

BEFORE THE ARBITRATOR

In the Matter of the Petition of:	Case 83 No. 65810 INT/ARB-10699
MIDDLETON-CROSS PLAINS SCHOOL DISTRICT	Dec. No. 32021-A
To Initiate Arbitration Between Said Petitioner and	Hearing: 6/12/07 Record Closed: 8/24/2007 Award Issued: 10/26/2007
MIDDLETON EDUCATION STAFF ASSOCIATION (MESA)	Sherwood Malamud Arbitrator

APPEARANCES:

Godfrey & Kahn, S. C., Attorneys at Law, by Jon Anderson, 1 E. Main Street, P.O. Box 2719, Madison, Wisconsin 53701-2719, appearing on behalf of the Municipal Employer.

Mallory K. Keener, UniServ Director, Capital Area UniServ South, 4800 Ivywood Trail, Mc Farland, Wisconsin 53558, and Greg Spring, Negotiations Specialist, WEAC, 33 Nob Hill Road, P.O. Box 8003, Madison, Wisconsin 53708-8003, appearing on behalf of the Association.

ARBITRATION AWARD

Jurisdiction of Arbitrator

On March 8, 2007, the Wisconsin Employment Relations Commission appointed Sherwood Malamud to serve as the Arbitrator to issue a final and binding Award pursuant to Sec. 111.70(4)(cm), 6.c., Wis. Stats., to determine a dispute over the rates of contribution of employer and employee towards health and dental premiums. Hearing in the matter was held on June 12, 2007 at the District's Administrative offices in Middleton Wisconsin. The original and reply briefs were received and exchanged by the parties by August 24, 2007, at which time the record in the matter was closed. Upon reviewing the evidence, testimony and arguments presented by the parties and upon application of the criteria set forth in Sec. 111.70(4)(cm)7., 7.g., 7.r., a.-j., Wis. Stats., to the issues in dispute herein, the Arbitrator renders the following Award.

INTRODUCTION and RECITALS

The hearing in this matter was held on June 12, 2007. On July 13, 2007, the Arbitrator received an Agreement to Modify the Certified Final Offers executed by the parties. The Agreement provides as follows:

WHEREAS, the certified final offers presented by the Middleton-Cross Plains Area School District (hereafter "District") and Middleton Education Staff Association (hereafter "MESA") mandate a change in the School District's status quo health and dental insurance proration formulas to be effective January 1, 2007; and

WHEREAS, the hearing in the above-referenced interest arbitration proceeding was held on Tuesday, June 12, 2007; and

WHEREAS, the amount of time that has passed since the final offers were certified and the amount of time needed for completion of the interest arbitration process presents a significant retroactive impact on each employee within the bargaining unit; and

WHEREAS, during closed session on Monday, June 25, 2007, the Board of Education for the District authorized its Administrative Team to seek MESA's approval to modify the District's final offer by changing the proration formula effective date to October 1, 2007;¹ and

WHEREAS, MESA has agreed to allow the District to modify its final offer in order to delay the implementation of the insurance proration change to October 1, 2007, provided the District allows MESA to similarly modify its final offer; and

WHEREAS, the District has agreed to allow MESA to modify its final offer in order to delay the implementation of the insurance proration change to October 1, 2007.

¹The plan year for insurance programs runs from October 1 through September 30. Deduction for the employees' share of premiums occurs in the prior month (*i.e.*, deductions will occur in September 2007 for October 2007 premiums.)

AGREEMENT

IT IS HEREBY AGREED, by consent of the parties hereto, that the certified final offers in the above-noted interest arbitration proceeding are modified to reflect the following District paid percentages for the health and dental insurance proration formulas effective October 1, 2007:

District's Final Offer - Effective October 1, 2007		MESA's Final Offer - Effective October 1, 2007	
4 hours =	50%	4 hours =	63%
Over 4 hours up to 5 hours =	63%	Over 4 hours up to 5 hours =	75%
Over 5 hours up to 6 hours =	75%	Over 5 hours up to 6 hours =	88%
Over 6 hours up to 7 hours =	88%	Over 6 hours =	100%
Over 7 hours =	100%		

The Arbitrator offered the parties an opportunity to supplement their exhibits to conform their exhibits to their modified Certified Final Offers. The parties made minor revisions to some of their exhibits. Significantly, they agreed to change the implementation date for the employer/employee contribution levels to health and dental premiums to October 1 rather than January 1, 2007. This Agreement to modify results in the parties agreement on all issues, wages, health and dental insurance for the period of the contract in effect from July 1, 2005 through June 30, 2007. This award determines the health and dental benefit contribution of employer and employee beginning October 1, 2007, during the term of an agreement the parties have yet to bargain.

The parties argue this case as if the change in percentage allocation between employer and employee contribution occurred and impacted 2006-2007, the last year of the agreement. In reality, of course, the successor agreement has not been negotiated and the parties and the Arbitrator cannot know what impact the change in allocation will have on the total package implemented by the parties in the successor 2007 contract. The Arbitrator considers the total cost and fiscal impact of the parties' final offer in accordance with the above Agreement and stipulation.

HEALTH INSURANCE

The Problem

The health insurance issue presents the difficult conundrum faced by employers and unions in their attempt to address double digit increases in health insurance premiums. For the first year of this agreement, health insurance premiums increased as follows: GHC family premium increased 12.5% in 2005-06 over the cost of premium in 2004-05. Premiums increased from \$665.36 to \$748.42. In the second year of the agreement, premiums increased by 15.8% for 2006-07 to \$866.94. GHC is the lower cost plan. The Employer contributes 110% of that premium to the cost of premium for family coverage in the Unity Plan, the other plan available to this unit. The premium for family coverage was \$700.52 in 2004-05. It increased by 9% in 2005-06 to \$763.58 and by 26% in 2006-07 to \$962.12. Over these 2 years, GHC premiums for family coverage increased by 30.2% and Unity by 37.3%.

Health insurance accounts for approximately 28 or 29% of the annualized total package cost for this bargaining unit in 2006-2007, depending on which offer is selected. New dollars directed to wages and benefits by the Employer invariably go to one or the other. For each dollar absorbed by health insurance premium increases, fewer dollars are added to the salary schedule. Dollars that offset increased insurance costs do not provide a benefit gain to those employees who do not take health insurance. In this bargaining unit, 97 of 143 employees in the

unit take health insurance, 100 take dental insurance, the remainder, approximately, one-third of the unit take no insurance.

