

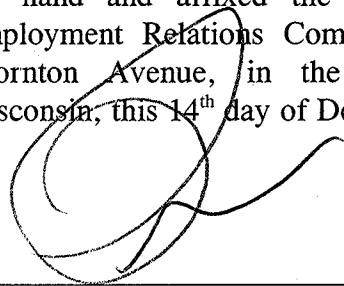
Clearinghouse Rule 99-104

STATE OF WISCONSIN)
) SS
EMPLOYMENT RELATIONS COMMISSION)

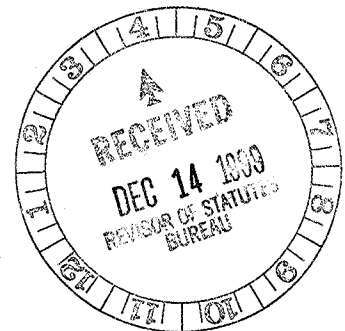
I, Peter G. Davis, General Counsel of the Employment Relations Commission and custodian of the official records, certify that the annexed rules, relating to school district professional employe collective bargaining agreements and the calculation of a qualified economic offer were duly approved and adopted by this Commission on December 14, 1999.

I further certify that this copy has been compared by me with the original on file in this Commission and that it is a true copy of the original, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Employment Relations Commission at 18 South Thornton Avenue, in the City of Madison, Wisconsin, this 14th day of December, 1999.



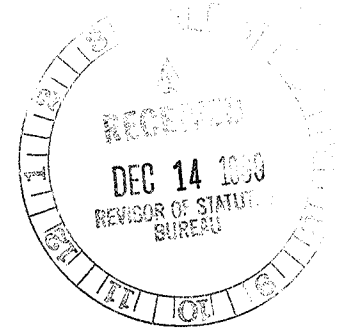
Peter G. Davis, General Counsel



rb
12149901

2-1-00
99-104

ORDER OF THE WISCONSIN
EMPLOYMENT RELATIONS COMMISSION



The Wisconsin Employment Relations Commission amends ERC 33.01, 33.03, and 33.05(3); repeals and recreates ERC 33.13(2)(b) and ERC 33, Appendix A, Form C; and creates ERC 33.13(d) relating to school district professional employe collective bargaining agreements and the calculation of a qualified economic offer.

Sections 111.70(4)(cm)8 and 111.71(1), Stats., give the Commission the authority to amend and to repeal and recreate these proposed administrative rules.

ERC 33.01 relates to the scope of administrative rules governing the collective bargaining and interest arbitration processes for school district professional employes and contains language that has become obsolete due to the passage of time. The amendment will remove the obsolete reference to collective bargaining "agreements entered into pursuant to arbitration award as to which the investigation was closed before August 12, 1993." There are no such agreements at the present time and there will not be any such agreements in the future.

ERC 33.03 relates to the content of collective bargaining agreements for school district professional employes and contains language that has become obsolete due to the passage of time and language that conflicts with existing law because of amendments to applicable statutory provisions. The amendment will: (1) remove the obsolete references to collective bargaining agreements expiring on June 30, 1993, 1995 and 1997 and add a general reference to the requirement in s. 111.70(4)(cm)8m.b., Stats., that all school district professional employe collective bargaining agreements shall be for a term of 2 years expiring on June 30 of the odd numbered year; and (2) make the rule consistent with s. 111.70(4)(cm)8p., Stats., by removing the prohibition against agreements which modify the salary schedule structure for school district professional employes.

ERC 33.05(3) relates to voluntary impasse resolution procedures and contains language that has become obsolete and language that is incomplete because of amendments to applicable statutory provisions. The amendments will: (1) remove the obsolete references to "section 9120 of 1993 Wis. Act 16; and (2) make the rule consistent with the requirement in s. 111.70(4)(cm)5, Stats., that an interest arbitrator functioning under a voluntary impasse resolution procedure give weight to the factors enumerated in s. 111.70(4)(cm)7, 7g. and 7r., Stats.

ERC 33.13(2)(b) relates to the specific content of final offers in interest arbitration of school district professional employe contracts and contains language that has become obsolete due to the passage of time. The repeal and recreation will remove the obsolete references to collective bargaining agreements expiring on June 30, 1995, 1997 and 1999 and add a general reference to the requirement in s. 111.70(4)(cm)8m.b., Stats., that all school district professional employe collective bargaining agreements shall be for a term of 2 years expiring on June 30 of the odd numbered year.

ERC 33.13(2)(d) relates to the requirement in s. 111.70(4)(cm)8p., Stats., that the salary schedule structure for school district professional employes can only be modified by the voluntary agreement of a school district and the union representing the school district's professional employes. ERC 33.13(2)(d) would prohibit a school district or union from seeking to compel the other party to involuntarily modify a salary schedule structure by including such a proposal in an interest arbitration final offer.

