

VOLUNTARY IMPASSE RESOLUTION  
BEFORE THE ARBITRATOR

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WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

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In the Matter of Stipulation Between :  
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BOARD OF EDUCATION of the :  
MOUNT HOREB AREA SCHOOL DISTRICT :  
 :  
and :  
MOUNT HOREB AUXILIARY PERSONNEL- :  
SOUTH WEST EDUCATION ASSOCIATION :  
 :  
for :  
 :  
VOLUNTARY RESOLUTION by :  
BINDING ARBITRATION :  
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Case 18  
No. 51037 INT/ARB  
Decision No. 7301

Appearances:

Mount Horeb Auxiliary Personnel by South West Education  
Association, Marvin A. Shipley, Executive Director.  
Board of Education of the Mount Horeb Area School District  
by Lathrop & Clark, Malina R.P. Fischer, Esq.

ARBITRATION AWARD

The Mount Horeb Auxiliary Personnel (Union) is a bargaining unit consisting of 80 regular full-time and regular part-time non-professional employees of the Board of Education of the Mount Horeb Area School District (Board, District or Employer). The Union, which is represented in these proceedings by South West Education Association and the Board were unable to agree upon the terms to be included in the successor to their contract which expired on June 30, 1994. The Union filed a Petition for arbitration with the Wisconsin Employment Relations Commission on

May 24, 1994. A representative of the Commission met with the parties in an effort to mediate the dispute. On October 3, 1994, both parties signed an agreement to resolve their contract dispute through a Voluntary Impasse Resolution Procedure. A copy of that agreement is marked Appendix A attached hereto. The parties continued their efforts to negotiate a settlement through a series of "final offers" up to March 29, 1995, when it was determined that an impasse had been reached. The undersigned was selected by the parties and appointed by the Commission on May 25, 1995, to resolve the impasse through binding arbitration in accord with the procedure set forth in Appendix A.

After due notice, the arbitration hearing was scheduled to be held at the Mount Horeb School District Offices on August 18, 1995. A final effort to settle the matter through mediation was unsuccessful. During the final mediation effort, it was learned that there was a disagreement over which document constituted the Union's final offer in this proceeding. The parties subsequently stipulated that the document marked as Association Exhibit #1 in the record herein is the final offer of the Association. Thereafter, the arbitration hearing was held and concluded on August 18, 1995. At the conclusion of the hearing, the parties jointly requested that the record in this proceeding be held open to permit both of the parties to file corrected exhibits and supplemental material up to September 12, 1995. Additional material filed by the District was received on September 15, and entered into the record without objection. The Union filed

corrected and supplemental data on November 7 and 10. Those filings, which have been objected to, are discussed below. Initial briefs were exchanged on October 23, 1995. The parties agreed to delay the filing of reply briefs until November 22, 1995.

#### ISSUES IN DISPUTE

There are differences between the parties relating to salary increases and longevity benefits for the period July 1, 1994, through June 30, 1996. Those differences are magnified by the Union's attempt to "correct some inequities" in the salary structure and "convert the present paltry longevity to true and reasonable longevity." The Employer said that the primary issue is the level of the package increase. It said that the Union had demanded almost a 10% package increase compared to the District's offer for an almost 8% total package increase over the term of the contract. The Employer also identified 12 specific proposals by the Union as issues in dispute. Those issues are outlined at pages 7-11 below. The parties also disagreed about which school districts should be considered comparable to Mount Horeb. Finally, there is a disagreement about the admissibility of the Union's late filed exhibits.

#### THE UNION'S POSITION

COMPARABLES - The Union suggested that the School Districts of Blackhawk, Columbus, Darlington, Dodgeville, Lake Mills, Lodi,

Mineral Point, Pecatonica, Verona and Wisconsin Heights constitute an appropriate pool of comparables. It said that this group included other capitol conference schools which have union agreements, selected districts from other athletic conferences geographically proximate and having other similarities to Mount Horeb and "selected locals from the State Line League Athletic Conference." The Union said that it had agreed to the Board's request to add those schools in the latter category which had union contracts.

The Union said that the foregoing group included a sufficient number of comparables for valid comparison. It argued that the schools the Union had considered comparable "are geographically as close as the schools chosen by the Board" and are more comparable in size than many of the Board's recommendations. It said that Verona, 7 miles away, is geographically closer than any district that the Board recommended as geographical comparisons. The Union argued that districts which did not have union representation should not be considered comparable. It said that Mineral Point and Pecatonica are comparable because of geographical proximity, union representation and their contracts include bus drivers. "Without Mineral Point and Pecatonica, only Mount Horeb and Dodgeville would have the Bus Drivers included in the contracts for comparison purposes."

**SALARY** - The Union said that its offer was intended to "correct inequalities in the current salary structure." It

explained that, it had proposed to freeze Cook Helper salaries during the first year of the contract. It would raise Paraprofessional Teacher Assistant salaries by 33¢ an hour during that year. All other classifications would receive 5¢ an hour during the first year under the Union's offer. In the second year, the Union would raise all classifications, except new steps 8 and 9, by 15¢ an hour.

The Union explained that the exhibits it had introduced to show historical salary comparisons included longevity pay in Mount Horeb's tenth step and salary maximum classifications. It said this appeared to make those salaries higher than they actually are. The Union said that its "proposals for 1994-95 and 1995-96 contract years does not include the new 3% longevity. It does include the new steps eight and nine.

The Union said that increments in the current salary structure give 25¢ or 26¢ per cell for regular steps to Secretary I, Secretary II, Secretary III, Paraprofessional, Head Custodian and Bus Mechanic classifications. "Day and Night Custodians have 25¢ or 26¢ increments for at least the first two steps in the salary schedule." The Union said that Cooks and Bus Drivers are an exception; it believes "all bargaining unit members are worth the same increment value for an additional year of experience." It said that the entire adjustment could not be made in one year "so increments were equalized for all classifications over the life of this contract except the last two steps of the Bus Driver schedule. In an effort to not introduce too many aberrations,

the Union felt the Cook Helper classification could accept a beginning salary freeze in the first year of the contract."

The Union explained other adjustments. It said Paraprofessional pay in Mount Horeb is inequitable. They are at least \$1.03 an hour behind all other members in the bargaining unit. It said that Mount Horeb's Paraprofessionals ranked 6 or 7 out of 9 at most stages of the salary schedule. The Union's proposed 33¢ an hour beginning salary increase would improve the ranking by one step at most categories. It has raised the increments for Day and Night Custodians to equalize them with six other classifications. All step increments except Bus Drivers, have been equalized at 25¢ an hour. This saves 5¢ an hour through the first 7 steps of the schedule for six classifications, some of which had 26¢ increments.

The Union said that the period of time it takes to reach maximum salary levels is relevant to the comparison of salaries. Mount Horeb is the only District with a 15 year schedule. The Union reviewed data which indicates that employees in other districts reach the top of their salary schedules from between 3 years in Blackhawk and Pecatonica to 13-15 years in Lodi. "To this end, the Union proposes to shorten the salary schedule from 9 steps in 15 years to 9 steps in 9 years." It explained that it had been the Union's plan to increase the ridiculous 5¢ an hour from old steps 10 and 15 into 25¢ increments. Because that would seem unreasonable to the Employer, "the Union modified its proposals to work toward the goal of increments of 25¢ per hour

for the new steps 8 and 9." It would increase these increments by 5¢ the first year and by 10¢ the second year. "This would still only place the Mount Horeb salary schedule in the middle of the comparables."