STATUTORY CRITERIA

Sec. 111.70(4)(cm)6.d. provides that:

The arbitrator shall adopt without further modification the final offer of one of the parties on all disputed issues

...

The arbitrator applies the following criteria found in Sec. 111.70(4)(cm)7 to the issues in dispute. The criteria are:

7. 'Factor given greatest weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give the greatest weight to any state law or directive lawfully issued by a state legislative or administrative officer, body or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer. The arbitrator or arbitration panel shall give an accounting of the consideration of this factor in the arbitrator's or panel's decision.

7g. 'Factor given greater weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors specified in subd. 7r.

7r. 'Other factors considered.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall also give weight to the following factors:

- a. The lawful authority of the municipal employer.
- b. Stipulations of the parties.

c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.

d. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services.

e. Comparison of the wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes generally in public employment in the same community and in comparable communities.

f. Comparison of the wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes in private employment in the same community and in comparable communities.

g. The average consumer prices for goods and services, commonly known as the cost of living.

h. The overall compensation presently received by the municipal employes, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

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

HEALTH AND DENTAL INSURANCE

The Association argues that the statutory criteria, greatest weight and greater weight support its offer. The District emphasizes that it does not make an inability to pay argument. It does not assert that any statutory mandate prevents it from accepting the Association offer. Furthermore, the economic conditions in the area do not prevent the acceptance and adoption of the Association offer. Consequently, the District maintains and the Arbitrator agrees that the Greatest and Greater weight criteria have no bearing on this case. The Association argues that the District resources are more than adequate to meet the financial demand reflected in the Association's final offer. The District acknowledges that it has the financial resources to meet the Association's demands. It argues instead, that other statutory criteria support the selection of its final offer.

The Arbitrator applies each of the criteria to the health and dental insurance premium contribution dispute. The criterion the lawful authority of the municipal employer does not serve to distinguish between the two offers.

Stipulations of the Parties

The stipulations of the parties significantly impact the determination of this case. The parties have agreed to continue the proration levels for the District's contribution to the cost of premium at 4-hours-67%; 4-5 hours-83% and 6 or more at 100% for the duration of the 2005-2007 contract and to continue those contribution levels through September 30, 2007 the first quarter of the successor agreement which the parties have yet to bargain. In addition, the parties agreed and implemented the wages for the 2005-2007 contract.

The parties stipulated that difference between the pro-ration structure that exists in this unit represented by MESA and the District's other bargaining and meet and confer units has existed for in excess of 20- years. The parties have created and maintained this different structure and unique benefit in this unit through voluntary collective bargaining over a long period of time. This stipulation weighs heavily in support of the Association offer.

Interest and Welfare of the Public

Both the District and Association proposals require that part-time aides pick up an additional percentage cost of the health and dental insurance premiums. The following Chart summarizes the employee’s current contribution and both the District and MESA proposals.

Chart 1

District %	Status Quo	Union Offer	Board Offer
4 Hours	67%	63%	50%
5 Hours	83%	75%	63%
6 Hours	100%	88%	75%
7 Hours	100%	100%	88%
8 Hours	100%	100%	100%

Under the District’s proposal a full-time work day for purposes of calculating part-time benefits, changes from the current six to eight hours. The District proration proposal is based on the number of hours regularly scheduled as a percentage of an 8-hour day. The Association proposes seven hours for purposes of calculating the percentage contribution levels of educational assistants. No Aide has a work schedule that requires her to work in excess of 7 and three quarter hours per day.

The Association argues that the number of aides eligible for full-time benefits under the current contract stands at 109. Under the District’s proposal, that will drop to 48. The number of employees in this unit who would receive part-time benefits at levels that would require that they pick up an increased share of the cost of health insurance premium would jump from 18 employees to 79.

Employer Exhibit 13 demonstrates that as of the summer of 2007, in this unit of 143 employees, a total of 73 took family coverage and an additional 20 single coverage; 22 employees were not eligible. The District's proposal will likely increase the number of employees who do not take insurance. It is not in the best interest of the public to increase the number of families who are without health insurance coverage. This criterion supports the Association position.

Comparability

Arbitrator Rose Marie Baron issued an interest arbitration award in December 1993 in a case between these very same parties. She described the bargaining unit as:

All regular and EEN full-time and all regular and EEN part-time Para-Educators employed by the Middleton-Cross Plains Area School District who perform instructional support tasks and/or student supervision in support of the educational program of the school. . .

In her award, No. 27599-A, Arbitrator Baron considered at great length the question of the appropriate comparability pool. She determined that the appropriate group of primary comparables should be consistent with those districts who were then part of the Badger Athletic Conference: DeForest, Fort Atkinson, Monona Grove, Monroe, Oregon, Sauk Prairie, Stoughton and Waunakee.

The Association then, in the dispute over the 1992-94 Contract, just as now in this arbitration proceeding, argues that Madison should be included as a primary comparable to Middleton. Based on enrollment criteria, the number of FTE teachers employed by Madison and Middleton, the aid per student and the equalized value per student, Arbitrator Baron concluded that Madison is not an appropriate comparable to Middleton. Madison is much, much larger. The influence that Madison brings to bear on the labor market is felt by all districts in the immediate vicinity of Madison. In that manner, the impact of Madison on

the labor market is felt without including Madison as a direct comparable to Middleton. Arbitrator Baron did not identify Madison as a comparable, and for the same reasons, neither does this Arbitrator. The numbers have changed but the relative size of Middleton and Madison has not.

The District argues that this Arbitrator should continue to follow the comparability pool that was established back in the early '90s. The District reminds this Arbitrator that in April 1996, he issued an award between this district and Local 60, AFSCME, the exclusive collective bargaining representative for the custodians of the district. In that award, the Arbitrator did not include Madison as a comparable to Middleton. In 1996, this Arbitrator found that DeForest, McFarland, Monona Grove, Oregon, Sun Prairie, Verona, and Waunakee provided a range of comparables of larger and smaller districts to which the wage rates and benefits of custodial employees employed by Middleton may be compared.

