

**RECEIVED**  
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BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

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 :  
 In the Matter of the Petition of :  
 :  
 OCONTO FALLS SCHOOL DISTRICT :  
 :  
 To Initiate Arbitration Between : Case 12  
 Said Petitioner and : No. 46825 INT/ARB-6322  
 : Decision No. 27754-A  
 :  
 OCONTO FALLS COUNCIL OF EDUCATIONAL :  
 SUPPORT PERSONNEL :  
 :  
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Appearances:

Dennis W. Rader, Godfrey & Kahn, Attorneys at Law, P.O. Box 13067, Green Bay, Wisconsin 54307-3067, for the Oconto Falls School District.

Charles Garnier, WEAC Coordinator, Northeast Regional Office, Wisconsin Education Association Council, 550 East Shady Lane, Neenah, Wisconsin, for Oconto Falls Council of Educational Support Personnel.

ARBITRATION AWARD

Oconto Falls School District, herein after referred to as the District, and the Oconto Falls Council of Educational Support Personnel, hereinafter referred to as the Association, have by their agents, since November 19, 1991, and continuing through November 30, 1992, engaged in collective bargaining on an initial bargaining agreement to cover non-professional employes represented by the Association in a collective bargaining unit consisting of all regular full-time and regular part-time secretarial, clerical, custodial, maintenance and food service, aides and bus drivers, in the employ of the District, excluding supervisory, managerial, confidential, casual and professional employes.

On January 10, 1992, the District filed a petition with the Wisconsin Employment

Commission, hereinafter referred to as the WERC, requesting that the latter agency initiate arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act, and thereafter and on April 22, May 4, June 4, June 29 and November 30, 1992, a member of the WERC's staff conducted an investigation in the matter and after exchanging various proposed final offers, and having become deadlocked as of July 28, 1993, the parties submitted final offers, and a stipulation on matters agreed upon to the WERC. Thereafter, and on August 6, 1993, the WERC certified that the conditions for the initiation of arbitration had been met, and at the same time ordered that the parties proceed to final and binding arbitration to resolve the issues existing between them, and in that regard the WERC submitted a panel of seven arbitrators from which the parties were to select a single arbitrator. After being advised by the parties that they had selected the undersigned as the arbitrator, the WERC, on September 13, 1993, issued an Order appointing the undersigned as the Arbitrator to resolve the impasse existing between the parties, and to issue a final and binding award, by selecting either of the total final offers proffered by the parties to the WERC.

Pursuant to arrangements previously agreed upon, the undersigned met with the representatives of the parties on November 23 and 24, 1993, in Oconto Falls, and on said dates, upon being requested that the Arbitrator attempt to mediate various matters in issue, numerous matters which had been in issue were resolved, and during the afternoon of November 24, the Arbitrator proceeded to hearing on the matters remaining in issue. During the hearing the parties were afforded the opportunity to present evidence and argument. The hearing was not transcribed. The parties filed initial and reply briefs, and the record was closed as of February 9, 1994.

Compliment of the Bargaining Unit

The bargaining unit herein involves eight general employee classifications. The following reflects material data relating to the employees occupying same:

Aides - All 9 month employees

<u>Hrs. Worked</u> <u>1992-93</u>	<u>Number of</u> <u>Employees</u>
1,350	1
1,260	6
1,225	1
1,215	1
1,137	2
990	5
810	1
720	1
360	2
203	1
180	2
90	1

Food Service I - All 9 month employees

<u>Hrs. Worked</u> <u>1992-93</u>	<u>Number of</u> <u>Employees</u>
1,260	3
1,170	2
990	1
720	1

Food Service II - All 9 month employees

<u>Hrs. Worked</u> <u>1992-93</u>	<u>Number of</u> <u>Employees</u>
765	1
720	2
675	1
630	1
315	1
225	1

Bus Mechanic - 12 month employee

<u>Hrs. Worked</u> <u>1992-93</u>	<u>Number of</u> <u>Employees</u>
2,080	1

Housekeeper/Cleaner - 10 month employees

<u>Hrs. Worked</u> <u>1992-93</u>	<u>Number of</u> <u>Employees</u>
1,220	1
1,040	1
810	1
270	1

Housekeeper/Cleaner - 12 month employees

<u>Hrs. Worked</u> <u>1992-93</u>	<u>Number of</u> <u>Employees</u>
2,080	1

Custodian - 12 month employees

<u>Hrs. Worked</u> <u>1992-93</u>	<u>Number of</u> <u>Employees</u>
2,080	6

Maintenance - 12 month employees

<u>Hrs. Worked</u> <u>1992-93</u>	<u>Number of</u> <u>Employees</u>
2,080	2

Secretary - 10 month employees

<u>Hrs. Worked</u> <u>1992-93</u>	<u>Number of</u> <u>Employees</u>
1,640	1
1,608	1
1,560	2
1,536	1
1,440	1

Secretary - 12 month employees

<u>Hrs. Worked</u> <u>1992-93</u>	<u>Number of</u> <u>Employees</u>
2,080	4

36 Bus Drivers - all 9 month employees

Hours worked varied

Contract Provisions Agreed Upon

During; the course of their bargaining, and at least through July 22, 1993, the parties reached an accord on a significant number of provisions to be included in the bargaining agreement involved herein. Said agreed provisions were set forth in their original stipulation filed with the WERC prior to the appointment of the instant Arbitrator. The stipulation was included as exhibits filed by both the Associate (Assn. Ex. 6), and the District (Dist. Ex. 4). Said agreed provisions related to the following:

Art. I - Agreement

Art. VII - Progressive Discipline Procedure

Art. II - Recognition

Art. VIII - Job Posting

Art. III - Management Rights

Art. X - Hours of Work (In Part)

Art. IV - Association Rights

Art. 11 - Seniority (In part)

Art. 5.0 - Definition of Employees (In part)

Art. 12.0 - Reduction in Personnel, Layoff  
and Recall

Art. VI - Grievance Procedure

Art. 14.0 - Conditions of Employment  
(In part)

Art. XIV - Bus Driver Procedures  
(In part)

Art. 15 - Holidays

Art. XVI - Jury Duty Leave

Art. 16.0 - Vacations ( In part)

Art. 17.0 - Paid and Unpaid Leaves

Art 18.0 - Fringe Benefits

Art. XX - No Strike Clause

Art. XX - Due Deduction

Art. 20.0 - Compensation (In part)

Art. 21.0 - Term of Agreement (In part)

Art. XXI - Fair Share

Art. XXI - Savings Clause

#5 - Addendum (In part)

Said agreed upon provisions are set forth herein as Appendix A, pages 1 through 32.

During the mediation conducted by the Arbitrator the parties reached agreement on proposals relating to the following:

Art. V - Definition of Employee  
Secs. 5.01.1, 5.01.2, 5.02.1 & 5.02 2

Art IX - Seniority/Layoff Procedure  
Secs. 9.03 & 9 09

Art. X - Hours of Work and Overtime  
Sec. 10.02 & Assn. Sec. 14.06

Art. XIV - Conditions of Employment  
Secs. 14.25 & 14.31, as well as provisions relating to "Equipment, Supplies & Training" and "Health and Safety"

Art. XVII - Paid and Unpaid Leaves  
Sec. 17.06.6

Art. XIX - Emergency School Closing  
Sec. 19.01

Art. XXVII - Terms of Agreement  
Sec. 27.01

Said agreed provisions are set forth in Appendix B, pages 1 through 3, attached hereto.

The parties proposed wage schedules to be included in their bargaining agreement.

During the course of their bargaining they agreed upon the hourly wage rates to be paid, during the course of the agreement, to employees occupying the classifications of Aide, Food Service I and II, Custodian, Housekeeper/Cleaner-Courier, and Bus Mechanic. The agreed upon rates are as follows:

	<u>Hire</u>			
<u>1991-92</u>	<u>Rate</u>	<u>12 Months</u>	<u>24 Months</u>	<u>36 Months</u>
Aide	5.94	6.69	7.06	7.43
Food Service I	5.94	6.69	7.06	7.43
Food Service II	5.30	5.97	6.30	6.63
Custodian	7.43	8.36	8.83	9.29
Housekeeper/Cleaner-Courier	6.12	6.89	7.27	7.65
Bus Mechanic	8.02	9.02	9.52	10.02
<u>1992-93</u>				
Aide	6.18	6.96	7.34	7.73
Food Service I	6.40	7.20	7.60	8.00
Food Service II	5.60	6.30	6.65	7.00
Custodian	7.85	8.83	9.32	9.81
Housekeeper/Cleaner-Courier	6.68	7.52	7.93	8.35
Bus Mechanic	8.42	9.47	9.99	10.52
<u>1993-94</u>				
Aide	6.43	7.24	7.64	8.04
Food Service I	6.66	7.49	7.90	8.32
Food Service II	5.82	6.55	6.92	7.28
Custodian	8.16	9.18	9.69	10.20
Housekeeper/Cleaner-Courier	6.94	7.81	8.25	8.68
Bus Mechanic	8.75	9.85	10.39	10.94

The hourly rates to be paid to employees occupying the positions of Secretary, Maintenance and Bus Drivers, to be included in the wage schedules, are in issue, except the parties have agreed to the scheduled rates to be paid to the Secretary position for the 1991-92 year as follows: Hire Rate - \$6.54, Step 1 - \$7.35, Step 2 - \$7.76, and Step 3 - \$8.17.