The Union pointed to its exhibits and summarized the impact of the two offers in this proceeding upon the relative ranking of employees in twelve wage categories as follows:

1. Paraprofessionals would improve their rank by one rank during the first year under both offers for the first four steps of the schedule. The Union's offer would improve the Paraprofessional's position by 2 ranks at the Beginning-7 (B-7) step compared to a one rank improvement under the Board's offer. At the B-10 step, the Union's offer would result in the loss of one rank compared to the loss of 2 ranks under the Board's offer. Both first year offers would retain the Paraprofessionals at 5 of 9 at the salary maximum during the first year of the contract.

During the second year, only the ranking Paraprofessionals at the B-10 and maximum steps will be affected by the decision herein. Both steps would rank 2 of 5 under the Union's offer compared to 3 of 5 under the Employer's offer. "Obviously, the attempts of the Union are still insufficient to make a major change in the lot of the Paraprofessionals in Mount Horeb."

2. The Board's offer would improve the Secretary I rank at the B-7 step. Both offers essentially maintain the status quo for the Secretary I classification.
3. Both offers place the Secretary II at the same rank except for the B-7 step during the first year. During the second year, the offers will result in the same ranking except at B-7 where the Board's offer is 2 of 4 compared to 3 of 4 under the Union's offer.
4. Secretaries III at the first two steps would fare better by one step under the Board's offer during both years of the contract.
5. Both first year offers would affect the salary rankings for Day Custodians. At B-3, the Union's offer would result in the loss of 3 places to 7 of 10; the Board's offer would maintain the 4 of 10 rank. At the B-7 step, the Board's offer would result in a one rank increase, while the Union's offer would result in a 3 rank increase to 2 of 10. At the B-10 and maximum steps, the Union's offer would result in first and second place out of ten rankings compared to fifth and third place rankings under the Board's offer.

During the second year of the contract, the Board's offer would result in a 2 step higher ranking at B-3. The Union's offer would result in the three highest categories B-7, B-10 and Max being rated 2/10, 1/10 and 2/10 respectively compared to number 4, 5 and



3 of ten rankings under the Board's offer. It said that the reason for the changes is because, the Union's offer would increase step increments after the second step by 10¢. The increases are cumulative through step seven. "If you compare the positions of the Day Custodian with the positions of the Head Custodian in relation to the comparables, it is readily apparent the Union's proposal moves the Day Custodian closer to the same positions the Head Custodian enjoys."

6. Night Custodian rankings would be affected similar to the Day Custodians under the Union's offer. The largest first year variations are at B-10 and maximum salaries where Night Custodians would rank first and second of ten under the Union's offer and fifth and fourth under the Board's offer. During the second year, Night Custodians would rank first of six under the Union's offer and three out of six under the Board's offer. The reason for the changed relationships is, once again, cumulative 10¢ step increases. The Union's rationale for these changes is to improve the Night Custodian ranking "closer to the same positions the Head Custodian enjoys."
7. The Board's offer would result in the Head Custodian having one higher ranking during the first year at B-5. During the second year, the Board's offer would result in one higher rank at both B-5 and B-7. "Essentially,

the proposals of both parties maintain status quo for this classification."

8. The two offers place Cook Helpers at the same rank in all classifications during the first year. During the second year, the Board's offer would result in employees in the probationary and after probationary categories, ranked first of 5 comparables. They would be second of 5 under the Union's offer. At B-3, the Union's offer is one step higher than the Board's offer. "Essentially, the offers of both parties are the same for purposes of ranking." This category of Cook Helpers in Mount Horeb are comparable to servers in other districts.
9. The second Cook Helper classification is comparable to cooks in other districts. The Union's offer would generally result in higher rankings at the more senior end of the wage scale during both years. The Union said that its offer "essentially replaces this category at the position it held before the last contract." This comparison is with the cooks which more accurately describes the duties of this position.
10. The Union's offer would place Head Cooks in one higher rank at the top four wage levels during the first year than the Board's offer. The only difference in rankings during the second year is one higher rank at B-5 under the Union's offer. "The Union's offer

essentially replaces this category at the position it held before the last contract."

11. The Union said that it was not necessary to discuss the Bus Mechanic classification.

12. Both parties' offers result in the same step classifications for Bus Drivers during both years of the contract.

The Union said that the first year package cost of its offer is 4.27% compared to 3.8% for the Board's package. It anticipated that the Board would argue that internal comparables favor the Board's offer. It said that the Board had granted "excluded staff 5% compared to 4.25% for Union staff during the last year of the current contract. For the period of this contract, comparisons "show everyone getting the same percentage in the second year of the contract and only the administrators receiving a lesser percentage in the first year." The Union challenged data relating to the size of the increases granted to the District's Administrators. It cited data which it said indicates that the Superintendent received a 5.56% increase in fringe benefits and other administrators received 13.16% in salary increases and a 7.61% increase in fringe benefits. "There is a point at which the comparison of percentage increases becomes ludicrous." The least paid administrator makes at least twice the salary of the highest paid bargaining unit member. It argued that it is ridiculous to intimate that percentage increases are of equal importance to both categories. It said it

is not honest to compare percentage increases for the members of this unit with either teachers or the excluded staff because of the disparity in salary levels. "This method also fails to compare the fringe benefits of any of the groups."

The Union said that its second year proposal is 4.44% which is .64% higher than the Board's offer. It said that two newly hired employees were receiving 3.91% and 4.76% increases after less than one year of employment. "The real story behind the Board's proposal is the desire to stay within the guidelines the Wisconsin Association of School Board's dictates. There is no magic to the 3.8% foisted on the teachers of this state and it certainly has no relevance to this bargaining unit."

LONGEVITY - The Union said that it proposed to change the existing provision which pays: a nickel an hour longevity payment in the 10th year after being frozen at step 7 for three years, and a nickel an hour in the 15th year after being frozen at step 10 for 5 years. It would make the current longevity steps new steps 8 and 9 on the salary schedule, with increment increases of 5¢ an hour during the first year of the contract and 10¢ an hour during the second year. "A new longevity step of 3% on the top salary of the classification would be added after a person had spent one year at the top salary of the classification. This amount would be non-accumulative." All red-lined employees would be placed on the salary schedule.

"The Union proposal would add a sliding longevity step that would be contingent upon the highest salary in any

classification." It said that during 1994-95, longevity would range from 48¢ an hour for Regular Route Drivers to 26¢ an hour for the Secretary III classification. In 1995-96, it would be 48¢ for the drivers and 27¢ for Secretary III's. All employees at or above step 10 on the current salary schedule would be eligible for longevity under the Union's offer. It said the Board's offer to pay \$105 a year might get a "family in to see one game in the new Brewers' stadium. After another five years of dedicated faithful service, this same person will be eligible for another nickel raise."

The Union said that a ten year employee in Columbus would get \$228 a year regardless of the number of hours worked. Under Mount Horeb's existing plan, employees receive \$123 a year less than Columbus counterparts. By the time a Mount Horeb employee has completed 14 years, the difference is \$222 a year; the difference is \$141 after 15 years "with the gap again widening by \$24 per year thereafter." A ten year employee in Lodi receives 15¢ an hour. Lodi employees continue to receive 10¢ an hour more longevity than Mount Horeb's employees through the 20 years of service "when the difference increases another 5¢ an hour." After 11 years, a Verona employee would receive 20¢ an hour for longevity. The difference between Verona longevity payments and the Board's offer is: 4 times at 11 years; double at years 15 and 16; 3 times at 22 years and 3½ times after 28 years of service. Mineral Point's 1995 contract granted longevity equal to 50¢ per hour for all longevity persons.