Both the District and the Association suggest DeForest, Monona Grove, Oregon, Stoughton, Sun Prairie, and Verona as appropriate comparables. The District would include Fort Atkinson, Monroe, and Waunakee into the comparability pool. MESA, the Association, would add McFarland, Mt. Horeb, and Wisconsin Heights to the mix. Middleton, now in 2007, is part of the Big Eight Conference. Its student enrollment in 2005-06 stands at 5,571. Sun Prairie enrollment has grown to 5,522; Verona has increased to 4,441; Oregon, DeForest and Stoughton have enrollments of between 3,100 and 3,600 students. Monona Grove and Mt. Horeb have student enrollments above 2,000. McFarland had a student enrollment of just under 2,000. Wisconsin Heights, although located in Dane County, is a much smaller school district by student enrollment at just a little over 1,000.

According to Association Exhibit 2-2, Middleton's allowable revenue under revenue controls has grown 9.6% to approximately \$54.5 million from \$49.5 million. Sun Prairie has shown an even larger increase from \$47.5 million in 2004-05 to \$56.5 million in 2006-2007. The other Dane County school districts

other than Wisconsin Heights, have all experienced growth in revenues under revenue controls resulting from development in each school district of from 4% in Stoughton to in excess of 19% in Sun Prairie. Middleton has experienced growth at the rate of 9.6% in 2006-07.

Based on the data submitted, the Arbitrator concludes that the following fast growing Dane County school districts that encircle Madison form a natural comparability pool to the Middleton-Cross Plains School District. The Dane County school district of Wisconsin Heights is much smaller than the other school districts named below. Waunakee is included as a comparable to Middleton-Cross Plains. The weight given to the Waunakee data is minimized, because the para-professional aides in that district are not organized. The remaining eight of the nine comparable school districts provide sufficient data on which the Arbitrator may apply the comparability criteria. The list of comparable districts to Middleton-Cross Plains (in addition to Waunakee) are: DeForest, McFarland, Monona Grove, Mt. Horeb, Oregon, Stoughton, Sun Prairie, and Verona. These districts are directly affected by the Madison labor market as contrasted to the Green County school district of Monroe and the Jefferson County district of Fort Atkinson. The comparability pool initially identified by Arbitrator Mueller in his award in 1987, revisited by Arbitrator Baron in 1993 and by this Arbitrator in 1996, has changed. The nine districts identified as comparables have all undergone commercial and residential development to such an extent as to establish them as appropriate comparables to Middleton. It is in this labor market in which the comparable pool of districts must compete for para-educators and aides.

Comparability - External

The Employer argues that the percentage contribution that it makes towards health insurance premiums at each of the hour levels (4, 5, 6, 7, and 8) under its proposal is the product of a straight proration of hours worked as a percentage of an 8-hour day. For the most part, comparable employers provide

a straight proration of the full benefit based on the percentage of a full-time schedule that a part-time employee works.

MESA asserts that premiums have been kept relatively low through the efforts of the Employer and the unions representing employees of the Middleton-Cross Plains School District. In this regard, the full monthly premium for family health insurance among the comparables identified by the Arbitrator, above, DeForest, McFarland, Monona Grove, Mt. Horeb, Oregon, Stoughton, Sun Prairie, and Verona averages \$1221.14 per month. The monthly cost for family premium in Middleton in 2006-2007 for the GHC HMO is \$866.94, \$364.20 below the average. The cost of the more expensive Unity HMO is \$962.12, which is \$259.02 below the average. Only Oregon's full premium cost of insurance of \$937.09 per month is below that of the higher Unity HMO in Middleton.

At the 4 hour level, the average employer contribution towards family health insurance premiums is \$388.82 and the average employee contribution is \$829.83.² In Middleton, under the current contract, the 67% Employer contribution level generates an Employer contribution of \$580.85 and an employee contribution of \$286.09 for GHC HMO coverage. For the more expensive Unity coverage at the 4 hour level, the Employer pays \$638.93 (110% of the GHC full benefit reduced to 67% of that benefit level \$953.63 multiplied by .67). Under the Employer's offer, its contribution for GHC coverage is \$433.47 with the employee contributing an equal amount towards monthly premiums. For Unity coverage, the Employer pays \$476.82. Under the MESA offer, the Employer would pay \$546.17 and the individual employee \$320.77 for the GHC plan. Under the MESA proposal, the Employer pays \$600.79 for the Unity plan. The average paid by 5 of the 8 comparable districts that provide a benefit at the 4-hour level is \$466.11, \$33 above the District's contribution toward the GHC premium under its proposal, but \$10 below this Employer's contribution under its offer for Unity coverage. The MESA offer requires this District pay \$80.06 more than the average

²Three districts provide no benefit to employees who work part time, 4 hours per day. Those districts are McFarland, Mt. Horeb, and Stoughton.

paid by comparable districts for the GHC plan and \$134.67 more than the average paid by comparable districts for the Unity plan.

The following charts set out the District and Employee contributions toward premium for the 2006-2007 extended year:

Chart 2

DISTRICT COSTS - STATUS QUO				
	GHC		UNITY	
	Single	Family	Single	Family
Full				
Premiums	\$ 346.77	\$ 866.94	\$ 384.86	\$ 962.12
110%	\$ 381.45	\$ 953.63		
4 Hours	\$ 232.34	\$ 580.85	\$ 255.57	\$ 638.93
5 Hours	\$ 287.82	\$ 719.56	\$ 316.60	\$ 791.52
6 Hours	\$ 346.77	\$ 866.94	\$ 381.45	\$ 953.63
7 Hours	\$ 346.77	\$ 866.94	\$ 381.45	\$ 953.63
8 Hours	\$ 346.77	\$ 866.94	\$ 381.45	\$ 953.63

Chart 3

EMPLOYEE COSTS - STATUS QUO				
	GHC		UNITY	
	Single	Family	Single	Family
Full				
Premiums	\$ 346.77	\$ 866.94	\$ 384.86	\$ 962.12
110%	\$ 381.45	\$ 953.63		
4 Hours	\$ 114.43	\$ 286.09	\$ 129.29	\$ 323.19
5 Hours	\$ 58.95	\$ 147.38	\$ 68.26	\$ 170.60
6 Hours	\$ -	\$ -	\$ 3.41	\$ 8.49
7 Hours	\$ -	\$ -	\$ 3.41	\$ 8.49
8 Hours	\$ -	\$ -	\$ 3.41	\$ 8.49

