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STATE OF WISCONSIN WISCONSIN EMPLOYMENT  
BEFORE THE INTEREST ARBITRATOR RELATIONS COMMISSION

|                                 |                                |
|---------------------------------|--------------------------------|
| *****                           |                                |
| In the matter of the petition   | Daniel Nielsen, Arbitrator     |
| of                              | Case 41 No. 39460 INT/ARB-4577 |
| COUNCIL #10                     | Decision No. 25125-A           |
| To initiate arbitration between | Date of Appointment: 02/17/88  |
| said Petitioner and             | Date of Hearing: 03/15/88      |
| CUDAHY SCHOOL DISTRICT          | Record Closed: 04/29/88        |
| *****                           | Date of Award: 06/21/88        |
|                                 | *****                          |

Appearances:

Council #10, 4620 West North Avenue, Milwaukee WI 53208,  
by Mr. James Gibson, Executive Director, appearing on behalf  
of the Cudahy Paraprofessional/Aide Employees.

Mulcahy & Wherry, S.C., 815 East Mason Street, Milwaukee WI  
53202-4080, by Mr. Daniel G. Vliet, Attorney at Law, appearing  
on behalf of the Cudahy School District.

INTEREST ARBITRATION AWARD

Council #10 (hereinafter referred to as the Union) is the exclusive bargaining representative for the regular fulltime and regular parttime aides and paraprofessional employees of the Cudahy School District (hereinafter referred to as the Board or the District), excluding all supervisory, confidential and managerial employees in those classifications. The Union and Board exchanged proposals on March 3, 1987 for a successor collective bargaining agreement, and subsequently met for negotiations on five occasions. On October 5, 1987, the Union filed the instant petition, requesting investigation by a WERC staff member. The investigation revealed that the parties were at impasse, and the investigator closed his investigation on receipt of the parties' final offers.

On February 1, 1988, the WERC issued an Order Requiring Arbitration. The parties selected the undersigned, and an Order Appointing Interest Arbitrator was issued on February 17th. A hearing was held on March 15th in Cudahy, Wisconsin. After unsuccessful efforts at mediation, the parties were given full opportunity to present such testimony, exhibits and other evidence as was relevant. The parties submitted briefs, and the record was closed upon receipt of written notice that the parties would waive reply briefs. This occurred on April 29, 1988.

Now, having considered the evidence, the arguments of the parties and the statutory criteria, and being fully advised in the premises, the undersigned makes the following Award.

I. ISSUES PRESENTED

There are three issues presented. The Union has proposed the addition of a voluntary early retirement program for unit employees, while the District proposes to continue the status quo. The Final Offer of the Union on this subject reads:

"For employees who retire between the ages of 59 and 65 and who have at least eighteen (18) years of service in the Cudahy Public Schools, the Board shall pay health insurance premiums for a maximum period of three (3) years until the employee reaches the age of 65. The health insurance benefits hereunder shall terminate immediately in the event that the employee files for unemployment compensation benefits following retirement and that claim has a financial impact of the District, or in the event the employe obtains insurance coverage from another employe."

The second issue is that of wages for the 1987-88 school year. The 1986-87 wage schedule in this unit consisted of 7 steps and 2 classifications:

| Step | Regular Education | Special Education |
|------|-------------------|-------------------|
| 0    | \$6.24            | \$6.39            |
| 1    | 6.39              | \$6.54            |
| 2    | 6.54              | 6.74              |
| 3    | 6.74              | 6.94              |
| 4    | 6.94              | 7.14              |
| 5    | 7.14              | 7.34              |
| 6    | 7.38              | 7.58              |

The Union proposes an increase amounting to 52¢ per hour on average, including the experience increment:

| Step | Regular Education   | Special Education   |
|------|---------------------|---------------------|
| 0    | \$6.68 [+44¢/7.05%] | \$6.88 [+49¢/7.67%] |
| 1    | 6.83 [+44¢/6.89%]   | 7.03 [+49¢/7.49%]   |
| 2    | 6.98 [+44¢/6.73%]   | 7.18 [+44¢/6.53%]   |
| 3    | 7.18 [+44¢/6.53%]   | 7.38 [+44¢/6.34%]   |
| 4    | 7.38 [+44¢/6.34%]   | 7.58 [+44¢/6.16%]   |
| 5    | 7.58 [+44¢/6.16%]   | 7.78 [+44¢/5.99%]   |
| 6    | 7.78 [+40¢/5.42%]   | 7.98 [+40¢/5.28%]   |

Expressed as a percentage, the Union's proposed wage

increase amounts to 7.1% in the first year.