#### The Proposals Remaining in Issue

While the parties agreed on various provisions to be included in their bargaining agreement, as reflected in their stipulation on agreed provisions, as well as the provisions agreed upon during the mediation efforts of the Arbitrator, there remain a number of proposals not agreed upon, and thus, were left for the determination of the Arbitrator. The proposals in issue are as follows:

#### HOURS OF WORK

##### Association Proposal.

"Section 14.1: (Effective upon receipt of Arbitrator's award.) The normal work year for each employee shall be the same as he/she enjoyed during the 1990-91 fiscal year of the District. The number of days worked by employees during the District's fiscal year may be changed by the District with the providing of two weeks notice to the employee and to the Association. Any reduction in the length of any employee's work year shall not result in any reduction in pro-rated benefits for that fiscal year. This section shall not be deemed to restrict the ability of the District to implement provisions of Article 12.0 of this Agreement.

Section 14.2: Employee Work Week: Unless specifically noted elsewhere in this Agreement, the work week for all employees shall be Monday through Friday. This section shall not be deemed to restrict the ability of the District to implement provisions of Article 12.0 of this Agreement.

Section 14.3.1: Full-time Employee Work Day: (Effective upon receipt of Arbitrator's award.) The work day duration for each employee shall be the same as he/she enjoyed during the 1990-91 fiscal year of the District. This section shall not be deemed to restrict the ability of the District to implement provisions of Article 12.0 of this Agreement.

Section 14.3.2: The normal summer work day for all employees performing duties in pay categories 1, 2, or 3 shall be 6:00 a.m. to 2:30 p.m.

Section 14.3.3 (First sentence of language dropped.) Any reduction in the work day or work week for any employee shall not result in a reduction in pro-rated benefits for that fiscal year."

District Proposal:

"Section 10.01: This article is intended only to provide a basis for calculating overtime and shall not be construed as a guarantee of hours of work per day or per week. Compensation shall not be paid more than one for the same hours of work."

VACATIONS

Association Proposal:

"Section 16.1: All regular full-time calendar year employees who have been continuously employed for a period of at least twelve (12) months shall be entitled as follows:

<u>Years of Continuous Service</u>	<u>Length of Vacation</u>
Five months	1 day
Six months	2 days
Seven months	3 days
Eight months	4 days
Nine months - one year	1 week (five work days)
One year	1 week (five work days)
Two years	2 weeks (10 work days)
Ten Years	3 weeks (15 work days)
Fifteen years	4 weeks (20 work days)
Twenty-five years	5 weeks (25 work days)

Any employee receiving more vacation than set forth above shall be grandfathered with those current benefits as of July 1, 1993."

(Asso. dropped Sec. 16.1.1 of its offer)

District Proposal:

"Section 13.01: All regular full-time fiscal year employees who have been continuously employed as stated below shall be entitled to vacation as follows:



<u>Years of Continuous Service</u>	<u>Length of Vacation</u>
Five months	1 day
Six months	2 days
Seven months	3 days
Eight months	4 days
Nine months - one year	1 week (five work days)
One year	1 week (five work days)
Two years	2 weeks (10 work days)
Ten Years	3 weeks (15 work days)
Fifteen years	4 weeks (20 work days)

Any employee receiving more vacation than set forth above shall be grandfathered with those current benefits as of July 1, 1993."

BUS DRIVER PROCEDURES

Association Proposal:

"Section 14.24.4: Extra-curricular trips for bus drivers. (Effective with receipt of Arbitrator's award.)

All extra-curricular trips including those over 210 miles in length shall be posted and all drivers shall be allowed to sign up for the trip. Drivers will be selected on seniority and qualifications only. Regular bus drivers shall have the right of first refusal, on a rotating seniority basis, to drive all extra-curricular trips. All bus drivers shall be deemed to be fully qualified to handle all extra-curricular trips. Sub drivers will be assigned to drive the regular driver's normal route if such regular driver is driving an extra-curricular trip. At least twenty-four (24) hours advance notice shall be provided to all bus drivers whose names are found on the above-mentioned rotating seniority list.

Appendix B (Bus Driver Wage Schedules)

1. Bus Drivers 1991-92 (Wage increase agreed to prior to arbitration hearing).
  - a. 5% Raise      Regular Routes - \$9.31 per trip and \$.22 per mile  
                   Extra Curricular - \$5.84 per hour and \$.15 per mile  
                   In City Ex. Cur. - \$6.55 per hour and \$.15 per mile
  
2. 1992-93 Wage Schedule for Bus Drivers
  - a. Increase all per hour, per mile and per trip rates found in Appendix B, #1 above, by 4%.

- b. Plus 2% Incentive Bonus on Gross Salary as per practice in effect for 1990-91 fiscal year.
  - c. Plus a uniform shirt.
3. 1992-93 Wage Schedule for Bus Drivers
- a. Increase all per hour, per mile and per trip rates found in Appendix B, #2 above by 3%.
  - b. Plus Incentive Bonus as per practice in effect for the 1990-91 fiscal year.
  - c. Plus a uniform shirt."

District Proposal:

"Section 14: Extra-Curricular Trips for Bus Drivers. All extra-curricular trips over 210 miles in length shall be posted or assigned to the more senior driver. Drivers will be selected on seniority and qualification only. There shall be no rotation.

All extra-curricular trips under 210 miles in length shall be offered to bus drivers on a rotation seniority basis.

Extra-curricular trips involving students from Abrams, Little Suamico and Spruce schools shall be assigned to bus drivers who normally drive those routes on a rotating seniority basis. Regular drivers will have the right to post on a rotating seniority basis for any trips (including extra-curricular trips) under 210 miles in length that do not interfere with their regular routes. Drivers will be advised of their driving assignments on the previous Thursday whenever possible.

Bus Driver Wage Schedule

		<u>Extra Curricular</u>	<u>In City Extra Curricular</u>
1991-92:	\$9.31 per trip .22 per mile	\$5.84 per hour .15 per mile	\$6.55 per hour .15 per mile
1992-93:	\$9.31 per trip .22 per mile	\$5.85 per hour .15 per mile	\$6.55 per hour .15 per mile
1993-94:	\$9.31 per trip .22 per mile	\$5.84 per hour .15 per mile	\$6.55 per hour .15 per mile

Bus drivers do not receive any contractual benefits (except health insurance if they meet the criteria under Article 18). Bus Drivers receiving sick leave shall be grandfathered.

\* The bus drivers shall receive a four percent (4%) lump sum payment on the \$9.31 per trip amount (\$.37 per trip) for the 1992-93 year, and a seven percent (7%) lump sum payment (\$.65 per trip) for the 1993-94 year."

WAGE RATES APPLICABLE TO SECRETARIES AND MAINTENANCE EMPLOYEES

Association Proposal:

	<u>Hire Rate</u>	<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>
"1991-92				
Secretaries	6.54	7.35	7.76	8.17
Maintenance	8.02	9.02	9.52	10.02
1992-93				
Secretaries	7.06	7.94	8.38	8.82
Maintenance	8.42	9.47	9.99	10.52
1993-94				
Secretaries	7.34	8.26	8.72	9.17
Maintenance	8.75	9.85	10.39	10.94"

District Proposal:

	<u>Hire Rate</u>	<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>
"1991-92				
Secretaries	6.54	7.35	7.76	8.17
Maintenance	7.83	8.81	9.30	9.79
1992-93				
Secretaries	6.86	7.72	8.15	8.58
Maintenance	8.25	9.28	9.79	10.31
1993-94				
Secretaries	7.14	8.03	8.47	8.92
Maintenance	8.56	9.63	10.17	10.70"

LUMP-SUM PAYMENTS

Association Proposal:

"2. Wage Schedule Provisions

- (c) Any employee whose 1990-92 hourly wage was in excess of his/her 1991-92 step placement shall receive a lump-sum payment in the amount of 4% of his/her 1990-91 hourly wage for 1991-92. Such lump-sum payment shall not be added to the employee's step placement wage on the wage schedule.
- (d) Any employee whose 1991-92 hourly wage (not counting the 1991-92 lump-sum payment) was in excess of his/her 1992-93 step placement shall receive an additional 4% lump-sum payment for 1992-93. Such lump-sum payment shall not be added to the employee's step placement wage on the wage schedule.
- (e) Any employee whose 1992-93 hourly wage (not counting the 1991-92 lump-sum payment) was in excess of his/her 1993-94 step placement shall receive an additional 4% lump-sum payment for 1993-94. Such lump-sum payment shall not be added to the employee's step placement wage on the wage schedule.
- (f) Except for those employees included in provisions c, d, and e above, no employee shall receive less than a 5% increase in his/her wage rate for 1991-92. The difference between the step placement wage rate and a 5% increase shall be paid to the employee in a lump-sum not to be added to the wage schedule. Such lump-sum payment shall be paid in 1991-92, 1992-93 and 1993-94."

