STATE OF WISCONSIN

BEFORE THE ARBITRATOR

In the Matter of the
Arbitration of the Petition of:

GLIDDEN FEDERATION OF
TEACHERS, LOCAL 3237, WFT,
AFT, AFL-CIO

To Initiate Arbitration Between
Said Petitioner and

GLIDDEN SCHOOL DISTRICT

Case 26 No. 46473 INT/ARB-6191

Decision No. 27244-A

Sherwood Malamud
Arbitrator

APPEARANCES:

William Kalin, WFT Representative, Route 1, Box 469K, South Range, Wisconsin 54874, appearing on behalf of the Union.

Weld, Riley, Prenn & Ricci, Attorneys at Law, by Kathryn J. Prenn, 715 S. Barstow St., P.O. Box 1030, Eau Claire, Wisconsin 54702-1030, appearing on behalf of the Municipal Employer.

ARBITRATION AWARD

Jurisdiction of Arbitrator

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., with regard to an interest dispute between the Glidden Federation of Teachers Local 3237, WFT, AFT, AFL-CIO, hereinafter the Union, and the Glidden School District, hereinafter the Employer or the District. Due to inadvertent failure to officially inform the Wisconsin Employment Relations Commission until June 22, 1992 that Sherwood Malamud had been selected by the parties to serve as the Arbitrator, by letter of agreement, both the Employer and the Union adopted a voluntary impasse procedure pursuant to Sec. 111.70(4)(cm)5 of the Municipal Employment Relations Act, and they designated Sherwood Malamud to serve as the Arbitrator for the dispute. Hearing in the matter was conducted on June 24, 1992, at the administrative offices of the District in Glidden, Wisconsin, at which time the parties presented documentary evidence and testimony. Briefs and reply briefs were received by the Arbitrator by August 21, 1992, at which

time the record in the matter was closed. Based upon a review of the evidence and arguments presented and upon the application of the criteria set forth in Sec. 111.70(4)(cm)7.a.-j., Wis. Stats., to the issues in dispute herein, the Arbitrator renders the following Award.

SUMMARY OF THE ISSUES IN DISPUTE

Both the Union and the Employer propose a two year successor Agreement covering the 1991-92 and 1992-93 school years. In addition to a question concerning comparability, the Arbitrator delineates four matters in dispute, as follows:

1. HEALTH INSURANCE

The anniversary date of the health insurance policy is November 1, 1992.

District Offer

> For all eligible full-time employees, the Board agrees to pay up to $351.00 per month towards the family health insurance plan and up to $146.74 per month toward the single health insurance plan. For 1992-93, these dollar amounts shall be increased to $370.00 and $155.00, respectively.

The District proposal for the second year is to increase its contribution to $370.00 & $155.00 which is 5.5% more than its premium contribution for the 1991-92 school year. The District attempts to free itself of the commitment to pick up the full amount of the premium for family and single coverages in the event that health insurance premiums for family coverage increase by more than 5.5% for the 1992-93 school year.

In exchange for its proposal, the District proposes an increase in: 1. salary, by 5% per cell; 2. mileage reimbursement from 20¢ per mile to 27¢ per mile; the payout for accumulated sick days from the 25th through the 100th day from $10.00 for each sick day to $20.00 for each sick day upon termination of the employment relationship between a teacher and the District.

Union Offer

The Union proposes to retain the language included in the expired 1989-91 Agreement except for increasing the amount of contribution. The Union's proposal reads as follows:

The Board agrees to pay up to $351.00 per month toward the family health insurance plan and up to $146.74 per month toward the single health insurance plan for all full-time employees. For 1992-93, these rates will be revised to reflect the full dollar amounts for the 1992-93 premiums.

2. INCREASE SALARY, MILEAGE AND SICK LEAVE PAYOUT

Union Offer

The Union proposes a salary increase of 5% per cell, the increase in mileage reimbursement rate from 20¢ to 27¢ per mile and the increase in the sick leave payout from $10.00 to $20.00. The Union's proposals are identical to that of the Employer's on the matter of wages, mileage reimbursement, and sick leave payouts. The difference between the parties relates to whether these increases serve as a quid pro quo for the change in health insurance language proposed by the District.

District Offer

If the District proposed exchange of increases in salary, mileage rate reimbursement and sick leave payout are not viewed as a quid pro quo for the health insurance proposal, then the District asserts that although its offer meets the Union's demands on these issues, the Union's offer should be analyzed for attempting to change the status quo without providing any sufficient quid pro quo to justify the increases, in these three areas.

3. LAYOFF

District Offer

The District proposes the introduction of new language which distinguishes between a layoff and the non-renewal process. The District proposes that:

> The parties agree that a layoff is not a non-renewal and is not subject to the provisions of s. 118.22 Wis. Stat. Notice of layoff shall be given to the affected teachers on or before April 1.

Union Offer

The Union makes no proposal to alter the language of Article VI, SECTION D Staff Reduction. The current language makes no reference to the manner in which a layoff is to be implemented. A layoff notice date does not appear in current language.

4. EXTRACURRICULAR PAY SCHEDULE

District Offer

The District proposes that the extracurricular pay schedule be increased by the same amount as the salary schedule; i.e., 5% in each year of the Agreement.

Union Offer

The Union proposes to increase the amounts listed for the 1990-91 schedule by 7.5%. The 1991-92 schedule is to be increased by 5% for 1992-93.