The Union reviewed those statutory factors it believes to be relevant to a decision in this case. It argued that the Union's offer would best serve the interests of the public, "including (most importantly) the students, the Administrative Staff, and, of course, the teaching staff of the Mount Horeb Schools. It said that the District has projected fund balances in excess of \$1,750,000 for both 1994 and 1995. It said the total Union proposal for 1994-95 is \$41,340; with the additional amount of \$44,865 in the second year. The Union said that the District had received \$962,805 or an 11.08% increase in revenues during 1994-95. It said that the District had projected increased salary and fringe benefit expenses at 7.55% and 9.28% respectively. "These increases would fund the increase requested by the Union for both years of the negotiations."

The Union said that its offer is supported by comparisons with external comparables performing similar services.

The Union cited the criteria for comparing the offers in this proceeding with other employees generally in public employment in the same and in comparable communities. It said that Dane County's Assistant Cooks, Food Service Helpers, Janitor and Services Clerk make from \$11.53 to \$12.47 an hour. "If we consider the categories of Cook Helpers, Day/Night Custodians and Secretary III to be in this category, the ranges in salary for the same time period are \$9.10 per hour to \$10.59 per hour" using the Union's proposal. It said that the Board's proposal including longevity would provide salaries in these categories

ranging between \$8.05 and \$10.72 an hour. It compared Dane County's Janitor II and Cook salaries ranging between \$11.92 and \$13.02 an hour with the ranges of \$7.83 to \$10.75 under the Union's offer and \$8.05 to \$10.72 including longevity under the Board's offer. It compared the County's Clerk III and Typist III range of \$12.47 - \$13.61 to Mount Horeb's Secretary II position. They would earn between \$7.70 and \$9.85 under the Union's offer or between \$7.92 and \$9.82 including longevity under the Board's offer. The County's Clerk III and Typist III earn \$12.47 - \$13.61 an hour compared to Secretary II offers of \$7.70 to \$9.85 by the Union and \$7.92 to \$9.82 by the Board. The County's range for Clerk IV is \$13.02 to \$14.24 an hour. These parties have offered between \$8.60 and \$10.75 (Union) and \$8.82 and \$10.72 (Board) for Secretary I. The Union said that it is difficult to find comparables for its Paraprofessional and Bus Driver classifications.

The Union said that the only evidence of comparisons with the wages and benefits received by private sector employees is the Union exhibit relating to Lands End. "Unfortunately, these comparisons are in a format which is drastically different from the format of the public sector so direct comparisons are very difficult if not impossible."

The Union said that the Board had not given cost of living increases any special consideration during negotiations. "The Board has consistently been more concerned with staying within

the 3.8% of the qualified economic offer which does not pertain to these Union employees."

The Union said that it had already addressed the overall compensation criteria. "Certainly, the overall compensation received by the members of this Union are significantly lower than the overall compensation received by any of the other District employees." It said that would not change significantly under the Union's offer. "It is true that some selected classifications of contract jobs will change significantly, however, these categories have been woefully behind in their overall compensation for a significant time.

#### THE DISTRICT'S POSITION

The District said that the parties had not been involved in arbitration proceedings previously. The selection of appropriate comparables "to which the parties will be bound for comparison purposes" is not an insignificant issue to the District. The District said that it had agreed to accept the majority of the comparables suggested by the Association. It said that it believed that all of the School Districts included with Mount Horeb in the Capitol Conference should be included in the pool of comparables. It said that it had also included schools from two other athletic conferences primarily because of their geographic proximity to Mount Horeb. It noted that the State Line League had been found comparable to Mount Horeb in a 1992 teachers arbitration case. It argued that if the conferences are found



comparable for teachers, "they certainly also share commonalities for purposes of comparisons among support staff employees." The District said that the Union had proposed some comparables without justifying their being included. The District does not object to South West Athletic League members River Valley, Dodgeville, Mineral Point and Darlington. It said that those four schools combined with State Line members Black Hawk, Pecatonica, New Glarus and Belleville and all of the Capitol Conference Districts should be included in the pool of comparables.

The Employer said that traditionally the parties and Wisconsin interest arbitrators "normally conclude that the parameters of the athletic conference constitute an appropriate intra-industry comparison group." It said that it cannot understand why the Union wants to exclude certain members of the Capitol Conference from the comparable pool. The District said that no evidence had been introduced to support the Union's proposed comparables, nonetheless, it will accept all of the Union's comparables except one. It will not agree to accept Verona as a comparable. The Board cited demographic data and other exhibits to support its proposed list of ten Districts which it said constitute appropriate primary comparables to Mount Horeb. It also provided an analysis of the: average population, per capita income, net taxable income and school district costs for those ten districts and the Black Hawk, Darlington, Mineral Point and Pecatonica Districts. It argued that this information

supports selecting the Districts proposed comparability group in its entirety.

The District said that the Union had failed to introduce data to support the conclusion that Verona is comparable. It said that the Verona District is much larger than Mount Horeb. It includes parts of the Cities of Madison, Middleton and Fitchburg. It's taxable income is \$205,863,210 compared to the average of other comparables at \$56,997,922 and compared to Mount Horeb's \$88,738,251. Because Verona is contiguous to Madison, it is a more urban district, and it is not influenced by problems affecting the agriculture community as other districts. The Board said that the Union had not introduced any data showing the relationship of Verona to other school districts in its conference. "For all we know, Verona may have the highest salaries in its comparability pool because its support staff recently was awarded catch up pay."

The District argued that non-union staff should not be excluded from the comparability group. It noted that the Union's proposed comparables included only organized units in Lodi and Lake Mills. It argued that Districts "should not be excluded from the comparability group on the basis that their support staff is not unionized." It cited a prior arbitration decision to support that argument. The Employer said that similarity is based upon the service the employees provide. "There is no need to look for a union contract to determine similarity in

services." Union and non-union employers compete with each other for employees.

WAGES - The District said that "Union Exhibits 9, 11 and 16 are hopelessly flawed." It said that it had attempted to cost out the Union's final offer. It could not correlate that costing to the costing included in the Union's external wage comparisons or the Union's cost summary. The District said that it had provided the arbitrator "with a salary schedule which adheres to the language found in [the Union's final offer]." It based its analysis and arguments upon that schedule. The Board reiterated examples that it said illustrate the errors which included some wage reductions between base year 1993-94 and 1994-95. The Board said that most of the salary data that the Union had provided is erroneous. "Errors contained in the 1994-95 salary schedules carry through into 1995-96... ." Because MHAP's salary schedule and data analysis are fatally flawed, the arbitrator must not rely on these exhibits in determining the outcome of this matter.

The District said that this is a simple case involving only the question of wage increases. It proposed a total package increase of 3.8% for each contract year. Its offer would result in first year wage increases averaging 20¢ an hour and second year increases averaging 21¢ an hour. In addition, the District would increase assistants' hourly wages by an additional 2¢ in 1994 and an additional 3¢ in 1995, in light of the fact that the District was experiencing difficulties in hiring assistants."

The Board said that five of the statutory criteria are particularly relevant in this case.