The Board proposes an increase of 33¢ per hour, on average:

| Step | Regular Education   | Special Education   |
|------|---------------------|---------------------|
| 0    | \$6.43 [+19¢/3.04%] | \$6.58 [+19¢/2.97%] |
| 1    | 6.58 [+19¢/2.97%]   | 6.74 [+20¢/3.06%]   |
| 2    | 6.74 [+20¢/3.06%]   | 6.94 [+20¢/2.97%]   |
| 3    | 6.94 [+20¢/2.97%]   | 7.15 [+21¢/3.03%]   |
| 4    | 7.15 [+21¢/3.03%]   | 7.35 [+21¢/2.94%]   |
| 5    | 7.35 [+21¢/2.94%]   | 7.56 [+22¢/3.00%]   |
| 6    | 7.60 [+22¢/2.98%]   | 7.81 [+23¢/3.03%]   |

This amounts to a 4.58% increase on wages in 1987-88.

The third issue is wages for the second year, 1988-89. The Union's final offer seeks a wage increase of 51¢ on average over their proposed first year schedule:

| Step | Regular Education   | Special Education   |
|------|---------------------|---------------------|
| 0    | \$7.14 [+46¢/6.89%] | \$7.34 [+46¢/6.69%] |
| 1    | 7.29 [+46¢/6.73%]   | 7.49 [+46¢/6.54%]   |
| 2    | 7.44 [+46¢/6.59%]   | 7.64 [+46¢/6.41%]   |
| 3    | 7.64 [+46¢/6.41%]   | 7.84 [+46¢/6.23%]   |
| 4    | 7.84 [+46¢/6.23%]   | 8.04 [+46¢/6.07%]   |
| 5    | 8.04 [+46¢/6.07%]   | 8.24 [+46¢/5.91%]   |
| 6    | 8.24 [+46¢/5.91%]   | 8.44 [+46¢/5.76%]   |

The Union's second year wage offer represents an increase of 6.7% over 1987-88 wages, including the increment.

The Board offer for the second year represents an average increase of 28¢ for unit employees:

| Step | Regular Education   | Special Education   |
|------|---------------------|---------------------|
| 0    | \$6.62 [+19¢/2.95%] | \$6.78 [+20¢/3.04%] |
| 1    | 6.78 [+20¢/3.04%]   | 6.94 [+20¢/2.97%]   |
| 2    | 6.94 [+20¢/2.97%]   | 7.15 [+21¢/3.03%]   |
| 3    | 7.15 [+21¢/3.30%]   | 7.36 [+21¢/2.94%]   |
| 4    | 7.36 [+21¢/2.94%]   | 7.57 [+22¢/2.99%]   |

| Step | Regular Education   | Special Education   |
|------|---------------------|---------------------|
| 5    | \$7.57 [+22¢/2.99%] | \$7.78 [+22¢/2.91%] |
| 6    | 7.83 [+23¢/3.03%]   | 8.04 [+23¢/2.94%]   |

The Board's second year offer yields an increase of 3.72% over their offer for 1987-88.

## II. STATUTORY CRITERIA

This dispute arises under §111.70 Stats., the Municipal Employment Relations Act, as amended. The criteria to be utilized by an Arbitrator in resolving an interest dispute under MERA are set forth in §111.70 (4)(cm)7:

- "Factors considered.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator shall give weight to the following factors:
- a. The lawful authority of the municipal employer.
  - b. The 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 employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services.
  - e. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees generally in public employment in the same community and in comparable communities.
  - f. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees 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 employees, including direct wage compensation, vacation, holidays and excused time, insurance, and pension, medical and hospitalization benefits, the continuity and

stability of employment, and all other benefits received.

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

While not every criterion has been argued by the parties, or discussed by the undersigned herein, each has been considered in rendering this Award.

### III. THE POSITIONS OF THE PARTIES

#### A. The Position Of The Union On Early Retirement

The Union takes the position that the early retirement proposed by its final offer is merely an extension of a benefit already available to other represented Board employees. It is identical to the provisions of the Custodial Agreement and the Secretarial/Clerical Agreement, and is more modest than that contained in the collective bargaining agreement covering teachers. The educational aides perform work which is as valuable as that performed by secretaries and custodians, and deserve to enjoy the same benefit upon retirement. The Union notes that the paraprofessional and aide employees already face qualifying restrictions on health benefits ("more than four hours per day" for full Board payment) which are not faced by other employees. Denial of the retirement benefit simply continues an unfair disparity between these employees and other, similar employees of the Board.

Looking beyond the District to comparable districts, the Union argues that there is ample precedent for some type of benefit upon retirement. Greendale provides a severance payment to paraprofessional aides upon retirement, while paraprofessional employees in Franklin are eligible for a payout of unused sick leave. While these

plans do not feature employer paid health insurance as a retirement benefits, they are similar in concept to the Union's early retirement plan.