Chart 4

DISTRICT COSTS - UNION OFFER				
	GHC		UNITY	
	Single	Family	Single	Family
4 Hours	\$ 218.47	\$ 546.17	\$ 240.31	\$ 600.79
5 Hours	\$ 260.08	\$ 650.21	\$ 286.09	\$ 715.23
6 Hours	\$ 305.16	\$ 762.91	\$ 335.67	\$ 839.20
7 Hours	\$ 346.77	\$ 866.94	\$ 381.45	\$ 953.63
8 Hours	\$ 346.77	\$ 866.94	\$ 381.45	\$ 953.63

Chart 5

DISTRICT COSTS - EMPLOYER OFFER				
	GHC		UNITY	
	Single	Family	Single	Family
4 Hours	\$ 173.39	\$ 433.47	\$ 190.72	\$ 476.82
5 Hours	\$ 218.47	\$ 546.17	\$ 240.31	\$ 600.79
6 Hours	\$ 260.08	\$ 650.21	\$ 286.09	\$ 715.23
7 Hours	\$ 305.16	\$ 762.91	\$ 335.67	\$ 839.20
8 Hours	\$ 346.77	\$ 866.94	\$ 381.45	\$ 953.63

Chart 6

EMPLOYEE COSTS - UNION OFFER				
	GHC		UNITY	
	Single	Family	Single	Family
4 Hours	\$ 128.30	\$ 320.77	\$ 144.55	\$ 361.33
5 Hours	\$ 86.69	\$ 216.74	\$ 98.77	\$ 246.89
6 Hours	\$ 41.61	\$ 104.03	\$ 49.19	\$ 122.92
7 Hours	\$ -	\$ -	\$ 3.41	\$ 8.49
8 Hours	\$ -	\$ -	\$ 3.41	\$ 8.49

Chart 7

EMPLOYEE COSTS - EMPLOYER OFFER				
	GHC		UNITY	
	Single	Family	Single	Family
4 Hours	\$ 173.39	\$ 433.47	\$ 194.14	\$ 485.30
5 Hours	\$ 128.30	\$ 320.77	\$ 144.55	\$ 361.33
6 Hours	\$ 86.69	\$ 216.74	\$ 98.77	\$ 246.89
7 Hours	\$ 41.61	\$ 104.03	\$ 49.19	\$ 122.92
8 Hours	\$ -	\$ -	\$ 3.41	\$ 8.49

Chart 8

INCREASED EMPLOYEE COST - UNION OFFER				
	GHC		UNITY	
	Single	Family	Single	Family
4 Hours	\$ 13.87	\$ 34.68	\$ 15.26	\$ 38.15
5 Hours	\$ 27.74	\$ 69.36	\$ 30.52	\$ 76.29
6 Hours	\$ 41.61	\$ 104.03	\$ 45.77	\$ 114.44
7 Hours	\$ -	\$ -	\$ -	\$ -
8 Hours	\$ -	\$ -	\$ -	\$ -

Chart 9³

INCREASED EMPLOYEE COST - EMPLOYER OFFER				
	GHC		UNITY	
	Single	Family	Single	Family
4 Hours	\$ 58.95	\$ 147.38	\$ 64.85	\$ 162.12
5 Hours	\$ 69.35	\$ 173.39	\$ 76.29	\$ 190.73
6 Hours	\$ 86.69	\$ 216.74	\$ 95.36	\$ 238.41
7 Hours	\$ 41.61	\$ 104.03	\$ 45.77	\$ 114.44
8 Hours	\$ -	\$ -	\$ -	\$ -

Among the five districts that provide a benefit for employees who work 5-hours per day, the average employer contribution toward family health insurance premiums is \$774.14.⁴ Under the District offer, it contributes 63% or \$546.17 per month towards GHC HMO coverage and \$600.79 towards Unity coverage for employees who are scheduled 5 hours per day. Under the MESA offer, the Employer would contribute towards the GHC plan \$650.21 per month and \$715.22 for Unity coverage. For those employers who offer benefits, the Middleton contribution even under the MESA offer, would be less than the average made by comparable employers. The District would pay \$227.99 less than the average paid by the comparables for the GHC plan and \$173.35 less for the Unity plan. The

³ Charts 1 thru 9 were taken from Employer Exhibit # 27.

⁴Monona Grove contributes towards health insurance based on the step an employee has achieved on the salary schedule. Other districts maintain a 2-tiered contribution schedule tied to an employee's seniority in the District: Monona Grove makes a larger contribution for employees hired before July 1, 1990; Oregon distinguishes between those with 15 years seniority or less; Sun Prairie makes a larger contribution for those hired before August 25, 1991. The Arbitrator took the lowest contribution for each of the districts and the highest contribution to come up with an average low and high figure at a particular number of hours. Mt. Horeb does not contribute towards insurance except for those employees who work eight hours.

MESA offer has the Employer contribution towards GHC \$123.93 for GHC and \$58.92 less than the average paid by comparable employers at this hour level.

For employees who work 6 hours per day, only Mt. Horeb provides no benefit. DeForest pays 90% of the benefit, but it offers two plans. The Arbitrator calculates the contribution based on the plan with the lower cost, and compares that to the cost of GHC plan in Middleton. The Arbitrator also calculates the average based on the cost of the more expensive plans offered by comparable Districts to its employees. At the 6-hour level the contribution of comparable Employers ranged from \$834.22 to 936.25.

Under the current contract language, the Employer contributes 100% of the cost of the lower costing HMO, GHC plan, at \$866.94 which is \$32 more than the level of contribution made by the seven comparable districts that offer coverage at that hour level but for the lower cost plans. Under the District's offer, the Employer's contribution would be 75% or \$650.21 and under the MESA proposal, the Employer would contribute 88% or \$762.91 towards premium. Whether under the District's or MESA offer, the Employer's contribution is substantially less, \$184.01 under the District's offer and \$71.31 for the GHC plan compared to the amount paid by comparable districts for employees working 6-hours towards the lower costing plans they offer.

