply drops the minimum step of the existing schedule, adds an interim step between the mid-point and the maximum step and then adds a 23¢ per hour increase to each step of the schedule for 1993-94. . . . The Board's 1994-95 offer simply repeats these steps: drop the minimum step, add an interim step between the mid-point and the maximum step and then apply a 23¢ per hour increase to each step of the salary schedule. . . . Future years follow the same pattern. The only variance in this routine is how much money the parties apply to the salary schedule. Otherwise, the pattern repeats itself with the end result being a compressed salary schedule that achieves several goals. First, starting salaries have increased dramatically by dropping the minimum step each year. Second, the salary schedule has been compressed. For example, at pay grade 1, the range from minimum to maximum is reduced from $1.44 to $.72. . . . At pay grade 8, the range from minimum to maximum is compressed from $2.30 to $1.15. . . . Finally, this compressed salary schedule frees up additional monies that were being used for step movement. Thus, the Board's final offer corrects many of the problems inherent in the current matrix system. . . .

The Union's final offer also drops the merit component of the existing matrix system and moves to a standard step-progression salary schedule. The Union drops the base step, creates two interim steps between the mid-point and maximum and applies a 23¢ per hour increase to each step of the schedule. However, unlike the Board's proposal the Union places almost all employees on a step of the schedule in the first year of the contract. In the second year of the contract, the Union then advances each employee one step on the salary schedule and gives all employees a 23¢ per hour increase.

Consequently, the Arbitrator's task in this interest arbitration is a relatively narrow one -- to decide, giving weight to the statutory factors set out in Section 111.70(4)(cm)7, which of these parties' proposal as to placement of employees on the agreed salary schedule, taking account of the costs associated with that proposed placement, is the most reasonable. The parties arguments have focused in particular on a number of specific questions, which it may be useful to discuss separately.

1. The Cost of the Respective Offers. The Board has offered the following summary comparison of the parties respective final offers:

| Comparison of Final Offers | | |
|---|---|---|
| **1993-94 Wage Increase** | | |
| | Average $ | Average % |
| Board | $.53 | 4.68% |
| Union | $1.03 | 9.57% |
| **1994-95 Wage Increase** | | |
| Board | $.38 | 3.35% |
| Union | $.38 | 3.15% |

The Board in its arguments has repeatedly emphasized that the Union's proposal will involve a 9.57% average wage increase for the members of the bargaining unit in 1993-94, the first year of the contract, an amount the Board contends is unjustified and clearly excessive in terms of relevant internal and external comparables, the CPI index, and other factors. The Union does not directly challenge the Board's mathematical calculation of the budgetary cost to the District of its proposal, but argues, citing arbitral opinions that: (1) any comparison of the parties' final offers to other employees wage increases or the CPI under the statutory criteria should be based on wages-only costs rather than total package costs; and (2) the cost of step-increases should not be included in the calculation of the costs of its proposal. The Board responds that: (1) the Union's references to total package costs are irrelevant, since neither the Board nor the Union has offered any exhibits or other arguments concerning the total package costs of the final offer; and (2) that the Union's extensive arguments concerning the propriety or impropriety of including the costs of in-step progression in the calculation of the wage increase here involved are also mostly beside the point since, the difference in cost between the Board's 4.68% wage increase and the Union's 9.57% wage increase in the first year of the contract is not due to the cost of the step movement but is rather based on the cost of initially placing employees on the new automatic step progression salary schedule. The Board also argues that the Union has been inconsistent in its position on this point since it has included the cost of step increases in a number of its own calculations concerning various comparables. The Board also argues that the undisputed testimony at the hearing was that the Board and secretaries have a past practice of including the cost of the step movement in wage increases they have negotiated for the unit, as well as of including the cost of implementing a new salary schedule structure in the cost of their overall wage settlement, as evidenced by the fact that the 18.4% wage settlement agreed to at the time the parties implemented the Arthur Young salary system included the cost of placing all employees on the new matrix.