Fulltime paraprofessional aides in the St. Francis School District qualify after 10 years service for up to three years of employer paid health insurance if they retire at age 62 or older. Those employees remain eligible for the benefit until age 69, and may receive insurance up to age 70. While the Union's proposal here applies to all employees, and begins eligibility at age 59, employees must work for eighteen years to earn the benefit, and can only enjoy the benefit until age 65. These plans are, the Union argues, substantially similar. The fact that the St. Francis District is contiguous to the Cudahy District strengthens the significance of the comparison.

B. The Position Of The District On Early Retirement

The District takes the position that there is no justification for the Union's proposal to add a new benefit for these employees, in the form of a voluntary early retirement provision. Only one district among the comparables, St. Francis, provides an early retirement benefit. The remaining schools (Franklin, Greendale, Greenfield, Oak Creek, South Milwaukee and Whitnall) do not offer any paid insurance benefits for retirees.

The District disputes the Union's claim that the Greendale severance pay plan or the Franklin sick leave payout support the Union's final offer. The Greendale language allows for a payment in a lump sum based on years of service (capped at 25) times 7 times the last hourly rate. This is available on either resignation or retirement to any employee with 15 years of service. This is simply not an early retirement benefit. It is a monetary "gold watch" for long service employees. It is also, the District notes, substantially less expensive than the Union's retirement proposal in Cudahy.

The Franklin sick leave payout is similarly not a valid comparison. Employees in Franklin receive 75% of their daily rate for unused sick days in excess of 50 days (to a limit of 120 days) upon retirement from the District. Again, this is a lump sum payment and does not involve the provision of health insurance. Again, it is substantially less expensive than the Union's proposed early retirement system. The Franklin contract provides a reward for good attendance at work. This purpose is obviously not served by an early retirement proposal.

Thus, the District, argues, the comparables overwhelmingly favor the status quo for aides on early retirement.

The District acknowledges that other District workers receive an early retirement benefit. None of those units, however, obtained the benefit through arbitration. Rather, the give and take of negotiations led to early retirement benefits for those employees. Here, the Union asks for this new benefit, as well as a substantial increase in wages, without offering any quid pro quo. This approach ignores the broadly recognized principle that one who would change the status quo must establish, by clear and convincing evidence, that (1) there is a need for the change; and (2) a quid pro quo has been provided.

The District asserts that circumstances have changed substantially since the early retirement benefit was negotiated for other District employees. The District has experienced an enormous 70% increase in the cost of the standard plan (from \$79.40 to \$135.48 for single coverage, and from \$217.28 to \$370.68 for family coverage). This increase was wholly unexpected, and the rate of increase for the second year of the contract could not be reliably determined during bargaining. Thus the District declined to extend a benefit that could cost \$13,344.48

for each employee. The Union showed no need for the improvement, the comparables would not support it, and costs made it unreasonable. The District accordingly asks that the status quo be maintained on early retirement.

C. The Position Of The Union On Wages

The Union compares the maximum wage for paraprofessional aides in Cudahy with that paid in the other seven regionally comparable school districts. This comparison is made because the maximum rate represents a plurality of the hours worked in the unit during 1986-87:

| Step | Regular Education [Hours] | Special Education [Hours] |
|------|---------------------------|---------------------------|
| 0    | \$6.24 [2,277]            | \$6.39 [ 0 ]              |
| 1    | \$6.39 [ 0 ]              | \$6.54 [ 0 ]              |
| 2    | \$6.54 [ 0 ]              | \$6.74 [ 0 ]              |
| 3    | \$6.74 [2,155]            | \$6.94 [1,372]            |
| 4    | \$6.94 [ 0 ]              | \$7.14 [ 0 ]              |
| 5    | \$7.14 [ 0 ]              | \$7.34 [3,636]            |
| 6    | \$7.38 [ <u>2,232</u> ]   | \$7.58 [ <u>7,110</u> ]   |
|      | [6,664]                   | [12,118]                  |

Comparing the maximum wage over the period of three years prior to this contract term, as well as looking to the wage increases for this contract (1987-88 and 1988-89), the Union concludes that these employees are substantially behind similar employees in hourly compensation:

|                          | <u>1984-85</u> | <u>1985-86</u> | <u>1986-87</u> | <u>1987-88</u>     | <u>1988-89</u>     |
|--------------------------|----------------|----------------|----------------|--------------------|--------------------|
| Average of comparables   | \$7.16         | \$7.60         | \$7.96         | \$8.19             | N/A                |
| Cudahy paraprofessionals | \$6.97         | \$7.27         | \$7.58         |                    |                    |
| Disparity                | [-19¢]         | [-33¢]         | [-38¢]         | [-21¢ Union Offer] | [-38¢ Board Offer] |

As indicated, these workers have fallen steadily behind their counterparts. The Union asserts that its offer will provide a modest "catch-up" increase of 17¢ in 1987-88, which will still leave a disparity larger than that which existed three years ago. The Board's offer, on the other



hand, simply maintains the current inequitable situation.

