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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

BEFORE THE ARBITRATOR

In the Matter of the Arbitration of the
Dispute Between the

MINERAL POINT EDUCATIONAL SUPPORT PERSONNEL

and the

MINERAL POINT UNIFIED SCHOOL DISTRICT

WERC Case 19
No. 51296
INT/ARB 7363
Dec. No. 28322-A

Appearances:

Mr. Marvin Shipley, Staff Representative, South West Education Association, Platteville WI., for the Union. Ms. Eileen A Brownlee of Kramer, McNamee & Brownlee, Fennimore, WI., for the Employer.

Sworn Testimony was received from:

Mr. Bruce Suddeth, Bus Driver, Mineral Point Unified School District
Dr. Jeff Gruber, Superintendent, Mineral Point Unified School District

Background:

On June 7, 1994, representatives of the Mineral Point Unified School District (hereinafter referred to as the "District " or the "Employer") and the Mineral Point Education Support Personnel Union (hereinafter referred to as the "Union", "Association", or the "Employees") exchanged proposals on issues to be included in a new agreement accreting certain employees to an existing unit. The Union represents full-time and regular part-time educational support employees of the Mineral Point Unified School District but excluding administrative, supervisory, managerial, confidential, professional, casual, substitute, and seasonal employees. The Parties met on three other occasions and failed to reach an agreement. On July 14, 1994, the Union filed a petition with the Wisconsin Employment Relations Commission for final and binding interest arbitration pursuant to Section 111.70(4)(cm)6 Wis. Stats. Investigator Stuart Levitan, a member of the WERC staff, conducted an investigation on September 27, 1994, and then advised the Commission that an impasse existed. The parties submitted final offers to the Commission by February 17, 1995. On February 24, 1995 the Commission certified the parties' final offers and directed them to select an impartial arbitrator. The Undersigned, Richard Tyson, was selected and appointed on March 28, 1995. Mediation of the dispute was attempted on June 8, 1995; having failed to reach an agreement, the Arbitrator conducted a hearing on the matter on June 20, 1995 at the Wisconsin Power and Light facility in Mineral Point, Wisconsin. No transcript of the hearing was taken. Both parties had an opportunity to present exhibits and testimony and to outline their arguments in this dispute. They agreed to a schedule for exchanging briefs and replies.

The Issue(s)

The parties are agreed on a number of items for inclusion in the agreement for 1994-96; however, several items remain in dispute such as wages. The Employer proposes to continue the same wage schedule for Classes I-V in the first year and increase each step \$.10 in the second year. The Union proposes that each step be increased \$.30 in each year as well as to modify the schedule by increasing the step increments for Class V (Cooks) from \$.15 to \$.20, similar to the other classifications (excepting the bus drivers who are being added to the unit as Class VI). Both parties propose that bus drivers will earn \$17.00 per trip in 1994-5. The Union proposes the same for 1995-6 while the Board proposes an increase to \$17.50. Both propose that new drivers be paid \$13.50; the Union would increase drivers' pay to the regular rate after the 90 day probation period as is done for other unit employees while the Employer would only pay the regular rate after one year. The union contends that the Employer is thereby increasing the probationary period of drivers to 1 year. The Union proposes that standard "special trips" be paid at a rate of \$13.00 while the Board proposes \$11.50. Bargaining unit members who are certified teachers and who are asked to substitute teach are to be paid "at the per diem rate they would receive if employed full time as a teacher in the district" under the Union's offer; the employer proposes to continue the practice of paying the substitute teacher rate. The last difference relates to language for longevity increases, which the parties indicated at the hearing did not make a dollar difference for this contract. The District's offer maintains the provision for cents-per-hour increases (\$.20 and \$.30 in 1994-5 and 1995-6) while the Union's offer proposes an increase "equal to the average of the increases for the rest of the bargaining unit."

Fringe benefits are also in dispute. Since the bus drivers have accreted to the unit, the Union proposes their inclusion in the District's retirement plan which pays 11% of each employee's previous year's gross regular wages into a TSA account. The Employer proposes language which specifically excludes them. The District proposes extension of the (prorated) health insurance benefit to the bus drivers; the Union's offer failed to propose a change in the contract to include the new employees. Its request to amend its offer to include them was not agreed to by the District. The Union proposes to increase the District's contribution to its Dental/Vision pool to \$500/\$300 (family/single) from \$425/\$225 per year, while the District proposes the current rates.

Two so-called non-economic issues are also in dispute. The District proposes to reduce the notice period for layoff from three (3) weeks to five (5) days for the entire unit. The Union proposes a reduction from three weeks to ten (10) student days for "special student teaching assistants." Finally, the District proposes to eliminate the qualifying language to the Management Rights section on (sub)contracting for goods and services. Currently the Employer may only contract for those services not provided by unit members. The Union proposes to retain the clause with the restriction while the District's offer would allow for subcontracting of work currently done by bargaining unit members.

The parties differ as to which set of comparables constitutes the appropriate external comparison group under Section 7.(d.) of the Act against which to measure their respective offers. The

Employer argues that the relevant comparison is to be made between the unit employees and similar employees in the school districts comprising the Southwest Wisconsin Athletic Conference ("SWAL"). The Union argues that the most appropriate comparable group includes those support staff units in fifteen (15) school districts in the Mineral Point area which are represented by the South West Education Association.

Cost

The Employer costs wages and benefits for 1993-94 and the two contract years 1994-95 and 1995-96 as follows:

	Employer's Offer				
	<u>1993-94</u>	<u>\$ diff. (%)</u>	<u>1994-95</u>	<u>\$ diff. (%)</u>	<u>1995-96</u>
wages	446,232	13,752 (3.1)	459,984	16,410 (3.6)	476,395
benefits	<u>164,509</u>	<u>12,087 (7.4)</u>	<u>176,596</u>	<u>2,357 (1.3)</u>	<u>178,953</u>
total	610,742	25,839 (4.2)	636,580	18,767 (2.9)	655,437

The Union costs wages and benefits for 1993-94 and the two contract years 1994-95 and 1995-96 as follows:

	Employer's Offer				
	<u>1993-94</u>	<u>\$ diff. (%)</u>	<u>1994-95</u>	<u>\$ diff. (%)</u>	<u>1995-96</u>
wages	446,232	11,100 (2.5)	457,333	16,456 (3.6)	473,788
benefits	<u>163,875</u>	<u>11,101 (6.7)</u>	<u>177,258</u>	<u>10,642 (6.0)</u>	<u>183,734</u>
total	610,107	22,201 (3.6)	634,591	27,098 (4.3)	657,522

	Union's Offer				
	<u>1993-94</u>	<u>\$ diff. (%)</u>	<u>1994-95</u>	<u>\$ diff. (%)</u>	<u>1995-96</u>
wages	446,232	25,762 (5.8)	471,994	24,105 (5.1)	496,099
benefits	<u>163,875</u>	<u>22,540 (13.8)</u>	<u>186,416</u>	<u>13,101 (7.0)</u>	<u>199,516</u>
total	610,107	48,302 (7.9)	658,410	37,206 (5.7)	695,615

The Union was told by the District that health insurance costs may increase 10% in 1995-96; since they didn't rise, its estimates are about 1.3% too high for both offers in 1995-96.

