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STATE OF WISCONSIN  
BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

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In the Matter of the Petition of	:
	:
PRENTICE SCHOOL DISTRICT EMPLOYEES,	:
AFSCME, AFL-CIO	:Case 19
To Initiate Arbitration	:No. 46410 INT/ARB 6177
Between Said Petitioner and	:Decision No. 27459-A
	:
PRENTICE SCHOOL DISTRICT	:
	:

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Appearances:

Prentice School District Employees by Mr. Philip K. Salamone, Staff Representative, Council 40 AFSCME, AFL-CIO

Prentice School District by Mr. Jeffrey J. Wickland Membership Consultant, Wisconsin Association of School Boards, Inc.

ARBITRATION AWARD

Toward the end of 1990, the support staff of the Prentice School District elected to become organized as "Prentice School District Employees, AFSCME, AFL-CIO." The new bargaining unit consists of all regular full and part-time bus drivers, custodial, cook, aide and clerical personnel. Prior to the certification of this bargaining unit, the District agreed to increase all of the employees' wages by 4% over 1989-1990 base wages for 1990-1991. After the Union was certified, the parties began negotiating all of the terms to be included in their initial bargaining agreement. The parties exchanged their initial proposals on February 13, 1991, for the period extending through June 30, 1993. After six negotiating sessions failed to

result in an agreement, the Union requested the Wisconsin Employment Relations Commission to initiate arbitration pursuant to § 111.70(4)(cm)6 of the Municipal Employment Relations Act on October 15, 1991. The Commission caused an investigation to be conducted by a member of its staff. On October 30, 1992, an impasse in the negotiations was declared. The undersigned was assigned to arbitrate the dispute by an order dated December 15, 1992, from the Commission.

The arbitration hearing was conducted at the Prentice School District office in Prentice, Wisconsin, commencing at 1:00 P.M. on March 5, 1993. At that hearing, both parties presented oral testimony and introduced a series of exhibits into evidence in the proceeding. The parties stipulated that the record was closed at the conclusion of the March 5 hearing, except for four specific matters for which material could be submitted to the arbitrator by mail up to March 26, 1993. Initial briefs totaling 148 pages were exchanged through the arbitrator on April 20; extensive reply briefs were received on May 14, 1993.

#### ISSUES IN DISPUTE

Since this will be the first contract between these parties, there appeared to be a significant number of issues not covered in the first tentative agreement. It appears that quite a few of these potential disagreements were resolved for all practical purposes with the submission of final offers, which appear to resolve disability, life insurance, the inception of health and dental insurance for bus drivers after two years, and a 30 day eligibility requirement for health insurance for hourly employees. A few minor disagreements are not being reviewed, because they are not significant to the outcome of this case in view of the parties' positions. The principal major disagreements are over 1991-1992 and 1992-1993 wages, employee contributions toward dental and health insurance premiums, employer contributions toward employee retirement benefits and the Union's insistence that the Employer purchase prior service credits for employees who are currently employed by the District,

but were not previously enrolled in the Wisconsin Retirement System.

#### THE UNION'S POSITION

The Union noted that the selection of the initial set of external comparables is particularly important in a first arbitration proceeding. It suggested that geographically proximate school districts "who have either wall-to-wall or at least one group of organized support staff personnel" should be considered as comparables. The Union submitted Pittsville, Athens, Gilman, Ladysmith-Hawkins, Medford, Owen-Withee, Park Falls, Tomahawk, Abbotsford, Merrill, Phillips and Winter as external comparables.

The Union argued that there is no satisfactory basis for comparing this organized unit to unrepresented school districts. It was the unilateral determinations previously made by the Prentice School Board which have resulted in dismally low wage rates and the absence of a retirement benefit for these employees. To compare the offers in this proceeding with unilaterally imposed settlements in unorganized districts would totally ignore the changed status of the parties in this proceeding. The Union cited seven different previous decisions by seven different arbitrators as authority for its position that only represented units should be considered comparable. It concluded by arguing that the District is attempting to dictate the terms of employment by proxy from other unrepresented employers. That attempt runs contrary to the letter and spirit of Wisconsin's mediation arbitration law.

I. Health and Dental Insurance is an item of some importance in this case which will have greater impact during future bargaining according to the Union. It summarized the difference in the two Health insurance offers as follows. The District offer would cap the Employer's contribution for both health and dental insurance for each year of the three year agreement. The Union would cap these employees' annual contributions consistent with teachers' contributions. Neither

offer would require any employee contribution for single health insurance coverage during the three year term of this contract. Greater employee health insurance contributions would be required for family coverage during each year under the District's offer. During 1990-1991, family plan cost was \$280 a month. The District has offered to pay \$231.20. The Union would cap employee first year contributions at \$25 a month, a \$23.70 monthly difference. Family premiums were \$371.42 during 1991-1992. The District would cap its contribution at \$340.92. The Union would cap employee contributions at \$30 during the second year, a 50¢ per month difference. During the final contract year family premiums are \$389.72. The Employer has proposed reducing its payment to \$333.27 for family coverage. The Union would continue to cap employee contributions at \$30 a month, a \$26.45 monthly difference between the two offers during 1992-1993.

The Union argued that if the employer's offer is accepted, the burden will be upon the Union to increase that cap in future negotiations. It argued that internal consistency with the teacher's contract supports the Union's offer. That contract requires Prentice teachers to contribute \$25 and \$30 per month toward family coverage during 1990-1991 and 1991-1992 respectively. It said that teachers earn a much higher rate of pay making insurance contributions proportionately more costly for support staff.

The Union reviewed data for eleven of its proposed comparable districts. It argued that only two comparables had employer caps while one district paid 100% single and family coverage and another had employee caps similar to those being proposed by the Union in this proceeding. It argued that the other comparables which expressed employer contributions at 90 or 95% of premium had a cost sharing formula in place. The Union said that this district is attempting to put the burden of future health insurance increases on the shoulders of the employees, unlike the vast majority of comparable districts.

The Employer has offered to pay up to \$22.64 monthly for single dental coverage during the first two years of the contract. Both that offer and the Union offer, for full District funding of single premiums, would pay the single premium in full. The single premium rose to \$23.96 during 1992-1993. The District has offered to continue to pay \$22.64; the Union would have the District pay the entire single premium. The principal monetary difference in the dental offers, as in health insurance, is in the family plan. During the first two years, the family dental premium was \$59.38 a month. During 1992-1993 this premium rose to \$62.42. The Employer has proposed to pay \$39.38 each month for calendar year employees and \$28.81 a month for school year employees during the first two years of the contract. During the final year, the District proposes to contribute \$46.82 toward family dental premiums for both calendar year and school year employees. The Union's proposal would limit employee contributions for family dental insurance to \$10 a month during each of the three years of the contract. The difference between the two dental offers amounts to \$10 a month for calendar year employees and \$26.74 for school year employees with the family plan during the first two years. The third year difference is \$1.32 a month for single coverage and \$15.60 a month for all employees with family coverage. The Union concluded this argument by stating, "since both final offers contain a pro-ration component, the final offers, and their impact are not significantly different for the three years of the contract." It argued that the Union's insurance offers are most reasonable because they are most like the teachers' contract and because these employees are disadvantaged in wages and benefits.

II. Wages. The Union stated that support staff wages in Prentice are extremely low. Both of the final offers include benchmarks at government minimum wage levels. It cited an exhibit which showed these employees had an average 1990-1991 wage of \$5.71 per hour or \$11,877 a year for calendar year employees. School year employees earn significantly less and are

not eligible for unemployment compensation. The poverty level for a family of four in 1990 was \$13,359 a year. The Union offer would provide just a \$6.92 average hourly wage or \$14,394 per annum during 1992-1993 for calendar year employees. "This is a mere \$1,000 per year over the 1990 poverty level. Of course, this figure is significantly less for school year employees." No matter which offer is selected, these employees will be at or near the poverty level established by the United States Government.

Neither offer would effect the 4% wage increase granted to these employees, before they became organized, for the 1990-1991 school year. The Union explained that it would continue those existing wages in effect through 1991-1992 as quid pro quo for its prior service retirement credit request. It said that the District's 1991-1992 wage offer "applies differential rate increases with higher percentage and cents per hour wage increases for those at the bottom of the wage structure." A \$4.25 an hour dishwasher would receive an 8.2% increase equaling 35¢ an hour while an individual at the top of the maintenance scale would go from \$8 to \$8.20 an hour, a 2.5% increase. The Union stated that the District recognizes how very low its wages are, especially at the bottom of the scale. "No matter how the District juggles the numbers and/or costing of the compensation picture at Prentice, the result is the same. Wages are exceedingly low."