#### District Proposal

"Red-circled employees receive a 4% lump-sum payment in 1991-1992. In 1992-93 red-circled employees and bus drivers receive a 4% increase over their 1990-91 rate in a lump-sum payment. In 1993-94 red-circled employees and bus drivers receive a 7% increase over their 1990-91 rate in the form of a lump sum payment."

#### TERM OF AGREEMENT

#### Association Proposal

"21.0 This agreement shall be in full force and effect from July 1, 1991 through June 30, 1994. Unless specifically noted herein, all provisions of this agreement shall be retroactive to July 1, 1991."

#### District Proposal

"Section 21.01: This agreement shall be in full force and effect from July 1, 1991 through June 30, 1994. Provisions shall be retroactive only if so stated on an item-by-item basis."

### The Task of the Arbitrator

The Arbitrator must determine which of the final offers remaining in issue is more supported by the evidence adduced herein relating to the statutory criteria set forth in Sec. 111.70(4)(cm)7 of the Municipal Employment Relations Act, and therefore to be incorporated in the collective bargaining agreement between the parties. Said statutory provisions set forth the following criteria:

- a. The lawful authority of the municipal employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceeding with the wages, hours and conditions of employment of other employes generally in public employment in the same community and in comparable communities.
- e. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceeding with the wages, hours and conditions of employment of other employes performing similar services.
- f. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceeding with the wages, hours and conditions of employment of other employes in private employment in the same community and in comparable communities.
- g. The average consumer prices for goods and services, commonly known as the cost-of-living.
- h. The overall compensation presently received by the municipal employes, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

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

#### The Statutory Criteria

a. The Lawful Authority of the District

Neither party questions the lawful authority of the District with respect to the instant proceeding.

b. Stipulations of the Parties

As set forth previously herein, the parties have stipulated to various provisions to be incorporated in their 1991-94 agreement. In that regard, the executed stipulation was made part of the record herein. In addition, the parties, in mediation with the Arbitrator, also agreed to include, alter, or exclude, various proposals contained in their final offers submitted to the WERC and subsequently to the Arbitrator. Said agreements have been indicated previously herein.

c. The Interests and Welfare of the Public and the Financial Ability to Meet the Costs of Any Proposed Settlement

Neither party maintains that the District does not have the financial ability to meet the costs generated by either of the final offers.

d. Internal Comparison

The Association argues that the sole internal comparable is the bargaining unit consisting of the District's professional employees, e.g., teachers, etc., which unit is represented for the purposes of collective bargaining by the Association. It claims that the negotiated bargaining agreement covering said employees contains working conditions and

fringe benefit provisions which either closely parallel provisions currently being provided for the instant non-professional employees via District policy, or are contained in the Association's final offer. It contends that there exists a substantial community of interest between the two groups, in that both groups (1) are employed by the District; (2) are unionized; (3) have a common funding source; and (4) work closely with students in a school building work setting.

*The District does not address this criteria.*

e. The External Comparables (Public Employers)

The Association proposes that the school districts of Clintonville, DePere, Howard-Suamico, Marinette, Menominee Indian, Peshtigo, Pulaski, Shawano-Gresham, Southern Door and West DePere, comprise the most appropriate set of external comparables, for the following reasons:

1. Various classifications of their non-professional employees are represented for purposes of collective bargaining
2. All are within thirty miles of the boundaries of the instant District, Southern Door "as the crow flies".
3. The instant District is the "median school" as to the size of pupil enrollment.
4. A "statistically valid and reliable range of schools was established with Oconto Falls as the median school," and that the instant District is geographically centered among said comparable group of districts.

The District contends that the districts of Coleman, Gillett, Howard-Suamico, Peshtigo, and Pulaski constitute the most appropriate group of external comparables, contending that on average, said pool closely resembles Oconto Falls with respect to enrollments, FTE's, etc., and because of comparable criterion of geographic proximity, local labor markets, size, state

aides and student costs. The District argues, that based on geographic proximity, a labor market approach, economic data, and recruitment of the support staff employees, the districts of Clintonville, DePere, Marinette, Menomonee Indian, Shawano-Gresham, Southern Door, and West Depere should be eliminated from the comparable group.

The Association argues that the Gillett and Coleman districts are not similar to Oconto Falls in size or in wealth, and even though contiguous to the instant District it shares no common characteristics with it. It points out that since Peshtigo is not contiguous to Oconto Falls, the districts of Marinette, Menomonee Indian, Shawano-Gresham and Clintonville need not be so.

In determining the most appropriate external comparable pool proposed by each of the parties, the Arbitrator has examined the bargaining agreements of the proposed districts, covering the classification of employees performing duties similar to those performed by the instant employees, and their provisions applicable to the issues herein. The districts in the Association's proposed pool are all parties to bargaining agreements for the terms indicated, and said agreements are applicable to the employee classifications noted.

<u>Clintonville</u>	(1991-93)	Aides, Clericals, Custodians and Food Service
<u>DePere</u>	(1991-93)	Aides, Clericals, Custodians and Food Service
<u>Howard-Suamico</u>	(1991-93)	Aides, Secretaries
Two agreements	(1992-94)	Custodial, Maintenance
<u>Marinette</u>	(1992-94)	Aides
Two agreements	(1992-94)	Custodial, Maintenance
<u>Menomonee Indian</u>	(1991-93)	Aides, Custodians, Maintenance, Secretaries, and others
<u>Peshtigo</u>	(1990-93)	Aides, Custodians, Food Service, and Secretaries



<u>Pulaski</u>	(1992-95)	Cooks, Custodians
Three agreements	(1992-95)	Aides and Clericals
	(1992-95)	Bus drivers
<u>Southern Door</u>	(1991-93)	Aides, Clericals, Custodians, Food Service, Secretaries, and Bus Drivers
<u>West DePere</u>	(1990-93)	Custodians

The District's proposed comparable pool would include the districts of Howard-Suamico, Peshtigo and Pulaski, also included in the pool proposed by the Association, and the districts of Gillett and Coleman. The agreements involving the latter two districts are for terms, and cover the classifications, as follows:

<u>Coleman</u>	(1990-93)	Aides, Custodians, Food Service, and Secretaries
<u>Gillett</u>	(1993-95)	Aides, Custodians, Food Service, and Secretaries

Discussion

Neither the evidence submitted by the parties, nor the arguments relating thereto have persuaded the Arbitrator to select one pool over the other. All the districts, with the exception of Southern Door, are within 35 miles of the borders of the instant District. The exclusion of Southern Door would result in only one of the proposed districts, namely Pulaski, employing bus drivers, in one of their bargaining units. The Arbitrator has *determined to include all of the districts proposed by both parties in most appropriate public sector pool.*

f. The Private Sector Comparable

The District has not proposed any private section employer comparables. The Association includes only the Scott Paper Company's operation located within the boundaries of the District, primarily to compare the wage rates granted to its "maintenance" employees

compared to the rates proposed to the two maintenance employees in the employ of the District. The District protests the appropriateness of such a comparison, arguing that its maintenance employees possess skills which are "in any way near to the skill of a millwright in a paper mill."

#### Discussion

While the Association submitted, as an exhibit, a copy of a bargaining agreement applicable to employees of the Scott Paper Company, it presented no substantive argument with regard thereto.

#### g. The Cost of Living

The Association points out that both of the offers, in the aggregate, exceed the cost of living, and it argues that "the two proposals are so similar that the cost of living is not an issue herein." The District makes no argument with respect to this criteria

#### h. Overall Compensation

Neither parties produced any arguments relating to "overall compensation" which would be generated by their individual offers.

#### i. Change in Circumstances

As noted previously herein, the parties in meeting with the Arbitrator, and prior to the opening of the formal hearing with respect to the remaining issues, agreed upon a number of provisions to be either excluded, amended, or excluded from the provisions of the agreement involved herein, as indicated previously.

## The Provisions in Issue

### Hours of Work

The Association contends that the District's proposal would grant the District total control over all the factors applicable to an employee's yearly earnings, except the hourly wage, and that unit employees would not have any idea as to what their annual earnings might be. It indicates that the District's proposal does not set forth the hours, days or weeks which an employee can be reasonably expected to work, and thus the District could exercise an unreasonable degree of control over the total compensation an employee might earn during the year. It further argues that the District's proposal would permit the District to reduce the level of insurance premium payments paid by the District "simply by reducing the number of hours worked by an employee in a given week."

The Association characterizes its proposal as being more reasonable than that of the District, for the following reasons:

- (a) It grants the District the right to modify the lengths of the work day, work week, and work year, and provides for a reasonable notice thereof, so long as the District follows the provision in the layoff provision.
- (b) It prevents the District from immediately reducing its insurance premium payments during the year involved.
- (c) It does not limit the District's right to restructure positions, nor to reduce hours, provided that the layoff clause of the agreement is complied with.
- (d) It does not require that the layoff provisions be followed if the modification of the work schedule does not result in a reduction of hours worked.