The Union argues that its offer is more consistent with the negotiated settlements for aides in other units. Three represented aide groups have reached agreement for 1987-88: South Milwaukee, at an average increase of 55¢ per hour; St. Francis, at an average increase of 56¢ per hour; and Franklin, where the increase averaged 47¢ per hour. In each case, the increase is consistent with the Union's offer and far in excess of the Board's offer. This comparison of settlements holds up internally, as well, since the Cudahy secretarial/clerical employees received an increase of 50¢ per hour effective January 1st of 1987. Thus, both external and internal comparables offer support for the final offer of the Union for 1987-88. With respect to 1988-89, there are no settlements among aide units, but the clerical employees received a negotiated settlement of 42¢ per hour. Again, this is far more consistent with the Union's offer than the Board's.

The Union criticizes the Board's allusion to the "5%" settlement with the custodians in the District on two grounds. First, the custodians have no increment costs in their unit. Thus a 5% increase for those workers is 5% on the wage rates themselves. The wage rate increase sought by the Union on the paraprofessional maximum rate is 5.3%, while the Board's proposal is only 3%. Thus a comparison of increases on the wage rates themselves shows that the Union's offer is more consistent with the settlement reached in the custodial negotiations, even though the overall percentages are inflated by the cost of the previously bargained increment. The second criticism of the District's comparison of settlements with the custodians is the unfairness of using percentage comparisons between two groups of employees who are paid vastly different hourly rates. The District showed that it had recently reached

agreement with the custodians on a contract for 1988 and 1989, featuring 2% increases on January 1st and July 1st of each year. Prior to this agreement, on January 1, 1987, the lowest paid custodian made \$3.87 per hour more than the highest paid paraprofessional. If the Union's offer in this case is selected, that disparity will grow to \$3.95 per hour in 1989. The District's offer would increase the disparity to \$4.35. Although the numbers are not quite so dramatic, the same analysis can be undertaken for the clerical employee vis-a-vis paraprofessionals.

The Union claims that serious deficiencies in methodology reduce the usefulness of the District's evidence on total compensation. While the District attempts to show that the benefits available to Cudahy employees increase their actual compensation to a level above that of similar workers in other districts, invalid assumptions about who takes health insurance and which insurance provider is selected makes the District's figures suspect. The District calculates a value of \$3.34 per hour for health insurance. This assumes, however, that all employees have insurance, and that all have the most expensive plan. The fact is that, of sixteen employees in the unit, only nine receive the insurance. Of those nine, only four are covered by the very expensive Blue Cross plan, while five take the much cheaper Samaritan HMO. Even if the District's total compensation argument has some validity, the fact remains that these benefits are more widely available to other District employees (since aides must work more than 4 hours per day for health coverage to be fully paid). Thus the increase in insurance costs does not distinguish these employees from those in other District bargaining units.

The Union cautions against reliance on the evidence introduced by the District on settlements among other pub-

lic employees in the City of Cudahy and Milwaukee County. As previously argued, percentage increases can be misleading, and this a particular danger where, as here, there are no actual wage ranges shown.

The private sector data introduced by the District is not reliable, simply because the four occupational groupings shown (Activity Coordinator, Admitting Clerk, Child Care Worker, and Ward Clerk) are not shown to perform functions similar to Cudahy's aides and paraprofessionals. Such work as catheterizing handicapped students, controlling physically aggressive behavior, and working with professional educators to carry out state mandated remedial service programs are beyond the scope of the jobs the District has chosen to compare.

While the District has attempted to show that local economic conditions are unfavorable, the Union raises two concerns about this argument. While the District submits data showing a significant reduction in the number of jobs in some Cudahy plants, there is no evidence that the job loss has been among Cudahy residents. Some of the District's data seems to suggest the opposite conclusion. The more important reservation expressed by the Union goes to the implications of an economic downturn in private industry. There is no logical link between the "school industry" and manufacturing. School employees are expected to provide high levels of service no matter what the economic conditions in the private sector are at any given time. Further, the arbitrator's acceptance of lower wage increases for school employees will have no impact on the jobs that have been lost in the local economy. No laid-off worker will be recalled, nor plant be reopened, if the Cudahy aides are awarded the District's offer rather than the Union's.

For all of the foregoing reasons, the Union urges acceptance of its final offer on wages.