The Union stated that there are basic differences between the parties 1992-1993 wage offers. Many inequities in the wage structure have developed over the years that wages were unilaterally determined by the Employer. The Union said that much of the difference in wage rates is due to the fact that the District offer does not proceed beyond 10 years, while the Union offer includes a 20 year step. Also, a number of Prentice classifications were in dire need of catch-up with counterparts in comparable districts. "In light of the magnitude of the retirement issue, only the most critical of wage inequities are

addressed in the Union's final offer." The Union said that there is only an average difference of 52¢ an hour between the parties 1992-1993 wage offers. When the effect of higher wages for two employees who are no longer employed by the District is considered, the difference is only 37¢ an hour. "Only six present employees would receive significant (over \$1 per hour) upward wage adjustments under the Union offer and seven would receive wage cuts in the 1992-1993 school year if the Union offer were favored by the arbitrator." The six employees who would receive significant increases under the Union offer are "mostly concentrated in educational aide and custodial/maintenance classifications."

Four educational aides would receive significant wage increases. The Union went on to compare 1991-1992 Educational Aide wages in Prentice with its 12 proposed comparables at four benchmarks. That comparison showed that either of the offers in this proceeding will result in Prentice's Educational Aides receiving below average wages in 1991-1992. It then compared wages that Prentice employees would receive under the two offers in this proceeding during 1992-1993.

**UNION'S SUMMARY OF AIDE WAGE DATA**

1991-1992	Min.	10 yr.	15 yr.	20 yr.
Average Comparable	\$6.27	\$6.84	\$7.52	\$7.50
Union Offer	4.71	5.73	5.73	6.46
District Offer	4.90	6.70	6.70	6.70
1992-1993				
Union Offer	5.60	7.60	8.00	8.50
District Offer	4.59	6.90	6.90	6.90

The Union stated that its proposed one dollar plus increase was clearly justified by the 1991 wage disparity between Prentice aides and comparables. It said that though the Union's proposed \$8.50 maximum rate may appear to be somewhat high, that rate is

justified because 20 years is a significantly longer acceleration than the wage schedules of the comparables or the District. Five Prentice aides will soon qualify for the 15 and 20 year steps. The Union argued that these are all "long term employees who will not likely be with the District very much longer. Upon their retirement the District will be able to hire replacing employees for at a savings of three dollars per hour per employee."

The Union made similar arguments in support of its proposed increase of over one dollar an hour for two custodial/maintenance employees. It said that while its proposed raises may seem inappropriate, comparisons with other comparable districts supported its offer. Summaries of the Union's comparisons follow.

**UNION'S SUMMARY OF MAINTENANCE WAGE DATA**

	1991-1992	Min.	10 yr.	15 yr.	20 yr.
Average Comparable		\$8.20	\$9.24	\$9.35	\$9.62
Union Offer		5.46	8.00	8.00	8.00
District Offer		5.76	8.20	8.20	8.20
1992-1993					
Union Offer		7.22	8.51	8.63	8.83
District Offer		5.94	8.40	8.40	8.40

**UNION'S SUMMARY OF CUSTODIAL WAGE DATA**

	1991-1992	Min.	10 yr.	15 yr.	20 yr.
Average Comparable		\$6.80	\$8.42	\$8.53	\$8.50
Union Offer		5.46	N/A	N/A	6.80
District Offer		Min. Wage	6.20	6.20	6.20
			6.70	6.70	6.70
1992-1993					
Union Offer		5.51	6.68	6.95	7.14
District Offer		Min. Wage	6.40	6.40	6.40
		5.49	6.90	6.90	6.90



The Union argued that the wages in Prentice are low and the classifications are inequitable because only one Prentice maintenance employee is classified on the maintenance schedule. Elementary school custodians who perform most of the same tasks are paid at inordinately lower rates. "Only the Union's 1992-1993 wage offer addresses both this external catch-up and internal structural inequity."

The Union argued that the District offer would require employees to contribute "5.2% of his/her poverty level wages toward the retirement fund." It reviewed the impact of the employee's contribution toward retirement benefits upon wage rates for all 31 members of the bargaining unit. It cited as an example the impact upon the highest paid member of the unit. This individual has received \$8 an hour since 1990. Under the District's offer he would receive \$7.96 an hour after deductions for retirement benefits, compared to \$8.51 an hour under the Union's offer. At this benchmark the average comparable would receive \$9.62 an hour. The Union argued that after adjusting for retirement contributions the average support staff wage would be \$6.08 an hour or \$12,646 a year. "This is considerably below the \$13,359 official 1990 poverty threshold for a family of four." It said that wages are not the most significant issue in dispute. Prentice wages will be at or near the poverty level no matter which offer is selected, however, the Union offer is the most reasonable.

III. Retirement Issues. The Union stated that, "Retirement is, by far, the single most significant disputed issue in this proceeding." The Union was organized around this issue and it was the paramount issue in bargaining and mediation sessions between the parties. The average length of service for members of this unit is 14 years. Some employees would like to retire. "Unfortunately, however, they are faced with the unenviable reality of having no retirement benefit available." The Union stated that "the District is neither a wealthy nor a poor one." It said that the Board was unwilling to grant a nearly complete

ongoing retirement benefit for these employers as it has for teachers. It has refused to provide prior service credits in order to permit employees to immediately accrue credit for half of the time that they have served the District. The Union stated that there are two components involved in the dispute over retirement benefits which are critical to the Union and the employees.

The first retirement issue arises out of the District's offer to pay 1% of the required 6.2% employee contribution to the Wisconsin Retirement System. The Union argued that there was little internal support for the District's offer. The District pays 6.1% of the teacher's required contribution. The District has not given any reason why lower paid support staff, earning poverty level wages, should pay 5.2% for the same benefit that vastly more economically advantaged teachers are only required to pay .1% for. It costs the District far more to fund teacher retirement because teachers salaries are much higher than support staff salaries which are subsistence at best. Internal comparables support the Union offer.

All of the Union's proposed external comparables, with one exception, have paid all or nearly all of the employees' share of retirement contributions for many years. The Union argued that the District has had a free ride on retirement, at the expense of its least advantaged employees. Now that the staff is empowered the District is moving "with baby steps." Even now it refuses these employees what it provides for the teachers and what comparable districts provide for their support staffs. The Union cited past history and argued, "that for either economic or political reasons it needs to have its hand forced to meet its obligations."

With regard to the Union request that the District purchase 50% of prior retirement credits, "the Union recognizes that, on its face, this item appears somewhat costly." It is also costly in economic and human terms that these employees do not have any retirement nest egg. The employees are aging and received

poverty level wages which did not permit them to plan for retirement. The employer can amortize the cost of the prior credits over a period of 36 years. "It would only increase the District's total retirement obligation 1.5% per year." The District has saved money over the years by not properly funding the benefit. In order to offset the cost of this component the Union has offered a substantial quid pro quo.

The Union stated that it had offered a wage freeze for 1992-1993 as a quid pro quo to help offset the cost of prior retirement credit. Employees with poverty level wages averaging only \$5.70 an hour cannot afford to fall further behind. It is a concession that they are willing to make even though a substantial catch up is justified. Nine food service workers would make substantial sacrifices under the Union offer. These employees would receive between 30¢ and 55¢ an hour less under the Union's offer during 1991-1992, than under the District's offer. During 1992-1993, they would receive an average of 17¢ an hour less under the Union offer. The Union's offer is even more of a concession by food service employees because upward wage adjustments could easily be justified. The Union reviewed the Head Cook benchmark where comparable averages were \$6.58 at minimum and \$7.88 maximum during 1991-1992. Under the offers in this proceeding, that benchmark is \$6 minimum or maximum compared to the District's \$4.86 minimum or \$7.20 maximum. For 1992-1993 average comparables are \$6.96 minimum and \$8.08 maximum compared to the Union's \$5 and \$6.90 and the District's proposed \$5.04 and \$7.40. The Union argued that under the District's offer the Prentice's head cook's wage would be reduced by a 5.2% retirement contribution from \$7.40 to \$6.45 [sic] during 1992-1993. Similar comparisons and arguments were made at two other food service benchmarks. At the second benchmark, the minimum and maximum average comparable wages during 1992-1993 were \$6.37 and \$7.29 compared to \$4.55 and \$5.85 under the Union's offer and \$4.59 and \$6.90 under the District's offer. The average comparable dishwashing wages for 1992-1993 are \$6.15 minimum and \$7.05

maximum compared to the Union's \$4.50 and \$5.05 and the District's offer which specifies, "minimum wage and \$6.40 per hour." The Union reviewed the potential impact of the two offers upon bus drivers' earnings. "Bus drivers effectively fall behind the cost-of-living throughout this agreement, whichever offer is selected, however this is generally more true for the Union offer." It said because drivers must contribute 5.2% toward retirement they are big wage losers if the District's offer is selected.