Further, the Association points out that its proposal does not constitute a guarantee of hours worked per day or per week, in that the District would be free to change work schedules or load, as long as the District follows the conditions set forth in the layoff

provision of the agreement. The Association further asserts that its proposal is consistent with the provision set forth in the teacher bargaining agreement, since the terms "work day, work week, and work year" are defined in that agreement. The Association contends that of its proposed external comparables the bargaining agreements existing for the following units in the following districts "closely parallel its proposal":

DePere (Aides, Clerical, Custodial, Food Service)  
Howard-Suamico (Aides, Office) and (Custodial)  
Menomonee Indian (Aides, Custodial, Maintenance, Secretaries)  
Pulaski (Aides, Clerical, Custodial, Food Service) and (Bus Drivers)  
West DePere (Clerical)

The District opposes the Association's proposal set forth in the latter's Section 14.01, in that any reduction in the length of an employee's work year would require the District to maintain the laid off employee's benefits at the same level, regardless of the reduction in hours. The District argues that there is no comparable district, in its comparable pool, that has a bargaining agreement which provides such a benefit. The District also claims that the language in Sections 14.2, 14.3.1 and 14.3.2, of the Association's proposal attempts to tie the hands of management to effectively respond to the daily needs of the District. The District claims that its proposal is more reasonable than that of the Association.

The Association counters with the claim that its proposal, in Section 14.1, laid off employees, being on an unpaid status, would not have the right to receive benefits, and that the remaining sections of its proposal affords the District the necessary flexibility to deal with emergency or unusual situations, "in addition to its ability to use the overtime provisions of the contract or to direct part-time staff to extend their work day if the District wants to avoid overtime payments".

In rebuttal, in its reply brief, the District contends that Section 10.02.3 in Article X (Appendix A, p. 29) and agreed upon by the parties, sets forth that "work schedules showing the employee's shifts, work days, and hours shall be posted in each school." It further argues that its proposal does not permit it to arbitrarily reduce an employee's hours of work, and contrary to the claim of the Association, the District emphasizes that not one district in either of the proposed comparables is supportive of the Association's proposal.

#### Discussion with Respect to the Hours of Work Proposals

The utilization of the District's contract covering the teachers sets forth that "regular building hours shall be from 8:00 a.m. to 4:00 p.m. each day" and that the "regular school year shall be 187 days in length." However, these provisions, in themselves, do not persuade the Arbitrator that the Association's proposal should be favored over that of the District. The teachers are not hourly paid employees. They are employed on an annual contract basis. The teacher agreement also provides the following in Article XVII - TEACHER HOURS AND CLASS LOADS:

- "A.1. Teachers shall spend time outside of building hours to the extent necessary for adequate preparation for instruction, pupil and parent consultations, co-curricular functions, and other activities related to instruction.
2. Teachers shall attend staff meetings outside of building hours when and as required by the district administrator or principal.
3. Each teacher shall attend school related evening meetings as follows:  
  
Two parent-teacher conferences  
One open house
4. A teacher's starting and ending time may be changed by mutual consent of the teacher and the building principal. In all such cases, the Association will be advised of any modification to the starting and ending times of all teachers. This modification shall in no way be less than an 8 (eight) hour day."

"D. Second and third paragraphs:

The parties recognize that there will be situations of imbalance resulting from changes in personnel and student load, the topography of the District and enrollment changes during the year.

It is recognized that recommendations of class size and teaching load apply to traditional classroom teaching situations; and as such, they may not be applicable where new teaching techniques, methods of instruction, and facilities are involved."

Further, there exists no provision in the teacher agreement which requires a layoff of any teacher in order to avoid the reduction of hours of work of another teacher.

A review of the pertinent provisions existing in bargaining agreements covering the employees of the districts in the combined external comparable pool discloses the following:

Clintonville - Provides for the layoff of probationary employees (first); then regular part-time; and then regular full-time employees in inverse order of seniority, providing that the remaining employees are capable of doing the work. The agreement does not set forth work day, or weekly hours. The "Wage Payment Schedules" appended to the agreement reflects the hourly rate of each unit employee, by name, as well as the number of "yearly hours" for which they will be paid for each of the two years of the agreement.

Coleman - "Article X - Hours of Work and Overtime:

Section 10.01: This article is intended only to provide a basis for calculating overtime and shall not be construed as a guarantee of hours per day or per week. Compensation shall not be paid more than once for the same hours of work.

Section 10.02: Should it be necessary in the judgment of the Employer to establish daily or weekly schedules departing from the normal work day or work week, notice of such change shall be given to the employee affected as far in advance as is reasonably practicable.

Section 10.03: All overtime hours worked must have prior approval by the District Administrator or designee. With prior approval, all hours actually worked over forty (40) hours per week, shall be paid at time and one-half (1 1/2) of the employee's regular straight time hourly rate of pay.

Section 10.04: The Employer reserves the right to schedule overtime work as required in a manner most advantageous to the Employer and consistent with the requirements of the School District in the public interest. All overtime shall be scheduled and distributed as equally practicable among employees, who, during the regular working hours, customarily perform the work required."

DePere - "Article X - Hours of Work/Work Day/Work Week:

- A. The usual work week shall be Monday through Friday.
  
- B. The usual work day for employees when school is in session is as follows:

Food Service	6:00 a.m. - 2:30 p.m.
Custodial (1st shift)	6:00 a.m. - 4:00 p.m.
Custodial (2nd shift)	1:00 p.m. - 11:00 p.m.
Clerical	7:00 a.m. - 5:00 p.m.
Aides	7:30 a.m. - 4:00 p.m.

The usual work day for employees when school is not in session is as follows: 6:00 a.m. - 3:30 p.m.

- C. Variances in the above scheduled ranges to conform with changing operational needs shall be discussed with the Union prior to making changes."

Although the agreement does not define the work week or work year, it does provide overtime pay for work in excess of forty (40) hours per week (Article XIII).

Gillett - Article XV - Work Week/Work Day:

"This article shall not be construed as a guarantee of hours of work per day or per week. Compensation shall not be paid more than once for the same hours of work."

The article sets forth that the normal work week shall be Monday through Friday, and thereafter indicates the number of hours scheduled for the week (ranging from two and one-half(2 1/2) to forty (40) hours for the various classifications of the employees covered by the agreement. It also defines the normal work days by setting forth the number of daily hours, ranging from one and one-half (1 1/2) to eight (8) for

the various employee classifications.

Howard-Suamico: (Clerical and Aides) Article V - Workweek/Workday:

- "A. The normal work week for all employees shall be Monday through Friday.
  
- B. The typical and normal workday for all employees shall be between the hours of 6:45 a.m. and 5:00 p.m. These hours are subject to adjustment by the employer on special occasions but will not become an every work day occurrence. The normal workday for full year and school year employees shall consist of no less than six (6) nor more than eight (8) hours. During the summer, and on special occasions employees may be scheduled for more or less than eight (8) hours per day.

(Custodians) Article XIII - Hours of Work:

Generally the hours of work for the various shifts are as follows:

Day Shift (DS):	6:30 a.m. to 3:00 p.m.
Night Shift (NS):	3:00 p.m. to 11:30 p.m.
Late Shift (LS):	4:00 p.m. to 12:30 p.m.

Variances in these hours to conform with changing operational needs shall be discussed with the Union prior to making changes.

On days which are part of an official recess, as designated on the school district calendar, the hours for all day shift and night shift employees shall be 7:00 a.m. to 3:30 p.m. Summer hours shall begin the day after students are dismissed and shall end the day before the student year begins.

All employees, unless specifically designated otherwise, shall work five (5) days per week, eight (8) hours per day, for forty (40) hours per week."

Marinette - (Aides) Article XV Conditions of Employment:

- "A. The parties recognize the District's right to determine the hours of work, length of the school year and work assignment of employees."

(Custodial and Maintenance) Article 10 - Hours of Work, Overtime and Sunday Pay:

- "1. This article is intended only to provide a basis for calculating overtime and shall not be construed as a guarantee of hours of work per day or per week. Overtime shall not be paid more than once for the same hours of work.



- . . .
3. The work week and work hours, including lunch hours and coffee breaks, shall be as presently posted until changed by the Employer on five (5) working days notice. No change is presently contemplated and the workday shall be the consecutive twenty-four (24) hours coinciding with the calendar day, provided, however, when the employee's shift extends over into the next calendar day, all hours worked on that shift, shall be deemed to have been worked on the calendar day on which the shift began."

Menomonee Indian - Article IX - Reduced Hours Layoff/Recall:

- "A. When the Board, at its discretion, determines to eliminate a position or to reduce the hours of employment because of workloads, budgetary or financial limitations or for reasons other than performance or conduct of the employee, the following shall be used within each classification:
1. To the extent feasible, reduction in staff shall be accomplished through normal attrition.
  2. If the necessary reduction cannot be achieved through normal attrition, then layoffs shall be made in inverse order of seniority provided the remaining employees are qualified to perform the available work.
  3. If further reduction is necessary, the regular part-time employees shall have hours reduced or shall be laid off in the inverse order of their length of service in the District provided that the remaining employees are qualified to perform the available work.
  4. If further reduction is necessary, then full-time employees shall have their hours reduced or shall be laid off in inverse order of their length of service in the District, provided that the remaining employees are qualified to perform the available work."