The District said that internal comparables favored its offer. "Only one group, the teachers is unionized." It said that regardless of status, the District has historically offered all of its employees equivalent total compensation increases. It pointed to 1993-94 when members of this Union received a 4.25% package increase. That year only the excluded staff received more, a 5% total package increase; administrators and teachers reached roughly 3.8%. It said that for this contract period, the District's offer to this unit is the same amount provided to almost all other groups of employees, "the administrators received a 1.78% package increase." Teachers voluntarily accepted 3.8% increases for both years. The Union has demanded 4.4% in 1994-95 and 4.5% in 1995-96. "The Union's offer is clearly unreasonable in light of the increases received by other Mount Horeb employees." The Board pointed to an exhibit containing salary and package costs for the period 1994-96. It argued that, under the Board's offer, "the Union would keep pace with the salary increases received by both administrators and excluded staff." The Board argued that its offer is equitable, it is higher for the members of this unit than that received by teachers. It cited a prior arbitration decision that said teachers are the most relevant group for purposes of internal comparability. It said that the District is subject to revenue

limits; it "must concern itself with a distribution of its limited revenues among all of its employees."

The Board argued that its offer is supported by settlements among comparable school districts. It said that total package increases in comparable districts averaged 4.6% in 1994-95 and 4.4% in 1995-96. "While these numbers appear to support the Union's final offer, as the evidence shows the contrary is true." It said that 8 of the 12 comparables, 67%, had settlements for less than 4% in 1994-95; 6 of the 9 comparables who are settled for 1995-96 settled for less than 4%. It said that for the first year, 5 districts had settled for 3.8%, 2 districts for 3.9% and one district for 3.7%. It said that the median settlement for the 2 year period is 3.9%; and argued that the pattern of external settlements supports the District's two 3.8% offers rather than the Union's 4.5% and 4.4% offers over two years. The District said that though neither of the offers in this proceeding are excessive, "the trend in terms of contract settlement has been downward." It said that the District's offer is the more reasonable.

The District reviewed comparables' salary levels at the minimum, mid-points and maximum levels for the period 1991-92 through 1995-96. "Historically, the District has, consistently ranked in the middle of the pack in almost all job classifications and rankings." It said that in some instances this has varied. The Board's offer would maintain these employees' benchmark rankings with few exceptions. It said that

the District's offer would result in a higher wage rate "on 17 occasions in the two-year period." It said that the Union's offer would selectively make dramatic increases in some categories without providing any justification for those increases. "For example, in seven different categories, the Union's final offer unjustly rewards certain employees by raising the category ranking by two or more steps." The Board said that the Union had not presented evidence justifying these changes. It pointed to the Union's proposals for Day Custodians and Night Custodians, as examples of excessive increases. It said that the Union's offer "jumps the average rate" by 76¢ and 72¢ respectively. It argued that the Union's offer creates a "top heavy" salary schedule when the opposite is needed. "The District has experienced difficulty in hiring new employees, not retaining employees."

The Board said that the amount of the cents per hour increase granted to comparable employees by other school districts support the Board's offer. It referred to evidence that measured at the minimum, mid-point and maximum salary benchmarks. The cents per hour increases included in the District's offer is closer to the average comparable monetary increase than in the Union's offer in 50 out of 60 measurements. The District's final offer exceeds comparable monetary increases in 26 out of 60 categories compared to the 39 out of 60 above average increases in the Union's offer. It said that in almost

25% of all categories measured, the Union's offer exceeds comparables' average by at least 25¢.

The Board said that its offer is supported by other public sector settlements. "In 1994-95, out of 283 school districts reporting, 234 school districts settled with its teacher units for under a 4% total compensation increase." It said that its 1994-95 salary only increase is 4.2%. It cited newspaper articles that reported that non-union state employees would receive 1% and 2% wage increases in 1995 and 1996 respectively, and that the Governor had proposed to eliminate length of service bonuses for non-union workers. "U.W. employees and faculty will receive a 1% pay increase in 1995-96. Civil service pay scales will be frozen." It said that unionized state employees will receive, at most, a 3% increase over two years. Many state workers are employed in the Madison metropolitan area, which is within driving distance of Mount Horeb. It also cited Department of Labor reports that education settlements in 1994 averaged 3.3%. Social security benefit checks will increase 2.6% in January, 1996. "This is the second smallest increase in 21 years."

The Board said that private sector settlements support its offer. It objected to a Union exhibit relating to "salaries from surrounding Mt. Horeb area" as heresay; but argued that, the data contained on that exhibit supports the Board's offer. It reviewed data from both the Union's exhibit and the Board's evidence relating to other local settlements and cited examples

where employees in this unit receive higher compensation than public and private sector counterparts. The Board cited Bureau of Labor statistics data that indicates private sector settlements in the first quarter of 1995 reflect a downward trend.

The District said that changes in the Consumer Price Index support its offer. It pointed to exhibits showing that the CPI for U.S. cities reflected a 2.9% increase in 1994-95 and 2.6% during the first two months for 1995-96. It said that the Union's first year offer exceeds the CPI by 2% compared to 1.4% for the Board's offer. During the second year, the Union's offer is 1.4% and the Board's offer is .7% above CPI increases.

The Board said that its offer meets the interest and welfare of the community. It cited a letter from the District's Superintendent of Schools which recounted the reasons that the District was experiencing "a tighter-than ever budget." The District argued that revenue caps and 1993-94 expenditures which took \$596,000 from the District's cash reserves limited the amount of money available for salary increases during the 1994-96 contract period. It said that the District's offer to the employees in this proceeding is comparable to that received by other school district employees. It argued that the District's offer "is an offer designed in the best interests and welfare of the community."

STATUS QUO - The District said that the Association is attempting to make wholesale changes in the status quo without



offering any quid pro quo, or justification for the proposed changes. It argued that the dozen issues introduced by the Association would skew the salary schedule in favor of a handful of long term employees and they would have a continuing long term financial impact on the District. "All twelve items contained in MHAP's final offer could not have been obtained through bargaining in one fell swoop." The District reviewed comments by other arbitrators relative to a party's burden of proof in justifying changes in the status quo.

The Board argued that comparisons with other districts support Mount Horeb's existing 7 step salary schedule with additional compensation for longevity at steps 10 and 15. It said that it had provided comparable data for "11 categories in which to compare the number of steps to maximum wage." Out of these 11 categories, five have a comparability group average of seven steps to reach maximum wage." Four have eight steps; one has five steps; only one has an average of eleven steps to maximum wage. The Board said that the Union's other objective is to shorten the number of years to maximum wage from 15 to 10 years. At 10 years, the Union proposes to implement a 3% increase on top of the top wage. The Board said that only two categories have a group average of 10 years to maximum wage; these groups are Day and Night Custodians. Only the Head Custodian category has a group average of less than 10 years to maximum wage. "The remainder of the categories have a comparability group average for years to maximum wage which

ranges from 12 years to 16 years." It argued that there is no support for reducing the time to maximum from 15 years to 10 years.

The Board said that 10 of 15 comparables did not offer longevity. It said that Mineral Point is in arbitration, and the Board has proposed to delete longevity in that case. It argued that the trend among comparables is away from longevity. "Because the comparables in no way support the Union's proposal to compress the salary schedule structure or to alter the longevity status quo, the arbitrator must reject the Union's final offer."