The Union stated that, "every employee of the Prentice School District has a fully funded WRS account except those represented in the instant proceeding." This supports a compelling argument for 100% prior service credits. Why are teachers' or administrators' retirement more important than support staff employees? The Union argued that until very recently the District has been irresponsible in its treatment of support staff. "The Union reasonably asks that it now make necessary reparations of half of its neglected responsibility, and offers economic wage relief in exchange." A number of past employees are no longer with the District. The Employer has avoided paying for their retirement. "The need for a retirement fund cannot be overstated for any employees. The Union reviewed the impact of the two offers on two long time employees of the District. One employee would receive only a one time \$450 payment if the District's offer is selected and she retires in 1994. Under the Union's offer she would receive a regular monthly pension check of \$195. The other employee would receive \$700 if he retires in January 1994, under the Board's offer. Under the Union's offer he would receive a monthly benefit of \$345. If the District had paid into the retirement system for these employees' entire tenures, those benefits payable under the Union offer would have doubled. These same two employees will not be eligible for WRS health and life insurance unless they are vested in the retirement system. It takes five years of service

for benefits under WRS to vest, however, prior service credits would cause benefits to vest immediately for such employees.

The Union presented data that showed that 10 of 12 comparable districts have been contributing to the WRS commencing between 1949 and 1993. The average comparable has contributed to WRS for 18.2 years. An eleventh comparable has contributed to a private pension plan since 1968. Only one comparable district does not provide any retirement benefit. The Union offer would provide benefits for the equivalent of 7.15 years of prior service. The Union employee having the greatest seniority would be eligible for 18.84 years of credited seniority in January 1994 if the Union's offer is selected. "Hence the Union offer would award only its most senior employee the average of what the comparables have been providing." The vast majority of Prentice's staff would receive substantially fewer prior service credits if the Union offer is adopted.

The Union argued that, "even the District's chosen comparables lend considerable support to the Union offer on prior service credits." It reviewed data from a District exhibit which showed those nine District proposed comparables have provided retirement benefits commencing between 1978 and 1991, with an average participation for 9.8 years compared to the Union's proposed 7.15 years.

The Union anticipated that the District would "assert that the award of prior service credits is unique and unprecedented." It said that neither is true; a District exhibit shows that prior service credits are often funded by employers. The District's exhibit does not indicate: relative wage or benefit levels, whether employees were represented or whether any quid pro quo was provided by employees in return for prior service credits. This issue was previously arbitrated on one occasion similar to this case. In that case the Unit was not a member of the WRS; the Union was seeking both WRS coverage and 100% prior service credits in arbitration. In that Prairie du Chien case, there was an existing private pension fund. Funds from that private fund

were "folded into the WRS system to pay for a portion of the prior service credits. However, offsetting that aspect of the case was the fact that the Union was seeking 100% of the prior service credits and according to arbitrator Yaffe, the price tag 'was somewhat excessive when the costs of transferring to the WRS Program and increased health insurance costs (were) added together.'" The Union argued that there were other significant similarities between that case and the instant case which support the Union's offer. It reviewed those similarities, and argued that the arbitrator's decision adopting the Union offer in the Prairie du Chien case supported the Union's offer in this instance.

IV. Other Criteria. The Union argued that other commonly utilized statutory criteria support its position. It said that the tentative agreements show that the Union has "bent over backwards in order to achieve a mutually agreeable voluntary settlement. Some of the agreed upon items relate to the criteria of overall compensation. In Prentice, sick leave for the support staff can be accumulated for 30 days. Prentice teachers can accumulate up to 80 days. Eleven Union comparables allow an average accumulation of 82.9 days sick leave. It argued that this is a particularly important benefit for older employees. One Union witness testified that he had gone without wages for a period of time after exhausting his sick leave for open heart surgery. Another employee failed to testify in support of extended sick leave because of illness.

Prentice support staff receives a maximum of two weeks paid vacation compared to teachers who have the entire summer off. The Union's comparables receive between 15 and 25 days for an average 18.2 days paid vacation compared to 10 days in Prentice. The more senior employees would benefit proportionately from more vacation benefits. There is symmetry in the Union's offer in that the most senior employees who are most disadvantaged by the District's vacation and sick benefits would receive proportionately greater benefit from the prior service segment of

the Union's offer. The Union stated that the support staff's maximum paid holidays are far behind Prentice teachers and somewhat less advantageous than most counterparts in comparable school districts.

The Union stated that those criteria relating to interests and welfare of the public, cost of living and pendency of the action are not particularly important in this case. It believes that it is far more relevant that these employees "are at subsistence/poverty level wage rates and that the District offer which includes their paying 5.2% of their retirement would unduly burden employees in their desperate struggle for economic survival. Under the District's offer, retirees will be far more impoverished than when they were working." "They will become part of the national problem of poverty in the elderly." The Union argued that, "those who have given their life's work to the Prentice School District should not be 'thrown into the street' with nothing. Is it in the interest and welfare of the public for a unit of government to be promulgating poverty?" That has happened for a long time in Prentice. Only the Union offer moderately addresses this problem.

Concepts of economic and social justice are important to the interests and welfare of the public. Labor Unions were formed to promote these ideals in the work place. These employees became organized to address crucial issues of social and economic justice. The major issue is retirement. If the Union cannot provide a vehicle to address this concern, employees will ask why they should pay dues from already impoverished wages when little can be accomplished to address their interests. The Union said that it believed its survival as an institution in Prentice will be endangered by a ruling for the District in this case.

The Union argued that another factor which should be considered in this case is that this is an initial agreement between these parties. It argued that the District's assertion that the cost of the Union offer is over 100% is simply "balderdash." That feat was accomplished by placing the total

cost of prior service credits into one year of this contract. "The District has, since time immemorial, unilaterally and irresponsibly determined wages, hours and all other conditions of employment . . . and saved considerable sums of money by doing so." The Union argued that, "injustices generated from unilaterally implemented past misgivings [sic] of an employer should be discounted when the parties have meaningful even-handed negotiations." It cited as arbitral authority for this position from a 1975 Dodgeville Police Department case. In that case, the arbitrator noted that the reason a large increase was required to bring those employees up to levels in comparable cities was because in the past the city had paid wages far below comparable cities. He said, "therefore, there is all the more reason now to completely catch up. That is, the large cost catch-up can be cited as an indication of the sizeable past savings made by the city underpaying its police as well as an indication that it has done enough for one year." The Union argued that its position is consistent with the spirit of the law.

In its 30 page single spaced "reply brief" the Union reasserted, with renewed vigor, each argument outlined above. It was particularly critical of the Employer's having presented its position in terms of "total package costing." The Union cited a host of prior arbitration decisions which it argued discredited the District's reliance upon total package costing for either comparative purposes or for evaluation with CPI increases. The Union argued that, "applying this mechanism to wage and benefit levels as low as those of Prentice, will tend to inappropriately inflate and distort the appearance of any increase, regardless of how modest. This is especially true with respect to health insurance increases and automatic incremental wage schedule step movement." The Union accused the District of using smoke and mirrors to inflate the total cost to 110% by including the entire cost of prior service credits into this contract period. It expressed moral outrage over the District's tactics.



The Union said that the voters in the Prentice School District had the ability to pay the cost of the Union's offer. They were simply not willing to pay those costs. It scolded the District for being unwilling to correct problems in which the Board described one school building as a potential "firetrap." The Union said that the electorate's unwillingness to fund building improvements might be based upon the fact that those costs "are oftentimes expended to contractors outside the District." It suggested the electorate would be willing to support the "modest costs of the Union's offer relating to prior service credits [which] involves a retirement program for the friends and neighbors of the Prentice support staff, not a new school." It said that when the costs are spread over 36 years there would be an annual cost of \$6,666 spread over a tax base of 69 million dollars. "This would means that an owner of a \$40,000 home would have to pay only about \$3.83 more a year to fund this benefit.

The Union denied that it had made a radical proposal. It stated that, "the Union offer represents a measured meaningful change in very unacceptable past conditions." "The District's offer will also have a very dramatic impact on the parties' future dealings." "The essential question will be whether there will be a continuation of the past injustices or will there be a changed relationship?" It cited arbitral authority which discounted the importance of past practice in an initial collective bargaining agreement.

The Union noted that the District's costing included casting forward two former staff members who are now deceased. It accused the District of using highly misleading tactics to trump up its case. It argued that the Board's benchmark comparison of wages is misleading because under either offer, the "top rates will not be achieved until 10-20 years of service have been rendered." The Union reviewed data which demonstrated that its wage offer would place all of its proposed maximum wages within the ranges for maximums paid to all of the district's proposed

comparables. It argued that it would be more relevant to compare average wage rates. The average in Prentice was \$5.70 compared to \$8.38 for District comparables. The Union cited the Board's argument about how retirement benefits are customarily negotiated at page 25 below, and stated that there is not a scintilla of evidence to support that argument. It concluded by stating:

However, for the Union, this case is most of all about basic equity as well as social and economic justice. In a very real sense, this is a civil rights struggle. It is not just about higher wages more benefits. It is about fighting poverty, as well as recognizing treating loyal workers who have devoted their life's labor with a trust that they would themselves be appreciated and recognized some day for their contribution. This case goes to the very essence of what unions should be all about. In fact, this is what America itself is all about.