Peshtigo - "Article XI Hours of Work and Overtime:

Section 11.01 This Article is intended only to provide a basis for calculating overtime and shall not be construed as a guarantee of hours of work per day or per week. Compensation shall not be paid more than once for the same hours of work. No employees shall be required to work split shifts."

Pulaski -(Cooks and Custodials) "Article 9 - Hours of Work/School Closing

9.01 The present method of scheduling hours and the present working hours shall remain as scheduled. The Union shall be notified prior to any changes in hours "

(Aides/Clericals) - Identical provision.

(Bus Drivers) - "Article 9 Hours of Work/School Closing"

9.01 The present routes and the present working hours shall remain as presently scheduled. The Union shall be notified prior to any changes in hours."

Southern Door - (The agreement contains no provision relating to the daily, weekly or annual hours of work.)

West DePere - "Article 13 Hours of Work, Overtime and Call In Pay:

- A. The normal work week for all employees shall be forty (40) hours per week whenever possible. Work hours shall be determined by the district Administrator in cooperation with building principals. All employees shall be granted a thirty (30) minute duty-free lunch period. This lunch period shall not be considered time worked.
- 1) Normal work day shall consist of eight (8) hours exclusive of the thirty minute duty-free lunch period.
  - 2) Employees shall be entitled to a fifteen (15) minute break from work in the morning or afternoon."

While some of the collective bargaining agreements applicable to the districts in the comparable pool include provisions which are parallel to a portion of the provision relating to work day, work week and work year as proposed by the Association, none of the comparable pool agreements contain provisions which would require the districts involved to continue the pro-rated benefits to employees laid off, for the fiscal year in which they are laid off. It should also be noted that among the provisions agreed upon by the parties are provisions relating to work day and work week and work schedules. (See pages 29 and 30 of Appendix A, attached hereto.) Therefore, the District's offer with respect to the instant provision is more acceptable to the Arbitrator than is the proposal of the Association.

## The Proposals Relating to Vacations

### The Procedural Issue

In its initial brief the District called the Arbitrator's attention to the language in the Association's proposal contending that it was contradictory, in that in the first paragraph of its proposed article vacation benefits were limited to "all regular full-time calendar employees who had been continuously employed for at least twelve (12) months" and that subsequently, in said article, twelve (12) month full-time employees who, during the first five months, and thereafter up to the first full year of their employment, would be entitled to vacation benefits.

In its reply brief the Association set forth that it recognized such inconsistency, indicating that it had intended to revise such language by striking the language which required such employees "to be continuously employed for at least twelve (12) months", but had inadvertently failed to do so. The Association urged the Arbitrator to accept its "clarification", and thus the initial language in its proposal would be consistent with the initial language in the District's proposal.

Upon the receipt of the Association's reply brief, counsel for the District, on February 14, directed a letter to the representative of the Association objecting to the request of the Association, contending that no evidence was adduced during the course of the hearing before the Arbitrator with regard thereto. On February 14, the Association's representative directed a letter to the District's counsel setting forth that the former had no objection to reopening the hearing to permit the District to respond to the "clarification" request of the Association. On the same date, and apparently upon receipt of the Association's offer to reopen the hearing, District's counsel did not agree that the hearing should be reopened. On February 21, by

letter addressed to the Arbitrator, with a copy sent to District's counsel, the Association representative again offered to reopen the record. On February 23, District's counsel, in a letter addressed to the Arbitrator, did not agree with the Association's request. By letter dated February 24, the representative of the Association indicated that the Association "deferred" the matter of reopening the record to the Arbitrator.

Discussion

The Arbitrator has no jurisdiction, and therefore no authority, to permit the Association to amend its final offer which has been previously submitted to the WERC. Had the District agreed to permit the Association to amend its vacation proposal during the course of the mediation, or during the course of the hearing before the Arbitrator, the change in the Association's proposal would have been accepted by the Arbitrator, based upon the stipulation of the parties reflecting such change.

The Merits of the Proposals

The District's bargaining unit consists of 98 employees, fourteen of whom are full-time twelve (12) month employees. As of the commencement of the 1993-94 school year the years of service of said employees were as follows:

<u>Years of Service</u>	<u>Number of Employees</u>	<u>Years of Service</u>	<u>Number of Employees</u>
3	1	13	1
4	2	14	2
9	1	21	1
10	2	32	1
12	3		

The Association urges the Arbitrator to favor its vacation proposal for the reason that a majority of the external comparable districts provide its regular twelve month employees twenty-five (25) days of maximum vacation accumulation, namely the districts of Clintonville, Marinette, Menominee Indian, Pulaski and Southern Door. It argues that the District's proposal reduces existing benefits, and is not supported by the external comparable districts.

The District contends that its proposal is the more reasonable, pointing out that only one of the districts in its proposed pool has a vacation article which conforms to the District's maximum benefit, and that its schedule exceeds the vacation schedules in the other four districts.

#### Discussion

Appendix C attached hereto reflects the vacation benefits applicable to twelve month employees in the employe of the Arbitrator's external comparable pool. An examination thereof reflects that the five districts named by the Association do provide that employees can earn twenty five days of vacation provided they comply with the conditions therefor. Four of the districts provide no more than twenty days of vacation. It should be noted that both offers herein provide that "Any employee receiving more vacation than set forth above shall be grandfathered with those current benefits as of July 1, 1993". It should be further noted that the bargaining agreement in the district of Howard-Suamico grants employees 20 days of vacation after 16 years of service, and that the agreements in Peshtigo and West DePere grants 20 days of vacation to those employees who have completed 17 years of service. Both proposals herein provide 20 days vacation after 15 years of service, with the Association's proposal providing 25 days of vacation when an employee has completed 25 years of service.

As of the commencement of the 1993-94 school year, none of the full-time twelve month employees of the District have been employed for less than one year. Only one of said employees has over twenty five years of service. Thus, it is apparent that only the latter employee could possibly be affected by the difference in each of the proposals. Further, the employee who has twenty years of service will not reach the twenty five year plateau until four years beyond the expiration date of the bargaining agreement involved herein. Based upon the above, the Arbitrator concludes that neither proposal can be favored over the other.

### The Issue Relating to Bus Driver Procedures

As previously noted, the parties have not agreed upon procedures arising out of assignments to regular bus drivers to extra-curricular trips, as well as to the assignment of substitute drivers to routes of regular drivers when the latter accept assignments involving extra-curricular trips.

#### Background

For some time there has existed a practice by the District of distributing to its bus drivers a manual setting forth their duties and responsibilities in performing of such work assigned to them. Said manual contains the following provisions relating to the issues raised by the offers of the parties:

#### "EXTRA CURRICULAR TRIPS

##### A. Assignment Procedures

1. At the beginning of the school year, interested drivers will register with the transportation staff their intent to drive extra-curricular trips.

2. Names are selected on a rotation basis. Consideration will be given to the ability of the driver to handle a specific assignment. If a coach, teacher or chaperon does not wish a particular driver on a trip, he must state the reasons in writing and submit it to the Transportation Supervisor. Consideration will be given to legitimate complaints.

3. Whenever possible, drivers will not be taken off their regular routes to drive an extra-curricular trip.

4. An assignment sheet will be issued to the driver of the trip. Drivers should confirm any trip with the bus garage office as soon as possible and before Friday, 4:30 p.m. Failure to confirm may result in reassignment of that trip to another driver.

#### B. General Information

1. Extra-curricular trips will be divided into two categories:

a. Regular drivers (defined as any driver who drives at least once a day (A.M., P.M., or both, or noon) and is assigned to a regular route, may sign up for any extra-curricular trips which do not interfere with regular routes.

b. Sub drivers may sign up for any trips which do interfere with regular routes.

2. Trips will be assigned according to the list of drivers who sign up each year. Always let the office know if this changes."

#### The External Comparable Districts

Only two of the districts in the external comparable pool established by the Arbitrator have bargaining agreements which cover its school bus drivers. Those employed by the Pulaski district are covered by a bargaining agreement separate and apart from units covering (a) custodians and cooks, and (b) clerical and aides. A review of the Pulaski bus driver 1992-95 bargaining agreement reveals that the bargaining unit set forth therein consists of "all employees employed as bus drivers, excluding the Head Bus Mechanic and any part-time or seasonal employees." While the agreement contains no provisions specifically relating to extra-curricular routes, it does contain the following provisions, relating to seniority and

substitute drivers:

"6.04 Seniority Lists

1. A list of all bus drivers, compiled together, based on first day licensed for employment in this District, or in case of a tie, the day of employment shall be utilized. Further ties shall be broken by a coin toss between the parties involved.
2. For individual school trips, the seniority list of the respective school shall be used.
3. For district functions which involved more than one school, the district-wide seniority list shall be utilized."

"7.08 A substitute driver is hired as a permanent driver immediately after serving as a substitute for more than 20 consecutive school days on the same route. The days worked beyond 20 will be credited in determining contract benefits. Year-end stipend will be prorated based upon time recognized as a bargaining unit member."