D. The Position Of The District On Wages

The District focuses on the question of total compensation for services. The statute dictates consideration of this factor, and arbitrators have repeatedly emphasised the importance of viewing the total picture in determining whether a particular wage offer is more reasonable than another. The "adjusted wages" for these aides (maximum wage and standard health insurance plan), when compared with the "adjusted wages" for other aides in comparable districts, shows that they are well above average in actual compensation:

|                                | Regular Ed.     | Special Ed.     |
|--------------------------------|-----------------|-----------------|
| 1986-87 Cudahy                 | \$9.66          | \$9.80          |
| 1986-87 Average of Comparables | \$7.77          | \$8.53          |
| Disparity                      | [\$1.89]        | [\$1.27]        |
| Rank among comparables         | <u>2nd of 8</u> | <u>3rd of 7</u> |
| 1987-88 Cudahy Board Offer     | \$11.26         | \$11.36         |
| 1987-88 Cudahy Union Offer     | \$11.44         | \$11.53         |
| 1987-88 Average of Comparables | \$7.73          | \$8.55          |
| Disparity - Board Offer        | [\$3.53]        | [\$2.81]        |
| Disparity - Union Offer        | [\$3.71]        | [\$2.98]        |
| Rank - Board Offer             | 1st of 7        | 1st of 6        |
| Rank - Union Offer             | <u>1st of 7</u> | <u>1st of 6</u> |
| 1988-89 Cudahy Board Offer     | \$12.04         | \$12.13         |
| 1988-89 Cudahy Union Offer     | \$12.45         | \$12.53         |

No settlements among the comparables for 1988-89

The District leads the comparables in the availability of of paid insurances for health, dental, long term disability and life. Cudahy also leads in number of paid holidays and sick leave. When these benefits are converted to a dollar value, and compared with the total annual compensa-

tion of aides in comparable districts, the reasonableness of the Board's offer becomes readily apparent:

Regular Education Aides (1332 Hours) 1987-88

|   |                     |
|---|---------------------|
| Average of Comparables, using highest cost insurance: | \$12,287            |
| Average of comparables, using lowest cost insurance:  | \$12,184            |
| Cudahy Board Offer, using high plan:                  | \$17,282            |
| Cudahy Board Offer, using low plan:                   | \$15,409            |
| Cudahy Union Offer, using high plan:                  | \$17,575            |
| Cudahy Union Offer, using low plan:                   | \$15,702            |
| Disparity of Board Offer [High/Low]                   | [\$4,995 / \$3,225] |
| Disparity of Union Offer [High/Low]                   | [\$5,288 / \$3,518] |

Special Education Aides (1372 Hours) 1987-88

|   |                     |
|---|---------------------|
| Average of comparables, using highest cost insurance: | \$13,956            |
| Average of comparables, using lowest cost insurance:  | \$13,831            |
| Cudahy Board Offer, using high plan:                  | \$18,006            |
| Cudahy Board Offer, using low plan:                   | \$16,133            |
| Cudahy Union Offer, using high plan:                  | \$18,293            |
| Cudahy Union Offer, using low plan:                   | \$16,420            |
| Disparity of Board Offer [High/Low]                   | [\$4,050 / \$2,302] |
| Disparity of Union Offer [High/Low]                   | [\$4,337 / \$2,598] |

The District argues that the total compensation received by these aides and paraprofessionals plainly demonstrates a leadership position by Cudahy among all comparable schools, and justifies acceptance of the more modest wage proposal contained in the final offer of the Board.

The District asserts that its offer is further supported by an examination of the consumer price index. Tracking a hypothetical employee through the seven step schedule since 1980-81, the District argues that the combination of negotiated wage increases and experience increments will yield an increase of 52.3% in wages, and and 75.5% in adjusted wages for an educational aide if the Board offer is accepted. The figures become 54.7% on wages and 77.3% on adjusted wages if the Union's offer is chosen. For special education aides, these figures are 52.8% on

wages and 76.5% on adjusted wages under the Board's offer, and 55.1% and 78.3% under the Union's offer. This compares to an increase in the National CPI of 31.20% for that same period, and of 35.71% in the Milwaukee CPI. The District offer will result in an increase in excess of 40% of the CPI on adjusted wages over the rates in effect seven years ago. Plainly, the District concludes, the employer offer is justified by the CPI criterion of \$111.70.

The District points to the loss of 4,333 jobs in Cudahy since 1981, and urges the arbitrator to give serious consideration to "the interest and welfare of the public". Respondents to a survey of manufacturing in Cudahy indicate a 59% reduction in workforce over the past five years, and the value of manufacturing properties is in decline. This reflects the general trend in equalized value for the District. It is one of only three districts among the eight comparables to suffer a decline in equalized value in the 1987-88 school year. This decline is from a position which placed it third lowest in the comparable groups.