The Union calculated that the Employer's wage increase offer to be only 2.49%. The Employer indicated that it had included paid out excess sick leave accumulations (which appear to be \$2573) in 1993-94 wages and also included an amount (\$2659 which the Arbitrator calculates to be in proportion to the wage increase) in the 1994-95 wages. The Employer contends that by neglecting to include these funds, the Union understates the cost of the Employer's offer. The Union countered that these cannot be assumed. The Employer contends that the Union's wage calculations for 1994-95 and 1995-96 are about 1/2% low because it failed to add comparable sick leave payout funds as included in the 1993-94 wage base, so the correct wage increases are \$28,432 and \$26,922 or 6.37% and 5.67% respectively. Were this to be the case, the Union's 1994-95 offer would exceed the Employer's by approximately \$25,000 (8.3% vs 4.2%), while the 1995-96 offers would differ by about \$10,000 (4.4% vs 2.9%).

The Statutory Criteria

The parties have directed their evidence and arguments to the statutory criteria of Sec. 111.70 (7) Wis. Stats. which directs the Arbitrator to consider and give weight to certain factors when making his decision. Those factors are:

- a. The lawful authority of the employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services.
- e. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees generally in public employment in the same community and in comparable communities.
- f. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees generally in private employment in the same community and in comparable communities.
- g. The average consumer prices for goods and services, commonly known as the cost-of-living.
- h. The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

- j. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, factfinding, arbitration or otherwise between the parties, in the public service or in private employment.

Arguments of the Parties

The Employer

The Employer argues that the appropriate comparable group to employ is the SWAL, the athletic conference to which the District belongs. This basis for comparison is well established in arbitration.¹ The Union² needs to show that any other districts which it chooses are appropriate, and has not done so. It has provided "absolutely no evidence...with respect to the size" of the schools it proposed.³ Moreover, the fact that some districts may not be unionized does not call for their exclusion.⁴ Only two (2) SWAL districts' support staffs are unorganized. The District has been used as a comparable in teachers' disputes utilizing the SWAL. No arbitration decision of a teacher's dispute involving a district proposed by the Union which is not a member of the SWAL has been utilized. Mineral Point is the second smallest district in the SWAL; nevertheless, comparisons of equalized value, property taxes, and mill rates would generally show these school to be appropriate comparables.

The Employer's offer of wage increases is reasonable based on the statutory criteria, while the Union's offer is excessive. By its calculation, wages expenditures will rise 3.08% in the first year of the contract and will rise 3.57% the second year. It calculates wages increases of 6.37% and 5.67% under the Union's offer when properly adding the pay for accumulated

¹Arbitrator Vernon in School District of Marion (Dec. NO. 19418-A, 7/30/82) and School District of New Auburn, (Dec. No. 19436-A, 6/18/82).

²In its Brief, the Employer refers to the "Union" as the "Association" which term the Undersigned will use in stating the Employer's arguments.

³District Reply Brief, p. 1.

⁴Arbitrator Yaffe in Arrowhead Unified School District, (Dec. No. 27823-A, 1994).

sick leave days.⁵ By its failure to consider this factor, the Union's calculation of the parties' offers is too low. The Employer maintains that unlike teachers' salary comparisons, it is difficult to compare wages for the support staffs since there is a "wide variance in experience increments which exists even between the comparables."⁶ The current wage schedule is "back-loaded" with admittedly low starting wages, but unit employees then receive step and unlimited longevity increments, in addition to any negotiated increases in the schedule, unlike many of the other districts which might be used for comparison. The Union's offer of a \$.30 increase "per cell" on top of a \$.20 increase via "steps" is far beyond the wage increases of comparable districts. In those districts, the "step" wage increase ends between two (2) and fifteen (15) years. The effect of the increases for longevity is not insignificant since half of the Class I-V employees will soon be receiving longevity increases. When considering the wage rankings (within the SWAL) of support staff at the maximum wages without longevity, Mineral Point may generally be in the middle to lower end. However, with longevity, the Mineral Point support staff ranks toward the top. In the comparisons of the various jobs, the District's offer generally maintains their rankings, while the Union's offer "significantly enhances them."⁷

The Union's offer also includes other unwarranted changes. The proposal for the Class V (Cooks) step wage increments to increase from \$.15 to \$.20 provides for an extra \$.55 increase beyond the other proposed schedule changes which already provide for excessive increases. The current \$.15 step differential is hardly an "unreasonable injustice" since the Union bargained it in every contract since 1987.⁸ Its proposed contract language change for longevity--to take the "average" increase--is mystifying in its operationalization, given this proposal (Classes I-IV generally have \$.20 increments) for Class V and the Union's apparent failure to consider the \$1.00 per trip increase for the bus drivers (Class VI). There is neither a demonstrated necessity for the proposed changes, nor a quid pro quo offered. Its own offer maintains the status quo and is clear and unambiguous on this matter. The same applies to the Association's proposal for substitute teacher pay. The current practice is to pay substitute pay to those asked to substitute while the Association would propose "at best, ambiguous...language" to somehow pay

⁵Employer Brief, p. 11

⁶Employer's Brief, p. 13

⁷p. 21

⁸District Reply Brief, p. 2.

unit employees on the teacher salary schedule if they substitute and are certified teachers.⁹ There is no comparable support for the Union's position nor has there been any evidence of any disruptive effect of using aides as substitute teachers as claimed by the Union.¹⁰

The Employer contends that its offer of pay for the bus drivers essentially maintains the status quo as well (though providing for some increase) while the Association's offer significantly changes it. Both proposals are the same for 1994-5 for regular drivers on regular routes, while the Board's offer is \$.50 higher in 1995-6. It proposes the same first year driver wage while the Association would increase the first year driver wage after 90 days, arguing that other unit employees' wages increase after the (90 day) probationary period. Its argument that there are other unit employees working similarly few hours who are paid the first step rate on the 91st day is generally incorrect; only two other employees work as few hours per year as the bus drivers.¹¹ The same applies regarding eligibility for retirement benefits. Simply accreting to the unit does not entitle drivers to such a gain. The Association proposes a \$13 payment for special trips while the Board's offer provides for \$11.50 payments and clearer language on what constitutes such trips. Comparisons with other districts cannot show these changes to be warranted because there are few comparables. Additionally, many other districts subcontract for bus service or have various alternative methods of paying for special trips.

The Employer's offer to continue to pay \$225/425 (s/f) for dental and vision "insurance" is consistent with the status quo and is already more generous than most of the comparables, especially when considering that many other districts don't provided these benefits for support staff or prorate the employer's contribution. The current self-funded plan is adequate to meet dental and vision needs. The Association has not shown evidence of rising dental or vision costs such as would justify its 15% and 25% increases.¹² The District also proposes the status quo with respect to fringe benefits for the bus drivers, offering to include them in the health

⁹Employer Brief, p. 33

¹⁰Employer Brief, p. 33.

¹¹District Reply Brief, p. 4.

¹² Employer Brief, p. 26. Actually, the increases would be 17% and 33%

insurance program and to not include them in the 11% annuity contribution.¹³ The Association's offer, on the other hand, excludes the drivers from the health insurance and includes an unwarranted 11% increase for the drivers; when other unit employees received this benefit, they received it gradually and at a cost of lower wage increases. It calls for a 9% wage offer plus the 11% annuity payment when most other drivers are getting lower wage increases and are often excluded from eligibility for retirement benefits.