On this issue, the Arbitrator finds the Board's position more persuasive. The parties are here involved in implementing a new automatic progressive step salary schedule, which both want and to which both have agreed. This new structure will replace a previously agreed salary structure which, by the parties mutual design and agreement, left a number of employees off-schedule. In the Arbitrator's opinion, the cost of now placing these employees on the newly agreed step-progression schedule cannot properly be characterized as either a simple salary schedule step movement increase, or as part of total package cost apart from wages, and can, under these circumstances appropriately be included in the calculation of the wage increase for the unit. Consequently, the Arbitrator accepts the Board's costing of the respective offers for comparison and other purposes.

2. Comparison of the Wage Increase with Other Internal Settlements, and of Public Employees in the Same and Comparable Communities. Section 111.70(4)(cm)7 of the Wisconsin MERA requires that the Arbitrator compare the wage increase of the municipal employees involved in this arbitration with those of other employees performing similar services. Each of the parties has presented figures concerning these settlements. The Arbitrator finds persuasive the Board's evidence that the other non-teaching units in the school district received wage increases in the 4.00% range in 1993-94 and 1994-95, although the Union suggests that these figures may be somewhat higher -- perhaps 4.10% to 4.30%. In the Arbitrator's opinion, whichever figures are used, the Board's 4.68% and 3.35% wage proposal is more in line with these other comparable internal wage increases than is the Union's 9.57% and 3.15% proposal, particularly with respect to the first year of the contract. Consequently, on the basis solely of the statutory criteria of comparability with other employees performing similar services, the Arbitrator believes that the Board's proposal is more reasonable than that of the Union.

The MERA also requires that the Arbitrator compare the wages increase of the municipal employees here involved more broadly with those of other municipal employees in the same or comparable communities. The Board's evidence, which the Arbitrator accepts as credible, indicates that the wage increases provided to municipal employees in the Village of Elm Grove and the City of Brookfield were in the 3.50% to 4.50% range in calendar years 1993, 1994 and 1995, and that employees in Waukesha County received split increases of 3.0% and 2.0% in 1993 and 3.00% to 3.50% for calendar years 1994 and 1995. Again, the Arbitrator regards the Board's proposal as more in line with these increases than is that of the Union. Consequently, on the basis solely of the statutory criteria of comparability with other municipal employees, the Arbitrator considers the Board's proposal as also preferable to that of the Union.

3. The Appropriate Set of School Districts for External Comparison Purposes. Section 111.70(4)(cm)7d of the MERA requires that the Arbitrator compare the parties' final offers to wages, hours and conditions of employment of similar bargaining units in comparable school districts. As a threshold matter, the parties disagree as to the other school districts which should be regarded by the Arbitrator as external comparables in

this respect.

The Board urges that the appropriate comparables for this purpose, based on geographic proximity, student enrollment, teacher FTE and overall employee size, should be the following sixteen school districts: Arrowhead/Hartland UHS, Franklin, Greendale, Greenfield, Hamilton, Kettle Moraine, Menomonee Falls, Mukwonago, Muskego, New Berlin, Oconomowoc, Pewaukee, Waukesha, Wauwatosa, West Allis and Whitnall. The Union proposes a comparable pool comprised of twenty-seven school districts: all of the districts included in the Board's pool except Greenfield and Oconomowoc, and, in addition, a number of other school districts such as Nicolet UHS, Whitefish Bay, Shorewood, St. Francis, Cudahy, South Milwaukee, Oak Creek-Franklin, West Bend, Slinger, Hartford UHS, and Watertown.

The parties have each presented extensive arguments for their own proposed list of comparables, as well as arguments against at least some of the school districts on the other parties list. Thus, the Board argues that its list is most comparable, in terms of contiguity and other relevant factors, that it is sufficient in size for the statutory purpose, and that the Union's list is excessive in numbers, as well as including many districts that are neither contiguous nor otherwise comparable. The Union urges that its broader list is more representative of the relevant region, and that, in general, "the more, the better." Moreover, the Union argues in particular, with extensive citation from arbitral decisions, that the Greenfield, Hamilton and Oconomowoc school districts, which are included on the Board's list of comparables, should not be included as comparables since they are not Union-represented. The Board responds that, while the exclusion of non-union-represented districts might be arguable where contract language is in issue, it is less persuasive where, as here, only wage questions are involved.