#### **DISTRICT'S POSITION**

The District presented an overview of the retirement, health and dental insurance, salary and package cost issues, which it described as the main issues in this proceeding. It said that the Union is attempting to achieve through arbitration something that it could [sic] negotiate through a voluntary settlement prior service credits. While the cost of both offers is excessive, "the cost of the Union proposal is dangerous and obscene!" It said that the Union proposal represents a 110.2% increase over the term of the agreement compared to the Board's proposed 26.6% over the three year term.

The Board said that, "either proposal is difficult to justify in light of political and economic considerations." School district residents have not supported higher spending by the District. The Governor has responded to taxpayer calls to limit the growth of government spending. Inflation has been very low nationally; and income has increased at or below the rate of inflation. The economy is mired in a recession. The Board believes that those realities dictate moderation in wage and

fringe benefit increases. "The Union's proposal disregards such realities."

The parties were able to resolve many normally contentious and difficult issues during this first contract negotiation. The Union's insistence on prior service credits "caused further negotiations over all of the remaining economic issues to become mute." [sic] The Board argued that it and the arbitrator "are faced with the task of balancing the interests and welfare of the public with providing a reasonable total compensation increase for support staff members." These goals are not mutually exclusive; the Board's offer, a three year package increase of 26.6%, strikes this balance. "The Board believes that the Union's three year total package offer of 110.2% is unjustified, unprecedented, and excessive!" The Board believes that the Union's total package offer includes such radical changes in the status quo that it would alter the parties' relationship. This result should not be accomplished through arbitration.

I. Costs of Final Offers. The Board cited exhibits, and summarized the total cost impact of the two offers for each of the three years of the contract. The costing included wages, Social Security, WRS contributions, disability and life insurance and health and dental insurance costs. During 1990-1991 both offers included \$274,424 in wages. The Board offer included an additional \$109,144 in other costs compared to \$116,888 of other costs in the Union offer. The Board said that most of the \$7,744 difference is attributable to the Union's regressive health and dental insurance proposals. For 1991-1992 the Board proposed \$288,616 in wages and \$121,994 in other costs compared to the Union's \$275,119 for wages and \$127,614 for other costs. The Board's 1991-1992 offer is for \$7,877 more total compensation than the Union's offer. During 1992-1993, the Board proposed \$303,933 for wages and \$136,000 in other costs for a total package cost of \$439,509. The Union's proposal is \$321,528 wages plus \$168,449 in other costs for a total package of \$489,977. The Union's third year cost exceeds the employer's third year

cost by \$50,468. For the three year contract period, the cost of the Union's offer exceeds the Employer's offer cost by \$50,335. The foregoing data does not include the cost to the employer for prior service credits, which would add an additional \$239,878 to the employer's cost. The Board stated that during this contract period the Union offer, including the cost of prior service credits, would cost \$290,214 more than the Board's offer.

The Board stated that the cost of prior service credits is over 87% of the total wages paid to all of the District's educational support personnel during 1990-1991. "Stated in another way, the 1990-1991 wages would need to be slashed by over 87% to match the cost of the Union's prior service credit proposal." The Board reviewed the cost of the two proposals without prior service credits as follows: 1990-1991 Board \$36,357 = 10.5%, Union \$44,101 = 12.7%; 1991-1992 Board \$27,042 = 7%, Union \$11,421 = 2.9%; 1992-1993 Board \$28,899 = 7%, Union \$89,244 = 21.7%. The Board summarized the foregoing by arguing that, when the cost of prior credits is added to the Union offer, it escalates to \$362,644 or 110.2 percent. This amounts to \$8,539.62 per employee more than the Board's offer.

The Board argued that the Union's wage offer exacerbates the internal inequities that may have existed between wage classifications. It said that there does not appear to be logic or rationale to the Union's placement of compensation across the staff. It reviewed the Union's wage proposal as follows. Kitchen employees had the lowest 1989-1990 average wage of \$4.94 an hour. The Union offer would provide these employees the lowest dollar and percent increase among non-bus driving employees over the term of the contract, 80¢ or 16.3 percent. Aides with the second highest average wage at \$5.77 would receive the second highest increase of \$2 or 34.6% over three years. The Board asked, "how can this be justified?" The District said that it is important, when formulating an initial salary schedule, to develop a schedule that will alleviate wage inequities that may exist. It argued that its proposal, which would grant the two

highest paid employee groups lesser increases than lower paid kitchen and clerical employees, is more equitable and reasonable than the Union offer. The Union offer would increase salaries of higher paid custodians and aides by substantially greater amounts than the Board's offer. The District said that the Union had not submitted any projections for the cost of its proposal. It charged that the Union had been irresponsible in failing to cost out its proposal; had it done so, "it would have realized the inequities, inconsistencies, and absurdity of its proposal." The Board argued that the total package cost of the Union's offer is a significant factor in considering the "overall compensation" criteria of the Wisconsin statute.

II. / Appropriate Comparables. The District proposed that all ten member schools of the Marawood Athletic Conference are appropriate comparables in this case. It noted that the Union had proposed a disparate comparable group of which only Abbotsford, Athens, Pittsville and Prentice are conference members. The District noted that its proposed peer group had been adopted as comparable in the course of a 1989 Prentice teacher arbitration case. It cited arbitral precedent for comparing other conference schools if geographic location, district size, pupil attendance, number of teachers, tax base and state aids are similar within the conference. The Board criticized the Union's proposed comparables as being illogical and insupportable. It compared the fact that Prentice has 640 students to the average size of 653 students in Board comparables and an average 1185 students in the Union's comparables. The largest Board comparable has 825 students compared to 3409 in the Union's proposed group. "The Union's list of comparables could be rejected solely on the basis of size disparity."

The Board reviewed tax base data for each proposed comparable group with Prentice's equalized valuation of \$113,202 and concluded that the differences are insignificant. It reviewed the geographic proximity of other proposed comparables and concluded that, "geographic proximity does not support either

the Board or Union comparables." The Board said that its proposed comparables were facially neutral, with five comparables having organized support staff and five comparables having unrepresented units. It said that the Union had excluded other districts which have organized support staff's which are located within the same general area of its proposed comparables. The Board said that many of those districts are more similar than the districts that the Union has proposed as comparables. "It is obvious that the Union has not developed a logical basis for the selection of comparables."

The District said that the Union's selection of comparables solely on the basis of organizational status is flawed. The Board reviewed a series of prior arbitration decisions in which arbitrators had either refused to restrict the selection of comparables on the basis of their organization or found that such a distinction was inappropriate. Some arbitrators found that wages and benefits paid to unrepresented comparables must be taken into consideration in evaluating competing offers. The Board argued that all of the foregoing elements support the selection of its recommended comparable groups.

III. Compensation. The Board said that the Union's focus on wages only is shortsighted. It said that wages are only one component of a compensation package. The Board said that the parties had bargained an excellent fringe benefit package to supplement wages. The Union assessment of the Board's offer excludes experience increments. It cited prior authority that both percentage and incremental increases should be added together in order to evaluate the total wage increase offers.

The Board anticipated that the Union would argue that the agreed upon fringe benefit package is standard in comparable districts. That argument ignores the cost of these benefits. It said that the Union offer is too costly even without prior service credits. Other districts presumably received something in return for increased fringe benefits. The Board has not received anything in return for increased benefits in this

instance. The Union is attempting to get a package increase of 110.2% including prior service credits. No other comparable offered prior service credits as part of its retirement benefit. Bargaining between these parties broke down because of the Union's insistence on prior service credits. For that reason substantive discussion of wages, salary structure and fringe benefits did not take place. The Board argued that these are economic issues and should be dealt with on a total package basis. It cited a series of seven other arbitrators' decisions which it argued supported the Board's position that, "it would be wrong for the arbitrator to concentrate only on the wage increase issue in determining which final offer is the most reasonable." The correct approach includes the costs of compensation including wages, increments, retirement, prior service credits, health and dental insurance and life and disability insurance benefits. It argued that, "the Board's offer is closer on all salary-only and total package settlement benchmarks. It reviewed salary and package costs for both offers over the three year period of this contract, and concluded that the Board's offer was above median package settlements each of the three years. The Union's offer during the last year was 11% above the median salary settlement and 15% above the median package settlement among comparables, without including the cost of prior service credits. It argued that the data is even more glaring when you add in the cost of the Union's prior service credit proposal.

The Board compared the components of its total package offer with the Union's offer and with other settlements beginning with a salary only comparison. The median salary increase for comparables totalled 19% for the period 1990-1993. At 15.7% over this period the Board has offered 3.3% less than the median salary increase. The Union's 22.4% total three year salary offer is 3.4% above the median for comparables. The Board calculated the median package increase for comparables at 22.7% compared to its three year package increase of 26.6% and the Unions 41.1% package increase without the cost of the prior service credits.

With prior service credits added the Union offer would increase package costs by 110.2%; that would be 87.5% above the median package increase. The Board argued that the foregoing data shows that the Union disregarded the cost of its offer. Further, any Union argument that its 1991-1992 offer is quid pro quo for its unreasonable retirement proposal is exposed as deception. It cited prior arbitral authority for the proposition that an offer that includes a series of reasonable proposals, which taken together appear to be unreasonable for specific reasons, should be declared unreasonable. The Board argued that the Union's package offer is unreasonable.