For employees who work 7 hours per day, the average contribution for family health coverage by comparable employers ranges between \$943 to \$999 per month. At 7 hours, the District's offer provides for an 88% contribution, \$762.91 for GHC coverage and \$839.20 for Unity coverage. The MESA offer in 2006-2007 through September 30, 2007, provides a full contribution for GHC coverage at \$866.94, and for Unity coverage, the District would contribute \$953.63 per month leaving the employee to pay \$8.49 towards the total cost of premium per month for family coverage. Under the MESA offer the more expensive Unity coverage is \$10 above the amount paid by the comparables for their more expensive plans. It is \$76 less than the comparables pay for the lower costing or the lower

contribution toward premium they make under the comparables' 2-tiered insurance structures.

At 8 hours, all eight of the districts provide a benefit and contribute towards the premium for family coverage. The average low is \$1,038.14 and the average high is \$1,068.16 per month. Both the District and MESA offers are identical at the full day for the employee scheduled for over 7-1/4 hours. The District pays the full cost of premium for GHC coverage at \$866.94 and pays 110% of the cost of GHC coverage for the Unity plan; i.e., \$953.63. Again, the District's contribution to premium under either offer for either plan is substantially less than the premium dollars paid by comparable employers, \$171.20 for GHC and \$84.51 when the comparison is limited to low end of the range paid by comparable districts.

As noted above, the MESA offer translates into a dollar contribution level consistent with the amounts paid by comparable employers on behalf of their employees. The lower cost of the health insurance premium that the Union and the Employer have achieved in Middleton results in the MESA percentage contribution level generating dollar contribution levels that are less than or consistent with those paid by comparable employers. The District offer, although consistent with the percentage level of contribution made by comparable employers to employees with less seniority, nonetheless the District offer generates a dollar level contribution substantially less than that provided by comparable employers.

The external comparability criterion supports the selection of the MESA offer. The dollar levels of contribution generated by the District and MESA offers suggest that the latter is consistent with the level of contribution made by comparable employers on behalf of their part-time employees working 5, 6, and 7 hour levels, as well as, the amount contributed for employees working full-time schedules.

Dental Insurance

Although 97 employees take health insurance, 100 take advantage of the availability and take dental insurance. The percentage contribution levels provided for health insurance under the current contract and the parties' final offers carry forward to dental insurance. The record evidence suggests a decline in the cost of dental insurance in the 2006-2007 school year. However, the evidence does not serve to require a separate analysis of the cost and percentage contribution towards dental insurance that would provide any different outcome in terms of the Arbitrator's determination of both the internal and external comparability criteria.

Such Other Factors–Internal Comparability

Internal comparability plays a significant role in the party's offers. Under the Statutory scheme, this Arbitrator considers Internal Comparability under the "Such other factors" criterion.

There are five other bargaining units of employees of this Employer that are organized: the teachers, custodial employees, clerical employees organized in a bargaining unit, transportation employees, and a unit of food service employees recently organized by AFSCME. In addition, the Employer meets and confers with administrative personnel and administrative support personnel.

Currently, the Employer contributes towards health and dental insurance premiums for part-time employees in these other units at a percentage of premium consistent with the District's offer in this case; namely employees who work four hours are the beneficiaries of a 50% District contribution toward the cost of health and dental premiums. The Employer pro-rates its contribution to the cost of insurance premiums for those employees who work five hours computed on the basis of the hours worked over an eight-hour work day or 63%.

In computing the percentage of time worked by a part-time employee, this Employer rounds up to the next contribution level. If a part-time employee works a quarter hour beyond a certain level, for example, 5-1/4 hours, then the Employer contributes to the cost of premium at the next higher hour level, under this example, at the six hour level, as if the employee worked six hours. The Employer follows this pattern for all its employees in this and its other units.

The most that any employee works in a day in this unit is 7-3/4 hours. Another example of this round-up policy is reflected in the following example. Any District employee who was regularly scheduled to work 7-1/4 hours or more per day would receive a 100% contribution towards premiums paid by the District, because the Employer would treat the hours scheduled for those employees as if they were scheduled for 8 hours rather than 7-1/4 hours.

Chart 2 details the percentage contribution levels that employees in this unit currently receive from the Employer. They receive a 67% contribution towards health insurance if they work four hours, and an 83% contribution if they work five hours. The District pays 100% of the premium for health and dental insurance if the employee works six or more hours.

Under the MESA offer, employees who work 4 hours would find the Employer's contribution reduced from the current level of 67% to 63%. Those who work 5-hours would find the Employer contribution reduced from 83% to 75%. Employees who work 6 hours would receive 88% of their premium paid by the District down from 100%. Employees in this bargaining unit, would continue to receive 100% contribution towards the cost of health insurance paid by the Employer if they work 7 or in excess of 7 hours per day.

The Employer notes there is no relationship between the Association's proposed levels and a proration based on hours worked in a day. The Association

proposes 7-hours as a full-time assignment; however, the percentages proposed by the Association are not based on such a proration.⁵

Teachers who are scheduled for 7 hours receive a 90% contribution from the Employer. For employees in all the other units, the Employer contributes 88% of the cost of health insurance premiums. Employees who work six hours in the other bargaining units receive an employer contribution of 75%, 6/8 hours toward the cost of health insurance premiums. Part-time employees in all of the other bargaining units of this Employer only receive 100% contribution toward insurance premiums, if they work in excess of 7-1/4 hours (an 8-hour day).

In negotiations on a reopener under the 2002-2005 contract for the last year of that contract, 2004-2005, the Employer proposed moving its contribution level to a point consistent with the contribution levels it provides employees in its other units. WERC Mediator Houlihan proposed, and ultimately the parties agreed, that the contribution levels of the Employer towards health and dental insurance premiums be modified to the current status quo: 4 hours-- 67%; over 4 up to 5 hours-- 83%; and 6 hours, 100%. The parties reached agreement on this mediated proposal and that is the level of contribution that was in effect through the 2005-2007 contract and continued in effect up to October 1, 2007. The Employer continues its attempt to bring this unit in line with its contribution level that it makes for employees towards health and dental insurance premiums in all its other units. It attempts to do so effective October 1, 2007, so that the contribution levels will be in effect under the terms of the successor to the 2005-2007 contract.