The wage and benefit proposals of the Association are significantly greater than the cost of living and employment costs indices, while the Employer's offer is more consistent with them. Arbitrators suggest that these indices should be an important guide in weighing the reasonableness of respective offers, particularly when there are few good comparisons to make.¹⁴ That wage and benefit costs should stay in line with these indicators is consistent with the philosophy of recent legislation on teacher and other professional salary limitation and revenue caps. Additionally, the District is unable to pay the increases called for in the Association's offer. Its highly agriculturally-dependent economy is in difficulty. The District has high poverty while its school costs and mill rate are higher than average. The revenue cap which the Governor and legislature has imposed has resulted in teacher layoffs and reduced its fund balance to meet operating expenses.

The language proposals of the District are both very reasonable, clear, and are supportable with regard to the comparables. Its layoff proposal, to reduce the notice period from three weeks to five days, meets the need to be able to lay off for lack of work, particularly if special needs students are not going to return to school. Employees, moreover, only need to give the District two weeks' notice of quitting. The Association's proposal, to reduce the notice period to ten days for newly hired aides working with certain students, creates numerous problems and is unclear in its application. It would create a new seniority list among aides, impede work assignments, and make layoff for lack of work more difficult than the current language, depending on how the "days" are interpreted. Most of the comparables have either no notice

¹³ the Undersigned notes that the insurance is prorated in a manner so that only one driver is enrolled. The benefit "amounts to in excess of \$1,300 per contract year" (Brief, p. 29).

¹⁴ Arbitrators Petrie in Shiocton School District (Dec. No. 27635-A, 1993), Baron in Cassville School District (Dec. No. 27188-A, 10/3/92), and Zeidler in Madison Metropolitan School District (Dec. No. 27610-B, 1993).

period or shorter ones. Similarly, the District's proposal to change the status quo with respect to allowing it to subcontract for all goods and services addresses a compelling need and is generally consistent with the comparables, particularly as regards bus transportation services. The District is "losing the site which it currently leases to store the busses" and needs flexibility to consider how it might address transportation in the District. It cannot spend money on feasibility studies wisely if options are precluded. The Union's argument that it should fear litigation for failing to fairly represent unit employees by agreeing to such a proposal is a misunderstanding of a fundamental concept.

The Union

The Mineral Point Educational Support Union contends that its offer is more reasonable, fair, and best meets the statutory criteria and addresses the issues; on the other hand, the Board's offer is unreasonable, cruel and punitive, and to be viewed as an attempt to "bust the union."¹⁵ In the main, the Union's proposal simply maintains the status quo on non-economic issues or reasonably assists the Board's alleged problem. On economic issues, its offer simply attempts to maintain wage positions with regard to external comparables and/or to achieve internal equity within the bargaining unit or between its members and other District employees.

The Union argues that the appropriate comparable group to employ is the 15 groups of support staff for which the SWEA bargains. This basis for comparison is that there are a sufficient number (15); they are more similar in size to Mineral Point; they are represented; and their common representation by the SWEA insures similarity of bargaining unit priorities.

The Board's proposals to change the status quo on Layoff and Subcontracting are heavy-handed and strike at the heart of one of the major responsibilities of the Union, which is to protect the jobs of its members. The Union contends that it, in good faith, attempted to accommodate the Board's concern that it needed more flexibility on layoff in certain cases. Certain aides who were assigned to special needs students may be absent for long periods of time because of health or other reasons or may not return to school. It proposed to reduce the notice period to ten days for these particular situations provided that there were

¹⁵ Union Brief, p. 22.

restrictions on the Board involuntary transferring current employees into these positions. The Board in turn proposed that all employees be subject to the risk of layoff with only five (5) days notice. Of the fifteen comparables, four have no layoff notice language and only two have shorter notice provisions than do MPESP employees currently. The Board's offer would place them in one of the worst positions.

The Board's proposal on subcontracting language is a misdirected, "meatcleaver" approach to its alleged bus barn rental problem.¹⁶ It cannot be supported by the comparables, since nine of the fifteen have language "substantially similar to the Union's proposal" while three are silent, and only three support the Board's position.¹⁷ Unsatisfied with contracting with private vendors for transportation services, the District bought buses and rented space. Now the Board says it is reconsidering how it provides transportation and wants the flexibility to choose among options or recommendations which might result from a future feasibility study. The union calls into question the Board's motives for proposing an unfettered subcontracting clause extending to all unit employees. The Board's reasoning with regard to the bus situation is disingenuous; it has not submitted evidence about a bus storage problem, has never stored its buses under cover, and has at no time proposed subcontracting for bus services.¹⁸ Rather, its subcontracting proposal, if not directed at busting the union, is directed at having the opportunity to threaten the unit employees with subcontracting their services whenever it wants a concession at the bargaining table.¹⁹ Agreeing to such a proposal would risk suit for unfair representation.

On economic issues, its offer simply attempts to maintain its position with regard to external comparables and/or to achieve internal equity within the bargaining unit or between its members and other District employees. The Employer's offer, on the other hand, further degrades the wages of MPESP whose wages are already low compared to other support personnel-particularly at the entrance levels. Its offer of a freeze in wages during 1994-95 and a ten cent (\$.10) increase in 1995-96 will lower the historical rankings of all classifications.²⁰ While the

¹⁶ Union Brief, p. 10.

¹⁷ Union Brief, p.11.

¹⁸ Union Reply Brief, p. 3.

¹⁹ Union Brief, p. 22.

²⁰ Union Brief, p. 13.

Employer may contend that employees on longevity are not as bad off, Mineral Point employees take longer to get there (13 years) than do all but one other district's employees. Moreover, the Board erroneously considers wages of employees on longevity as being on the schedule for comparison purposes; the schedule stops at the 12th step. The Board also is needlessly confused about the calculation of longevity under the Union's proposal. The proposal only codifies the historical and current procedure. The Union's proposal to increase the step increment in wages for the Cooks to \$.20 is consistent with the other employees and corrects an unreasonable injustice. The Cooks get the fewest work hours, have the lowest prorata insurances paid, and receive the least retirement contribution.

The Board's proposal to pay bus drivers the probationary wage for an entire year is inequitable, since other unit employees move to the first pay step after their probationary period (90 days). Its contention that the drivers work less (three hours per day) and therefore only work the equivalent of 90 full time days during the school year is inconsistent with the other unit members, since, for example, cooks work about the same number of hours as do the bus drivers. The District also want to unfairly discriminate between other unit members and drivers by altering the status quo contract language to specifically exclude them from the retirement pay plan. Other employees receive an 11% (of regular wages) employer paid contribution to a TSA account. Only two (2) of the six (6) comparables exclude drivers. The Board's rationale that the drivers don't work sufficient hours to qualify them for the Wisconsin Retirement Fund as is the case in some other districts is irrelevant since the TSA is not the WRF-- and if it were, the Employer would be paying 12.3%!

The Union also proposes to correct a glaring inequity in the Board's contribution for unit members to the dental/vision insurance pool. Costs of dental and vision services do not vary according to class of employee, yet the District contributes \$300/\$500 for administrators and teachers while contributing only \$225/\$425 per year for support personnel. The Board's offer to make the same payments continues to demonstrate its disdain for MPESP as second-class employees. Another inequity which the Union's offer would correct is the "sweetheart" situation in which the District can now get a certified teacher who is a bargaining unit member (generally, an Aide) to substitute for a teacher at only substitute pay without having to pay the bargaining unit member's pay as well. When asked to substitute, the certified teacher should at least get the per diem teacher rate of pay.