The Board argued that in many initial support staff contract negotiations the union requests that the employer provide retirement benefits under the WRS. If the employer agrees, "the most common negotiations issue becomes - what portion, if any, of the employees' share of the benefit will the employer pay and what is an appropriate quid pro quo? Often the parties agree to a wage freeze to offset the 6% cost of the employee's share." If any employer subsequently agrees to fund the employee's share, additional wage adjustments or freezes are justified. "If the issue of prior service credits is even proposed, it is almost always dropped and certainly never becomes the focal point of an interest arbitration proceeding." The issue with regard to the Union's retirement proposal is cost. The Union demand that the District pay for 50% of prior service credits would cost \$239,878.50. This is a great deal of money, particularly in Prentice where the public has rejected three referenda for modest building projects. On November 3, 1992, a 1.1 million dollar project was rejected. The Union proposal might be fair if money was not a concern. The District has limited sources of revenue and seemingly unlimited demands from students, staff, parents, taxpayers and government. "The Board must balance these often conflicting demands for the District's resources. It does not view the expenditure of almost \$240,000 to be in the interests of the District's children and public."



The Board said that, "the Union's retirement proposal is extreme and unsupported by the comparables, other school districts and arbitral opinion." No conference comparable provided prior service credits. The Board reviewed data relating to 222 municipal employers including 68 school districts which have joined the WRS over the past 9 years. Of these, 46 municipal employers including 7 school districts have purchased some level of prior service credits upon initial enrollment. Of the 7 school districts who provided some level of prior credits, only one had a unionized support staff. Prior service credits in that district were not a result of an arbitration proceeding. No municipal employer providing prior credits upon initial enrollment had as many as the 34 employees of the Prentice School District. The median number of employees and the percent of credit was: 2 at 0%; 3 at 25%; 1 at 50% and 3.5 employees at 100% prior service credits. Thirteen employers purchased additional credits a number of years after their initial enrollment in WRS. The Board argued, that from the foregoing, it is clear that there is no support for the Union's position. It is trying to achieve something through arbitration that it could not achieve through collective bargaining.

The Board noted that it has proposed paying a total of 7% including 1% of the employee's contribution toward WRS. The Union has demanded that the Board pay the entire 6% employee contribution for a total 12% employer contribution. A 1% WRS contribution is about equal to the cost of a 1% wage increase. This issue is significant and could, by itself, have resulted in an impasse in negotiations. The Board cited two prior decisions in which arbitrators had discussed the relationship between increased retirement contributions and wage increases. It said that the Board's offer in this proceeding is consistent with the practice of most school districts and superior to the pattern in the Marawood conference. Seven of nine districts, excluding Prentice, "began participation in a retirement benefit at less than the full employer and employee share." "It is clear that

the trend in the Marawood conference is to offer a retirement benefit at or below the employer's share rate established by WRS. Then over time, the boards' contributions to the . . . retirement move toward the total of about 12 percent." The District noted that the Union had proposed a modified wage freeze for 1991-1992. It said that the Union's proposed 1992-1993 wage increase eliminates any quid pro quo the Union may have used to justify its unreasonable position.

The Board said that all other issues in dispute are ancillary to the main issue of retirement and that issues' impact on total package costs. It noted that both offers would modify prior practices regarding health and dental insurance. The Board's offer would provide internal consistency and equity for such family benefits between school term and calendar year employees. Its offer is consistent with national trends which show employee contributions toward insurance benefits increasing rather than decreasing as they would under the Union offer. The Board argued that the Union would have the Board pay a greater share of insurance premiums but deny the Board latitude to change to coverages that are comparable to existing coverage. The Board has proposed to state its share of insurance contributions in dollar amounts. The Union is proposing that the Board's share be stated as a percent of premiums with the employee share stated in dollar terms. Both offers would result in the District paying the full premium for single dental and health coverage during the term of this contract. There is a significant difference between the two offers for family coverage. The Board said that its offer for both health and dental insurance for the period July 1, 1990 - November 1, 1992, reflects the practice that was in effect at the time these employees organized. At that time full-time school year and calendar year employees contributed \$48.80 a month for family health insurance. Calendar year employees also contributed \$20 toward family dental insurance; but, school year employees had to pay 50% of the dental premium.

Effective November 1, 1992, the Board offer would establish its contribution for all full-time employees, both school year and calendar year, at 75% of health and dental insurance premium cost. The Board argued that "this rate is about equivalent to the (health insurance) rate that was in effect prior to the Union election." The dental insurance premium is currently \$62.42. The Board argued that its offer to pay 75% of the premium, "is an improvement over any previous Board dental insurance benefit."

The Union offer would decrease the employee's share of the family health insurance premium to \$25 per month in 1990-1991 and \$30 a month for the final two years of the contract. It would reduce full-time employees' contributions for family dental insurance to \$10 a month for the term of the contract. The Board talked about the need to control sky-rocketing health care costs. It noted that these costs have increased by 120.4% in Prentice compared to an 18.1% inflation rate over approximately four years. The health insurance premium now costs \$444.36 a month or \$5,332.32 each year. This data proves the Board's need to control costs and serves to reject the Union's proposal to increase benefits. The Board reviewed a series of exhibits which showed that increasing numbers of private and public sector employers are requiring more employees to contribute larger amounts toward their health insurance coverage. It reviewed health cost trends and estimates of future health insurance increases and argued that, "concessions must be made in this area or others to alleviate the burden on the employer." "The Board is not asking the employees to cut any benefits, rather it is merely asking for the employees and the Union to recognize the impact that health insurance and other fringe benefits costs have on the salary and total package offer." The Board emphasized that it had agreed to provide a new life and disability benefit and that it had not received a quid pro quo for these new benefits.

The Board described the difference in the parties' proposed salary schedules and job classifications. The Board has proposed a 90% probationary rate compared to a Union probationary rate of between 93% and 99% for various salary schedules. The Board proposed a 10 year 10 step salary schedule, excluding the probationary step for all employees except bus drivers. The Board's proposal has annual increments of 20¢ for each step. The Union proposed a seven step schedule, excluding probation, with the maximum reached after 20 years for aides, secretaries, maintenance and custodial employees. Their increments would vary between 12 and 50 cents. It also proposes that food service employees and dishwashers have a six step schedule topping out at 15 years with increments between 10 and 20 cents. The parties also offered differing bus drivers' schedules; with the Board's based upon the same five step schedule used prior to the Union election and the Union's based upon a three step schedule. The salary schedules and mileage increments also vary.

The Board reviewed the parties' disagreements about the appropriate classification of employees. It said that the Board identified four classifications with groups corresponding to a salary schedule reflecting different levels of work, knowledge, skills and ability. The Union has proposed seven salary schedules for eight positions. The Board reviewed evidence and argued that its proposal was preferable. It said that the Union had taken a number of salary schedules from another district and attempted to fit the employees in this proceeding into this arbitrarily devised schedule. The Board said, "this approach to developing such an important component of a collective bargaining agreement is inexcusable." It noted that the Board's three year wage only increase totalled 15.7% compared to the Union's proposed 22.4% increase. The cost of living over this period has increased only 12.3 percent.

The Board reviewed base year wages for the five categories of employees and the effect that each parties' offer would have during the third year of this contract. The Board's offer would

increase wages between 83 and 97 cents with the largest increases going to the lowest paid kitchen employees. The Union's offer includes increases of between 80¢ and \$2 an hour, with the latter amount raising aides to the highest average hourly wage at \$7.77 an hour. The Board said that over the term of this contract its wage offer was 3.2% below the conference median in salary only, and 3.3% above that median in total package costs. The Union's offer is 3.7% above the median in wage only, and 16.1% above the median in package costs, if the cost of prior service credits are excluded.

The Board reviewed the two offers with cost of living increases; it concluded that its offer exceeds those increases on five of six salary-only and total cost benchmarks. It argued that the Union's final offer contained package increases three times the rate of inflation in the first year and seven times the inflation rate during the final contract year. It said that the Union's proposal becomes even more extreme when the \$240,000 cost for prior service credits is added. The Board stated that, "This cannot be justified." It argued that the CPI criterion should receive additional weight in this case because of "the precarious economic environment and perhaps because of the lack of solid comparison data among comparables."

The Board argued that the interest and welfare of the public supports its offer. The local economy is not robust; most of the tax base is provided by timber producing wild lands. Many local residents commute to jobs in Tomahawk, Phillips, Park Falls and elsewhere. The District does not have high property values. Median home values are the second lowest in the conference at \$28,900. Median household income is \$10,692; 12.8% of the families are at poverty levels. The unemployment rate for persons over age 16 is 16.6 percent. Prentice is the most depressed area in the conference based upon the latter data. Between 1989 and 1991 mean total income declined by 1.6% while levy rates increased by 22% and the cost of living increased by 14.6 percent. The school district needs to expand its facilities

and repair a 1938 building characterized as firetrap. Other capital requirements include classrooms, gymnasium, a library and a cafeteria/kitchen. Over the past three years three referenda to borrow between 1 and 2 million dollars have been voted down by voters by large margins. The Board has heard the voters' message and related that message to the Board's position regarding the Union's final offer.