The Association proposes a change to the contribution levels. Its proposal impacts few employees. It proposes to reduce the Employer contribution for

⁵ Straight proration based on a 7-hour day would result in the following schedule of Employer contributions toward health insurance premiums: 4-hours--57%; 5-hours--71%; 6-hours--86%; 7-hours--100%. This proration schedule would result in 48 of 73 employees who take family health insurance paying an additional proportion of their premium costs. (See Employer Exhibit No. 13)

employees scheduled for 4 hours to 63%, those scheduled for 5 hours to 75%, and those scheduled for 6 hours to 88%. The Association proposal increases the employee share by 4% for 4 hour employees, by 8% for 5 hour employees, and by 12% for 6 hour employees. However, under its proposal, 34 of the 97 employees who receive full employer contribution towards health and dental insurance premium costs, would continue to do so.

The Association argues that the structure of insurance benefits are not as consistent as argued by the District. It notes that different units have available to them different insurance choices. GHC and Unity are the HMOs available to employees in the MESA unit. These options are available to the custodial, food service, and union clerical employees, as well. The clerical union has available to it the choice of participating in a point of service plan. The District pays 90% of premiums for that plan and prorates its contribution on the basis of a 38-3/4 hour work week, the work week worked by clerical employees of the District. The organized transportation employees may elect to participate in the Unity HMO or Dean plans. These two HMOs are provided as choices to administrative personnel and administrative support personnel, as well.

The full cost of the insurance premiums are the same for all units offered the Group Health Cooperative HMO: the custodial, food service, and union clerical employee units, namely, \$866.94 per month. The Employer will pay 110% of this monthly premium towards the cost of premium for Unity. The full cost of premiums for insurance for administrative personnel and administrative support and employees in the transportation unit is \$905.36 per month. The percentage calculation of the Employer contribution towards health insurance premiums generates a greater dollar contribution for those units with more expensive insurance premiums. A further difference exists between the teacher unit and the other units.

The Arbitrator concludes that internal comparability does and should weigh heavily in favor of the Employer's final offer. Ordinarily, internal comparability is accorded near determinative weight by arbitrators. The District points to

arbitration awards in which the hold out party does not prevail. To award for a hold out would undermine the ability of the employer to establish a pattern of bargaining among many units. It also would reward the union that did not accept the pattern of settlement. Pierce County (Sheriffs), Dec. No. 28187-A (Friess, 4/95); River Falls School District (Bus Drivers), Dec. No. 30924-A (Engmann, 2/05); City of Oshkosh (Police), 15258-A (Stern, 4/77).

The awards cited by the Employer pertain to instances in which a particular bargaining unit resists a pattern of bargaining in a particular year. Here, in this case, the parties through voluntary agreements reached over a period of in excess of 20 years have established a unique benefit for this bargaining unit, one that differs from the Employer's other bargaining units and other teacher assistant units employed by comparable employers.

The internal consistency argument supports the District's argument. The absence of total internal consistency in the carriers offered to the various units, the cost of insurance, the proration – the slightly higher percentage proration received by the teachers working seven hours to obtain a 90% rather than an 88% contribution from the Employer reflect a bargaining relationship between this Employer and its other units that has not achieved total consistency in either the range of carriers offered, the dollar cost of contributions made, or the percent of proration that exists among this Employer's bargaining units.

The argument over consistency takes its most unusual form in terms of the party's argument over the number of hours that establishes a full day of work. In most units of this Employer, eight hours represents a full day of work. In the clerical unit it is seven and three-quarter hours as it is in the MESA unit. Employees in the MESA unit do not work eight hours. Nonetheless, the Employer insists that the percentage proration should be based on an eight hour day, even though it prorates benefits in the clerical unit based on their work day of seven and three-quarter hours.

The Employer rounds up when an employee is assigned a quarter hour above a particular hour level. When an employee works four and a quarter, five and a quarter, six and a quarter, or seven and a quarter hours, the contribution level towards insurance is provided on the basis of five, six, seven, or eight hours, respectively. This practice justifies, in the Arbitrator's view, that a seven hour rather than eight hour work day should serve as the basis for computing part-time contributions towards health insurance premiums. To establish a work day of eight hours as proposed by the District that no employee works, is not itself internally consistent with how it considers a full day for the clerical unit.

Summary

The Arbitrator concludes that the internal consistency criterion supports the Employer's final offer. The Arbitrator does give that criterion substantial, but not determinative weight. Furthermore, the Arbitrator concludes that the Association's proposed seven hour to represent the work day of a full-time teacher assistant is more in line with the Employer's practice of rounding-up. The jump to eight hours, an hour level not worked by employees in this unit, aggravates and accentuates the difference between these parties.

WAGES

For the analysis that follows, the Arbitrator relies on the Employer's tables found at pages 13-15 of its reply brief. The Arbitrator re-calculated the average by omitting the data provided in those tables for Madison and Wisconsin Heights. As noted above, these two districts are not appropriate comparables to Middleton. In addition, the Arbitrator calculates the average rate for regular educational assistant and special education assistant. The Arbitrator identified the titles that most closely parallel those two categories of aides in calculating the average rate for each. For example, the average rate of a special education teaching assistant at the top of the pay range paid by comparable districts in the base year 2004-2005 is \$13.61 and for regular educational assistant it is \$12.56. The maximum rate excluding longevity for para -educators in Middleton is \$13.25. However, in Middleton when longevity of \$1.59 is added to the maximum rate, the hourly rate

climbs to \$14.84 which compares to the average rate for special education and regular assistants with longevity paid by comparable districts, as follows: for regular assistants, \$13.31, and for special education aides, \$14.41.

The parties stipulated to the increases for the two year term of the 2005-2006 and 2006-2007 contract. They agreed to an increase of 1% effective July 1, 2005, and an additional 1% effective July 1, 2006. They also agreed to a 2% increase effective January 1, 2007. They agreed to increases generated a wage increase in 2005-2006 of 11 cents at the minimum rate and 13 cents at the maximum. In 2006-2007 the July 1 increase generated the same 11 and 13 cent increases at the minimum and maximum. The 2% effective January 1, 2007, generated increases of 22 cents at the minimum and 27 cents at the maximum.

The rate at the minimum in Middleton even after taking into account the lift, in other words the rate as of January 1, 2007 falls well below the average for special education assistants and above the average for regular assistants. It takes 8 years to begin to benefit from longevity payments. The minimum rate is the one at which this Employer competes in the labor market for educational assistants. The average rate paid by comparable employers to regular educational assistants is \$11.08, 36 cents below Middleton's starting rate in January 2007. However, the Middleton rate of \$11.44 falls 74 cents short of what comparable districts pay to attract special education assistants to work in their districts.