The Souther Door 1991-93 agreement reflects that bus drivers are in the same unit with the other non-professional support staff employees in the employ of said district. The agreement contains the following provisions relating to bus driver assignments:

"B. Assignment

1. Kindergarten, Late Route Openings  
New kindergarten routes and late routes shall be assigned on a seniority basis with each specific route area upon submittal of a request.
2. Extra Trips  
Bus drivers shall be notified, if feasible, one week in advance of an extra trip date, by the transportation supervisor."

Positions of the Parties

According to the Association, the primary issue raised by the proposals of the parties is "whether regular drivers will be allowed to drive the extra-curricular trips of over 210 miles



and have substitute drivers drive the regular drivers' route, while the regular driver is driving the extra-curricular trip." It claims that the District's proposal would only permit a regular driver to take an extra-curricular trip if the latter could do so if a substitute driver would not be assigned to take over the regular driver's normal route. The Association contends that its proposal would grant all drivers the opportunity to drive the longer extra-curricular trips. It also points out that both proposals would continue the present practice of allowing regular drivers to drive extra-curricular trips under 210 miles in length.

The Association points out that the substitute drivers are familiar with the regular routes and with the students transported on such routes, and that the District produced no evidence to establish that the safety record of the substitute drivers was "any different" than that of the regular drivers, and, further, that no evidence was adduced to establish that substitutes experienced more student discipline problems than that experienced by the regular drivers. It concludes that the District's proposal would continue to deny regular drivers with the opportunity to generate "extra money" which would result from driving the extra curricular trips. It desires that all bus drivers have the opportunity to earn such extra compensation, and that it has proposed that such extra assignments "be made on a rotating basis among all drivers, not just among the substitute drivers."

The District urges the Arbitrator to prefer its offer with respect to extra-curricular assignments. It sets forth its argument as follows:

"Regular bus drivers are hired by the school district to transport students to and from school on a daily basis - this is their function. Their regular routes provide the bus driver with a consistent level of work thereby insuring stability in their earning capacity.

Substitute drivers are utilized on a call-in basis to fill in for drivers when they are absent or they may be used for extra-curricular bus trips. These drivers are fairly compensated but they do not enjoy the luxury of a steady paycheck.

For years the District has had the practice of not allowing regular drivers to get off their regular duties to take the extra-curricular trips. Consistency on the students daily routes were and continue to be the first priority of a regular route driver. Driving regular routes is a regular bus drivers job - not an inconvenience to be performed between extra-curricular trips. The Union asks that the regular drivers be allowed to leave their jobs in order to drive an extra-curricular route claiming that they should have the opportunity to earn extra money generated by driving extra-curricular trips. The Union points out that a substitute driver could earn as much in one evening by driving bus on an extra-curricular trip than driving one week on a regular route. This may be true, but the substitute driver does not have something that the regular route driver has - a steady paycheck.

The District's offer does not prohibit regular drivers from driving extra-curricular trips. It simply limits them from being excused from their job to do so. This is no different than the practice in Pulaski. On long extra-curricular trips (over 210 miles) the District proposal allows the District to choose a driver based on qualifications instead of strict seniority. This insures that the most experienced drivers handle the long trips. The District is not trying to deprive regular drivers from earning additional money, this is an issue of safety. From a safety standpoint, it simply makes sense that you would want the most experienced drivers for the most difficult trips.

In conclusion, the District avers that their proposal provides a reasonable balance between the regular route drivers' desire to earn additional money through extra-curricular trips and the District's desire for regular route drivers to consistently perform the jobs they were hired for thereby providing consistency to the students they serve."

### Discussion

Neither party adduced any evidence relating to the number of extra-curricular trips of either under or over 210 miles in length during the period covered by the bargaining agreement in issue herein, nor the identification of the regular or substitute bus drivers who drove the buses on said trips. Nor did they adduce any evidence with regard to accidents involving bus drivers on any of their routes or extra-curricular trips, or any evidence with regard to student misbehavior experienced by any of the drivers on regular routes or extra-

curricular trips.

Neither of the provisions in the two bargaining agreements covering bus drivers in the employ of Pulaski and Southern Door support the Association's proposal, nor does the Association make such a claim. The objections of the District to the Association's proposal are neither arbitrary nor capricious, but are based upon reasonable and legitimate concerns of problems which could result from its implementation. The Arbitrator favors the District proposal with respect to "bus driver procedures."

#### Compensation Issues

The Association summarizes the primary differences between the parties with respect to employee compensation as follows:

- (a) Wage rates for secretaries for 1992-93 and 1993-94;
- (b) Wage rates for maintenance personnel for 1991-92, 1992-93 and 1993-94;
- (c) Amount of "lump sum" increases for certain aides, food service workers, housekeeper/cleaners, custodians, secretaries and maintenance personnel;
- (d) 1992-93 and 1993-94 wage schedules for bus drivers;
- (e) Whether wage increases for bus drivers should be "rolled-in" for 1992-93 and 1993-94; and
- (f) Whether bus drivers should continue to receive a 2% bonus.

#### Discussion Relating to Wage Schedules

It is significant that in their bargaining the parties reached an accord on the wage schedules to be incorporated in the bargaining agreement for its entire three year term, applicable to employees occupying the classifications of Aide, Food Service Worker I, Food Service Worker II, Custodian, Housekeeper/Cleaner/Courier, and Bus Mechanic. During the

hearing the parties submitted detailed exhibits reflecting the years of service, hourly rates, as well as annual earnings paid to all employees occupying the above classifications for the year 1990-91, as well as similar data which would be generated by the agreed upon wage schedules for the three years of the agreement. In their wage schedule proposals the parties agreed on the hourly rates applicable to the secretaries for the year 1991-92. However their proposed schedules differ with respect to the secretarial wage rates for the 1992-93 and 1993-94 years of the agreement. Their offers relating to the rates for the maintenance employees differ in all steps for each year of the agreement.

The parties, in their arguments relating to their proposed wage schedules, concentrated on the maximum rates appearing in such schedules, and the Arbitrator agrees that said rates are most appropriate for consideration, since they "cap" the scheduled wage rates for each year involved.

In 1990-91 there existed disparities in the hourly rates paid to employees occupying the same classification. The following tabulation reflects the disparities<sup>1</sup> among the employees having more than three years of employment as of the 1990-91 year:

<u>Number of Employees</u>	<u>Classification</u>	<u>Range Of Hourly Rates</u>	<u>Range of Years of Service</u>
11	Aide	\$ 5.50 to \$ 7.20	3 to 23
7	Food Service I	5.50 to 7.15	13 to 31
4	Food Service II	5.40 to 6.75	4 to 17
3	Custodian	8.26 to 9.25	8 to 12
4	Housekeeper/Cleaner/Courier	6.00 to 7.80	3.5 to 23.5
1	Bus Mechanic	9.45	8
10	Secretary	6.96 to 10.30	6 to 30
2	Maintenance	9.49 and 9.98	8 and 10

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<sup>1</sup> No evidence was adduced as to the basis for such disparities.

### Aide

The rates of the eleven Aides averaged \$6.40 per hour in 1990-91. The agreed upon hourly rate, reflected in the wage schedule for said employees for 1991-92 was set at \$7.43, or an increase of 16.1% over their average hourly rate of the previous year. The agreed upon scheduled maximum hourly rates increase to \$7.73 and \$8.04 in the following two years of the agreement.

### Food Service Worker I

In 1990-91 the seven employees occupying the instant classification received an average hourly rate of \$6.44. The scheduled maximum rate for 1991-92 was set at \$7.43 per hour by the parties, reflecting an increase of 15.4% above the average rate of the previous year. The agreed upon scheduled maximum hourly rates increase to \$8.00 and \$8.32 during the following two years of the agreement.

### Food Service Worker II

The four qualified employees in this classification received an average hourly rate of \$6.05 in 1990-91. The scheduled maximum rate for 1991-92 was set at \$6.63 by the parties, reflecting an increase of 9.6% above their average rate received in 1990-91. The agreed upon scheduled maximum hourly rates increased to \$7.00 and \$7.28 during the remaining two years of the agreement.

### Custodian

The qualified employees in this classification received an hourly rate averaging \$8.84 in 1990-91. The scheduled maximum hourly rate for 1991-92 of \$9.29, as agreed to by the parties, reflected an increase of 5.1% above the average rate received by them during 1990-

91. The agreed upon scheduled hourly rates increase to \$9.81 and \$10.20 during the remaining two years of the agreement.

Housekeeper/Cleaner/Courier

The three qualified employees in this classification received an average hourly rate of \$7.17 in 1990-91. The schedule maximum rated for 1991-92 was set at \$7.65 by the parties, reflecting an increase of 6.7% above the average rate received by them during 1990-91. The agreed upon scheduled hourly rates increase to \$8.35 and \$8.68 during the remaining two years of the agreement.

Bus Mechanic

The one qualified Bus Mechanic received an hourly wage of \$9.54 during the 1990-91 year. The scheduled maximum hourly rate for 1991-92 of \$10.02, as agreed to by the parties, reflected an increase of 5.0% above the rate received by the Bus Mechanic during 1990-91. The agreed upon scheduled hourly rates increase to \$10.52 and \$10.94 during the remaining two years of the agreement.