STATUTORY CRITERIA

The criteria to be used to resolve this dispute are contained in Sec. 111.70(4)(cm)7, Wis. Stats. Those criteria are:

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 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 the public service or in private employment.

BACKGROUND

Glidden is located in north central Wisconsin. It is one of ten school districts which comprise the Indianhead Athletic Conference. The pupil enrollment in Glidden is 322 students who are taught by 22 FTE teachers.

Of the 322 students, 27 families receive food stamps, while 18 are on Aid to Families with Dependent Children. Ability to pay is not an issue in this case. However, it appears from the first interest arbitration between these parties which was issued by Arbitrator Rice at Decision No. 24253-A (6/87), the ability of the taxpayers of Glidden to absorb increases in taxes to fund salary and fringe benefit increases was a matter of concern to Arbitrator Rice and it is a factor in his award selecting the final offer of the District.

Both the Union and the Employer view the health insurance proposal for the 1992-93 school year as the principal issue in dispute, herein. However, both parties address all changes which each proposes for inclusion in the successor Agreement.

Organization of Award

At the outset of the discussion section of this Award, the Arbitrator determines the comparability issue. Then, the Arbitrator deals with the change to the health insurance coverage language proposed by the District.

First, the Arbitrator applies the statutory criteria, in general, to the District's health insurance proposal. Then, assuming that the District proposal does provide for a change in the status quo, and that issue is discussed at length, infra, the Arbitrator determines whether the District proposal includes a quid pro quo for its proposal to change the status quo.

The Arbitrator then discusses the Union proposals on salary, mileage, and sick leave payout to identify the extent to which the Union proposals, which are matched and identical to the Employer proposals on these issues, is reflective of a change to the status quo or whether it meets the costs and increases reflected by settlements on these issues by other comparable public and private employers.

This mode of analysis is necessary because the Employer argues that its proposals on salary, mileage reimbursement, and sick leave payout are made as a quid pro quo for its proposal on health insurance. The Union's agreement on the salary, mileage, and sick leave issues but its failure to agree to the District's health insurance proposal, raises the question whether the Union's proposal contains an adequate quid pro quo for the contract changes it proposes.

If the Arbitrator concludes that the District proposal fails to provide an adequate quid pro quo, then the parties identical proposals on salary, mileage and sick leave payout must be reviewed to ascertain whether the Union attempts to change the status quo, here, and whether it offers an adequate quid pro quo for those changes.

The Arbitrator then proceeds to analyze the Employer layoff proposal and the the Union's front loaded proposal to increase extracurricular pay schedule.

The Arbitrator includes the arguments of the parties, where appropriate, in the course of his analysis of each of the issues in dispute. At the conclusion of the Award, the Arbitrator selects the final offer of the Employer or the Union for inclusion in the successor Agreement.

DISCUSSION

Comparability

As noted above, this is the second interest arbitration between these parties. In the first, Arbitrator Rice references, "comparable group A and comparable group B". Arbitrator Rice references comparable group A as the source for his analysis. It is unclear as to which districts comprise that comparability group. However, in the course of the discussion, Arbitrator Rice does make reference to and use the figures associated with the school districts of Phillips and Park Falls, which are located in Price County, but which are not included in the Indianhead Athletic Conference. The District proposes that Phillips and Park Falls which are located within 35 miles of Glidden be included in the comparability grouping. The Union argues that the comparables should be limited to the school districts in the Indianhead Athletic Conference.

Park Falls and Phillips are much larger school districts than Glidden. The enrollment in Park Falls for the 1991-92 school year is 970 students, and in Phillips it is 1,262 students. Washburn is the largest Indianhead Athletic Conference school with an enrollment of 778 students. Hurley has 770 students. Glidden has an enrollment of 322 students. The smallest district in the Indianhead Athletic Conference is Mercer with 207 students.

The Arbitrator is not convinced that Arbitrator Rice fully used Park Falls and Phillips as comparables to Glidden. He does not specifically state that those districts are part of the comparability pool for establishing wages, benefits, and other conditions of employment for Glidden's teachers. Nonetheless, it is clear that Arbitrator Rice does refer to both districts. The nature of the issues presented does not require this Arbitrator to establish the comparability pool.

It is the belief of this Arbitrator that the job of fixing the comparability pool is best left to the parties. The Arbitrator refers to Park Falls and Phillips in the analysis which follows only because Arbitrator Rice has referred to those districts in his Award. The parties should establish the comparability pool by themselves at the outset of their negotiations for a successor to this Agreement.

Health Insurance

The criteria, the lawful authority of the municipal employer and stipulations of the parties do not serve to distinguish between the final offers of the parties. Overall compensation was not argued by the parties in their presentation. Similarly, changes in any of the foregoing circumstances, criterion "i", was not argued by the parties nor does the Arbitrator find that these four criteria serve to distinguish between the offers of the parties.

Accordingly, the discussion below makes no reference to these criteria.

The District argues that the status quo is retained through its proposal. It asserts that any change to the status quo is speculative, since the parties do not know if premium costs for the 1992-93 school year will increase by an amount in excess of 5.5%. If it does not, then the Employer's proposed dollar contribution will cover and pay for the full premium for single and family coverage. Health insurance premiums increased in the 1991-92 school year over the levels for the 1990-91 school year by 5.3%. It is entirely possible that the dollar amount proposed by the District will be sufficient to retain the payment of the full amount towards premiums as is currently provided for in the expired Agreement and as both parties propose for the 1991-92 school year.