Finally, the Union contends that the District has the ability to pay for the Union's proposal and

has not claimed an inability to pay nor has it submitted any evidence to that effect. Its own evidence on the lack of impact of "revenue caps" on the District's ability to pay is accurate and was not questioned by the Board. Other considerations, such as stipulations of the parties, other municipal employees' wages and benefits, cost-of-living, pendency, etc. which were not addressed elsewhere are not relevant or do not detract from the conclusion that the Union's offer is more equitable and the most reasonable.

Discussion and Opinion

The Statute requires the Arbitrator to consider the aforementioned criteria in making an award. The criteria cited by the Parties as pertinent to this decision are external (d.) and internal (e.) comparisons as well as interests and welfare of the public and the ability to afford the costs (c.), inflation (g.), overall compensation (h.), and other factors (j.). Each of these is considered below as the outstanding issues of this dispute have been analyzed by the Arbitrator. First, the Arbitrator is compelled to comment on the question of external comparability (d.), as outlined above, and all that this entails. The Arbitrator's analysis of wage levels and increases will then be discussed, followed by a discussion of fringe benefit issues. Lastly, "non-economic issues of layoff and subcontracting are discussed.

Public sector comparables

In applying the statutory criteria, Arbitrators (including the Undersigned) have been guided by considerations of geographic proximity, similarity of size and other characteristics of the employer, and similarity of jobs. Similarity of jobs is further based on level of responsibility, the nature of the services provided, and the extensiveness of training and/or education required. The Undersigned notes that the parties have not been in arbitration so comparables have not been established for the record. Neither have the parties provided evidence of the use of established comparables in their bargaining history. Neither of the parties have made arguments that there are dissimilarities of jobs of similarly titled employees in the comparisons which they have made.

The Employer proposes to use the thirteen other school districts of the SWAL for purposes of comparison to Mineral Point in determining the reasonableness of its offer. Eight (8) of these have also been employed by the Union; they are:

Boscabel	Dodgeville	Platteville	Riverdale
Darlington	Iowa-Grant	Prairie du Chien	Southwest Wisconsin

The remainder of the SWAL include Cuba City, Fennimore, Lancaster, Richland, and River Valley. The Union would instead include Benton, Cassville, Blackhawk, Mt. Horeb, Pecos, Potosi, and Seneca.

The Employer's argument that arbitrators generally accept the athletic conference school districts as comparables to the district in dispute is well taken for Teacher disputes. The logic is that there is likely to be more similarity in size, staffing, valuation, etc. The Undersigned notes, however, that employers often will assert that in the case of support staff, geographical proximity is a more important consideration because it better reflects local labor market considerations--particularly when the smaller surrounding districts are more likely to have significantly lower wages and/or benefits and therefore are more helpful to the Employer's case. In this case, the Employer has accepted the conference schools as comparable even though Mineral Point is one of the smallest schools, has significantly lower valuation than the average, but has one of the higher mill rates. The subset of the SWAL which the Union would use has an average enrollment only slightly smaller. Two of those excluded are non-union while three are represented by other unions. The Undersigned is not aware of arbitral precedent under this statute for excluding unionized employees from comparisons because they are not represented by the same union; absent other evidence of dissimilarity, he would not do so.

The subset of the SWAL which the Union would use will receive greater attention from the Undersigned because the Union has provided wage schedule data necessary for certain comparisons while the Employer has only provided wage rates which it asserts are the wages for the beginning and maximum salaries of the various classifications of deemed comparables (the SWAL). An essential argument of the Union is that while Mineral Point employees continue to receive step increments for 12 years according to the schedule and beyond that receive longevity increments, it is important to consider levels between the minimum and the maximum to see if MPESP employees are paid so low for so long as the Union contends.

The Union asserts that the seven additional school districts it lists provide a greater number of comparisons, particularly for the second year, are nearer in size, exclude "company shops," and have bargained contracts reflecting similar bargaining priorities of the Union. The first reason is legitimate if the added comparisons are valid; unfortunately the Union only provided a list of names of proposed comparables. With the exception of Mt. Horeb (which is nearer the Madison labor market), those districts which the Arbitrator was able to place were at the very outer edges of the SWAL geographically; absent evidence that they are otherwise comparable, they are not

accepted. The Union would reject comparisons with Fennimore and River Valley support staffs since they are non-union. The former, however, is close both geographically and in size; the latter is twice as large and located (presumably) close enough for interscholastic athletic competition. The Undersigned is sympathetic with the argument that under (j.) employees who are not represented would not generally be considered in a relevant "orbit of coercive comparison" for bargaining purposes, and that their conditions don't result from a bargaining process. He also notes that non-union employees exert some influence on the bargain, are often employed as comparables, and are not statutorily excluded. Additionally, the literature suggests that there will also be a "threat" and/or a "roll-out" effect of unionized employees on those employees' wages and benefits; the law provides for them to seek representation if they feel that they are too far behind. These two schools will be considered to the extent that they give the Undersigned insight into a "pattern" from which to judge the reasonableness of the respective offers and are not particularly "out of line." Two other districts proposed for inclusion by the District bear some discussion. Richland has 2.4 times the enrollment and is quite distant. It has a similar (high) mill rate, however. The Union proposes to exclude it, but would include Platteville which is even larger in size, and Prairie du Chien which is also quite large and quite distant.

The Arbitrator is inclined to accept the use of the SWAL for purposes of the following comparisons in the absence of evidence in support of an alternative.

Basis for Comparisons

The parties raise classic issues in wage comparisons for purposes of interest arbitration. Is the appropriate comparison between wage and benefit levels or between changes in those levels? Both employers and unions come down on all sides of the issue when helpful to their respective causes. Here, both parties consider wage levels and changes. Interest arbitrators vary in emphasizing one over another basis of wage comparison, although typically they will examine both differences in wage levels at "benchmarks" as well as dollar and percent increases to determine the reasonableness of offers. The Undersigned follows this approach and is not committed to the relative importance of any one measure. The Employer directs the Arbitrator to focus on cents per hour settlements rather than wage levels, and emphasizes rank at wage maxima under the proposals--particularly considering longevity. The Employer expends significant effort establishing comparability. Granted that past bargains between the parties should not be summarily dismissed, it seems logical to this Arbitrator that the very reason for establishing comparability is to be able to make such benchmark comparisons whenever possible,

so levels will also be considered. The Union directs the Arbitrator's attention to wage levels and their comparison at all steps of the salary schedule, the relative increases in each cell, and the resulting rankings under each party's proposals.

Based on the foregoing, the Arbitrator is not willing to discard comparisons of salary levels at benchmarks. He understands that there are recognized differences in general salary levels between employers which are deemed "comparable" based on bargaining history, costs-of-living, and other factors and understands that these are not to be significantly disturbed. There is the second reason for urging percent increase comparisons. Unions make the same argument when their pay is above average. Arbitrators tend to be conservative, espousing a view that their award would best mimic a voluntary settlement, and thereby cause the least disturbance. They are not of one voice in preferring similar dollar increases over percent increases or vice versa, and tend to look at both (in addition to wage levels). Wage increases, whether absolute or percent, will also be compared in order to determine which of the two very reasonable offers is "more reasonable" in this case.