Secretary

In 1990-91 all ten of the employees occupying the Secretary classification had more than six years of employment with the District, and therefore, automatically qualified for the scheduled maximum rate agreed to by the parties for the year 1991-92. Five of the lower paid employees earned the following hourly rates of pay during the 1990-91 year, and will earn the rates indicated for the year 1991-92, pursuant to the agreed scheduled maximum rate for the year:

<u>Employee</u>	<u>1990-91 Hourly Rate</u>	<u>1991-92 Hourly Rate</u>
1	\$ 6.96	\$ 8.17
2	7.50	8.17
3	7.50	8.17
4	7.50	8.17
5	7.50	8.17
Average	\$ 7.39	\$ 8.17

Since the five higher paid employees in the Secretary classification received hourly rates in 1990-91 which exceed the scheduled hourly rates proposed by the parties in their offered wage schedules for the year 1991-92, both parties have proposed supplemental lump sum payments to said "red-circled" employees, which sums would exceed the scheduled maximum hourly rates reflected in their proposed wage schedules.

#### Maintenance

In 1990-91 the two employees occupying the instant classification received \$9.49 and \$9.98 per hour respectively. As to the lower paid employee the Association's schedule would provide hourly rates of \$10.02, \$10.52 and \$10.94 for the three years of the agreement. The District's proposed schedule would provide hourly rates of \$9.79, \$10.31, and \$10.70 for the three years of the agreement. As to the employee who had earned \$9.98 per hour in 1990-91 the Association seeks lump sum payments for said employee pursuant to the Association's offer to guarantee said employee at least a 5% increase in his hourly rate. Under the schedule proposed by the District, which provides for wage increases lower than those proposed by the Association, said employee would suffer a \$.19 per hour reduction in 1991-92, and the District, being aware of that situation has also proposed lump sum payments for that employee, an issue also to be discussed later.

The following tabulation reflects the comparison between the scheduled maximum hourly rates proposed by each of the parties to be applicable to employees in the Secretary and Maintenance classifications with the scheduled maximum rates agreed upon during bargaining applicable to the employees occupying the classifications of Aides, Food Service Worker I, Food Service Worker II, Custodian, Housekeeper/Cleaner/Courier, and bus Mechanic (hereinafter designated as the "Average of Six"):

	<u>1990-91</u>	<u>1991-92</u>	<u>1992-93</u>	<u>1993-94</u>	<u>3 Year Increase</u>	
					<u>Monetary</u>	<u>Percentage</u>
<b>Average of Six</b>	\$ 7.41	\$ 8.08	\$ 8.57	\$ 8.95	\$ 1.50	20.2%
<b><u>Secretary</u></b>						
Assoc.	7.39	8.17	8.82	9.17	1.78	24.1%
Dist.	7.39	8.17	8.58	8.92	1.53	20.7%
<b><u>Maintenance</u></b>						
Assoc.	9.49	10.02	10.52	10.94	1.45	15.3%
Dist.	9.49	9.79	10.31	10.70	1.21	12.8%

It is obvious from the above that the District's proposed schedule generates increases to the five Secretary employees which are closer to the agreed upon increases granted to the employees in the six classifications, while the Association's proposed schedule applicable to the Maintenance employee is closer to the average of the employees in the six classifications. Since the five employees in the Secretary classification outnumber the one employee in the Maintenance classification, and since all of said six employees would receive hourly rates pursuant to the wage schedules only, the Arbitrator is persuaded to favor the District's offered schedule pertaining to the Secretary and Maintenance positions.



## Wage Rates Applicable to Secretaries

### Background

Ten secretaries have been in the employ of the District, as of the commencement of the 1993-94 school year, from 9 to 32 years. Five of the secretaries have been "red-circled" since at least the commencement of the 1991-92 school year.

As indicated previously herein, the parties have agreed to wage schedule rates applicable to secretaries for the year 1991-92 as follows:

<u>Hire Date</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>
\$6.54	\$7.35	\$7.76	\$8.17

The proposals of the parties for the secretarial wage rate schedule for the two remaining years of the bargaining agreement are as follows:

	<u>Hire Date</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>
<u>1992-93</u>				
Association	\$7.06	\$7.94	\$8.38	\$8.82
District	6.86	7.72	8.15	8.58
<u>1993-94</u>				
Association	\$7.34	\$8.26	\$8.72	\$9.17
District	7.14	8.03	8.47	8.92

### The Association Position

The Association sets forth that for the year 1990-91 the maximum rate paid to the District's secretaries was \$9.10 per hour, or \$.59 above the average maximum hourly rate paid to like employees in the employ of the districts in its comparable group; that for the year 1991-92 the agreed maximum scheduled hourly rate applicable to the District's secretaries, of \$8.17 per hour, as agreed upon by the parties, was \$.69 per hour less than the average of the

hourly rate paid by the districts in its comparable group; and that for the year 1992-93 the Association has proposed a maximum scheduled hourly rate of \$8.82, \$.62 below the average rate of its comparable group, as compared with the offer of the District of \$8.58 per hour, resulting in a rate \$.86 below said average. The Association made no comparisons for the 1993-94 school year since only one of its comparable districts had settled on the hourly rate applicable to secretaries for the latter school year.

#### The Position of the District

The District indicates that the parties have agreed on the wage increase applicable to its secretarial positions for the 1991-92 school year, however, that the increases to the said positions are in issue for the 1992-93 and 1993-94 school years. It points out that the agreed schedule increases for the year 1992-92 exceed the average increases granted by its set of proposed comparables by \$.14 per hour at the maximum; that the District's offer for the 1992-93 school year exceeds the comparable average by \$.15 per hour, while the Association's offer for that year would exceed the comparable average by \$.39 per hour. The District also claims that for the 1993-94 school year its proposed schedule maximum hourly rate of \$8.92 is \$.31 above the comparative average for that year, as compared to the \$9.17 scheduled hourly rate proposed by the Association, amounting to \$.56 per hour above the comparative average. The District points out that five of the ten secretaries in its employ are "red circled", and that the combining of the schedule rates and their "red circled" lump sum payments amount to hourly rates, for said secretaries, during the three years of the agreement, exceeding the comparable wage averages by \$2.54, \$2.28 and \$2.41 respectively, while under the Association's proposal said rates would exceed the comparative averages by \$2.54, \$2.69

and \$2.82 respectively. The District contends that the latter differences illustrate that the Association is unreasonable and not supported by the evidence.

The District characterizes the Association's wage comparisons as being "flawed" due to the latter's failure to include all applicable positions for each of the Association's comparables, as indicated by the following:

<u>Comparable</u>	<u>Positions Compared By the Association</u>	<u>Positions Not Compared By the Association</u>
Clintonville	Clerical I	Clerical II and III
DePere	Principal's Secretary	High School Office Secy. Guidance Secretary Accounting Secretary
Howard-Suamico	Fiscal Year Secretary	School Year Secretary
Pulaski	Central Duplicating	Secretary
Southern Door	Secretary I	Secretary II

The District summarizes the above tabulation as follows:

"In each case, the Association chose to utilize the highest paying position and eliminate the other positions, even though they were comparable to the secretary/bookkeeping position in Oconto Falls. Why would one use the central duplicating positions, which is a print shop position, in Pulaski and not use the secretary classification? This is simply illogical - unless of course, you only want to include the highest paying positions.

The secretarial comparisons provided by the Association are simply misleading due to the Association's gross manipulation of the facts as they relate to wages paid in comparable districts.

In conclusion, the District's offer is consistent with wages paid to comparable school district positions. The Union is demanding higher wages which are in part, based on misleading wage information they have provided. Clearly, the District's offer which provides secretaries with wages which exceed the comparable average is reasonable."

### Association's Reply Brief

In its reply brief, the Association points out that in 1990-91 the maximum rate of \$9.10 per hour applicable to the District's secretaries, was far above the maximum rates in Coleman, Gillett, Howard-Suamico, and Peshtigo, and as a result, the offers of both parties reduced the previous differential at the maximum levels for the 1991-94 period of the bargaining agreement, and therefore, the Association's offer cannot be deemed more unreasonable.

With regard to the District's characterization to the effect that the Association's comparables are "flawed," the Association argues that the parties "agreed to consider only one secretarial category in Oconto Falls in the instant case, and that there would be no higher secretarial category than those contained in their final offers. Nor will there be any lower wage categories", and therefore it was reasonable for the Association to only utilize the highest wage categories among the comparables, and therefore the District's argument would be relevant only if the final offers had established multiple wage categories therein.

### The District's Reply Brief

In its reply brief, the District claims that the offer of the Association, as it relates to the secretaries, "is unequitable to the rest of the bargaining unit" , and therefore the District's offer relating to wage increases is the more reasonable. (The Arbitrator will consider the issue with respect to the lump-sum payments to be paid to the secretaries, as well as to the maintenance employees, following the consideration of the offers as they relate to the increases affecting the two maintenance employees).