The Arbitrator believes that it is not necessary in this case to seek to resolve these broader questions of principle raised by the parties. The parties appear to agree that at least the following twelve districts should be appropriately considered as comparables:

| | |
|---|---|
| Arrowhead | Muskego |
| Franklin | New Berlin |
| Greendale | Wauwatosa |
| Kettle Moraine | Waukesha |
| Menomonee Falls | West Allis |
| Mukwonago | Whitnall |

In the Arbitrator's opinion, this agreed-upon pool, which excludes nonrepresented groups, is sufficiently large and uniform to reasonably be used in order to attempt to identify a pattern of wage settlements for the purposes of this arbitration. Consequently, the Arbitrator has decided to rely on the above school districts as "external comparables."

4. Comparison of the Wage Increase with Settlements in Other School Districts. The parties have each presented extensive argument and exhibits concerning the "external" comparison of the wage costs of their respective offers with those of what they have proposed as comparable school districts. While the Union has questioned the basis for certain of the Board's calculations regarding these external settlements, the Arbitrator regards the Board's figures as credible. In its brief (p.21), the Board has presented a useful summary chart covering the agreed-upon comparables, and excluding Greenfield and Oconomowoc, which is as follows:

| Settlement Pattern for Agreed-Upon Comparables | | |
|---|---|---|
| District | 1993-94 Wage Increase | 1994-95 Wage Increase |
| Arrowhead UHS | 3.00% | 3.10% |
| Franklin | 4.60% | 3.80% |
| Greendale | 6.30% | 3.80% |
| Kettle Moraine | 4.90% | 4.20% |
| Menomonee Falls | 4.50% | 3.00% |
| Mukwonago | 1.00% | 3.90% |
| Muskego | 6.00% | NS |
| New Berlin | 3.20% | 2.96% |
| Wauwatosa | 4.00% | 4.00% |
| Waukesha | 3.00% | 3.00% |
| West Allis | 4.00% | 2.10% |
| Whitnall | 3.00% | 3.50% |
| **AVERAGE** | **3.96%** | **3.31%** |
| ELMBROOK - BOARD<br>+/- Average | 4.68%<br>+ 0.72% | 3.35%<br>+ 0.04% |
| ELMBROOK - UNION<br>+/- Average | 9.57%<br>+ 5.61% | 3.15%<br>- 0.16% |

In the Arbitrator's opinion, the weight of the evidence introduced by the parties, as reflected inter alia by the figures in the above chart, indicates that the Board's wage proposal is generally more in line with wage increases in the comparable school districts than is the Union's. While the costs of the Union's second year proposed increase are roughly comparable to those of other districts, the 9.57% the Union proposes for the first

year clearly exceeds the average -- by the Board's calculation, by more than 5%, as does the total it proposes for the two years. Indeed, the Board suggests that, even if the Union's own figures for wage settlement in comparable districts (as presented on page 84 of its Brief) are used, the Board's proposal would still be closer to that average settlement figure than would the Union's.

Consequently, on the basis solely of the statutory criteria of comparability with other school districts, the Arbitrator concludes that the Board's proposal is more reasonable than that of the Union.

5. The Cost-of-Living. The MERA directs that the Arbitrator also give weight to the cost of living, which is typically reflected in the Consumer Price Index. The Board and Union have both submitted evidence regarding the Consumer Price Index, which shows that the cost-of-living has increased by an average of about 2.7% per year over the last three years. In the Arbitrator's opinion, the Board's wage increase proposal must again be considered as closer to this cost-of-living increase than is the Union's proposal, particularly as regards the first year of the contract.