The current political and economic environment has an impact upon what is in the best interest and welfare of the public. The national economy is slowly climbing out of a recession. The Board said that though the State's economy has not suffered badly there is still cause for concern. "Price County's unemployment rate was 7.6% compared to a Wisconsin unemployment rate of 5.3 percent." Wisconsin taxes its residents more than any other state except for New York. "Wisconsin gross property tax levies increased by 80% between 1981 and 1990." The District believes that the interest and welfare of the public is an important criterion in this proceeding. The Board believes that its modest offer more closely represents the public interest than the Union's offer.

In its 36 page reply brief, the District reiterated most of its previous arguments. It also commented on the Union's position as follows. The Board denied that new benefits for long term disability, life, health and dental insurance were the result of negotiations. The Board believed that these changes were appropriate; "the Union simply matched these proposals to be assured of such provisions in the Master Agreement regardless of the final offer selected." The Board denied that the Union's health and dental insurance proposals are consistent with the Prentice Teacher Contract. Teachers have a different health plan and the Union has proposed lower support staff contributions than the amounts paid by the teaching staff during 1992-1993.

The Board argued, with regard comparability, "the Union cannot persuasively argue that the appropriate labor market for Prentice . . . should exclude non-union employers. Similarly, it

is inappropriate to compare the terms and conditions of employment of a newly organized union to unions that have an established bargaining relationship." It argued that the arbitral authority cited in the Union's brief, from 1979-1986, was overruled by 1986 amendments to the Wisconsin Employment Relations Act. The Board criticized the Union's proposed comparables as having an average of 113.7 FTEs compared to 41.1 among Board comparables and 42 FTEs in Prentice.

The Board said that data provided by the Union for comparing health and dental benefits is incomplete and inaccurate. There is no data about costs. The Union's data doesn't distinguish between provisions which treat school-term employees on the same basis as 12 month employees. The Board reviewed data included on Union exhibits and argued that the Union's own comparables do not support its health insurance proposal. The Board criticized the Union's proposals to upgrade the positions of two custodial employees as maintenance, and to elevate the position of the present head cook. These proposals were called illogical, inequitable and unjustified. The Board does not accept the comparison of its support staff to the official poverty level. Only 6 of 35 employees have 12 month positions. "These individuals are likely to have additional family income provided by a spouse or through other work performed by the employee during the summer months." In 1990-1991, the average hourly wage for custodial employees was \$6.52 an hour or \$13,5632 per annum. That is more than the poverty level of \$13,359 for a family of four. "At least two of the custodians supplement this income as bus drivers for the district."

The District responded to the question, "Why support staff should be expected to pay part of the cost of the retirement benefit while the teaching staff does not?" It said of many reasons the Board would mention only two. Teacher retirement benefits are mandated by statute, staff retirement is not. "Second, retirement, as with other fringe benefits, is a

mandatory subject of bargaining. Fringe benefits and wages are traded off and weighed in the process of contract negotiations."

The Board said that in order to put the Union's prior service credit proposal into perspective it should be noted that in 1990-1991, the entire payroll for Prentice support employees totalled \$274,424 compared to the cost of \$240,000 for prior service credits. It said that the Union had minimized the cost by emphasizing that it could be paid off over an extended period. This would cost the district "hundreds of thousands of dollars in interest payments."

The Board offer would improve wages of food service personnel by almost 20%; that is more than any other group. Under the Union offer these employees would sacrifice for the benefit of more highly paid aides, secretaries and custodians. That is unfair to the food service staff. The Union's wage analysis is misleading because it compares individual wages in Prentice with maximum wages paid elsewhere. A net wage analysis, with adjustments for retirement, shows that the Board's offer is above the Union offer for head cook, second level food service and the lowest food service classification. The Board renewed many of the arguments it had previously stated and concluded that its offer is the only reasonable offer in this proceeding.

#### DISCUSSION

The historic employer-employee relationship which previously existed between these parties resulted in what appears to have been low wages and minimum benefits, except for health and dental insurance for School District support staff personnel over a period of years. After an effort to organize the support staff in 1989 failed, the employer granted these employees a 4% across the board wage increase for 1990-1991. Apparently the fact that there was no retirement program for support staff personnel was the motivating factor for a successful organizing effort in late 1990. The parties attempted to negotiate the terms for a 1990-1993 contract which incorporated existing 1990-1991 wages into the new three year agreement. By the time the final offers in



this proceeding were submitted, each party appears to have been exasperated by the position of the other. That exasperation has resulted in what appear to be two unreasonable offers for settlement being presented to the arbitrator who "shall adopt without further modification the final offer of one of the parties on all disputed issues."

Because both of the offers appear to this arbitrator to be unreasonable, the outcome of this proceeding will not result in an equitable settlement of the dispute over what constitutes a reasonable wage and benefit package for the Prentice educational support staff. The contract incorporating the terms of this award will expire within 40 days of the date of the award. Based upon the rhetoric employed by the parties during the course of this proceeding, it seems likely that some degree of acrimony may be carried into the next round of contract negotiations. The undersigned, having been exposed to the full fury of both parties' righteous indignation, has attempted to seriously evaluate the relative merit of the parties' positions on comparability, wages, health and dental insurance and retirement benefits. It is hoped that those evaluations will be of some benefit to the parties as they consider their positions for future contract negotiations.

COMPARABILITY. The Union correctly noted that, "the selection of comparability pools are extremely important in most cases. This is especially true in first contracts . . . In addition, the selection of initial pools can often have far reaching implications in future bargaining." The Union went on to argue that only geographically proximate school districts with an organized support staff should be included in the comparable pool, and suggested eleven schools which meet that criteria. The Union's proposed comparables must be rejected for a number of reasons. The Union has totally ignored the significance traditionally given to other conference districts in arbitration proceedings, and even excluded Granton which is both a Marawood Conference member and has an organized support staff. The Union

has not made its case for naming some districts and excluding other districts which appear to be more similar to Prentice under the usual considerations for determining comparability. The usual considerations include school districts which are of similar size, staff, equalized value, other tax and cost factors, are in the same geographic area and are similar in other matters which effect decision making within the community. In this case the Union has proposed Merrill which has 3,409 students and Medford with 2,435 students to be comparable to Prentice which has 638 students. It ignored Granton, a conference member, which has 400 students. It also proposed Ladysmith and Park Falls with equalized values of \$172,000 and \$169,500 as comparable to Prentice which has an equalized valuation of \$119,000, but again ignored Granton which has equalized value of \$91,166. The principal justification for the Union's choice of comparables appears to be that those eleven other districts are geographically close (within 75 miles) and their staffs are represented. The Board pointed to at least 9 other school districts which it said are organized, geographically closer, and more similar in size and tax base to Prentice than some of the Union's proposed comparables.

The Board recommended that the entire ten member Marawood Athletic Conference should be considered comparable. It presented evidence that other districts in the conference are similar to Prentice in enrollment, FTE, equalized value and geographic location. Arbitrators usually agree that other athletic conference schools are generally comparable unless special reasons require a contrary finding. The Union is correct in saying that the preference for conference comparability is not as strong in support staff cases as it is in teacher arbitration proceedings. Other conference schools, however, have been recognized as defacto comparables unless a contrary reason exists. The Union did not give any reason for ignoring other Marawood Conference Schools for comparison purposes. It simply declared that school districts which have unrepresented support

staffs are not relevant for comparison purposes. That conclusion does not accurately summarize either the law or the arbitral opinions cited by the Union in support of its argument. Five of the ten Marawood Conference school districts have organized support staffs. Based upon that fact as well as the size of those conference districts' enrollment, the number of FTE, their geographic location and equalized value it appears that the Board's proposed comparables constitute a more reasonable peer group for comparison in this proceeding than the Union's proposed comparables.

It may be that the Union's argument that unrepresented districts should be excluded from consideration has some merit under certain limited circumstances. It seems more likely that the fact that some comparables are unrepresented should be considered in weighing the effect of unrepresented units' wages and benefits in comparisons to wages and benefits in represented units. The arbitrator has reviewed all of the data presented by both of the parties for their proposed comparables. The conclusion on each issue presented for decision in this proceeding would be the same without regard for which group of comparables had been selected.

WAGES. The Union has argued that wages for this support staff are extremely low. That assertion is correct. The wages paid to these employees appear to have been lower than wages paid to any comparable during 1990-1991. Neither of the offers would improve that picture appreciably over the three year term of this contract. The most important index for the wage offers is the amount of money that these employees will receive during the 1992-1993 contract year, and where these employees will be positioned upon the expiration of this contract. For that reason, the following analysis has been limited to a comparison of the effect of these parties' 1992-1993 wage offers with the latest reliable wage data available from other Marawood Conference School Districts. The data presented for maintenance/custodial, secretaries/clerical, food service and

assistants and aides appears to be most comparable and most reliable. Twenty-six of the 36 members of this bargaining unit are in those categories; the remaining 10 employees are bus drivers. Driver compensation is discussed separately at the conclusion of this section.