Wage comparisons

Analysis of "benchmark" wages shows that Mineral Point Educational Support Personnel wage levels are generally lower than similar employees in the SWAL, which appears to favor the Union's offer. This is particularly true for earlier steps; wages tend to move toward the average at the scheduled maximum, though Mineral Point employees take 12 years to reach the maximum (unlike all but one other District). These employees (except drivers) continue to receive longevity increases which are equivalent to step increases, unlike employees at other districts (except Fennimore). For very long term employees, wages rise to and in some cases surpass the average of the SWAL. Wage increases at the beginning, 1st, 3rd, 7th and maximum steps examined by the Arbitrator (which include most unit members) seem to show that the Union's offer is somewhat closer to the pattern of the comparables. In this section, the Arbitrator examines wage levels, increases, and wage rankings of these 5 steps in comparison with the SWAL districts for most categories of unit employees. The primary data for the comparisons are Employer Exhibits 9-41 and Union Exhibits 14-21 and 30 (wage schedules). While the Employer's data are derivative, in most cases they agree with the Union's submissions. The following Tables show the results of the Undersigned's compilation and computation with submitted data.

Instructional Aides In 1993-94 Mineral Point Aides were generally paid \$.30 below the SWAL

Notes to Tables:

Aides, 1993-94

1. Employer indicated unavailable, Union provided.
2. Union indicated unavailable, Employer provided.
3. Prairie du Chien places Cooks and Aides I in the same category, paying Class A wages (\$5.33-\$8.08). Aides II are in Class B, paying \$5.52-8.27. Mineral Point places Aides in Class IV with the Head Cook, above Cooks who are in Class V.
4. Riverdale has Certified Aides in the same class as Custodian and Secretaries, while Special Aides are classed with Head Cooks and Crossing Guards.
* excludes longevity

Aides, 1994-95

1. error in Union data corrected
2. error in Employer data corrected
3. Union indicates "not settled"; Employer used the lower class for 1993-94 and supplied no contract data.
* excludes longevity

Aides, 1995-96

1. Union indicates "not settled"; Employer used the lower class for 1993-94 and supplied no contract data.
* excludes longevity

Secretaries, 1993-94

1. UX 30; Employer indicates "unavailable"
2. EX 33 (no verifying data); Union indicates "unavailable"
3. Union places in Class B, Employer in Class A
4. Union indicates "no position" but has schedule; Employer uses "clerical."
* excludes longevity

Secretaries, 1994-95

1. UX 30 implies that the Employer used the average of the (split) year wages.
2. EX 35 (no verifying data); Union indicates "not settled"
3. Union indicates "no position" but has schedule (UX 30); Employer uses "clerical"
* excludes longevity

Secretaries, 1995-96

1. Union indicates "not settled" but has schedule (UX 30).
2. EX 32 (no verifying data); Union indicates "not settled"
* excludes longevity

Cooks, 1993-94

1. UX 30 has the Darlington schedule; EX 15 indicates unavailable. The Arbitrator averaged the split year wages following the Employer's method in following years.

Cooks, 1994-95

1. The Employer averaged the split year wages.

2. Union indicates unavailable. EX 17

Cooks, 1995-96

1. EX 17-20 shows River Valley not available in 1994-95, but was available for 1995-96 while Richland wasn't available for 1995-96.

Custodians, 1993-94

1. UX 30; EX 27 indicates "unavailable."
2. EX 27; Union indicates "unavailable."

Custodians, 1994-95

1. Employer average the split year wages.
2. UN 15 indicates "not settled"; Employer's data asserts minimum and maximum wages (no schedule)

Secretaries

Year: 1993-94

District Probation 1st 3rd 7th Maximum

District	Probation	1st	3rd	7th	Maximum
Boscobel	\$7.02	\$7.80	\$8.20	\$8.20	\$8.20
Darlington ¹	6.48	6.48	6.78	7.18	7.18
Dodgeville ²	6.43				8.95
Iowa-Grant	7.27	7.57	7.97	8.77	8.77
Platteville ³	8.44	9.08	9.38	9.98	9.98
Prairie du Chien	6.58	6.58	7.08	8.08	9.33
Riverdale	6.47	6.99	7.97	8.85	8.85
SW Wisconsin ⁴	6.44	7.44	8.44	8.44	8.44
7 ave. rank	6.95 8/8	7.42 8/8	7.97 7/8	8.50 7/8	8.68 5/8
Mineral Pt [*]	6.19	6.39	6.80	7.61	8.62
Mineral Pt					
Cuba City	5.85				10.05
Fennimore [*]	9.45				9.45
Lancaster	7.50				8.70
Richland	7.22				8.16
River Valley	8.43				10.70
average(w/o)	7.20				8.98

Rank

13/14

10/14

average until around the 10th step. At the maximum, they exceed the average. Some on longevity may exceed maximum wages of all other schools. Their rank rises from 10/14 at the beginning step to being tied for 2nd at the maximum. In 1994-95, the Board's offer will significantly reduce the MPESP Aides position within the SWAL. The Union's offer will reduce it less both in relation to the mean and rank. The Union's \$.30/cell offer increases the schedule at the same rate as the SWAL average, so the maximum salary remains relatively high, particularly when consideration of longevity is added. In percent terms, the Union's offer is average at the minimum and maximum steps. The 4.9% and 3.5% increases are less than the SWAL whether one looks at all available schools or the subset. In the four (4) schools which can be identified as having no step increases beyond seven years, wage increases are higher than the \$.20 step increment in the current schedule. The Union's offer generally appears to change the relative pattern less than the Employer's offer.

Limited data is available for 1995-96. The Board's offer (\$.10/cell or 1.1%-1.6%) is considerably below the average cell increase of \$.21 (about 3%). Step advancement at Mineral Point indicates that the Employer's offer is preferred were other districts to have no step increases, which occurs in some cases. The Union's offer is somewhat higher than the SWAL districts which are settled; the level at which it is above the rest is significant, particularly as there are some aides who will be on longevity at wages as much as \$.80 above the maximum average. The Union's offer increases one rank at the minimum while the Employer's offer reduces it. At the maximum it rises under the Union's offer. On the whole and in consideration of both years, the Union's offer is somewhat more consistent with the pattern of settlements but results in perhaps too much gain the second year. The off-schedule longevity payments for some individuals are high, but rise the same as maximum wages of the comparables.

Secretaries The Employer's data (EX 33-38) and Union's data (UX 16 and 30) generally show low wages in 1993-94 for Mineral Point Secretaries compared to the SWAL, ranking 13 of 14 at the base and 10 of 14 at the schedule maximum. The average wage significantly exceeds Mineral Point wages at all levels until the maximum step. Employees on longevity two years, however, will exceed the average. The employee in her 17th year will rank 5th of 14. The MPESP offer for 1994-95 of \$.30/cell is consistent with the increases in the SWAL while the Employer's offer (0) is not. The percent increase at the base and maximum (4.8% and 3.5%), respectively, is a little higher than the average but mathematically results from lower 1993-94 wages. While not affecting rankings at lower steps, the Union's offer results in a gain of one place at the maximum step, surpassing Lancaster while the Employer's offer will leave rankings

unchanged at the maximum, but will reduce another ranking. The Employer's offer widens the dollar difference considerably between MPESP and the average while the Union's offer slightly widens it at lower steps and narrows it at higher steps. Again, employees on longevity pay will rank high (with a wage of \$9.62 according to the Employer) under its proposal. Under the union's proposal, they will gain about \$.20 more than average.