The Employer attempts to claim both sides of the argument. On the one hand, it argues that the escalating cost of insurance and its absorption of a 73% increase in premium in the 1989-90 school year indicate the need for a change in the manner in which the costs of the increases in health insurance premiums are dealt with by the parties. On the other hand, it argues that its proposal does not change the status quo.

The District argues that the amount it proposes to pay towards premiums will cover the full amount of that premium. The issue presented by the final offers of the parties is which party will assume the risk of an increase in premium in the second year of the Agreement. Under the existing language, the full premium but stated as a dollar amount, places that risk on the Employer. The establishment of a cap as to the dollar amount which the Employer will contribute towards health insurance premium shifts part of that risk to employees. The larger the amount of the cap, the smaller the risk to employees that the cap will be insufficient to cover the full amount of the increase in premium. The record is clear. The Employer proposal does attempt to change the status quo. It does attempt to diminish the risk to the District should health insurance premiums increase by an amount in excess of 5.5% for the 1992-93 school year.

The Interest and Welfare of the Public

The District argues at length that this criterion provides substantial support to its proposal. Employer Exhibit 15 indicates that of the 322 students enrolled in the Glidden School District, 119 are eligible for free lunches and an additional 84 are eligible for reduced price lunches. In addition, Glidden is ninth of twelve school districts in per capita income at $4,682, and it is ninth of the twelve school districts in median family income at $12,315. Despite the lower income of its residents, the mill rate of the Glidden District ranks sixth of the twelve districts.

The equalized value per member for Glidden is $100,800. The lowest

equalized value per member is in Mellen with $66,879. The most is Drummond with $447,394. For the 1990-91 school year, the equalized value of property in Glidden was eleventh of the twelve districts. Only Mellen had a slightly smaller total tax base from which to fund its operations.

The Arbitrator requested that the District submit data indicating the amount of state aid received by Glidden. In the 1989-90 school year, Glidden was second among the twelve districts in the amount of school aid it received. In the 1990-91 school year it was third of twelve. The District notes that the unemployment rate in Ashland County, the county in which the Glidden School District is located, is the highest of the surrounding counties including Bayfield, Iron, Price, and Sawyer. The District emphasizes that although state aid may be higher than that provided to other school districts, the mill rate is high relative to the low income of the residents of the District.

Certainly, the above data is compelling. It clearly indicates that an interest arbitrator must be mindful of the ability of the taxpayers of Glidden to absorb cost increases in the operation of the school district, where such increases must be passed on to the taxpayer.

Relative to the health insurance issue, the District now enjoys a great deal of flexibility in its ability to change carrier. In the recent past, it has self-funded the health insurance program. It entered into the CESA 12 health insurance group to stabilize premium costs. The District could take these steps under the language of the Agreement and in a setting where it pays the full bill for premiums.

However, should premiums increase to the extent that employees begin to pay a portion of the premium cost, under the District's proposal, then the Employer may be under pressure to include teacher input in the selection of a carrier. The Union may demand input into the carrier decision, if it is forced to pay a part of the premium bill.

In Marathon County, 27035-B (6/92), this Arbitrator concludes that an Employer which pays the full premium, whether or not stated as a dollar amount, for health insurance coverage for both single and family coverage, should enjoy greater latitude in establishing the array of benefits and features, such as deductibles, etc., so long as it continues to maintain a comprehensive health insurance plan. Of course, the ability of the Employer to act in this manner is dependent upon the language of the Agreement which provides for a standard which must be met should the Employer change carrier. In the view of this Arbitrator, the extent to which employees assume the cost of premium, is the extent to which, the Employer may lose flexibility in dealing with the problems associated with health insurance. In a District which must pay careful attention to

increases in its costs, the loss of flexibility is an important consideration.

On the basis of the above analysis, the Arbitrator finds that this criterion provides some support to the District's proposal. However, the amount of support to its proposal is not as compelling as argued by the Employer.

d. Comparability . . . Teachers to Teachers . . .

Phillips is the only school district among the twelve comparable districts in which the Employer does not pay the full amount of premium for family coverage. It pays 90% of a more expensive health insurance plan than the one in Glidden. In fact, the dollar amount spent by the Phillips Board on health insurance for family coverage for the 1991-92 school year is $370.89 for premiums which total $412.10 for a teacher in Phillips. The Glidden School District's contribution, which amounts to the full premium for family coverage for the 1991-92 school year, is $351.00 or $19.89 less than the monthly premium paid by the Phillips Board. Other comparable school districts pay the full amount but stated as a dollar amount in the Agreement as does Glidden. There is little support for the District proposal among the comparables. Accordingly, the Arbitrator concludes that this criterion provides strong support for rejection of the District proposal.

e. Comparability ... Teachers to Other Public Employees

The District notes that the support staff in Glidden, which is an organized unit of employees, provides for the proration of health insurance benefits for employees who work less than 2,080 hours per year. The Arbitrator does not find that this fact supports the District's argument. The District and Union proposals relate to full-time employees. Teachers who teach for a school year are considered full-time employees in the context of teacher employment. Other support staff, such as custodians and school secretaries, have their full-time employment measured on the basis of 2,080 hours. Accordingly, the data concerning support staff indicates that the District pays the full premium for full-time employees. It attempts to alter that relationship in this proposal.