The Board said that there is no evidence that the proposed changes in the salary structure were developed in response to employee need. It said that based upon the Board's analysis of the Union's proposed salary schedule, the Union's offer would result in cuts in pay in some categories, and that some employees would not receive the increases in pay to which they should be entitled. The Board said that there is no evidence that the District is losing its long term employees. The evidence is that the District has difficulty hiring new employees. "The Union's proposal potentially obstructs the District's ability to hire new employees at a reasonable, competitive wage." It argued that the longevity proposal will affect only 16 out of 80 employees. Only 7 people or .50% of MHAP's members will benefit from the proposed new steps 8 and 9. "This is clearly insufficient to show a need for a change."

The Board said that the Union had failed to offer a quid pro quo in exchange for its proposed salary schedule modifications and longevity enhancement. It said longevity has been part of the salary schedule since the parties' 1986-89 contract. It argued that the existing salary schedule and longevity provisions in the contract have developed over time. "The Union is attempting to change through arbitration something which has been mutually agreed upon by the parties, and which has remained in its collective bargaining agreement, since the date of the initial contract between them."

ASSOCIATION'S REPLY - The Union said that its computer program it used for its costing "had a glitch," and the Union made an erroneous entry into the base year salary schedule. It apologized for providing incorrect information. "Will calculations be error free in the future? Of course they will. To assume that all calculations will be error free is foolish." The Union said that it was troubled because it had been in constant contact with the District and had provided the District with its calculations previously. "It almost appears that the District is more interested in 'sandbagging' the Union than in good faith bargaining."

The Association said that the erroneous data had not had much of an effect upon the rankings which the Union had provided. All relative positions for the first contract year remained the same. For 1995-96, there were only two instances where rankings are increased by the use of corrected data. It said that the use

of correct data had reduced the total package cost of the Union's offer from 4.27% to 4.2% in the first year, and from 4.44% to 4.37% during the second year. The Union said that these differences are not statistically significant for the purpose of this arbitration proceeding.

The Union responded to the District's criticism that the Union's offer was not equitable to Cook Helpers and Assistants, by saying, that it does not act independently from its members. It said that the District was in error when it inaccurately applied the language of the Union's offer to criticize increment increases as inequitable. "The Board now wishes to dictate its concept of equity instead of listening to the desire of its employees for their concept of equity."

In response to the Board's quid pro quo argument, the Union said the 5¢ hourly increase it had requested for 1994-95, and moving redlined employees onto the salary schedule are attempts to deal with the Board on a quid pro quo basis. The Union denied that it had designed its offer to benefit a handful of long term employees. It said that outside of longevity changes, the greatest changes that it had proposed were for paraprofessionals throughout the schedule and for all of the Cooks beyond step one. The Association criticized the Board's comment that the Union's proposed changes could not have been accomplished through bargaining. "The very point of this arbitration is that the parties could not reach a consensus about the contract and to

speculate about what the consensus would have been is ridiculous."

The Union said that "the concept of internal comparability is certainly new to Mount Horeb." It said teachers had not voluntarily accepted a 3.8% package; it was imposed upon them by law. The support staff is not precluded from seeking a reasonable settlement. It argued that because teachers have higher salaries and receive better benefits than the lower paid members of this unit, it is unfair to argue that percentage wage increases are in fact equal.

The Union responded to some of the Board's arguments relating to the assessment of package costs, comparisons with other public employee settlements and comparisons with other state and local government settlements by stating that the arguments are specious, irrelevant and inconsistent. It argued that it had demonstrated the need to change the salary structure. "It has been some time and several contracts since the plight of the long-term employee has been addressed. Further, these individuals have received the least adjustment in the original contract and subsequent contracts... . If the current fifteen-year schedule were condensed to a nine-year schedule and longevity was then applied, these employees would begin to receive some of the equity they deserve."

The Association argued that the total difference between the two offers is \$9,144 over two years. "The total budget for the District in 1994-95 was \$9,654,085." It said that it is

ridiculous to argue that the minuscule difference between the two offers in this proceeding will have any effect upon the interest and welfare of the community.

DISTRICT'S REPLY - The District said that the record in this proceeding was closed on October 20, 1995. It objected to the arbitrator receiving or considering "the ex parte materials submitted to him... ." It said that its reply brief "will not address the new materials submitted to the arbitrator by the Union after October 20, 1995."

The Board objected to 15 arguments or statements contained in the Union's brief, as being "not supported by any evidence whatsoever in the record." Six objections related to the Union's having alleged that wage classifications in Mount Horeb were equivalent to various classifications elsewhere. Other objections were to statements that: Verona is 7 miles from Mount Horeb, the Secretary 3 classification was created recently, a salary listed on a Union exhibit is the District Administrator's salary, wages and benefits paid to this unit are paid from Fund 10 revenues, the Board has been influenced by the Wisconsin Association of School Boards, and other Union arguments. It argued that the arbitrator must disregard statements which are not supported by evidence.

The District listed 7 instances which it said were outright factual errors contained in the Union's brief. These included the Union's characterization of the District's offer and the Union's arguments about evidence in the record. "These clear

mistakes, in combination with the numerous mistakes contained in the Union's Exhibit Book and in its final offer computation, lead the District to question the credibility of the Union's case as presented to the arbitrator."

The Board said that in view of the Union having attempted to change its final offer, the statutory criteria relating to such other factors which are normally taken into consideration in the determination of wages, hours and conditions of employment, should be a primary factor to be considered by the arbitrator in this case. It said that the Union's final offer would make 11 changes to the salary structure. "However, in its brief, the Union makes additional changes to its proposed salary schedule which do not appear in Union Exhibit 1." It reviewed what it called additional changes which it said are not included in the Union's final offer, and argued that "these questions compel the arbitrator to reject the Union's final offer." It argued that if the parties had negotiated a final agreement, both parties would understand their agreement. It argued that there is confusion about the terms of the Union's final offer.

Neither this process nor the voluntary collective bargaining process support such ambiguity. Furthermore, even if the Union has made a mistake, and has failed to include in its final offer the modifications advocated in its brief but not articulated in Union Exhibit 1, the Arbitrator cannot permit such a mistake to be embodied forever in the successor agreement, for to do so would illegally permit the Union to once more alter its final offer.

The District said that the current salary schedule had been negotiated by the parties. It denied that the schedule is inequitable and argued that evidence does not support the need to make the changes that the Union has proposed. It said that the Union appeared to be arguing that some employees need a catch up pay increase. It argued that this is clearly not the case. It said that the District's wages were in the middle to upper range of wages of the comparable group.

The District reviewed the impact of the Union's offer on various wage classifications, and noted that the offer would benefit some classifications more than others. It noted that the Union had argued that its offer would treat all employees equitably. It argued that is not the case. Regular route Drivers would receive .48¢ an hour longevity while Secretaries would receive .26¢ an hour. "An even more glaring example of this 'equitable' treatment of employees by the Union is the .33¢ per hour increase received by Assistants and the 0% per hour increase received by Cook Helpers." The District concluded that the Union had failed to justify the need to change the status quo with respect to longevity, demonstrate why catch up pay is warranted or why all employee classifications must achieve the same ranking or rate of pay.

#### DISCUSSION

This has been an unusual case. It became unduly complicated at the time of the hearing, when it was discovered that the Board



had prepared for the hearing under the assumption that the Union's January 18, 1995, proposed revision to its final offer, constituted the Union's final offer. At that time, it was verified that the Union had submitted a further revision of its final offer dated March 7, 1995, to the Wisconsin Employment Relations Commission Examiner with a copy to the District. Because the parties had previously entered into a voluntary impasse agreement, the examiner did not certify either of the parties' final offers.