The Board's offer for 1995-96 results in a significant decline in scheduled wages compared to the districts for which data has been provided. At the base, the wage is \$1.60 below average in contrast with the \$1.01 difference in 1993-94; at the maximum, the difference rises from \$.36 to \$.70. Under the Union's offer, the difference widens slightly at the minimum and narrows slightly at the maximum. The \$.10 /cell or 1.6 and 1.2% increase at the base and maximum are less than half the increases in the SWAL. The MPESP proposed increase of \$.30 will be more consistent with the schedule increases and, of course, where there is no step increase, more than some other employees' increases. The proposal is somewhat higher than 3 of the 5 other increases when coupled with \$.20 step increases at higher steps where those schedules show no additional steps. Scheduled relative wage levels under the Union's proposal are changed little however.

The Board's contention that those with longevity will increase considerably is noted, though the differential from the maximum average remains about the same since the average maximum is scheduled to rise nearly as much as the Union's proposal. This appears to be the case in both years. The Arbitrator is inclined to look at how longevity wages relate to the entire schedule of MPESP and that of the comparables in this way since the parties have bargained this "backloaded" schedule for some time. Implicit in the bargain was that Mineral Point Educational Support Personnel were to receive considerably lower initial wages in exchange for more rapid increases for a longer period of time. The Union's offer for Secretaries therefore appears to be somewhat more consistent with wages of the comparables than is the Employer's offer.

Cooks In 1993-94, MPESP Cooks wages were significantly below average, near the bottom of the SWAL at all steps of the schedule. The Cook at maximum longevity was still below average. Under the Board's 1994-95 offer of no schedule increase, MPESP wages declined significantly relative to the SWAL. Beginning and maximum wages in the SWAL rise nearly \$.30 which is the Union's offer (but it also increases the step differential). The percent increases of the Union's offer (5.4% and 4%) is somewhat greater than the nearly 4% increases

in those schools, which is largely a result of lower MPESP wages. The Board's offer leaves the Cooks at the same ranking (11/13) while the deviation from the mean SWAL wages increases.

The Union's 1994-95 offer raises MPESP Cooks wages relative to the average at the higher steps of the schedule; at the maximum they rise from \$.40 below average to \$.20 above. Longevity applied to the Union's proposal will place the 15 year cook near the Platteville maximum, though below the \$9.30 (+longevity) wage at Fennimore. MPESP Cooks' wage ranking at the maximum will rise significantly from 6 of 8 to 2 of 7 (though they would be within \$.04 of being 5 of 8) depending on the Prairie du Chien settlement. Its offer for 1994-95 then can be seen as somewhat more excessive than the Employer's insufficient offer.

The Board's 1995-96 offer (\$.10) represents significantly lower schedule increases than the \$.25 shown for the 6 available districts, and is half the percentage increase. The Union's offer for schedule increases at the minimum and maximum are somewhat higher, particularly at the minimum level where MPESP Cooks are relatively low to begin with. With longevity, the Employer's offer will result in a wage of \$8.36 for the most senior Cook which is below the average maximum wage of the settled schools, as was the case in 1993-94. The Union's offer would result in that employee earning more than most others. Again, rankings are relatively undisturbed under the Employer's offer even though wages deviate from the mean to a greater degree. The Union's offer results in Cooks surpassing Riverdale and Southwest WI. at the "maximum" step as well as results in a wage \$.14 above average instead of being \$.43 below. The Union's offer for 1995-96 therefore appears to disturb the historical pattern for Cooks relative to the SWAL districts (for which data is available) more so than does the Employer's offer.

The Head Cook wage schedule is somewhat similarly placed among the SWAL comparables as are other employees. The SWAL minimum wages averaged \$.42 higher than at Mineral Point in 1993-94, widening to \$1.30 above in 1994-95 and 1995-96 under the Employer's offers. Under the Union's offer, the differential would be \$1 and \$.77 respectively. The MPESP wage at the scheduled maximum is 3rd of 6 both with and without consideration of longevity (EX 21-26) and would be \$.27 below average. Under the Employer's 1994-95 offer, the maximum wage for Head Cook would fall at least one rank, to last, at about \$.80 below average. The Union's offer would retain the 3rd rank and a \$.50 differential below average. Under the Employer's 1995-96 offer, the scheduled maximum wage trails the average by \$1.12; longevity

would make up \$.20 of this difference for a 13 year employee. The Union's 1995-96 offer is \$.50 higher, or \$.62 below the SWAL average. It would increase the MPESP maximum rank for Head Cook, surpassing Riverdale; with longevity pay for a 14 year employee, it would be at the SWAL maximum average.

Custodians In 1993-94, MPESP Custodians' wages were at or near the bottom of the SWAL, generally being more than \$1.00 below until the scheduled maximum step where it is about \$.50 below. The Custodians earning the highest longevity pay (\$9.42, EX 8) would rank 5th or 6th of the 14, however.²¹ Clearly MPESP Custodians would need to be employed a large number of years at longevity (> 12) wages to offset the lower earnings of their pre-longevity years in order to reach the SWAL average in a career sense. Similar conclusions would apply as regards the Cooks and Secretaries.

The Board's 1994-95 offer maintains essentially the same rankings while expanding the below average wage differential at the base and results in a decline at higher steps as well. The Custodian's with 17 years of service, however, would rank 4th or 5th (depending on Fennimore's longevity provisions) which indicates that longevity somewhat mitigates the decline. The Union's 1994-95 offer provides for MPESP Custodians' wages to rise above Boscobel wages at the schedule maximum while otherwise leaving rankings unchanged. The average SWAL step increases at the minimum and maximum are near the \$.30 included in the Union's offer. The percent increase indicated by the Union's offer is also similar to the SWAL average of over 3%, particularly considering the Custodians' lower wage levels.

The Board's 1995-95 offer maintains the lowest rankings for Custodians among the SWAL schools for which data was provided. The dollar differential is almost \$2 below the average in 1995-96 (vs. \$1.22 in 1993-94) at the beginning step. At the maximum, it widens to nearly \$1 from \$.58. The limited data supplied by the Union (UX 30) suggests that the intervening step differentials from average wages also expand. The Union's offer also continues to place Custodians below all other settled districts. At the beginning level, the wage differential is even greater than in 1993-94. On a school-by-school basis, however, the Union's offer maintains about the same relation between MPESP Custodians wages and the SWAL average. With longevity, the Custodian with 18 years service would be \$.22 above the 5 other schools' maximum average--less so depending on Fennimore's longevity plan. The Board's \$.10/cell

²¹Fennimore longevity being excluded.

increase in its offer compares unfavorably with the \$.25 average increase among the SWAL schools. Similarly, the 1.6%-1.2% increase is half the 3%/2.6% increases. The \$.20 step increment mitigates the lower wage offer for many Custodians viz the SWAL; for instance, Darlington, Southwest, and Fennimore receive little or no step advances. But Darlington custodians received \$.31 schedule increase to wage levels nearly \$2 greater than MPESP under the Employer's offer. Southwest has no step increase beyond 3 years, at which time wages are \$2.50 above Mineral Point custodial wages. Non-union Fennimore has no steps but also has \$2/hr. higher wages through the 4th step and longevity. Generally the Union's proposal for 1994-95 and 1995-96 appear to be the more reasonable in comparison with SWAL schools.