The other internal bargaining units settled for the following percentage increases: 1.6% in the union clerical OPEIU Local 39 unit; the custodial and maintenance unit agreed to a wage increase generally of 2.2%, although several classifications received much greater increases. The newly organized food and nutrition unit represented by AFSCME Local 60 settled for a 3% increase in 2005-2006.

For 2006-2007, the clerical unit agreed to a half a percent increase, and the custodial maintenance unit to an increase of approximately 2.5%. The food and nutrition unit had not settled for 2006-2007. The percentage rate increases

agreed to by these other units generated approximately 20 cents at the minimum and 23-26 cents at the maximum of the various classifications in the OPEIU Local 39 units for 2005-2006. In the AFSCME custodial unit, the percentage increases generated a range at a low of 25 to 28 cents at the minimum to 28 cents and as high an adjustment of \$1.03 at the Custodian I classification. In the food and nutrition unit, the percentage increase generated 32-40 cents at the minimum of the various classifications and from 39-50 cents at the maximum of the various classifications represented in this unit.

In the second year, the MESA unit employees receive much greater increases than those agreed to by the union clerical employees. The lift of the two raises generates an end rate comparable to the rates generated in 2006-2007 through the AFSCME agreement for custodial and maintenance employees. However, those second year raises come on top of much larger increases in the custodial unit that include substantial increases at particular classifications. Again the MESA unit received increases at the maximum of 13 cents per hour. The lowest increase in the custodial unit was 28 cents per hour with employees in the Custodian I classification receiving \$1.03 increase as part of that 2005-2006 and 2006-2007 contract.

Clearly, the average increase on wages that comparable employers paid their educational assistants and para-professionals approximates 35 cents at the maximum as contrasted to the 13 cents agreed to by MESA and the District for 2005-06. The average increase at the educational assistant level paid by comparable employers is 53 cents as contrasted to the 40 cent per hour lift the parties agreed to in Middleton for 2006-07. The average increase among the comparables in the second year, 2006-2007, was 47 cents per hour. Although the MESA unit achieved the 40 cent per hour increase through a split, that increase comes on top of a well below average increase in the 2005-2006 school year. The significance of the stipulated agreed to wage increases to the resolution of this dispute relates to the issue of whether either party must provide a quid pro quo for their proposed change. Stated another way, does the quid pro quo analysis come into play when both parties propose a change to the status quo.

Quid Pro Quo

In footnote 1 of its initial brief, the District argues that the traditional status quo/quid pro quo analysis is unnecessary in this case, inasmuch as both the District and MESA propose changing the percentage contribution levels of employer/employee towards health and dental insurance premiums. The Arbitrator disagrees. If the District's assertion were true, it would discourage a party confronted with change from making a counter -offer. It would only encourage stonewalling. When both parties make proposals to address a problem, the question the arbitrator answers in his award is which proposal better addresses the problem.

The problem in this instance concerns the funding of rapidly increasing health insurance premiums that comprise an increasingly larger proportion of the total compensation for these part-time employees. At the same time, while two-thirds of the unit employees take health insurance, one-third do not. Over the years, the Employer and MESA have negotiated the levels of contribution provided by the Employer. In the negotiations over the re-opener for the 2004-2005 portion of the predecessor contract the parties agreed to change the structure and contribution levels the Employer makes toward health insurance premiums. They established the current three levels of contribution: 67% for employees working 4 hours, 83% for those working 5 hours, and 100% for those working 6 or more hours. In this agreement, the Union proposes an additional level and a reduction in the amount of the Employer contribution when it proposes that the Employer contribute 63% of the family health premium for employees working 4 hours, 75% for those working 5 hours, and 88% for those working 6 hours, and 100% for those working 7 and 8 hours. The District proposes to establish five levels based on a proration that establishes 8 hours as a full day. Employees working 4 hours receive a 50% contribution. Those working 5 hours, 63%; those working 6 receive 75% contribution by the Employer; 7 hours, 88%; and those working over 7-1/4 hours to 8 hours receive 100% contribution towards family health insurance premium.

The evidence establishes the rate at which increases in health insurance premiums consume new dollars allocated for wages and benefits. Under the Employer offer, the health and dental insurance premiums constitute 28.3% of the total package as contrasted to the MESA offer in which health and dental costs consume 29.3% of the total package. The Association complains that the reduced support for health insurance premiums results in a net decrease in total compensation to employees who fall would under the District's (or for that matter the MESA) offers. Employees have to absorb the increased cost of insurance premiums after October 1, 2007. The agreed to wage package would not cover that increased cost.

This quid pro quo analysis identifies the strengths and weaknesses of each offer. The District offer impacts more employees. It reduces the compensation dollars that are committed to health insurance premiums. As a result the parties may have additional dollars available to increase wage rates that go to all employees. The funding of health insurance premiums benefit the 2/3 of the unit that take health insurance.

On the other hand, the wage increases during the term of the 2005-2006 and 2006-2007, the two year term of the contract nominally at issue here, in many instances may not sufficiently compensate those employees who take health insurance, two-thirds of the unit, for the loss of premium that they suffer as a result of the implementation of the District final offer. In this regard, the Arbitrator must note that the parties' stipulation to continue in effect the status quo, i.e., the three tier contribution levels the Employer contributes towards premiums that it initially proposed to modify effective January 1, 2007 but agreed to extend through September 2007 moderates the impact of the District's proposal.

The parties have yet to negotiate the wage component that completes the total compensation package for the 2007-2008 school year. How the parties will adjust wages to accommodate the health insurance cost levels that are generated by this award remain unknown. The Arbitrator concludes from this analysis that

the quid pro quo framework fails to identify a clear preference for the selection of either offer. Both offers suffer major flaws.

Overall Compensation and Cost of Living

The Arbitrator addresses these two criteria together. The analysis of both highlights the total package compensation generated by the parties' offers. Employer Exhibit 4 reflects that there is no difference between the parties final offers for the first year of the agreement, 2005-2006. Health insurance, wages and roll up costs generate a total package increase of 4.78%. The second year, if implemented for 2006-2007 school year as originally proposed, the District's final offer generates a total package increase of 6.44%; MESA's 7.91%. The dollar difference between them amounts to \$45,085. A percentage difference of 1.47%.