After the undersigned explained the foregoing circumstance to the parties, a final effort at mediation was attempted and failed. The parties were given the opportunity to adjourn the hearing in order to permit them to revise their exhibits prior to the hearing. They elected to go forward with the hearing with the understanding that any exhibits which had to be revised to reflect the impact of the Union's correct final offer, could be filed on or before September 12, 1995. It was agreed that except for such corrected exhibits, the record would be closed at the conclusion of the hearing. Both parties would be permitted to comment or correct any errors that they believed had been included in the other party's late filed exhibits through the time set for filing their initial briefs. The parties agreed to exchange those briefs through the arbitrator by mailing their briefs to the undersigned with a postmark on or before October 20, 1995. Thereafter, the parties submitted corrections for the record as follows:

District amended exhibits mailed 9/15/95;  
Union revised exhibits mailed 10/20/95;  
Union corrected exhibits mailed 11/7/95;  
Union exhibit inadvertently previously omitted  
from 11/7 mailing, mailed on 11/10/95.

The foregoing problems, which, thankfully, do not arise often in arbitration cases, have complicated the parties' arguments and contributed to the acrimony which is evident in their briefs. Those problems have also complicated the undersigned's analysis of the record and writing of this decision. Those problems have not affected the outcome of this proceeding.

The first matter that must be disposed of is the Board's objection to the receipt of "corrections to the exhibits" which were mailed out by the Union on November 7 and 10. Those objections must be sustained for the reason that, based upon the agreement of the parties, the record was closed after September 12, 1995, except for those exhibits which the Board was permitted to amend to respond to the Union's revised final offer. The exclusion of corrected financial data could have a disastrous effect upon a party's case. In this instance, it was possible to calculate the effect of the Union's final offer from exhibits that were in the record. It appears that the mathematic inaccuracies referred to by the Board did exist. Those inaccuracies, though troublesome, were not of sufficient magnitude to invalidate the Union's arguments. The basis for the decision, discussed below, has not been affected by the exclusion of the corrected data.

COMPARABILITY - Between them, the parties have recommended seventeen different school districts to be included in a pool for external comparable comparisons. Neither party presented any data for two such districts which are immediately adjacent to Mount Horeb, those are Barneveld and Middleton-Cross Plains. The Union presented some supporting data for including Verona, but, that information is not as comprehensive as it should be. The District objected to the Union having argued that Verona is within 7 miles of Mount Horeb because that alleged fact is not supported by evidence in the record. That argument is not well taken since the proximity is evident from the map introduced as District exhibit 19.

The general rule is that where the parties have agreed upon a pool of external comparables, the arbitrator will accept the pool. When the parties are unable to agree, the arbitrator will consider appropriate evidence in order to establish a list of comparable districts for the purpose of making necessary comparisons. The burden of establishing comparability rests with the party who advocates inclusion in the pool. Once a pool of external comparables has been established, the presumption of comparability will continue until facts are presented to support changing the composition of the pool.

Since these parties have not agreed which other districts are comparable to Mount Horeb, the undersigned has reviewed the evidence and arguments in order to establish an appropriate set of external comparables. The District suggested 10 comparables

including all 7 other members of the Capitol Athletic Conference. It ignored three school districts that are adjacent to Mount Horeb. It placed too much emphasis on including all other conference members in the pool. Wisconsin arbitrators traditionally, other things being equal, accept athletic conference membership as an indicia of comparability when professional bargaining units are concerned. That is because professional certification and advancement are based upon objective statewide standards. It has been assumed that wages and conditions of employment within member athletic conferences reflect comparable professional employment in comparable communities, subject to evidence to the contrary. Wisconsin arbitrators recognize that where non-professional bargaining units are concerned, geographic proximity, residence in the same or similar labor pools and similarities in social, economic and political factors which affect decision making in the community are more important than conference membership in establishing comparability.

The Union suggested 10 comparables from four different athletic conferences. It argued that it would not be valid to include any district which is not represented by a union. The written opinions of some arbitrators indicate that they agree that union representation is a threshold indicator of comparability. Other arbitrators have considered it important to include a reasonable number of represented units in the pool of comparables, but, have rejected union representation as a litmus

test for comparability. It is usually difficult enough to identify a sufficient number of employee units with geographic proximity, similar labor markets and other required factors without excluding non-represented units. It seems preferable to recognize that represented units have historically had greater ability to negotiate more favorable wages, fringe benefit packages and working conditions than non-represented units. This realization should be a factor to be considered when comparing wages, benefits and working conditions, it should not result in the exclusion of non-represented employee units from comparable pools.

Neither party has convinced the undersigned that their proposed comparables constitute a reliable comparable pool. That is particularly true because no information was presented for two adjoining school districts, Middleton-Cross Plains and Barneveld. While the Union presented some data to support including Verona as comparable, that data barely justifies including Verona for comparative purposes in this proceeding. All of the data presented by both parties has been reviewed for the purpose of arriving at the decision herein.

It is suggested that the next time these parties enter into negotiations affecting this unit, they should both consider all of the school districts that are adjacent to Mount Horeb, as candidates for comparability. In the event that they are unable to agree upon a pool, they should justify their reasons for

deleting adjoining districts or adding additional school districts as comparables.

WAGES AND LONGEVITY - The Union said that it considers both wages and longevity to be issues in dispute. Its offer would convert the existing wage schedule which includes 7 wage steps plus a 5¢ an hour bump for longevity after 10 years as step 8 and an additional 5¢ an hour bump after 15 years as step 9 to what appears to be a new 10 step wage schedule without longevity. It would accomplish this result by converting the existing 10 and 15 year longevity bumps of 5¢ each into wage steps 8 and 9. It would also increase compensation at the new steps 8 and 9 by an additional 10¢ each contract year. After an employee had been at step 9 for one year, he/she would receive a 3% non-accumulative annual longevity increase. Longevity payments have been and would continue to be included in the wage schedule and paid out with wages under both the terms of the expired contract and under the terms of the Union's offer. In reality, the Union's offer would create 3 additional steps on the support staff wage schedule. It appears that the only issue in dispute is wages. There are two aspects of that wage issue. The first is the amount of the increases being offered, the second is the effect of those increases upon the existing Mount Horeb wage structure.

Both parties discussed their offers in terms of total package costs. The Union originally estimated its first year cost at 4.27% and the second year cost to be 4.44%, for a total of 8.71%. The Board offered 3.8% each year, for a total two year

cost increase of 7.6%. Based upon the evidence in the record, the average percent increase and the average lift provided by both offers, is reasonable. The Union's average increase would be closer to the average increase provided to the support staffs in either party's proposed external comparable pool. The District's offer is closer to increases in the Consumer Price Index. It probably was not the approximate \$9,000 difference in cost over the term of this contract that prevented these parties from arriving at an agreement. It was the District's insistence on maintaining "internal comparability" and the Association's insistence on restructuring the wage schedule that made it impossible for the parties to communicate.

Some public sector employers have established a pattern of settling with all of their employee units for essentially equal percent wage and benefit package increases. This practice has been recognized as good public policy. When the practice has been established, it has been recognized as a major consideration in contract negotiations. When parties have been unable to agree, arbitrators consider internal settlement patterns as significant factors to be considered. When the Wisconsin Legislature imposed limitations upon "professional school employee salaries" in 1993, it did not limit the right of school support staff units' wage increases.