Bus Drivers Limited data is available for comparing Drivers' wages. Most SWAL schools privately contract for services, so the Employer's contention that wage comparisons are not very useful is well taken. Mineral Point Drivers' 1993-94 wages were \$12.50/trip for first year drivers and \$16 for regular drivers on regular trips. According to testimony, trips last about 1-1/2 hours. Iowa-Grant drivers were paid \$17.24 while Riverdale paid between \$14.08 and \$15.60. Lancaster paid from \$14.60 to \$16.60. Neither party has mainly based arguments regarding bus drivers' wage proposals mainly on comparisons. Both propose a \$17/trip rate in 1994-95 (which was the scheduled rate before the drivers accreted to the unit) as well as a \$1 increase for new drivers. The Employer would bring starting drivers up to \$14.50 in 1995-96 and increase regular drivers wages to \$17.50/trip. The Employer's offer for new drivers moves them closer to the few other districts.

Summary on wages

The Undersigned concludes that the Employer's offer to Instructional Aides is reasonable. The Union's offer is somewhat more consistent with the pattern of wage settlements, is more reasonable for newer employees, but is less reasonable for more experienced ones. The Union's offer for Secretaries was found to be somewhat more reasonable than the Board's offer. It generally maintains the relative bargained position of MPESP better even though it provides somewhat higher increases at the top. He finds that while the Union's 1994-95 offer to Cooks perhaps has greater appeal from a perspective of "equity," the result is a departure from the historically bargained relative pattern and provides Cooks at the higher steps with wage increases too much in excess of the comparables. The Board's offer mainly continues the same rankings within the SWAL even though there is a widening of the gap between average wages and MPESP Cooks. Similarly, the Board's 1995-96 offer results in further deterioration of the Cooks' earnings but the Union's offer changes relative positions somewhat more in the other

direction. Head Cook wages decline significantly viz the SWAL under the Employer's offers and reduce the MPESP Head Cook's relative wage position. Under the Union's offer, the wage differential is generally maintained. It would result in a rank increase at the scheduled maximum but would be considered somewhat more reasonable. The Arbitrator finds that the Union's offer to the Custodians is somewhat more reasonable than is the Board's offer. The Board's offer results in a significant decline in relative wages in both years, while the Union's offers generally maintain the relative wage rankings. With limited data, conclusions on the reasonableness of the parties' offers to bus drivers cannot be made with any confidence based on criteria (d.). Were trips to be of the same duration, it would appear that beginning wages are a little lower than average but experienced driver wages are reasonable even under the Union's lower 1995-96 offer.

Cooks' Step increment

The Employer has argued that the Union's proposal to increase the step increment for Category V employees (Cooks) from \$.15 to \$.20 is excessive and represents a status quo change which is unjustified and uncompensated. Having found (above) that the Union's offer is somewhat less reasonable than the Employer's offer for Cooks, the Undersigned does not find sufficient intrinsic need for the proposal beyond the notion of internal equity nor does he find support among the comparables at this time. The "remedy" for internal inequity results in wage increases which are excessive at the higher steps for Cooks whose relative wage positions in the SWAL are "not as bad" as other unit employees.

Bus Drivers

The Union's offer calls for increasing first year drivers' wages from \$13.50 to \$17 on the 91st day while the employer would continue the practice of a lower wage for the first year. The Union argues for equal treatment for all probationary and regular employees, including term of probation and wage scheduling. Therefore, Class VI (Drivers) wages should rise after the probationary period as it does for Classes I-V. The Arbitrator understands that the Employer's language calls for drivers to serve a 90-day probationary period as other employees serve, but it calls for a one year period of lower pay as is the status quo. The "justification" for the year at lower pay is that Drivers only work 1/4-1/3 year during the school year, which is generally less than most other unit employees. The Union notes exceptions. The Union also would change the current practice by increasing payments for Special Education trips from \$11.50 to \$13.00. The proposal is also not supported by evidence sufficient to justify the change. The Union shows (UX 9) that Riverdale wages may support its position, but the schedule is unclear as to

whether these trips are classified with "regular" routes or with lower paid non-regular routes. Hourly rates shown for Iowa-Grant and Prairie du Chien suggest that unless these trips are longer than regular trips (and testimony suggests that they are not), the Employer's offer is reasonable.

Substitute Teacher pay

The Union's offer calls for unit employees who are certified to receive per diem regular teacher salary when they substitute. The Union argues that the Board is getting away with a "2 for 1" deal since the District doesn't have to pay the bargaining unit member's wages and the substitute wage, only the substitute wage. Additionally "problems" are created when two units are involved. The Employer argues that there is no support among the comparables for such a proposal, no evidence of "problems" in need of a remedy exist, and the "remedy" is unworkable. The Undersigned agrees that the Union fails to justify the status quo change by showing a compelling need or other extrinsic support for its proposal, and particularly fails to show that its remedy is appropriate. The determination of the per diem rate is unclear, but may be the entry-level teacher rate. Finally, the Undersigned would add that the Union's rationale is confounding. Unless the Instructional Aide is merely occupying physical space prior to being called to substitute teach, it would seem that the District would lose the work value of the Aide when s/he takes the teacher's place, necessitating another Aide's employment or otherwise shifting personnel with attendant losses of other valuable activities.

Fringe Benefits: Retirement Pay for Bus Drivers

One of the most contentious issues in this matter relates to the provision of an 11% Employer contribution to a Tax Sheltered Annuity for Bus Drivers as is paid for other unit employees. According to testimony, this benefit was gained over a three year period and was accompanied by relatively small scheduled wage increases. The Union argues for equity among employees. The Employer argues that the proposal is a status quo change for which there is neither support among the comparables nor is there any quid pro quo offered. It's "gross cost" will be \$15,000 for the two years (Drivers wages are about \$68,000 in 1994-95) and results in excessive raises for drivers.

The Arbitrator is satisfied with the assertion that other unit members "paid for" their Employer's contribution to the TSA and that the Bus Drivers' wage increase in this contract (from \$16 to \$17 in the Union's offer) is reasonable. Therefore a quid pro quo for the 11% raise is deemed excessive. The Union's argument that internal equity requires that Drivers also receive the TSA

payment must be balanced with external considerations: if such payments are common practice, then a prime facie case can be made. Few SWAL schools provide their own bus transportation. Riverdale excludes employees who work fewer than 500 hours/yr. but pays 9% of wages into a TSA. Prairie du Chien includes part time employees in a limited retirement plan. Iowa-Grant apparently contributes up to 12.3% (1995-96) into a TSA for all employees; the Employer asserts that based on hours worked, Mineral Point drivers would be ineligible since they don't work 600 hours/yr. as required by the Wisconsin Retirement System. The Employer also asserts that Drivers are ineligible for retirement benefits in other districts. The Undersigned is not convinced that the Union has shown sufficient support among the comparables to compel the change called for in its offer. Moreover, the wage increases of the Drivers indicates that an appropriate quid pro quo for the benefit has not been offered.