The Employer does not provide any evidence with regard to the extent to which public employees in Ashland, Price, Iron, Bayfield, and Sawyer Counties contribute towards health insurance premiums.

The Arbitrator finds that this criterion provides the slightest support for inclusion of the Union's final offer in the successor Agreement.

f. Comparability Teachers to Employees in the Private Sector in Same or Comparable Communities

The Employer conducted a survey of private employers in the general geographic area of the Glidden School District. Eighteen employers were surveyed and ten responded. In only two of the respondents, were the employees organized and covered by collective bargaining agreements. For the two unionized employers, the contribution by the employer for health insurance was 80 and 85%. Three of the employers paid all premiums. The others paid anywhere from 70 through 93% of the cost of premium for their employees.

This data provides some support to the adoption of the Employer offer.

j. Such Other Factors

There are a number of issues which are addressed separately under the rubric of this criterion. It is in the context of this criterion that the Arbitrator addresses other criteria such as cost of living and comparability of salary levels and increases both with regard to teachers and other public employees to ascertain whether the District offer contains a quid pro quo for the change which it proposes.

Change in Contract Language in the Face of a Change in the Last Agreement

The Union notes that agreement on the current language which provides for the payment of the full premium but stated as a dollar amount was reached in negotiations leading to the voluntary settlement of the expired 1989-91 Agreement. In those negotiations, the District proposed a contribution by employees, or in the alternative a cap of 20% premium, above which any additional increase in premium would be assumed by employees. Ultimately, the parties agreed to the current language whereby the Employer picks up the full premium for single and family coverages but stated as a dollar amount. The Union views that agreement as an accommodation to the Employer's health insurance demand. The District views the language change as a first step in its ultimate goal of obtaining employee participation in the absorption of some of the increases in the cost of health insurance premiums.

This change in language to the insurance provision was made in the expired Agreement after the District had absorbed a one year increase of 73% increase in premium in 1989-90 and an increase in premium for 1991-92 of 5.3%. The first year of the successor Agreement, the 1991-92 school year, continues in effect the agreement reached by the parties in the expired Agreement, i.e., for the insurance premium to be stated as a dollar amount but pay for full premium.

It is in the second year of this successor Agreement that the District attempts to effectuate yet another change. The District attempts to obtain Union cost sharing through its proposal of incremental changes to this provision. Such other factors... criterion, in the view of this Arbitrator, values stability in the bargaining relationship. Where agreements have been reached in the recent past, those agreements should not be disturbed without some showing of a necessity for a change. The Arbitrator finds that this criterion provides some support to the selection of the Union's final offer for inclusion in a successor Agreement.

Quid Pro Quo

In D.C. Everest School District, 24678-A (2/88), Greendale School District, 25499-A (1/89), Antigo School District, 25728 (3/89), and Belmont Community School District, 27200-A (10/92), this Arbitrator identified a three-pronged test for establishing the basis for a change to the status quo, as follows: 1) Establish a need for a change, i.e., a change in the contractual relationship between the parties on a particular issue; 2) a quid pro quo is offered for the change; and 3) that the need for the change and the quid pro quo be established by clear and convincing evidence.

Has the Employer established a need for a change? In Employer Exhibit 40, the District charts the increase in health insurance premiums over the decade from the 1981-82 school year through the 1991-92 school year. The cumulative premium increase is in excess of 250%. As noted above, in the 1989-90 school year, the District suffered a 73.1% increase in the cost of family coverage premiums. Certainly, this evidence, when coupled with the limited ability of the taxpayers of the District to underwrite large increases in costs, suggests that there is a need for the Employer to establish a method of stabilizing the cost of this important benefit.

The Employer argues that its salary offer of 5% per cell contains a quid pro quo for the change it proposes, here. The District notes that the support staff received a 4.75% increase. The increase which both the Employer and the Union agree upon, here, is 5%, 1/4 of 1% above the settlement for support staff.

Furthermore, the District notes that under criterion "e" other municipal employees in Ashland, Bayfield, Iron, and Price Counties settled for increases which cost 3.5% and contained a lift of 4%. In Price County, the increases were between 4.5 and 5%. In Sawyer County, the increase for 1991 and 1992 was 3%. The above data suggests that the salary proposal of the District is between 1 to 1.5% above settlements achieved by other public employees in the area.

The only evidence on Criterion "f" salary increases received by private sector employees in the area, is the survey noted above. However, the

survey results vary from no increase to as much as a 10% increase for salaried employees of one non-unionized employer. Some of the data is stated in cents per hour or dollars per week; it is difficult to evaluate.

Analysis under criterion "f" focuses on the percentage increases received by private sector employees in the community in which the dispute arises and in comparable communities. No one argues that teachers should be paid the same amount as employees in the private sector performing different functions. However, the percentage increases received by employees in the private sector may serve as a measure of whether the salary increases proposed by the Employer and Union provide real substantive increases relative to the cost of living or are increases which meet the cost of living or are below the cost of living. Accordingly, the Arbitrator finds that the data presented by Employer Exhibit 52a and b is inconclusive.