The declining value of the District is shown by the fact that its instructional costs are in the middle range of the comparables, but it receives the second highest per pupil state aids. The property tax is not a reliable source of income for Cudahy, relative to the other comparables.

Finally, the District points to the increase of 66.6% in overall school expenditures since 1978, and the accompanying 34.7% decrease in enrollments. This amounts to a 155.3% increase in per pupil school costs. This data shows that the District is teaching fewer students at much higher costs.

The economic situation suggests moderation in any settlement. The District asserts that the offer it has made best balances the interests of employees with those of the public.

IV. DISCUSSION

A. The Wage Issue

There is no argument made by either party regarding the criteria mandated by Sec. 111.70(4)(cm)7 a ("lawful authority"), b ("stipulations"), i ("changes ... during pendency") or j ("other factors") with respect to the wage issue. The relevant factors are considered in turn:

1. The Interests And The Welfare Of The Public

While the District does not claim an inability to pay the Union's offer, it does offer evidence to show that the school district is economically distressed. The Association disputes the validity of some of the District's conclusions regarding economic distress, noting that the state aids system is properly operating to offset the relatively low equalized value of the District. Further, the Union claims that there is no rational relationship between the amount of increase these employees deserve and the loss of manufacturing jobs in the District. The aides are expected to provide the same level of service no matter what, and the selection of one offer or the other will not create new jobs or reopen plants.

The Union's arguments miss the point. The data shows that the residents of the District have the lowest per capita income among the comparables and a declining tax base. The question raised by this data is not whether the workload of aides will change with the manufacturing economy or whether jobs will be created by selection of a lower offer. The question is whether the residents of the District, given economic conditions, would reasonably expect their elected representatives to negotiate a wage settlement similar to, higher than, or lower than, those negotiated in other districts with different economic conditions. This may be termed "political willingness to

pay" or come under the general heading of "reasonableness", but the essence remains the public's reasonable expectations for a settlement.

In the instant case, the District has overemphasised the financial difficulties of the area by, for example, pointing to a 59% job loss in manufacturing without showing that the affected employees live in the District. On balance, however, the data does show that this District is among the poorer in the comparables. While the situation does not appear to be so extreme that consideration of this criterion would outweigh a strong showing by the Union on the other factors, the interests and welfare of the public do tend to support the more moderate offer of the District.

## 2. Comparability - Similar Employees

The Union rests its claim to an average increase of 52¢ per hour in part on the fact that paraprofessional special education aides have been falling steadily behind their counterparts in other districts. While there are some discrepancies between the data provided by the District and the Union, it does appear that the maximum rate for these employees has been increasing at a slower pace than the maximum rate in the comparable districts. According to the Union's data, the disparity in 1986-87 stood at 38¢ per hour. The offer of the Union closes the disparity to 21¢ per hour by providing a 17¢ catchup. The District offer would maintain the 38¢ differential at 38¢.

The Union overstates the unit-wide discrepancy in pay between the Cudahy aides and those in other districts. This occurs through the focus on special education rates alone. Roughly 36% of the total hours worked in this unit are worked in the regular education classification, where the Cudahy aides are somewhat above average in wages. The unit wide "catch-up" factor under the Union's offer is therefore somewhat higher than 17¢ per hour.



A catch-up argument is essentially one of fairness, and the best measure of a fair ranking is that which the parties have achieved through voluntary negotiations. The Union does not offer any evidence of events beyond its control which led to a wage rank below the average of the comparables, nor does it appear that wages are so far below the norm as to be, on their face, unfair. This is particularly true when one considers the slightly above average wages paid to regular education aides, and the fact that Cudahy aides appear to fare quite well among the comparables in the area of total compensation (see discussion below). The fairness of a particular wage depends upon what the other components of the compensation package look like in comparison with other districts, and in most cases a catch-up argument on wages must include evidence that the disparity is not made up in other ways. Such evidence is lacking here, and the wage offers must be judged on their individual merits, without equitable support for a higher than normal increase.

Having discounted the Union's catch-up argument, the undersigned still concludes that the Union's offer is more preferable on the basis of external comparables. The District's data for wage rate increases (using only settled districts for 1987-88) shows a rate increase for regular education aides of 5% on the top rates. For special education aides, the average rate increase is 4.5%. The rate increase offered by the District for 1987-88 is 3% on those rates, while the Union's offer is 5.4% on the regular education aides and 5.3% on the special education aides. Considering wage rate increases alone, the Union's offer more nearly reflects the pattern of settlements on the top rates, where roughly half of the unit hours are worked.

The Union's advantage on wage rates comparisons is diminished when total wage increase is considered, since

it is conceded that the District's offer maintains the current differential in cents per hour. As discussed below, this advantage is further diminished by an examination of total compensation between comparable aide groups.