The repeal and recreation of ERC 33, Appendix A, Form C is required by 1997 Wisconsin Act 237's amendment to the statutory definition of a qualified economic offer through the creation of s. 111.70(1)(fm), Stats., and the amendment of ss. 111.70(1)(nc)1.b and c., Stats. As recreated, ERC 33, Appendix A, Form C will allow a school district to accurately calculate the level of salary increase, if any, which the district must offer to the labor organization representing the district's professional employes as part of a qualified economic offer. As recreated, ERC 33, Appendix A, Form C implements the statutory requirement that fringe benefit savings be used to fund salary increases as part of a qualified economic offer.

SECTION 1. ERC 33.01 is amended to read:

ERC 33.01 Scope. This chapter governs the procedure relating to collective bargaining and interest arbitration pursuant to s. 111.70(4)(cm), Stats., for collective bargaining agreements entered into on or after August 12, 1993 affecting school district professional employes, ~~except for agreements entered into pursuant to an arbitration award as to which the investigation was closed before August 12, 1993.~~

SECTION 2. ERC 33.03 is amended to read:

ERC 33.03 Content of collective bargaining agreements. ~~A collective bargaining agreement entered into on or after August 12, 1993 which covers any period of time prior to July 1, 1995 shall have an expiration date of June 30, 1995. If compliance with the requirement of a June 30, 1995 expiration date would require that the parties enter into an agreement with a term in excess of 3 years, the agreement shall have an expiration date of June 30, 1993, and any successor agreement shall have an expiration date of June 30, 1995. The successor agreement to a collective bargaining agreement expiring on June 30, 1995 shall have an expiration date of June 30, 1997. A collective bargaining agreement shall have a term of 2 years expiring on June 30 of the odd-numbered year.~~ A collective bargaining agreement may contain provisions to reopen negotiations as to any period of any agreement whose expiration date is consistent with this subsection. ~~A collective bargaining agreement shall not~~

~~alter the salary range structure, number of steps or requirements for attaining a step or assignment of a position to a salary range for any school district professional employes who were assigned to salary ranges with steps that determined the level of progression within each salary range. A collective bargaining agreement may create or modify provisions requiring longevity or other payments which do not alter any existing salary range with steps that determine the level of progression within each salary range.~~

SECTION 3. ERC 33.05(3) is amended to read:

ERC 33.05(3) SCOPE. The provisions of s. 111.70(4)(cm)8m and 8p, Stats., and section 9120 (2xg) of 1993 Wis. Act 16 may not be superseded by any provision of a collective bargaining agreement resulting from a voluntary impasse resolution procedure. If the parties agree to any form of binding interest arbitration, the arbitrator shall give weight to the factors enumerated under s. 111.70(4)(cm)7, 7g. and 7r., Stats.

SECTION 4. ERC 33.13(2)(b) is repealed and recreated to read:

~~ERC 33.13(2)(b) Final offers for any collective bargaining agreement entered into on or after August 12, 1993 which covers any period of time prior to July 1, 1995 shall have an expiration date of June 30, 1995. If compliance with the requirement of a June 30, 1995 expiration date would require that the parties enter into a contract with a term in excess of 3 years, final offers for such an agreement shall have an expiration date of June 30, 1993, and final offers for any successor agreement shall have an expiration date of June 30, 1995. Final offers for the successor agreement to collective bargaining agreements which have an expiration date of June 30, 1995 shall have an expiration date of June 30, 1997. Final offers for any collective bargaining agreement shall have a term of 2 years expiring on June 30 of the odd-numbered year.~~

SECTION 5. ERC 33.13(2)(d) is created to read:

ERC 33.13(2)(d) Final offers may not contain a proposal to alter the salary range structure, number of steps, or requirements for attaining a step or assignment of a position to a salary range.

SECTION 6. ERC 33, Appendix A, Form C is repealed and recreated to read:

WISCONSIN EMPLOYMENT RELATIONS COMMISSION
QUALIFIED ECONOMIC OFFER INSTRUCTIONS

FORM C

Utilize the following instructions to determine the components of a minimum qualified economic offer.

Note: If payment of any appropriate salary increase would raise your fringe benefit costs (due to resultant social security and retirement cost increases) above 1.7% of Step 3 (base cost), then reduce the salary increase in the amount necessary to keep the combined cost of fringe benefits, steps, lanes/promotions, and average salary increase at 3.8% of Step 3 (base cost).

DEVELOPING A MINIMUM QUALIFIED ECONOMIC OFFER

When calculating any appropriate salary increase or decrease, include any increased or decreased salary cost in extended contracts, co-curricular pay, extra duty pay, etc., which is produced by salary schedule increases or decreases or payment of steps or lanes.

1. Complete Forms A and B.
2. Using the information on Form A, determine how the law requires you to proceed by identifying the cost combination that applies to the first 12-month period of your offer.
 - A. If the combined costs identified by Step 6 (fringe benefits), Step 8 (steps), and Step 10 (promotions/lanes) are less than 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining and contract administration:
 1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
 2. Pay all eligible employees any salary increase to which they are entitled by virtue of an additional year of service on the salary schedule. Include longevity payments if they are part of the salary schedule.
 3. Pay all eligible employees any salary increase to which they are entitled by virtue of a promotion or additional professional qualifications.