Board exhibits 12 and 16 contain data for costing the two wage offers for 1992-1993. Under the two offers the average wage paid to the 26 hourly employees involved in this proceeding would be as follows:

	7 Aides	4 Clerical	6 Custodians	9 Kitchen
Board	\$6.60	\$6.45	\$7.11	\$5.90
Union	7.77	7.14	7.58	5.74

The Board's offer would result in an average wage of \$6.478 an hour for all employees during 1992-1993, compared to \$6.987 under the Union's offer. These average wages are different than the \$6.36 and \$6.92 reported on Union Ex 8, because of weighting. Some comparable school districts reported their average hourly wages to the Wisconsin Association of School Boards for various periods between 1990-1991 and 1992-1993. The most recent data available for each district which reported is contained in Board Appendices B and C. Those districts reported the following average hourly wages for similar employees: Abbotsford 1990-1991 - \$6.616; Pittsville 1992-1993 - \$9.05; Athens 1991-1992 - \$7.68; Edgar 1991-1992 - \$8.40; Marathon City 1992-1993 - \$8.16; Rib Lake 1992-1993 - \$10. Granton, Spencer and Stratford did not submit average hourly wage data in summary fashion. The wage data that they did submit, also included in Appendices B and C, shows that their average hourly wages far exceed average wages that these employees would receive under either offer in this proceeding.

From the record it appears that only four of the six maintenance and custodial employees who work 2,080 hours a year and two secretaries who work 1,840 hours a year are "full time"

employees out of the 26 hourly employees involved in this proceeding. Three aides work 1,512 hours and three other aides work 1,440 hours a year. Four food service employees are scheduled for 180 days at seven hours or 1,260 hours a year. The remaining 10 hourly employees and 10 bus drivers are clearly part timers. That ratio of full-time to full-time/part-time and part-time employees on the Prentice staff appears to be reasonably consistent to the ratio of full time employees on comparable staffs in the Marawood Conference. Among all comparables maintenance and bookkeeping personnel appear to be the highest paid and food service personnel receive the lowest wages. That pattern is also true in Prentice.

The Union has made a point of arguing that the poverty level for a family of four was \$13,359 during 1990. That point is particularly well taken in regard to the Maintenance/Custodial offers in this proceeding. Under the Board's offer, three custodians would have 1992-1993 wages of \$13,936, \$14,352 and \$14,968; its one maintenance employee would receive \$17,472 in 1993. The Union would reclassify one custodial employee to a maintenance classification. Under the Union's proposal two maintenance employees would receive \$17,701 and \$17,410 and two custodial employees would receive \$13,582 and \$14,851. No matter which offer is selected, custodian wages in Prentice are close to or below 1993 poverty levels. Comparable school districts reported data which has been calculated to show 1992-1993 maintenance/custodian wages between \$15,392 and \$18,865 in Marathon City. In Pittsville the head custodian receives \$10.32 or \$21,465 a year; building custodians receive between \$8.38 and \$9.64 an hour, or between \$17,430 and \$20,051 a year. Rib Lake reported a maintenance wage of \$25,694 and three building custodians receiving \$20,246. Comparisons of aide, secretarial and food service wages in Prentice with comparable positions in the conference yield equally dismal results. One is compelled to conclude that the hourly employees in this proceeding receive

dramatically lower wages than their counterparts in comparable school districts.

That condition would improve for aides, improve marginally for clerical and maintenance/custodial employees and deteriorate further for food service workers under the Union's offer. The Board's offer would help food service workers at the expense of other hourly employees. The Board's three year wage only offer for all employees is 3.3% less than the conference median wage settlement. Since these employees were at the bottom of the list heading into this proceeding, the Board's offer would make an already bad situation worse. The Union's wage offer, which is 3.7% above the conference median is more reasonable than the Board's offer. It would, however, neither address the inequities which exist between these employees and their fellow workers nor bridge the gap that exists between hourly employees in Prentice and in comparable districts. The Arbitrator has noted the parties' criticisms about the way the other party proposed to make structural changes to the existing wage and salary patterns. It is often necessary to either restructure salaries or create a rational salary structure during initial contract negotiations. Both parties alluded to the fact that, because of their inability to resolve the prior credit dispute, their negotiations reached an impasse before salary schedules could be addressed. The Union offer contains significant structural changes for long term employees. It noted that this alteration would provide a deserved wage benefit for four long term educational aides. Most of the Union's evidence in support of improved aide wages is based upon comparisons with school districts it offered as comparable, but which have not been found to be comparable to Prentice in this proceeding. The arbitrator has made no finding about which proposal may contain the more reasonable proposed wage schedule. It appears that both proposals leave a great deal to be desired. It also appears that there are substantial deficiencies in the existing structure which should be addressed.

Because ten of the members of this bargaining unit are bus drivers, it is necessary to note that existing drivers' wage compensation will be effected only marginally by the outcome of this proceeding. That compensation includes a daily wage, which under the Board's offer would be \$22.80 compared to the Union's \$22.70 in 1993. Drivers' compensation will also include an increment of 18¢ for each mile driven under either proposal. The difference in direct compensation that drivers will receive is insignificant and does not merit further discussion.

From the record it is obvious that the hourly employees in this proceeding are underpaid and will remain underpaid no matter which offer is adopted. As far as the wage only component of the offers is concerned, neither party's wage only offer is reasonable. A reasonable wage offer would cover the cost of inflation and begin to address the wage disparity that has existed between the support staff in Prentice to support staff employees in comparable districts over the three year term of this contract. The Union's wage offer is preferable in that regard.

HEALTH AND DENTAL INSURANCE. There are many similarities between these two insurance benefit plans. The parties have, for the most part, treated these benefits similarly in their differing offers. The greatest difference between the two offers on health and dental insurance relates to the language specifying their respective contributions and the amount of each parties' contribution toward premiums for family health insurance coverage. For that reason, this analysis of the two offers will be restricted to differences between their family health insurance proposals. Because the members of this bargaining unit receive low wages, the extensive and expensive health benefit which has historically been provided is a significant segment of the employees' total compensation package. That is particularly the case because more than one half of these employees are not full time employees of the District. Changes in premium cost and

the assignment of that cost have a great impact upon the employees' take home pay.

The parties have approached this important issue from different perspectives. Both have downplayed the economic cost impact of their offers as a central issue during this contract period. The Union has positioned its offer to give it leverage during future contract negotiations. The Board has treated insurance costs as just another element to be included in its total package argument. Apparently, because the Board focused that argument on the retirement issue, it did not provide comparable health insurance data for its comparables.

The disagreement is based upon the fact that monthly family health insurance premiums have increased from \$202 in 1988 when employees contributed \$48.80 toward cost to \$444.36 in 1992. The Board would assign \$111.09 of the latter charge to the employees while the Union would have them pay \$30 a month. An \$81 a month disagreement would be by itself, a substantial difference in any circumstance. It presents an even more serious problem when the \$973 annual cost is imposed upon employees who gross between \$4,863 and \$14,136 a year. (ER Ex. 15) On the other hand, the health insurance benefit to an employee who earns \$4,863 would constitute between 45 to 50 per cent of that employees' total compensation package, depending on which proposal is implemented. It seems obvious that the family health insurance benefit is a substantial and possibly critical benefit to these low paid employees. It is equally obvious that they cannot afford to pay a consistently increasing "proportionate share" of the increasing premium cost. The District seems to have recognized those facts in the past by having reduced the share of the employees' contribution from 24.2% in 1988; 17.4% in 1989; and, 13.1% in 1990. Under the Board's offer the employees would contribute 12.5% to premium cost during 1991-1992. Their share would increase to 25% or \$111.09 during 1992-1993. The District has justified this offer by arguing it is attempting to restore the 1988 status quo when it said the District paid 75% of the



premium. The problem with that argument is that, what existed in 1988, a 75.8% Employer contribution, is not the status quo. It appears that if the Board had offered to contribute between 82.6% and 87.5% it could more reasonably assert the status quo argument.

The Union has attempted to ignore the effect of increasing health costs. It argued that the Prentice teachers contract and external comparables support its offer. Neither of those arguments is accurate or persuasive. The evidence does not include sufficient information to compare teachers and staff coverages. However, the Board argued that "teachers have a different health insurance provision, plan and benefits than support staff employees." An examination of support staff contracts from Ladysmith, Athens and Abbotsford revealed that employees in those districts who work less than 2,080 hours a year are required to contribute substantially more than the amounts that the Union reported for calendar year employees contributions in those districts. Because only 4 of the 36 employees in this proceeding work 2,080 hours a year, and because the Union's proposed comparables have not been found to be comparable, there is little support for the Union's position.