### 3. Comparability - Other Public Employees

The District introduced evidence to show that the rate of increase for public employees in the City of Cudahy and Milwaukee County for 1987 and 1988 ranges from a high of 5% on the wage rates to a low of 2.8%. Because many of these increases are mid-year splits, the average annual cost per increase is roughly 2.8%, with a rate increase of 3.45% in 1987. For 1988, the figures are 3.2% on cost and 3.5% on the rates. Looking at internal settlements, the District shows an increase of 5% for custodians in 1987-88, and a 2%/2% split increase in 1988-89. For clerical employees, the increase is 4.2% and 4.8%. Food service employees received a variable increase of 4.6% to 6.6% for 1987-88, and a 2%/2% split increase for 1988-89. On the face of it, these increases favor the District's overall wage offer of 4.58% in 1987-88 and 3.72% in 1988-89 over the Union's offer at 7.1% and 6.7%.

The Union protests the use of percentage comparisons because they do not reflect the actual impact on spendable income. Most of the classifications cited by the District are more highly compensated than the aides at issue here. Thus a smaller percentage increase will generate higher wages. The Union also notes that these other units do not experience the increment costs that inflate the wage percentages in this unit. The Union's objections to the use of percentage comparisons are understandable, but not persuasive. When comparing dissimilar employees, the rate of increase is the best guide to what the going rate is in the public sector. Use of cents per hour comparisons would render comparisons across occupational lines mean-

ingless, since the base rates reflect the value that society places on certain jobs, while the rate of increase reflects general economic conditions in the public sector. Absent evidence of some historical cents-per-hour parity relationship between the increases for aides, and that of dissimilar public employees, a percentage comparison is the appropriate measure.

Both the external and internal comparisons of employees in public employment strongly favor the District offer. Even if the increment cost is not included, the percentage increase on the steps where the employees were placed in 1986-87 shows a weighted average increase of 5.87% for 1987-88 under the Union's offer, and 3% for the District's offer. Again, the public sector comparisons favor the District, although the internal comparisons are more evenly split.

#### 4. Comparability - Private Sector Employees

The District's evidence concerning private sector employees shows an average annual increase for 1987 of 2.1%, and wage rates in four somewhat similar private sector jobs that are below the maximum rates in both final offers. The Union again challenges the use of percentage comparisons, and disputes the similarity of the jobs chosen for comparison purposes by the District. While the national data cited by the District does tend to support a modest increase in wages, no argument is offered by the District regarding this data, and it is difficult to determine what relevance these national figures may have on settlements in the Milwaukee area. Given the limited data and argument on the four comparable jobs offered by the District, the relevance of that information is also somewhat doubtful. This criterion is inconclusive as to which offer is the more reasonable.

### 5. Cost Of Living

Both offers exceed the rate of increase in the consumer price index. While the District argues that an historical analysis of wage increases vs. the cost of living supports its offer, the undersigned cannot agree. As with the "catch-up" argument of the Union, the increase in past years must stand as the result of voluntary negotiations, and the District cannot now reopen those settlements to claim credit in this bargain against the cost of living. To the extent that settlements might reasonably be expected to mirror the inflation rate, the party urging a settlement well in excess of, or well below, the cost of living increase has some burden to justify the difference. While not determinative of this dispute, the cost of living places some additional burden on the Union, and to that extent favors the District.

### 6. Total Compensation

Where a party seeks to break out of a lockstep relationship between their wage offer and the settlements in the area, total compensation becomes a critical factor. A relatively handsome wage rate may disguise the fact that employees do not receive non-wage benefits that are customary in the industry. By the same token, a relatively low wage rate may be offset by a generous benefit package. The District alleges that the latter is the case in Cudahy.

The undersigned agrees with the Union that the District's use of a hypothetical employee receiving health insurance distorts the true picture on total compensation. Only nine of the sixteen people in the unit receive paid health insurance. Only four of those nine use the expensive Blue Cross standard plan, while four carry Samaritan family coverage, and one Samaritan single coverage. Using these enrollments with 1987-88 rates, it appears that the actual hourly cost of insurance per employee is in the area of

\$1.58 per hour, rather than the \$3.34 maximum exposure figure used in the District's exhibits. Notwithstanding this discrepancy, the District's total compensation package is one of the best among comparable districts. Only Greenfield and Greendale offer the possibility of fully paid health insurance to aide employees. In Greendale, the full payment appears to be a remote possibility, since the payment is pro-rated on the basis of 2,080 hours per year. An average aide might work 2/3rds of that on a full-time school year schedule. Similarly, only Greenfield and Greendale offer District paid dental insurance. Again, this is pro-rated in Greendale. Even though the Cudahy aides are only eligible for 90% payment, it represents a considerable benefit when compared with the five comparable districts that have no dental insurance benefit. Cudahy is one of four Districts offering fully paid life insurance, with Greendale again pro-rating the payment. The pattern is similar on life insurance, although Cudahy offers a 90% payment, while Franklin and Greenfield fully pay this benefit and Greendale pro-rates its payment.