Criterion "g", the cost of living, as measured by the CPI supports the District assertion that its proposal of a 5% increase provides a quid pro quo for its proposal on insurance. The increase in the cost of living during the relevant periods, the 1990-91 and 1991-92 school years, under the non-metro urban wage earner schedules for north central United States approximates 3.1%. Normally, the Arbitrator matches this figure against total package costs. That data was not provided by either the Employer or the Union. Certainly, the 5% per cell increase suggests that the teachers in Glidden are receiving increases substantially above the cost of living as measured by the CPI. The 5% settlement reflects a real gain in the purchasing power of teachers under the 5% offers of both the Union and the Employer.

The other measure of cost of living is the level of increase received by teachers. The data provided by both the Union and the Employer with regard to the comparability criterion "d" and the application of that data to the cost of living criterion suggests that the 5% increase per cell offered by both the Union and the Employer for the 1991-92 school year is 4.8%[1]

For the 1992-93 school year, the average increase among settled districts is 4.8%. Accordingly, the amount of "quid pro quo" on salary which exists in the Employer offer is 2/10 of 1%.

The Employer has established by clear and convincing evidence that there is a need for it to establish stability in its costs for health insurance premiums during the two year term of an Agreement with the teachers of the District. However, 2/10 of 1% is hardly clear and convincing evidence

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[1]The Arbitrator excludes Park Falls from this computation, inasmuch as the percent per cell increase listed in Employer Exhibit 33 for this district is "varied".

of a quid pro quo for that change.

However, the District has made additional proposals as part of its quid pro quo in support of its health insurance proposal. Those changes are to increase mileage reimbursement rates from 20¢ to 27¢. The District argues that the average mileage reimbursement rate is 26¢ per mile. It offers 1¢ per mile above the average.

Clearly, the 20¢ per mile rate is not supported by the comparability data. Accordingly, an increase was necessary. Furthermore, there is no evidence to indicate the number of teachers who benefit from mileage reimbursement. The increase to 1¢ per mile above the average is a very small quid pro quo for the above change.

The District proposes to increase sick leave payout from $10 to $20. This is above what any other comparable district pays for this benefit. Many districts do not provide this benefit. However, to collect this benefit, an employee must terminate her/his employment with the District. There is no evidence in the record as to the projected cost of this benefit. There is no evidence in this record as to the number of employees who have accumulated sick leave days in excess of 25 but less than 100 so that a picture of the District's exposure to pay out this benefit may be calculated. The Arbitrator identifies the substantial increase in this benefit as a quid pro quo. However, the weight to be accorded this benefit is limited, inasmuch as, it is necessary for an employee to terminate employment to enjoy the extent of the benefit.

The above analysis suggests that the Employer provides the smallest amount of quid pro quo, but some quid pro quo for its proposed change for the health insurance benefit. The most difficult task which an arbitrator must face in the application of the criteria to the change in status quo analysis is to establish how much is enough to justify the change proposed. The Arbitrator concludes this portion of the discussion by finding that the District has established that it proposes the slightest amount of additional salary, mileage rate increase, and a substantial increase in the sick leave payout as a quid pro quo for its health insurance proposal.

There is one other factor which must be considered under criterion "j". The District proposes the change in the assumption of the risk rising health insurance premiums for the second year of the Agreement for the stated purpose of containing its costs and increasing the value of the benefit to employees.

Will the District's Proposal Achieve Its Stated Goal?

Is the District change in insurance language likely to achieve the goal or purpose asserted by the District as the basis for its proposal? This

segment of the criterion, "j" Such Other Factors, analysis is central to this dispute.

In its brief, the District presents extensive argument concerning the need for cost sharing. It cites many arbitration awards and an article in the February 1990 issue of Personnel magazine by Luthans and Davis entitled "The Healthcare Cost Crisis: Causes and Containment" in support of its position. Although the District presents the following argument in support of its position that there is a need for a change in the language, the Arbitrator considers this argument in the context of criterion "j" Such Other Factors. For this Arbitrator, the spiraling costs of health insurance and the risk of a one year spike in the cost of premium is sufficient basis for an employer to be concerned about that cost increase and its impact in the second year of an agreement. The issue is whether the proposal of the Employer accomplishes the purpose set out for its proposal. The District argues that its cost sharing proposal will accomplish two things. First, it will increase the value which employees place on the health insurance benefit. Secondly, it will contain the rising cost of health insurance.

With regard to the first argument, the District presents no evidence that the teachers in the Glidden School District do not value the health insurance benefit. There is no evidence that whatever increases in insurance premium occur during the term of an agreement are not costed against the total salary and benefit package. Furthermore, in the context of an election year in which health insurance is a key issue, it is hard to believe that any individual is unaware of the spiraling cost of health insurance and its impact on employers and employees in terms of its consumption of available dollars for wages and other benefits. The amount of dollars consumed by health insurance premiums is well documented in Employer Exhibit 38 which charts the "Historical Review of the Percentage That Health Insurance Has Been to a Teacher's Salary" at several benchmarks of the salary schedule. Even at the MA maximum, health insurance premiums for family coverage in 1989-90 and 1990-91 is 10.32% and 12.04% respectively of the salary at that benchmark. One would have to be a hermit not to appreciate the value of the health insurance benefit and the cost of that valuable benefit to employees. The Arbitrator rejects this argument of the Employer.