Fringe Benefits: Dental/Vision

The Union makes an equity argument for increasing the Employer's contribution to the Dental/Vision care pool to \$300/500 from \$225/425 so as to be consistent with the Employer's contribution to district teachers and administrators. The Employer argues that these increases are excessive ("15%" and "25%"), that only eight (8) of thirteen (13) comparables even provide dental benefits to support staff and maybe only one other school provides vision care. The Employer's contribution is ranked 4 of 8 for single coverage for dental care even though it is 8 of 8 for family coverage. Many other districts provide prorata benefits for less than full time employees and no benefits for less than half-time employees. The Employer even makes a prorata contribution for the latter. Finally, there is no submitted evidence that the self-funded plan is inadequate and that employees have been more readily exhausting the pool. The Undersigned's examination of the evidence (EX 51-56) indicates that there is support for the Union's offer among the comparables regarding contribution levels for family plans. Currently the Employer's contributes \$35.42/mo. for full time employees; under the Union's offer (\$41.67) it would be at the comparables' average. Support for the Union's position based on internal equity and external comparisons weighs somewhat favorably against the fact that the Union's proposal for single coverage would be high and that the gain in this benefit is high.

Language Issues: Longevity

The Union's proposal for calculating longevity allegedly codifies and generalizes past and current practice. The Employer would maintain the status quo language expressing longevity increments in cents-per-hour. Following the discussion above, the Arbitrator finds that the Union has not demonstrated a need for the change, neither has it given sufficient evidence to

support it among the SWAL schools. Were it to have done either, it would still be required to show that its proposal corrects the "problem". Given differences in step increments in the schedule, the "average increase for the rest of the bargaining unit" would be a contentious matter. With bus drivers now included in the unit, the Union's intention for longevity increases further departs from its expression.

Language Issues: Layoff Notice

Both parties propose changes in layoff notice language as described above. The Employer's proposal is deemed to be the most significant and far-reaching. It has the advantage, however, of clarity. The Employer's objections to the Union's proposal on layoff notice limitations to certain positions is noted, but the Undersigned does not believe these to be as restrictive to its management flexibility when viewed in light of the current practice. Its own proposal is a dramatic change. It has not shown a compelling need for it by offering evidence of even one case where an instructional aide was left with nothing to do for 10 additional days (current notice period less the Board's offer) because a special needs student withdrew from attendance. It does assert (EX 61) that no notice is required in 6 SWAL school districts and that only 5 districts have notice periods of 3 weeks or more. The Union has provided contract language for the 8 SWAL schools it deems as comparables (UX 4). Only one (1) has two weeks notice, while the remaining have provisions as favorable to employees as the current MPESP contract.²² The Arbitrator would therefore conclude that the Employer has not demonstrated substantial support among the comparables for its proposal in lieu of compelling need.

Language Issues: Subcontracting of Bargaining Unit Work

The Employer would alter the contract to provide complete freedom to subcontract bargaining unit work. As expected, it is probably viewed by the Union as the most important issue in dispute and is the first issue discussed by it. The Employer asserts a compelling need for the change because it is reconsidering district-provided bussing in light of a changing bus storage situation. Additionally, it cannot undertake a feasibility study of alternatives service provision if it cannot subcontract the service (or would be wasting money it doesn't have if it paid for the study). The Employer also contends that the comparables support its position. It asserts that six districts subcontract at-will while three others are not as restrictive as Mineral Point's language. Where five (5) districts provide bus transportation, only two limit its subcontracting.

²²The Employer asserts that notice isn't required at Prairie du Chien. Union Exhibit 4 includes the contract which requires "...at least thirty (30) days.."

Finally, it views its ability to subcontract bus service as status quo since the drivers just accreted to the unit. The Union correctly argues that the Employer is not proposing an ability to subcontract bus service; rather it seeks an extensive and substantial change in the status quo to subcontract all services. It contends that its comparables support the current language. It also implies that the real motivation for the Board's offer is to seek a bargaining advantage for future negotiations.

The Arbitrator agrees that as regards the bus situation, there may be need for some of the flexibility sought by the Employer. The District has recently discontinued subcontracting for bus service. The Undersigned assumes that what prompted the change from the private service was that it was either uneconomical or otherwise less acceptable than district-provided service. That such service would suddenly become more favorable is questionable for at least two reasons. First, wages and benefits for drivers have not substantially changed and while these costs are not likely to be the major factor in transportation costs, other cost considerations would seem to be unrelated to this issue. Second, the changed lease situation for the bus barn would not likely alter the costs unless the prior lessor were to have been significantly underpricing bus storage services to the District. The Undersigned understands this not to be the case, and therefore cannot conclude that a compelling need has been shown in regard to bus service. Perhaps more importantly, the Employer has provided no evidence of a need for or arguments in support of possibly subcontracting other employees' services.

The Board contends that it can find support among the comparables for its position on subcontracting. Here the employer provides no direct evidence but asserts that six districts are at-will and three are less restrictive than Mineral Point, while four are as restrictive. Contracts provided by the Union show that most support its position; however, only eight (8) of these are SWAL schools. Of the eight, four (4) support the current language, one (1) directly supports the Board's position, while three (3) are silent on subcontracting which may give the Board support. Based on the evidence presented, the issue of which party's offer is more reasonable is an open question. Arbitrators generally look for evidence that a quid pro quo is offered in exchange for such changes, particularly absent evidence of a very compelling need or substantial support among the comparables. This suggests that the status quo is preferred in the instant case.

Other factors and issues

The Union argues that during negotiations, special attention was not given to cost-of-living considerations. The Employer has argued that consideration of this factor favors its offer. It

shows that the CPI has risen in the range of 3-3.6% during the March 1994-95 period, depending on which index is selected. It is clear to the Arbitrator that the costing data (above) shows that the Employer's offer for 1994-95 is more reasonable. By providing for its concept of costs of accretion, external and internal equity, the Union's offer is nearly twice as high as the Employer's offer in percentage terms. The parties' 1995-96 offers are closer (4.4% vs 2.95%). The Arbitrator notes that recent CPI data generally supports the Employer's lower offer, though nonmetro areas continue to experience higher (3.8% in the July period) rates as indicated by the Employer's data (3.6% in March). Thus a case could be made that for the second year, a preference under (g.) could not be made. Since there are numerous settled comparables all of whom have weighed cost-of-living factors in their bargains, particularly in the first year, this factor carries less importance than would otherwise be the case.

The Employer raises the issue of the interests and welfare of the public and ability to pay (c.) which favors the District's offer. It indicates that area incomes are low relative to the state in part due to its agricultural dependency. It contends that Mineral Point is even worse off than other SWAL schools (EX 77, 78) while its educational costs and taxes are high. The revenue cap has forced reductions in personnel and services. The Union asserts that its offer is in the best interests of all and that the Employer has not claimed an inability to pay. It shows (UX 38) that the Employer has the financial flexibility under the Revenue Caps to meet its contract proposals. The Arbitrator concludes that standing alone, this criteria would tend to favor the Employer's offer. Southwest Wisconsin income has lagged. He cannot agree with the Employer that the evidence shows the Mineral Point School District to be in worse condition than other SWAL schools in terms of income and farm dependency. Indeed the evidence provided by the Employer shows more similarities than differences (presuming that Dane County was inadvertently included in the data). Additionally, the Employer has failed to show an inability to pay the costs of the Union's offer, though the undesirability of paying it is understandable.

Conclusion

In most employee categories, the Undersigned has found that the Union's offer is somewhat more reasonable. He has found the Employer's offer regarding first year Bus Drivers' wages to be reasonable and its continuation of the status quo in paying for Special Education trips to be more reasonable. Coupled with the Board's more generous 1995-96 wages for regular drivers, its offer for Bus Drivers' wages generally is preferred. The Board's offer regarding pay for unit employees who substitute teach is also found to be more reasonable. He finds that the Union's proposal for the Employer's Dental/Vision contribution can be supported; however, the