4. Pay an average salary increase to all employees in an amount determined by the difference between 3.8% of Step 3 (base cost) and the combined cost of Step 6 (fringe benefits), Step 8 (steps) and Step 10 (promotions/lanes) and in a manner which does not alter the relationship between steps and lanes in your existing salary structure. The options available for distribution of the general salary increase are a uniform dollar amount increase on each salary cell; or a uniform % increase to each salary cell; or an increase in the base which increases each cell in accordance with the existing salary structure.
- B. If the combined costs identified by Step 6 (fringe benefits), Step 8 (steps) and Step 10 (promotions/lanes) are 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining and contract administration:
1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
 2. Pay all eligible employees any salary increase to which they are entitled by virtue of an additional year of service on the salary schedule. Include longevity payments if they are part of the salary schedule.
 3. Pay all eligible employees any salary increase to which they are entitled by virtue of a promotion or additional professional qualifications.
- C. If the combined costs identified by Step 6 (fringe benefits), Step 8 (steps), and Step 10 (promotions/lanes) are more than 3.8% of Step 3 (base cost), but the combined costs of Step 6 (fringe benefits) and Step 8 (steps) are less than 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining and contract administration:
1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
 2. Pay all eligible employees any salary increase to which they are entitled by virtue of an additional year of service on the salary schedule. Include longevity payments if they are part of the salary schedule.
 3. Calculate the prorated portion of Step 9 (promotions/lanes) which can be funded by 3.8% of Step 3 (base cost) minus the cost of Step 5 (fringe benefits) and Step 7 (steps). To identify the proration percentage, identify the amount of money available to fund promotions/lanes and divide by the amount of money necessary to fully fund promotions/lanes.

Pay the same prorated salary increase to all eligible employees entitled thereto by virtue of an additional promotion or the additional attainment of professional qualifications. For example, if the foregoing calculation would allow payment of one-half of the Step 9 (promotions/lanes) salary increase to eligible Step 1 employees, you must pay one-half of the salary increase to which your actual employees are entitled by virtue of promotions/additional qualifications during the first 12 months of your offer.

- D. If the combined costs identified by Step 6 (fringe benefits) and Step 8 (steps) are 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining and contract administration:
1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
 2. Pay all eligible employees any salary increase to which they are entitled by virtue of an additional year of service on the salary schedule. Include longevity payments if they are part of the salary schedule.
- E. If the combined costs identified by Step 6 (fringe benefits) and Step 8 (steps) are more than 3.8% of Step 3 (base cost), but the cost of Step 6 (fringe benefits) is less than 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining and contract administration:
1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.
 2. Calculate the prorated portion of Step 7 (steps) which can be funded by 3.8% of Step 3 (base cost) minus the cost identified by Step 5 (fringe benefits). To identify the proration percentage, identify the amount of money available to fund steps and divide by the amount of money necessary to fully fund steps.

Pay the same prorated salary increase to all eligible employees entitled thereto by virtue of an additional year of employment on the salary schedule. Include longevity payments if they are part of the salary schedule. For example, if the foregoing calculation would allow payment of half of the Step 7 (steps) salary increase to eligible Step 1 employees, you must pay one-half of the salary increase to which any of your actual employees are entitled by virtue of an additional year of service on the salary schedule during the first 12 months of your offer.

F. If the cost identified by Step 6 (fringe benefits) is 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining and contract administration:

1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.

G. If the cost identified by Step 6 (fringe benefits) is more than 3.8% of Step 3 (base cost), then you must do the following for all employees who are actually represented by the labor organization for the purposes of collective bargaining and contract administration:

1. Maintain all fringe benefits identified on Form B and the district's percentage contribution toward the cost thereof.

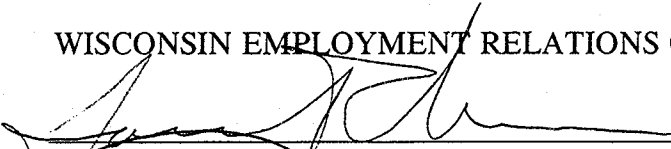
2. You may decrease the salary of all employees in an amount determined by the difference between the cost identified by Step 6 (fringe benefits) and 3.8% of Step 3 (base cost) and in a manner which does not alter the relationship between steps and lanes on your existing salary structure. The options available for distribution of the average salary decrease are a uniform dollar amount decrease on each salary cell; or a uniform % decrease on each salary cell; or a decrease in the base which decreases each cell in accordance with the existing salary structure.

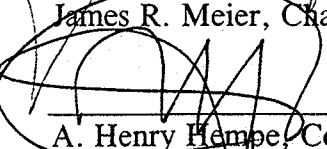
For the second year or portion thereof, repeat your evaluation of options A-G utilizing the costs identified in Steps 13-18 of Form A.

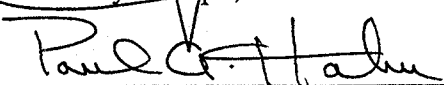
These rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2), (intro.), Stats.

Adopted at Madison, Wisconsin this 14th day of December, 1999.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION


James R. Meier, Chairperson


A. Henry Hempe, Commissioner


Paul A. Hahn, Commissioner