The more substantive argument put forth by the Employer is that its proposal will serve to reduce its health insurance costs.

In this regard, the District quotes Arbitrator Petrie in City of Kaukauna (Police), 26061-A (2/90), who observes that:

> Although some measure of cost reduction and control can be achieved through policy or plan redesign relating to how services are authorized and

> provided, the major and the most effective cost control approaches are seen by employers as consisting of some combination of shared premiums and/or corridors on benefits in the form of individual and family deductibles.

There is no doubt that employers identify cost sharing proposals as the most effective way of dealing with the increase in insurance premiums. In this regard, the District cites awards written nine years ago by Arbitrator Mueller in School District of Rhinelander, 19838 (1/83) and Arbitrator Bellman in Dane County (Voluntary Impasse Procedure), (3/83). Arbitrator Bellman recognizes the unique quality of health insurance as a fringe benefit as distinct from other fringe benefits. In this regard, the District quotes the analysis of Arbitrator Vernon in Elkhart Lake-Glenbeulah School District, 26491-A (12/90), who recognizes employee contributions towards premium as a method of increasing the value of the benefit to employees. He goes on to state that:

> . . ., the Arbitrator finds that there is substantial intrinsic appeal to the idea that employees -- given the extremely high and accelerating cost of health insurance -- should, to some degree, share in the cost. This is not because it helps lower the cost of health insurance.

In the view of this Arbitrator, the crux of the issue is whether cost sharing controls the increasing cost of health insurance premiums. Arbitrator Vernon stated in 1990 that there was no evidence presented to him that cost sharing tends to reduce the increase in cost of health insurance premiums. If one analyzes the article included by the District in its exhibits, the Luthans and Davis article, it provides a long list of factors which cause the spiraling increase in premium costs. One of the factors listed is usage. However, most of the factors, and there is a long list of those factors, are related to matters well outside the scope and control of these parties. The authors of the article detail such factors as increased labor costs in the health care industry, the high cost of technology, the excessive number of hospital beds, the use of transplants, AIDS treatment, and malpractice costs as factors which tend to drive up the cost of health insurance premiums. Certainly, the treatment of a heart attack or heart bypass surgery, which is paid for in a small insurance group, may well tend to increase the cost of health insurance premiums for that group. However, the District has presented no evidence that employee usage bears any relationship to the amount premium. In fact, the record evidence suggests otherwise. The dollar contribution by the District for premiums for family coverage is equal to the lowest amount expended by any comparable employer for such coverage. The evidence suggests that this Employer pays less, rather than more, than comparable employers for health insurance

coverage for its employees.

In other awards, this Arbitrator has expressed the view, that cost sharing even on a 50-50 basis does not reduce the absolute cost of health insurance premiums. What occurs with straight, direct cost sharing is that the spiraling increase in health insurance premium is not underwritten by one party. It is underwritten by both the Employer and the employee.

The Employer, in this case, does not propose cost sharing as a method of simply reducing its costs. Rather, it is presented as a basis for containing the increase in the cost of health insurance premiums and increasing the value of the benefit to its employees. As noted above, the Arbitrator rejects the value argument and the cost containment argument.

If the Employer simply wishes to limit its exposure to the increase in the cost of health insurance premiums in the second year of a two year Agreement, the central issue becomes whether the proposed offer adequately compensates for the proposed change.

How much of a risk is shifted from the Employer to employees under its health insurance offer? The increases in premium costs which these parties have experienced over the last several years ranges from a reduction in premium of 2.66% in the 1990-91 school year over the 1989-90 school year to a 73.1% increase in premium in the 1989-90 school year over the 1988-89 school year. It is worth noting that the Employer may unilaterally select the carrier and has elected to self insure. To reduce its exposure to such increases (reductions), the District offers 0.20% additional salary over the average salary increase paid by comparable districts to teachers for the two school years in dispute and a penny for mileage reimbursement above the average paid by comparable employers. In addition, the District offers a larger sick leave payout of $10 per sick day. These proposals do not sufficiently compensate for the additional risk.

The District emphasizes that it does not propose to reduce the benefits. The District provided substantial evidence that the policy it provides does not contain the substantial deductibles or co-pay features as the health insurance programs of comparable districts. However, those changes in plan benefits do serve to contain the amount expended for health insurance premiums. Certainly, such changes in plan such as increases in deductibles either in the front end or for major medical, the use utilization review and wellness programs, etc. serve to contain the amount of dollars expended for health insurance. If that is the intent of the proposal, then it is incumbent on the party making the proposal to formulate an offer which tends to achieve the desired goal.

This Arbitrator respectfully disagrees with the view expressed by Arbitrator Nielsen in New Holstein School District, 26348-A (8/90), as

quoted by the District at page 24 of its brief, as follows:

> The District has proven a need for some change in the insurance area, and finds some support among other relevant employers. As to whether the proposed change is a reasonable response to the perceived need which does not impose undue hardship on employees, the undersigned is in the general agreement with those arbitrators who have expressed a preference for cost sharing schemes over benefit reductions. Where the parties have recourse to an arbitrator to resolve disputes over insurance, the arbitrator should strongly prefer to avoid imposing coverage changes, outside of relatively minor cost containment changes such as mandatory second opinions, hospice care, and the like. To the extent possible, the outcome in arbitration should reflect the likely outcomes of bargaining. An arbitrator can be far more confident in assigning costs in the context of overall economic package than he can in judging whether the parties might conceivably have agreed to changes in the scope of their insurance coverage. The cost sharing proposal of the employer does nothing to contain overall insurance costs, but is a reasonable response for the cost of a shared problem. [Emphasis provided in District's brief.]