In the area of paid time off, Cudahy aides receive 7 paid holidays per year, while employees in comparable districts receive an average of 4.7 holidays per year. Cudahy aides are eligible for sick leave of between 7 and 12 days, depending upon length of service, versus an average of 8.7 in other districts. Sick days may accumulate to a maximum of 80 in Cudahy, whereas comparable schools range from 120 to 0, with an average of 47 days.

By any measure, the aides in this bargaining unit receive a total compensation package that is well above the average for similar employees. This rebuts the Union's assertion that a higher than normal increase is justified as a catch-up measure, and supports the District's wage offer, which maintains the cents-per-hour differential,

and the relative position of leadership in total compensation received.

7. Conclusion on Wages

The lack of reliable settlement data for 1988-89 causes the wage issue to turn on the reasonableness of the parties' offers for 1987-88. Of the factors considered, only external school aide settlements favor the Union's position. This is offset by consideration of total compensation which shows the District's aides to be among the leaders in overall pay and benefits. All of the other comparability criteria support the District offer, as do the cost of living and the interests of the public. Thus the undersigned concludes that the District's wage offer is the more reasonable.

B. The Early Retirement Issue

The undersigned agrees with the general proposition that the party seeking a change must establish both a need for the change and that a quid pro quo has been offered, or that the party resisting the change has granted it in the past without receiving any quid pro quo from other groups. The District alleges that there has been no showing of need for an early retirement benefit, nor any proof of a matching concession by the Union.

With respect to the question of "need", the undersigned notes that this is much easier to show in the area of language changes than benefits. It is rather hard to imagine, for example, what showing of need the District's custodians and clerical employees made to secure early retirement provisions. In the case of most benefits, it is more a question of "want" together with a willingness to deal. Where a union is seeking a unique benefit or one that is new to the employer's operation, there is indeed a duty to prove the appropriateness of the benefit. Where, as here, all other represented groups enjoy the benefit,

the "need" for the benefit is pretty much established by its uniform availability. The employer is free to rebut this presumption, by showing that the benefit is somehow inappropriate for this particular class of employees.

The District's evidence does raise questions about extending this benefit to aides, since the increased cost of insurance since these provisions were negotiated in other units makes this a far more expensive benefit now than it had been previously. This consideration does not go to the appropriateness of the benefit for aide employees, it merely raises the cost of the quid pro quo required. There is some question in the undersigned's mind about the extension of fully paid insurance on retirement to all qualifying unit employees, since some of these employees are not now eligible for fully paid insurance. This leads to the questionable result of an increase in benefits on retirement. Arguments can be made both ways, but this is certainly not the usual result of retirement. On balance, however, the undersigned cannot say that this early retirement provisions is inappropriate. Its broad availability to other District employees satisfies the "need" requirement in this case.

The difficulty with the Union's proposal on early retirement comes in the area of offsetting concessions. In the normal course of bargaining, the extension of a monetary benefit is accompanied by movement in some other area. In this case, the Union has offered neither evidence of a concession justifying the new benefit, nor proof that the other units receiving the benefit from the employer got it for free. The wage settlement sought by the Union featured a catch-up component, rather than being scaled down to accomodate an additional benefit. The stipulations of agreement do not suggest any major concession by the Union to pave the way for early retirement. In short, it

does not appear that any quid pro quo has been offered to the District. While arbitration is a very poor reflection of bargaining, the arbitrator is generally supposed to select the offer which most closely resembles what a voluntary agreement would have been. Given the insurance increase here, it is unlikely that this benefit would have been granted without some reciprocal concession by the Union. It may well be that such concessions were made in bargaining, but the record does not show that to be the case.

While the internal comparables strongly support the Union's request for an early retirement benefit, there is no evidence that the Union has offered the District anything in trade for the benefit. The undersigned concludes that the District's status quo position on early retirement is more reasonable than the Union's.

V. CONCLUSION AND AWARD

Consideration of all statutory criteria and the record as a whole lead the undersigned to conclude that the Final Offer of the Cudahy School District is the more reasonable, and it is hereby ordered incorporated into the contract of the parties for the years 1987-88 and 1988-89, together with the stipulations reached in bargaining.

Signed this 21st day of June, 1988, at Racine, Wisconsin:

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Daniel Nielsen, Arbitrator