The Union, in this instance, is outraged that the District is relying primarily upon a uniform internal settlement pattern argument to support the reasonableness of its wage offer. The

record does not show that the District previously bargained according to a pattern of uniform internal settlements. District exhibit 13 shows that package increases in 1993-94 ranged from 3.74% for administrators to 5% for excluded staff. The first evidence of an effort at uniform internal settlements in this district is in 1994-95. That year, the Board granted 1.78% and 3.8% increases to Administrators and excluded staff. It also settled with its teachers at 3.8% and made a 3.8% offer to the members of this unit. For 1995-96, the Board granted 3.8% increases to administrators and excluded staff and settled with teachers for 3.8%. While the Board's internal settlement argument has not been convincing, its 3.8% package offer is not unreasonable.

The District argued that the Association's offer "purports to achieve too much too soon when no justification for disproportionately changing the salary schedule structure has been provided... ." This argument appeared to be subjective in light of the data contained in Union exhibits 10(a) through 13(m) and District exhibits 29(a) through 29(ag). Those Union exhibits compare Mount Horeb wages for 12 categories of employees at all 7 existing benchmarks with what the Union considered comparable positions in its "comparable Districts." Of the 84 benchmarks compared for 1994-95, both parties' offers would result in the same ranking for 6 of the 12 employee classifications at all 7 benchmarks. Of the 16 benchmarks where the parties' offers would result in a change in wage rankings, the effect is mixed. Both



offers would improve the Paraprofessional rank at B-7; the Union's by 2 ranks, the Board's by one. At B-10, both would result in a loss in rank; the Union's by one, the Board's by two. At Secretary II, the Board's offer would maintain existing rankings; the Union's offer would result in the loss of one rank at each B-5 and B-7. At Secretary III, the Board would maintain existing rankings at the first 2 steps; the Union's offer would result in the loss of one rank at each step. The Day Custodians would lose one place at B-10 and gain one rank at maximum under the District's offer. They would lose 3 places at B-3, but, gain 3 places at each B-7 and B-10 and gain 2 places at salary max under the Union's offer. The Night Custodians would gain 3, 4 and 2 ranks at the top of the schedule under the Union's offer, but, only gain 2 ranks at B-7 under the Board's offer. The Cook Helper-Cooks would lose a step or more toward the bottom of the wage scale under either offer. They would gain 2 steps in the 2 highest wage categories under the Union's offer.

Information for ranking among the Union's comparables for 1995-96 is not complete because half of the comparables have not settled. For that year, the two offers would result in different rankings in only the following wage classifications.

Paraprofessional - the Union's offer would result in one higher rank in the top 2 wage classifications. Secretary II - The Board's offer would result in 1 higher placement at B-7.

Secretary III - The Board's offer would result in 1 higher placement at the 2 lowest wage categories. In both the Day and

Night Custodian classifications, the Board's offer would result in 2 higher rankings at B-3 and 2 lower rankings at B-10 and salary maximum than the Union's offer. The Head Custodian would have one higher rank at B-5 and B-7 under the Board's offer. Cook Helper-Servers would gain one rank at the lowest 2 wage classifications and lose one rank at B-3 under the Board's offer. Cook Helper-Cooks would gain one rank in the 2 highest categories but lose one rank after probation under the Union's offer.

The outcome of making the same comparisons with the District's "comparables" is remarkably similar. The District compared 11 job classifications at minimum, maximum and mid-point ranges. Some classifications are named differently than on the Union's exhibits. The District did not have 3 cook categories, probably because the wage scales for Cook Helpers and Servers are the same. It did not compare Mechanic wages. The largest disparity in the two offers based upon the District's exhibits are in Paraprofessional wages. Paraprofessionals who ranked 8 out of 15 in 1993-94, would rank 3 out of 15 under the Union's offer and 9 out of 15 under the District's offer in 1994-95. In 1995-96, they would rank 3 under the Union's offer and 7 under the District's offer. Only 13 districts including Mount Horeb, are included in the 1995-96 rankings. While there are some other swings in the rankings demonstrated in the District's exhibits, those variations parallel the information outlined in the analysis of the Union's exhibits above.

A better picture of the difference between the two offers is demonstrated on Table I below. This table shows the impact of the Union's wage and longevity offer upon the cast of 80 members of this bargaining unit over the two year contract period. The top line indicates that in 1993-94, ten employees received \$6.47 an hour. Under the Union's offer, these employees would receive \$7.05 an hour, a 9% increase in 1994-95. They would receive \$7.46 in 1995-96, an additional 5.8% increase. Their 2 year increase would be 99¢ or 15.3%. Under the Union's offer, one employee would receive \$1.91 or a 22.7% wage increase over two years, while, others would receive as little as 1.3% or .20¢ an hour over two years.

**TABLE I Derived from Association's Exhibits #17 - #19**

No. of Emp.	Base Yr.	'94-95	% Inc.	'95-96	% Inc.	2 Yr. \$ Inc.	2 Yr. % Inc.
10	\$6.47	\$7.05	9.	\$7.46	5.8	\$ .99	15.3
5	6.72	7.31	8.8	7.72	5.6	1.00	14.9
2	6.98	7.57	8.4	7.98	5.4	1.00	14.3
2	7.24	7.83	8.1	8.23	5.1	.99	13.7
4	7.50	7.68	2.4	8.15	6.1	.65	8.7
1	7.50	8.08	7.7	8.49	5.0	.99	12.0
1	7.96	8.43	8.8	9.12	8.2	1.16	14.6
1	8.06	8.61	6.8	9.38	8.9	1.32	16.4
1	8.16	8.47	3.8	8.82	4.1	.76	8.0
2	8.27	8.70	5.2	9.15	5.2	.88	10.6
3	8.27	9.24	11.7	10.09	9.2	1.82	22.0
4	8.32	9.06	8.9	9.42	4.0	1.10	13.2
1	8.42	9.46	12.3	10.33	9.2	1.91	22.7
1	8.47	8.93	5.4	9.29	4.0	.82	9.7
3	8.78	8.98	2.3	9.29	3.5	.51	5.8
1	8.90	8.93	.3	9.29	4.0	.39	4.4
2	8.93	9.14	2.3	9.44	3.3	.51	5.7
1	9.09	9.29	2.2	9.60	3.3	.51	5.6
1	9.19	9.50	3.4	9.90	4.2	.81	8.8
1	9.24	9.45	2.3	9.75	3.2	.51	5.5

1	9.32	9.57	2.7	9.92	3.7	.60	6.4
1	9.40	9.55	1.6	10.00	4.7	.60	6.4
2	9.70	10.01	3.2	10.42	4.1	.72	7.4
1	9.96	10.27	3.1	10.62	3.4	.66	6.6
1	9.96	10.27	3.1	10.68	4.0	.72	7.2
2	10.22	10.47	2.4	10.82	3.3	.60	5.9
1	10.22	10.78	5.5	11.14	3.3	.92	9.0
5	10.37	10.42	.5	10.57	1.4	.20	1.9
1	10.37	10.42	.5	10.62	1.9	.25	2.4
1	10.42	10.47	.5	10.77	1.9	.25	2.4
1	12.27	12.37	.8	12.73	2.9	.46	3.7
2	15.40	15.45	.3	15.60	1.0	.20	1.3
4	15.40	15.45	.3	15.76	1.4	.36	2.3
1	15.40	15.61	1.4	15.76	1.0	.36	2.3
1	15.56	15.61	.3	15.76	1.0	.20	1.3
2	15.56	15.61	.3	15.91	1.9	.35	2.2
1	15.71	15.86	1.0	16.31	2.8	.60	3.8
5	15.81	16.44	4.0	16.80	2.2	.99	6.3

The Union's offer would have a dramatic impact upon the relationship of wages received by those persons who are now employed in this school district.