The cost of living increase for the year preceding the contract term at issue here, i.e., 2004-2005, was 3.2% under the CPI-U or 3.3% under the CPI-W and the increase in the cost of living over the 2005-2006 year is 4.1% under the CPI-U index and 4.3% under the CPI-W index. This total increase in the cost of living of between 7.4 or 7.7% contrasts to the increase in wages and benefits represented by the total package generated by the parties' offers which total 11.22% under the District's offer and 12.69% under MESA's offer. This data provides strong support for the selection of the District's final offer. The amount of new dollars consumed by health insurance premiums under the MESA offer generates a total package increase that is substantially above the increase in the cost of living. The District's final offer, in and of itself, substantially exceeds the increase in the cost of living.

Changes in the Foregoing

The parties did not address nor highlight in their arguments any changes that would assist in the determination of the preferability of one offer over the other under this criterion.

SUMMARY AND CONCLUSION

This is an unusual case. Consideration of each criterion provides the building blocks for this decision. However, it is the totality of this evidence, the interplay of internal and external comparability, overall compensation/cost of living that highlight what happens when health insurance premiums become a substantial portion of total compensation and the rate of increase of that segment of total compensation increases at a rate far in excess of the cost of living. When new dollars for wages and benefits are allocated to pay for increases in premiums that range from 30-37% over a period of two years, the result, in part, is an agreed to wage increase of 11 cents at the minimum and 13 cents at the maximum rate in the first year of a two-year agreement. The minimum rate of \$11.44, some 36 cents above the average paid by comparable employers to regular assistants, will not remain competitive for long should that rate continue to increase by 11 cents when the average increase paid by comparables at the minimum in 2006-2007 over the average paid in 2005-2006 was 24 cents. The Middleton rate is competitive or above average for a regular educational assistant. It falls well below average when compared to the rates paid by comparable districts for special education assistants.

Two-thirds of the para-educators in this unit take health insurance; one-third do not. The quid pro quo analysis, above, indicates clearly that the MESA offer impacts few employees and consequently health insurance continues to grow as an ever larger component of total package costs. It does so at the expense of wage growth for employees in this unit.

The MESA argument that this District does not and has not established a consistent level of contribution towards health insurance benefits and does not offer the same insurance plan to all its employees undermines the heavy reliance the District places on internal consistency as the basis for accepting its final offer over that of the Association's. Nonetheless, the internal comparability criterion (Such other factors) provides substantial weight to the selection of the District's offer.

One point on internal consistency works against the selection of the District's final offer. It proposes that full-time status be measured by an 8-hour day, even though no educational assistant works an 8-hour day in this District. No assignment of a para-educator in this District exceeds 7.75 hours/day. Organized clerical employees have full-time assignment measured by the number of hours they work. There is a difference in the proration of insurance whether 7.75 or 8 hours is used. Employing 7.75 as the denominator results in proration percentages of 52% rather than 50% at 4-hour level under the District's offer. Similarly, at 5-hours the use of 7.75 results in a proration percentage of 65% rather than 63%; at 6-hours it generates 77% rather than 75%.

Since the Employer rounds up, employees whose assignment requires they work at a certain hour level plus 15 minutes, the Arbitrator finds that the MESA proposal at 7-hours rather than 8-hours more closely defines full-time status in Middleton. Of course, it would be better to use 7.75 hours, however, that number is not part of either offer.

The substantial contribution the Employer makes to the premiums of its part-time employees in this particular unit is the product of many years of bargaining. The District's offer sends the clear message that this unique benefit can no longer be maintained in an environment of fast increasing health insurance premiums. The MESA offer acknowledges that change is necessary. It does so in a manner that impacts the fewest number of its members. The "Such other factor" criterion affords weight to this bargaining history, a bargaining history that is the subject of the parties' stipulation.

Overall Compensation/Cost of Living criteria weigh heavily in this case. A total package increase for the District's offer of 6.44% (the lower of the two offers) in the second year of a two year agreement, the year that serves as the year in dispute is well above the cost of living. It is difficult to justify. The MESA offer (the higher offer) of 7.91% borders on the unsustainable when compared to the increase in the cost of living. However, because of the substantial impact of the

increase of health insurance premiums, even with a split wage increase in the second year, this outsized total package increase results.

The MESA offer is supported by the comparability criterion. When the amount of dollars comparable districts expend for health insurance is contrasted to the cost of premiums in Middleton, even taking into account the large increases in premium endured over the term of the recently expired 2005-2007 contract, Middleton expends fewer dollars than other Districts that offer a benefit at 5, 6, 7 and 8 hour levels. This supports the selection of the MESA offer.

The above evidence provides almost equal support to the selection of either final offer. The final offer selected establishes the Employer contribution level toward health and dental premiums during the hiatus period, while the parties bargain a successor agreement. The extension of the status quo period that governs the contribution the Employer makes toward premium for an additional quarter provides additional support to the selection of the District's final offer. It extends the period of transition of change.

It should be clear from the Arbitrator's remarks that the total package costs generated by the failure of the MESA offer to impact more of its members and the dollars insurance consumes at the expense of wages cannot continue. The District offer goes too far, too fast. The use of the 8-hour day accentuates the cost shift. In light of the amount of the reduction in Employer support for premium together with the increase in premium, in many instances the hourly wage increases will be insufficient to offset the increased responsibility the employee will bear for insurance premiums. This does make for an inadequate quid pro quo wage offer to cover and fund the increased costs these employees will incur. However, the insurance contribution structure must change.

An offer that afforded a straight proration based on a 7.75 hour day is preferred. Neither party presented that choice. This award reflects the weight the Arbitrator gives to the parties' past bargaining history. The parties created this structure over an extended period of time. It must come to an end. This award

does no more than extend into the next bargain that period of transition. The Arbitrator selects the MESA offer to govern the hiatus.

SELECTION OF THE FINAL OFFER

Based on the above discussion and upon the application of the statutory criteria found at Se. 111.70(4)(cm) 7, 7.g., and 7.r., a-j., Wis. Stats., and upon consideration of the evidence and arguments presented by the parties, and for the reasons discussed above, the Arbitrator selects the final offer of Middleton Education Staff Association (MESA) for inclusion in the expired 2005-2007 agreement.

Dated at Madison, Wisconsin this 26th day of October, 2007.

Sherwood Malamud
Arbitrator