This Arbitrator respectfully disagrees with Arbitrator Nielsen's premise. The purpose of the arbitration analysis, in the view of this Arbitrator, is not to achieve the agreement that the parties would have reached. This Arbitrator hasn't the foggiest idea what these parties would have done had they reached an agreement. If they had reached an agreement, they would not be in arbitration. The fact is they did not reach an agreement.

The fact is that the District has attempted to obtain caps on health insurance costs in at least two bargains, in this one and in negotiations leading to a voluntary settlement of the expired Agreement. The application of the statutory criteria do not, necessarily, result in an outcome which the parties would achieve.

Arbitrator Nielsen acknowledges that cost sharing does not serve to reduce the total cost of health insurance premiums. A change in the structure of the health insurance program can result in actual savings in the amount of dollars expended for health insurance premiums. If a party desires to simply shift the costs of health insurance premiums to employees,

that proposal may be achieved through an appropriate quid pro quo. However, if the purpose is to contain the cost of health insurance, then it is appropriate for parties to propose and Arbitrators to select the proposal likely to succeed in accomplishing the task of containing the cost of health insurance costs.

In this case, the District proposal will not reduce the cost of health insurance or slow the rate of increase. In its bid to buy and implement its cost sharing proposal, the District offers too little in exchange for shifting more of the risk to its teachers.

Conclusion-Such other Factors

The Arbitrator concludes that the District proposal serves to upset the stability in the bargaining relationship since the parties resolved this issue in the voluntary resolution of the expired Agreement. In addition, District fails to offer an adequate quid pro quo for its proposed change. Its cost shifting or sharing proposal will not reduce or slow the increase in health insurance premiums.

UNION PROPOSALS ON MILEAGE REIMBURSEMENT, SICK LEAVE PAYOUT AND SALARY

The District argues that the Union provides no quid pro quo for the changes in these three areas which are part and parcel of the Union's final offer.

In the above analysis, the Arbitrator finds that the salary increase which both the Union and the Employer propose is consistent with the level of increases provided by comparable employers in the 1991-92 and 1992-93 school years. Neither party presented data with regard to the rankings of the various districts based on the 5% salary increase. Although this Arbitrator minimizes the weight to be given to benchmark rankings, in the context of identifying whether a salary offer provides more of an increase than the cost of living as measured by the size of increases provided by comparable school districts to a comparable group of employees, such as teachers, then benchmark rankings are of some value. Such rankings identify attempts to change the status quo where one side or the other either poses a large increase which would result in a substantial change in ranking or the other party proposes a very small increase which would result in a precipitous drop in ranking. The ranking data highlights the impact of such a salary proposal. Here, there is no evidence to indicate that the 5% salary offer of both the Employer and the Union will do anything other than retain the benchmark ranking of Glidden.

The agreement on sick leave payout is one which can only be justified in the context of a quid pro quo. Absent that context, which is the result of

the Union's rejection of the Employer's health insurance and layoff proposals, then the increase in sick leave payout cannot be justified and it serves as a negative effect in the analysis of the totality of the parties' final offers.

Again, in the discussion above, the Arbitrator identifies the increase in mileage rate reimbursement to 1¢ above the average as one which is consistent with the amounts paid by comparable employers for mileage. In this regard, the Union's proposal is not a change in the status quo. It is a proposal to keep the mileage reimbursement rate in line with the rates paid by other districts.[2]

LAYOFF

The District proposes to distinguish between the non-renewal process and the layoff process. In this regard, the District attempts to delay and put off the date by which it must provide notice of layoff to its employees. Under the non-renewal process, the Employer must identify its needs by February of a particular year for the upcoming year.

The District makes a compelling case for the need for the change. If the Employer has any concern that it may need to lay off employees, if it must use the non-renewal process, then it may identify many more teachers than necessary in order to "play it safe". Identifying a number of employees to be laid off can be disruptive in a very small unit of 22 FTEs.

d. Comparability

Approximately half the school districts distinguish between layoff and non-renewal. This factor does not serve to support the position of either party.

j. Such Other Factors

The District, in the view of this Arbitrator, has established a need for the change. The April 1 date it proposes provides a teacher who will be subjected to layoff with time to find other employment. Here, the Employer identifies no quid pro quo for its proposal to distinguish between layoff and non-renewal and establish a layoff date of April 1.

Accordingly, the Arbitrator finds that the District attempts to obtain

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[2]Since both parties have submitted proposals which agree with one another on the mileage matter of reimbursement, neither one put forth any evidence with regard to the internal costs associated with the operation of a car. Neither, put in the Internal Revenue Service reimbursement rate for mileage.

this change through arbitral fiat rather than on the basis of the give and take of negotiations. Accordingly, the Arbitrator finds that, on this issue, the Union offer to maintain the status quo is to be preferred.