Evidence does not permit a determination of exactly how the District's offer will impact upon the wages of those persons presently employed by the District. Based upon exhibits D2 and D12 the range of wage, only increases over two years will be from 29¢ an hour for beginning Assistants to 53¢ an hour for regular Drivers. The District's offer would maintain the existing structure of the wage schedule in Mount Horeb.

The existing wage schedule in Mount Horeb has been developed through negotiations between these parties over a period of years. The Association's offer would convert that 7 step schedule with longevity after 10 and 15 years of employment to a 10 step wage schedule and alter the wage relationship of the Districts' employees. Its proposal would change the status quo.

The threshold question when a party proposes to change the status quo is has the party demonstrated a need for the change?

The Union's arguments are set forth above. There is no purpose in reviewing those arguments again. The Union's primary justification for its offer is that it is necessary to correct inequities in the wage schedule. There is no evidence to support the allegation. There is only the Association's assertion that increments that it previously negotiated should be changed in order to equalize all of the increments in the wage scale to 25¢ or 26¢ each. Its other justification is the need to correct the "inequity" that results in Paraprofessionals earning "at least \$1.03 per hour behind all other classifications in the bargaining unit." While that wage disparity is evident, there is no evidence that this difference, which was also negotiated by the Union over time, is inequitable. Based upon the Union's exhibits, Mount Horeb's Paraprofessionals which ranked an average of 5.3 of 9 in 1992-93, and 6 of 9 in 1993-94, will have an average rank of 4.9 under the Union's offer or 5.1 under the District's offer in 1994-95. Those Paraprofessionals will have an average rank of 2.4 under the Union's offer or 2.7 under the District's offer in 1995-96. There are only 5 districts with Paraprofessionals settled for that year.

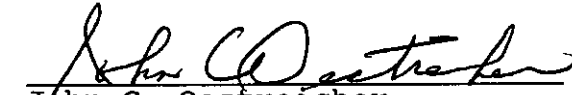
The District Administrator testified that one of the reasons that the Union's offer was not acceptable is because it would make it more difficult to recruit new employees. He said that the District has not had a problem retaining its workers, but, it

does have trouble attracting new employees. That unrefuted evidence enforces the conclusion that the Union's offer, which would grant larger wage increases to longer term employees, could disrupt Mount Horeb's compensation pattern which had been established through negotiations over a period of time.

The Union has made the point that it considers the wage schedule to be inequitable. But, except for denouncing the alleged inequities, the Union has neither explained nor presented evidence why the existing compensation pattern should be revised. Union exhibits 17-19 contain the names of the existing employees, their hours of work, their present wage levels and the wage levels these employees would attain during each year of the contract under the Union's offer. There is no evidence what positions these employees hold. Of the 80 employees listed, 29 work more than 1200 hours per year. Of this group, the 11 employees who work between 1215 and 1350 hours a year would receive 2 year wage increases averaging .146% over the period of this contract. The 18 employees who work between 1733 and 2170 hours a year would receive 2 year wage increases averaging .07%. The remaining 51 employees who work between 180 and 1170 hours a year would receive increases that range between 1.3% and 22% over the term of the contract. The Association, having proposed what appear to be major modifications to the Mount Horeb wage schedule had the burden of showing that those modifications were necessary. It failed to meet that burden.

The offer of the Board of Education of the Mount Horeb area school district shall be incorporated into the parties' July 1, 1994 - June 30, 1996 agreement.

Dated at Madison, Wisconsin, this 6th day of December, 1995.

  
John C. Oestreicher  
Arbitrator

MAR 29 1995

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION  
VOLUNTARY IMPASSE RESOLUTION PROCEDURE

This Voluntary Impasse Resolution Procedure is made and entered into by and between the Board of Education of the Mount Horeb Area School District (District) and the Mount Horeb Auxiliary Personnel/South West Education Association (Union) pursuant to the Municipal Employment Relations Act (MERA), Section 111.70(4)(cm) 5., Wis. Stats., as the method by which an impasse over the terms of a successor collective bargaining agreement to the 1992-1994 collective bargaining agreement between the District and the Union shall be resolved.

WHEREAS, the District has and continues to recognize the Union as the exclusive collective bargaining representative of all regular full-time and regular part-time non-professional employees of the District including educational assistants, custodians, bus drivers, secretaries and food service employees, but excluding supervisory, managerial, confidential employees, persons hired as substitutes for included positions, seasonal employees and limited term employees; and

WHEREAS, the collective bargaining unit represented by the Union has at all times relevant herein consisted of municipal employees who are school district professional employees under sec. 111.70, Wis. Stats., and those who are not school district professional employees;

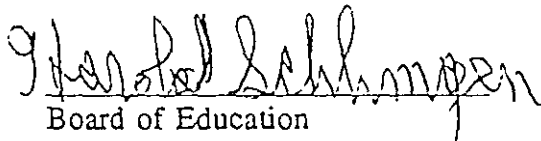
NOW, THEREFORE, the parties agree to the following:

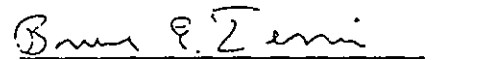
1. That an impasse in the negotiations leading to a collective bargaining agreement to succeed the Agreement shall be resolved by the WERC pursuant to the provisions of sec. 111.70(4)(cm) 6., Wis. Stats., as they apply to units consisting of municipal employees who are not school district professional employees.
2. That the terms and provisions of sec. 111.70(4)(cm) 6., Wis. Stats., are incorporated into and made part of this voluntary impasse resolution procedure as if set forth fully herein.
3. That the impasse resolution procedure referred to in paragraphs 1 and 2 shall be adhered to by the parties in its entirety, up to and including binding interest arbitration in which the arbitrator shall give weight to the factors enumerated in sec. 111.70(4)(cm) 7., Wis. Stats.
4. That the terms and provisions of sec. 111.70(4)(cm) 7., Wis. Stats., are incorporated into and made part of this voluntary impasse resolution procedure as if set forth fully herein.



5. That, should the WERC determine that arbitration should be commenced, the WERC shall issue the parties a list of seven (7) arbitrators from which the parties shall alternately strike names until a single name is left, who shall be appointed as arbitrator by the WERC.
6. That the arbitrator shall select the final offer of one of the parties in its entirety, and the decision and award of the arbitrator shall be final and binding on the parties.
7. That the parties shall not challenge or contest in any forum an award issued by an arbitrator pursuant to the voluntary impasse resolution set forth herein.
8. That this voluntary impasse resolution procedure shall expire upon the expiration of the collective bargaining agreement to succeed the Agreement.

BY:

  
Board of Education  
Mount Horeb Area School District  
Date: October 3, 1994

  
Mount Horeb Auxiliary Personnel  
South West Education Association  
Date: October 3, 1994

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