6. Interests and Welfare of the Public and Financial Ability of the District to Meet the Costs of the Proposed Settlement. The MERA provides that the Arbitrator should also take into account the factors of interest and welfare of the public and financial ability of the employer, and each party has presented extensive arguments on this point. Thus, the District in particular, while not arguing that it is financially unable to pay, has emphasized the severe constraining impact on its budget of the revenue limits which the legislature has recently imposed on all school districts. The Board has introduced evidence of significant cuts it has made in its 1994-95 budget in order to meet these revenue limits, including cuts in various education programs and the elimination of a number of positions. The Board argues that in view of the substantial wage cost involved in the Union's final offer, selection of its proposal would seriously exacerbate the economic problems facing the District as it tries to adjust to these revenue limits; the money for these substantial raises would have to come from somewhere else in the very limited budget, with serious effects on the District's programs. The Board points also to similar caps or spending limits ("Qualified Economic Offer" or "QEO limits") imposed by the legislature on wage and benefit increases provided to school district professional employees. The Union, however, argues that the District admittedly has the ability to pay whatever proposal is accepted, that the Board's concerns as to the effects of an award in favor of this unit's proposal are unrealistic and exaggerated, and that the Arbitrator should not be influenced by such considerations against awarding these employees otherwise reasonable and justified wage increases.

While recognizing the Board's concerns, the Arbitrator finds more persuasive the Union's arguments that neither the existence of the legislative revenue limits nor the Q.E.O. limits should significantly influence the Arbitrator's decision in this case one way or the other.

7. Comparability of the Placement Timing Aspects of the Proposals. The Union points out that no other employee group in the School District has a salary schedule where employees are not currently on a recognized step of an automatic step-progression schedule. It argues that its proposal should consequently be deemed preferable in that it will most rapidly and simply bring all of the secretaries into conformity with this prevailing structure; in contrast the Board's proposal will do so at best only over a five year period. The Board counters, however, that in a unique case like this, where there is an agreed conversion to a largely new salary structure, it is not appropriate to apply such comparability criteria so as to require an immediate rather than phased-in change. It stresses that this change in the structure of the salary schedule was agreed upon by the parties themselves, and that no other bargaining unit had the particular history here involved in which the parties, by prior agreement, had intentionally left certain employees "off schedule" and had now to address the issue of generating a salary schedule that would place these employees "on step".

While the Union's arguments on this question have considerable weight, the Arbitrator finds the Board's arguments on balance more persuasive. The parties have in fact agreed upon establishment of a new step-progression structure which will eventually be fully comparable to salary structures in other units and districts, and both of their proposals fully commit the parties to that objective. The only difference in this respect is with regard to the time frame in which all employees will be placed on that schedule. In the Arbitrator's opinion, the statutory criteria of comparability do not in themselves require that such a major conversion from one salary structure to another need necessarily be accomplished immediately, rather than "phased-in" over some reasonable period of time. However, as will be discussed shortly, it is possible that broader issues of reasonableness and fairness, rather than simply comparability, may also be relevant in this respect.

8. The General Reasonableness and Fairness of the Proposals. The MERA provides that the Arbitrator, in deciding between the parties' proposals, can also take account of such other factors as are normally or traditionally taken into account in the determination of wages, hours and conditions of employment through voluntary collective bargaining. In the Arbitrator's opinion, this can include the general reasonableness and fairness of the parties different proposals.

The Board argues that its proposal provides the fairest and most reasonable compromise for addressing the needs of the bargaining unit, in that it both deals with the deficiencies of the existing Arthur Young matrix compensation system and converts it to the type of automatic step-progression system the employees desire, but does so in a manner and over a time period which is also consistent with the budgetary constraints under which the Board must necessarily operate. It maintains that its proposal, in particular, addresses the concerns with the current salary structure identified by the Secretarial Steering Committee. Thus, its proposal continuously drops the minimum step of the schedule, thereby raising starting salaries so that the District is better able to

attract and retain qualified secretaries. Its offer also compresses the salary schedule over a 5-year period so that less money is taken up by the cost of the step movement, leaving more money available for general salary increases to all employees. Finally, the Board contends that its final offer is flexible enough so that it can adjust to fluctuations in the marketplace and the needs of the parties. The Board argues that the Union's proposal, in contrast, does not adequately address or deal with these concerns, does nothing to compress the number of steps, offers inequitable wage increases, and is rigid and inflexible.