More important is the fact that the Union has failed to recognize any responsibility for its members to share a reasonable amount of the cost of this benefit. The Union proposal would reduce employee contributions for family coverage by 37.5% at the same time the cost of the benefit is increasing by 19.6 percent. Neither party's offer for health and dental insurance premium sharing appears to be reasonable.

RETIREMENT BENEFITS. The Union is attempting to place its employees in the same position they might have hoped to achieve if they had organized many years ago. In order to achieve its goal, the Union offer would require the Employer to pay 100% of the employee's current share of contributions to the Wisconsin Retirement Fund, and purchase 50% of the retirement benefits that the employees would be entitled to receive if they had been

members of the WRS during the entire term of their employment with the District. The District has agreed to enroll its support staff in the retirement system; this requires it to contribute 6.2% of each qualifying employee's gross income to the fund. It has also agreed to contribute 1% or 16% of the employees' contribution. The arguments in support of the parties respective positions with regard to the retirement issue became particularly heated and sometimes shrill.

The Union, having negotiated a benefit which is costing the District 7.2% of the employees base wages, believes that the District should pay the additional 5.2% "employee contribution." The burden to support this contention is with the Union. It has attempted to meet that burden by showing that Prentice teachers and 10 out of 11 of its proposed comparables currently receive substantially the same benefit that it is seeking. Four of those Districts have been found to be comparable. In Abbotsford, Athens and Pittsville, the Boards contribute 6.2%, 5.8% and 6% of the employees 6.2% contributions to WRS; Winter has no retirement benefit. No information about retirement contributions is available for the other six Marawood Conference schools. The Board argued that employer retirement contributions on behalf of the employees in other districts has historically resulted from collective bargaining over a period of time. The Union objected to this argument as being unsupported by any evidence in the record. The Union's objection is well taken, however, the arbitrator has taken arbitral notice of this phenomenon which is well within the arbitrators' area of knowledge. There has been no evidence regarding what trade offs may have been made for the employer's agreement to contribute 5.8% and 6% for the employee's share in Athens and Pittsville since 1979 and 1981 respectively or pay 6.2% in Abbotsford in 1993. If that evidence had been available and presented, it may have been sufficient to convince this arbitrator that the Union's offer was comparable to at least those agreements. The fact that the District pays the entire teacher contribution to WRS is a good arguing point. Teachers,

as professionals, through organized units were successful in obtaining mandated retirement benefits many years ago. These organized units have subsequently negotiated increased employer contributions over time. The fact that the teacher's participation in WRS has been mandated for many years while that participation remains optional for support staff undermines the Union's argument for internal comparability.

The real stumbling block to continued negotiations for settlement in this proceeding has been the Union's insistence that the District purchase retirement benefits based upon the employees prior service at a one time cost of \$239,878. The Employer is being requested to purchase at present cost the value that would have been present in WRS if the employer had paid 100% of the employer's contribution to WRS during the entire period of time that existing employees have been with the District. Based upon the evidence, this provision would be of great benefit to two employees who have been employed by the District since 1961 and 1962. The Union has down played the magnitude of its request by emphasizing the fact that only 50% of the full benefit would be received. It emphasized that while the average length of service for current employees is 14.3 years, half of prior service credits would provide for approximately 7.15 years of retirement benefits for the average employee. The Union has also minimized the cost of this proposal by suggesting that it would cost \$6,666, if amortized over 36 years. It has also suggested that the employer is seeking to "throw employees out in the street with nothing but a kick in the pants." One understands the need to support an extreme position with strong argumentation; however, the point must be made that these arguments are disingenuous.

It is a fact that there are a number of long term employees who have not had the opportunity to participate in a retirement system through the Prentice School District. Because of their age, it appears that two of these employees will not have the opportunity to accumulate a meaningful retirement benefit. Two

other such employees apparently died or terminated their employment with the District since the time contract negotiations began. It is disheartening that these individuals and the families of long term low paid employees, are in the position of not having retirement security. The reason that they are now in this position is because their need to have access to retirement benefits was not recognized earlier during the course of their employment with this Employer. Now that the retirement system has been implemented, younger employees will have the opportunity to earn the kind of retirement security that longer term employees could not access. Younger employees will have the opportunity to negotiate contract terms which include wages and fringe benefits that was not formerly available. Collective bargaining is a recognized fact of life in labor management relations. The reason the long term employees referred to above do not have retirement benefits is because they did not negotiate those benefits in the past. It is not fair to employees, the Employer or to the Union to describe the employee's impending retirement as being "thrown out into the street." These individuals, like too many long term employees across the state and country, are approaching retirement without having accumulated a reasonable retirement benefit. During the many years they worked for the Employer, these employees received wages and benefits including health and dental insurance. The wage and benefit package that was paid and received did not occur in a vacuum. While one can speculate why retirement benefits were not negotiated for the support staff in this district, only the employees know the reasons that this benefit has not been implemented until this time.

There is no precedent for the Union's request that the District be required, through arbitration, to purchase 50% of the employees prior retirement credits. It would be inequitable to include this benefit, at the present cost of \$239,878 in this arbitration award. To do so would ignore the fact that the employees neglected or were unable to negotiate the benefit

previously. More significant is the fact that it would impose a charge upon the taxpayers in this District to pay for a benefit that the employees are not legally entitled to receive. The cost is \$239,878 not \$6,666 over 36 years. Neither party provided information to project the cost of deferring \$239,878 over a period of 36 years. The arbitrator, is therefore, unable to quantify the exact future cost which would be substantial. If the principal balance and future costs were imposed upon the District, residents of the District would become liable for the payment of well over one-half million dollars which is not their legal responsibility to pay. People moving into the District would see future tax dollars used to pay the bill for retirement benefits which had been "earned" before newcomers lived in the District. Those dollars would have to be diverted from other educational programs. Former employees of the District or their surviving spouses would be taxed in order to provide retirement benefits for which the former employees, though possibly just as deserving as present employees, could not share. An order that would require the payment of \$239,878 would deny the electors, the School Board and the Union the opportunity to utilize this capital in the best interest of furthering the interest of education in the Prentice School district.

QUID PRO QUO. The Union offered significant wage concessions in return for an improved retirement package. The arbitrator understands that the Union made a serious effort to offer something of value in return for its requested retirement package. The Union was working under an extreme handicap because it had only a minimal wage and benefit package to start with. The Union's offer to defer second year wage increases and its three year wage offer, taken as a whole, cannot be deemed quid pro quo for the Union's prior retirement credit request. It appears that the members of the Union were willing to make wage concessions during the first two year period of the present contract in order to obtain prior service credits. Economic reality, the need for more reasonable wages, is evident in the

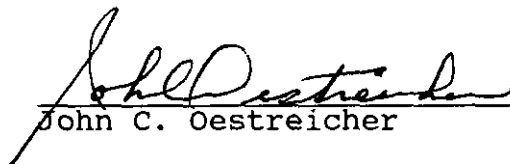
Union's third year wage offer. The requirement that these employees receive a reasonable wage during this contract period drove the total cost of the Union's offer to be too expensive to permit the offer to be considered as quid pro quo for prior service credits.

COSTING. The District's case was constructed to emphasize its 3 year package increase of 26.6 percent. Parties in arbitration proceedings customarily argue package costs. The Employer had the right to argue the merit of its offer which includes the costs of retirement; health, dental, disability and life insurance and wage increases. Arbitrators evaluate package offers and package costs in making comparisons with comparable settlements. The weight to be accorded to package costs varies with the circumstances of each individual case. In this case, where the wages and benefits received by the employees during the base period were minimal at best, most arbitrators would not be impressed by the District's package offer. After incorporating that offer into the parties' first contract, the support staff in the Prentice School District appear to have the lowest average base wages among comparable districts. They appear to be contributing more toward family health insurance premium cost than most comparables. They receive less in the way of retirement contributions than any comparable except one. Prentice support staff also is able to accumulate less sick leave and receive less vacation time than the vast majority of comparables cited by either party in this proceeding. The Employer's offer in this proceeding has begun to address some of the deficiencies in these employees' fringe benefit package. However, it did so at the expense of a wage scale which is substantially lower than wages in its own comparable districts. The fact that these already low paid employees have lost another 3.3% in average wages over the term of this contract makes the Employers' wage offer appear unreasonable. The Employers' combined wage and fringe benefit package offer appears to be barely reasonable.

This District has a long way to go before the wage and fringe benefits received by its hourly support staff are capable of being compared to those of other public employees performing similar services. For that reason the commitment of \$239,878 to pay for prior service credits appears to be unreasonable. Whatever funds this District is reasonably able to raise should be expended in order to make improvements to the District's educational system and improvements to this staffs' wages and fringe benefits. It is without enthusiasm that the arbitrator finds that the offer of the District should be incorporated into the initial bargaining agreement between these parties.

Dated this 26th day of May, 1993, at Madison, Wisconsin.

BY THE ARBITRATOR

  
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John C. Oestreicher