EXTRACURRICULAR PAY SCHEDULE

The Union proposes a 7.5% increase in the extracurricular pay schedule in the first year of the Agreement. As a result, that increase will play out over both years of the Agreement. The record evidence indicates that in the past the increase in pay for the extracurricular schedule is consistent with the increase provided in the salary schedule. In this case, the salary schedule has been increased by 5% by both parties.

The Union points to the long period of time it takes for an employee to reach the top of the extracurricular schedule. That schedule is the product of the parties' bargaining history. In their negotiations which resulted in the impasse to be resolved by this Award, the Union attempted to alter that structure and tie the various positions which appear on the extracurricular schedule to a percentage of some level of the salary schedule. It failed to obtain that proposal. As a result, it makes the proposal for a 7.5% increase in the first year of the Agreement.

The Union argues that the total cost impact of its proposal in the first year of the Agreement is $392. The District argues that figure understates the costs. However, the District fails to identify the cost of the Union's proposal.

On the basis of the data presented, the salary maximums paid for the various activities which are covered by the extracurricular schedule approximate those of other comparable school districts. The Union has failed to present any evidence justifying the 7.5% increase in the first year of the Agreement to the extracurricular schedule. It has failed to justify a change to the status quo of increasing the extra curricular schedule by the amount of the percentage increase in salary. The Arbitrator finds that on this proposal, the District offer is to be strongly preferred.

SELECTION OF THE FINAL OFFER

In the above discussion, the Arbitrator concludes that the District offer is supported by the criteion, the interest and welfare of the public. The Disttrict offers too little to limit the extent of its risk to increases in premiums in the second year of a two year agreement. Accordingly, the Arbitrator finds that the District's proposal has a negative impact and serves as a basis for rejection of the Employer's final offer. In addition, its proposal will not have the effect of containing the rate of increase of health insurance premiums. The comparability criteria support the selection of the Union

final offer. In addition, the District's failure to provide any quid pro quo for its change to the layoff language also serves as a basis for selection of the Union's final offer.

On the other hand, the Union's proposal to increase the extracurricular schedule by 7.5% in the first year of an agreement and its proposal to increase sick leave payouts outside the context of a quid pro quo exchange on the proposals at issue, here, serve as a negative impact on the totality of the Union's final offer.

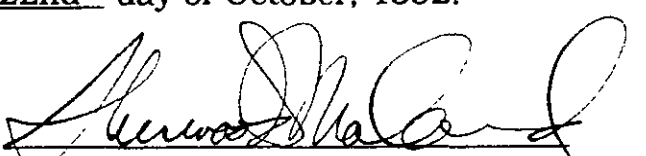
When the negative impact of the District's final offer on health insurance and layoff are weighed against the negative impact of the Union's final offer on extracurricular schedule and sick leave payout, the Arbitrator concludes that the District's proposals are more significant than the Union's. The negative impact which the District's proposals have on the totality of its final offer serve as the basis for the Arbitrator's finding that the Union's final offer is to be preferred.

On the basis of the above discussion, the Arbitrator issues the following:

AWARD

Based upon the statutory criteria found in Sec. 111.70(4)(cm)7.a.-j. of the Wis. Stats., upon the evidence and arguments of the parties, and for the reasons discussed above, the Arbitrator selects the final offer of the Union, a copy of which is attached hereto, together with the stipulations of the agreed-upon items, to be included in the successor Agreement for the 1991-92 and 1992-93 school years between the Glidden School District and the Glidden Federation of Teachers, Local 3237, WFT, AFT, AFL-CIO.

Dated at Madison, Wisconsin, this 22nd day of October, 1992.



Sherwood Malamud
Arbitrator

Glidden Federation of Teachers
Local 3237, WFT, AFT

FINAL OFFER
to the
School District of Glidden

1. Except as provided in the stipulation between the parties or in this final offer, the terms and conditions of the 1989-91 contract shall become the terms and conditions of the 1991-93 contract.

2. ARTICLE VI - Conditions of Employment

Section J - Teacher Travel

2. Change "twenty (20) cents per mile" to "twenty-seven (27) cents per mile."

3. ARTICLE VIII - Leaves Revise the first sentence to read:

Section C - Sick Days
Teachers will be paid $20 for each day accumulated from the twenty-fifth day to the one hundredth day upon termination of contract with the District.

4. ARTICLE IX - Salary and Teacher Welfare

Section E - Fringe Benefits

1. Health Insurance

(a) (1) Amend first two sentences to read as follows: "The Board agrees to pay up to $351.00 per month toward the family health insurance plan and up to $146.74 per month toward the single health insurance plan for all full-time employees. For 1992-93, these rates will be revised to reflect the full dollar amounts for the 1992-93 premiums.

5. ARTICLE IX - Salary and Teacher Welfare

Appendix A - Salary Schedule

Increase each cell of the 1990-91 salary schedule by 5% to generate the 1991-92 salary schedule.

Increase each cell of the 1991-92 salary schedule by 5% to generate the 1992-93 salary schedule.

6. ARTICLE IX - Salary and Teacher Welfare

Appendix B - Extra Curricular Pay Schedule

Increase the 1990-91 schedule by 7.5% to generate the 1991-92 schedule.

Increase the 1991-92 schedule by 5% to generate the 1992-93 schedule.

7. ARTICLE X - Rules Governing this Agreement

Section B - Duration

Amend date to reflect a two-year agreement.

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afl-cio/3237fo

William Kalin
WFT Representative
Glidden Federation of Teachers