The Union, on its part, argues that its offer is the more reasonable and fair. It urges that in contrast with the Board's proposal, which will take five years and it regards as over complex, its proposal will promptly and simply move the concerned employees to their appropriate steps in new salary schedule; in the Union's words, "What you see is what you get." It further argues that the Board's proposal is difficult for the employees to understand and probably unworkable, that it projects beyond the time frame of the agreement here in question and thus will depend on future developments and negotiations, and that it will produce substantial inequities.

Each of the parties' above arguments and concerns as to fairness and reasonableness have considerable merit, and it is not easy for the Arbitrator to choose between them in this respect.

On the one hand, the Arbitrator is persuaded that the Board's proposal reflects an imaginative and good faith effort on its part to deal with the problem of converting from the existing salary structure to a step-progression system, but in a graduated manner and over a time period which the Board considers consistent with its budgetary constraints. The Arbitrator is also of the view that the Board's plan, while somewhat complex, is workable and more likely over time than is the Union's to result in a salary structure more capable of resolving the problems emerging from the parties' adoption of the Arthur Young matrix system, and which have now long plagued the parties. On the other hand, the Arbitrator recognizes the Union's concern with the at least surface complexity of the Board's proposal, as well as with its five-year time frame and dependence on future negotiations and developments extending beyond the term of the present contract. As the Union points out, its proposal provides a quick and simple solution to the placement problem, although as indicated, at a significantly higher wage increase cost.

Similarly, it is not easy to choose between each party's claim that, while its proposal will be equitable, the other party's proposal will not. Thus, each party presents examples of particular inequities which could occur under the other's system. For example, the Union contends that, under the Board's proposal, incumbent off-schedule employees awaiting eventual phased-in placement might soon find themselves with lower salaries than newly-hired employees who have been placed on schedules and have moved up through the steps. Under the Union's proposal, on the other hand, at least some

employees will receive quite large, and in the Board's view, disproportionate salary increases, while others will receive much less. As best the Arbitrator can judge, each proposal will inevitably involve both elements of fairness and of inequity towards particular groups of employees, and it is not clear which proposal is the fairer overall in this respect. In sum, the Arbitrator regards the parties arguments as to the reasonableness and fairness of their respective proposals as relatively evenly balanced and as not clearly favoring a selection of either one party's offer or the other. Consequently, the Arbitrator believes that the decision of this case must be based primarily on other factors, such as the comparability of the proposed wage increase under the respective plans.

9. Assessment and Conclusion. Each party has ably argued why its proposal should be preferred and its final offer selected by the Arbitrator. Certainly, there is much to be said for each party's position.

The Arbitrator believes, however, that the statutory factors listed in the Wisconsin MERA weigh, on balance, in favor of the Board's proposal rather than that of the Union. This is particularly the case with respect to the statutory criteria of internal and external comparability of the party's respective wage increase proposals and their comparability to the increase in the cost of living. As indicated, the Arbitrator is of the opinion that the wage increase proposed by the Board is more in line with relevant increases for the relevant period, both within and outside the school district, and also closer to the rise in the cost-of-living for the same period, than is the Union's wage increase proposal, particularly for the first year of the proposed contract. Both the MERA and arbitral precedent regard such comparability as of substantial importance. Moreover, the Arbitrator finds persuasive the Board's contention that, in this case, the Union has not established any compelling reason, or established that it has given any quid pro quo, justifying its proposed first-year and total wage increase, which, as indicated, appears significantly higher than the prevailing level of internal or external comparables and the increase in the CPI.

The Arbitrator therefore concludes that, for the above reasons, the Board's proposal is the more reasonable and should be selected.

## AWARD

Based upon the statutory criteria contained in Section 111.70(4)(cm)7, the evidence and arguments of the parties, and for the reasons discussed above, the Arbitrator selects the final offer of the Board, and directs that it, along with all already agreed upon items be incorporated into the parties July 1, 1993 through June 30, 1995 collective bargaining agreement.

Madison, Wisconsin
June 6, 1995

Richard B. Bilder
Arbitrator