## Wage Rates Applicable to Maintenance Employees

### Background

Two maintenance positions, included in the bargaining unit, are filled by employees who, as of commencement of the 1993-94 school year, had 12 and 10 years of service. Their hourly rates during the 1990-91 school year were \$9.98 and \$9.49 respectively. The hourly wage schedules proposed by each of the parties sets forth the following maximum rates to be paid to the maintenance employees during the three years of the bargaining agreement:

	<u>1992-92</u>	<u>1992-93</u>	<u>1993-94</u>
Association	\$ 10.02	\$ 10.52	\$ 10.94
District	9.79	10.31	10.70

As noted previously herein, both offers contain provisions providing for the payment of "red-circled" rates to those employees earning rates above those expressed in the wage schedules proposed by each of them.

### The Position of the Association

The Association contends that its proposed maintenance wage schedules are supported by the rates paid to employees performing similar duties in the employ of the districts included in its proposed external group. The calculations of the Association reflect the alleged comparisons as follows:

<u>Assoc. External Group</u>	<u>1991-92</u>	<u>1992-93</u>
9 Districts (1 Not settled)	\$ 10.35	\$ 11.09
Association Offer	10.02	10.52
District Offer	9.79	10.31

	<u>1993-94</u>
3 Districts Settled	\$ 12.17
Association Offer	10.94
District Offer	10.70

The Association points out that the 1990-91 maximum wage rate applicable to the District's maintenance personnel (\$10.50 per hour) was well above the average of such wage rates paid by the districts in its comparable pool, which averaged \$9.29 per hour. It contends that its offer for 1991-92 eliminates the previous differential, and that for the three year term of the bargaining agreement its offer "almost cuts that differential in half", and that its offer "merely maintains the previous wage differential enjoyed in Oconto Falls in 1990-91".

The Position of the District

Utilizing its proposed external comparable group, the District compares its offer with respect to maximum hour rates to be paid its maintenance employees, including lump-sum payments when applicable, with the average of the maximum rates paid to employees in the districts included in the pool set forth by the instant District. The comparison reflects the following:

	<u>1991-92</u>	<u>1992-93</u>	<u>1993-94</u>
3 District Average	\$ 9.36	\$ 9.96	\$ 10.50
<u>District Offer</u>			
Scheduled Rate Only	9.79	10.31	10.70
Schedule Rate + Lump Sum	10.38	10.31*	10.70*
<u>Association Offer</u>			
Scheduled Rate Only	10.02	10.52	10.94
Scheduled Rate + Lump Sum	10.48	10.98	11.40

\* Employee placed on schedule, lump-sum discontinued

The District points out that under its offer the maintenance employees will earn between \$.35 and \$.43 per hour more than the comparable average in both 1991-92 and 1992-93, while the Association's proposal provides wage increases which exceed the comparable average by as much as \$.66 per hour at the maximum, and further that under the District's offer lump-sum payments would cease, when an employee reaches the scheduled rate, while under the Association's offer, lump-sum payments would continue throughout the term of the bargaining agreement. The District emphasizes that the Association's offer "singles out" the two maintenance positions for preferential treatment by providing the occupants thereof with increases "which greatly surpass the comparable average", and, further, that the Association's offer with respect to both the secretarial and maintenance employees is "inequitable" to the rest of the employees in the bargaining unit, the rates of whom were agreed to by the parties. It urges the Arbitrator to prefer its offer relating to hourly wage increases to maintenance employees.

#### Discussion With Respect to Compensation of Secretary and Maintenance Positions

The Arbitrator has spent an inordinate number of hours pouring over collective bargaining agreements applicable in districts making up the external comparable pools proposed by the parties, in attempting to make comparisons with the offers submitted by them, relating to wage compensations to be paid to the District's secretarial and maintenance employees. In such endeavor, the Arbitrator has discovered the following involving the districts proposed by the Association:

Clintonville - No "secretary" nor "maintenance" classifications. Possibly performed by "Clerical I" and "Custodian I". (No job descriptions). No reference to red-circle nor longevity compensation.

De Pere - Highest paid secretary position is identified as "Elementary & M.S. Principal Secretary". No "maintenance" classification,, perhaps it is the "Custodian I". No reference to red-circle or longevity compensation.

Howard-Suamico - Sets forth secretarial positions as "Full Year Secretary/Clerk/Operator" (Highest Paid) and "School Year Secretary". No "Maintenance" classification, perhaps it is the "Technician" who receives the highest rate of pay among all "blue-collar" positions. Bargaining agreement also provides additional \$.40 and \$.45 hourly increases to the "Technician" for the 1992-93 and 1993-94 years. Agreement also provides longevity payments of \$350 per year for employees with 10 to 15 years of service, and \$450 per year for over 16 years of service.

Marinette - Neither secretarial nor clerical employees are included in any bargaining unit. Rates for maintenance employees are set forth in wage schedules for each year for the 1991-92, 1992-93, and 1993-94 school years.

Menomonee Indian - Sets forth rates for "Secretaries" and "Secretaries/CRT", with the latter receiving the higher rate of pay. No "maintenance" classification. "Custodian III" receives highest wage rate. Agreement makes no mention of longevity or red-circle rates for said positions.

Peshtigo - No "maintenance" position identified. "Custodians" included in wage schedules, as are "secretaries". Agreements contain no mention of longevity or red-circle payments.

Pulaski - No "maintenance" position identified. "Custodian III" receives the highest rate in the "custodian" classifications. Wage schedules for custodial and secretarial employees included longevity increases after four years of service.

Southern Door - "Secretaries" included in wage schedule, "maintenance" are not. Highest paid custodian is the "Custodian 3" position. No reference to longevity or red-circle payments.

West De Pere - Bargaining agreement covers only "custodians", who are salaried on an annual basis, 40 hours per week.

As for the districts included in its proposed comparable pool, the District set forth the following data relating to the secretarial and maintenance type employees:

Secretaries - The District presented an exhibit reflecting the minimum and maximum hourly wage rates in effect at Coleman, Gillett, Howard-Suamico, Peshtigo and Pulaski for the school years from 1990-91 through 1992-93. Hourly rates for 1993-94 were set forth for Gillett and Pulaski. The three other districts did not settle for the latter school year. The tabulation reflected no red-circle or longevity rates.



Maintenance - The District presented an exhibit reflecting the minimum and maximum hourly wage rates, for the "assistant head custodian" and the "head custodian" in the employ of the Gillett district; the "technician" at Howard-Suamico, and the "custodian III (Maintenance)" at the Pulaski district, for the years from 1990-91 through 1993-94. The exhibit indicated that neither of the districts of Coleman nor Peshtigo employed a maintenance type employee.

In light of the above noted "shortcomings" relating to the evidence pertaining to the rates of pay to employees in the employ of the districts in the pool determined to be the most appropriate external comparable by the Arbitrator, the utilization of such pool, or for that matter, either pool proposed by each of the parties, in the opinion of the Arbitrator, are not to be considered as the primary comparable with respect to the wage rate issues which have arisen herein. The Arbitrator concludes that the most appropriate comparables are the percentages of the scheduled increases agreed upon by the parties, for the three years of the agreement, applicable to District employees occupying the classifications of Aide, Food Service I and II, Custodian, Housekeeper/Cleaner/Courier, and Bus Mechanic. In addition, the parties voluntarily reached an accord on the schedule wage rates applicable to those classified as Secretary for the year 1991-92.

#### Lump-Sum Payments

##### Background

The offers of the parties provide for lump-sum payments for those employees whose 1990-91 hourly rates were above the maximum schedule rates agreed upon for the 1991-92 school year. The Association's offer proposes an additional lump-sum add on of 4% for 1991-92, and additional 4% add on for 1992-93, and a 3% add on for 1993-94. In addition, the Association's offer includes a lump-sum add on for each year of the agreement for those employees who will not receive at least a 5% increase of the base year of 1990-91. The

District's offer proposes to red-circle employees, a 4% lump-sum add on for 1991-92, no lump-sum increase nor wage increase for 1992-93, and a 3% lump-sum add on for 1993-94. The District's offer contains no other add-ons.

### The Association's Position

In support of its offer with respect to "lump-sum" increases, the Association argues as follows:

"...it is reasonable, in an initial agreement such as this, to guarantee each employee a minimum percentage wage increase. Because there was no wage rate schedules for existing employees in Oconto Falls prior to 1991-92, a few employees would receive less than a 5% increase of their placement on the newly-established rate schedules. Eight employees would be impacted in this fashion under the Association's offer for 1991-92. The lump-sum payments range from \$28.70 (per year) to \$954.72 (per year). They are continued, for 1992-93 and 1993-94. The cost impact is minimal because so few employees are involved.

Under the District's proposal, these employees would receive less than a 5% wage increase for 1991-92 and would be the only employees impacted. The Association avers that it is reasonable to provide lump-sum payments to this small group of employees.

The other type of lump-sum payment proposed by both parties is provided to those employees (mostly secretaries) whose 1990-91 wages are above the 1991-92 wage rate maximum. This is also true for some of these employees for 1992-93 and 1993-94 under both proposals. The Association avers that its proposal to provide such lump-sum payments for all three years of the agreement is more reasonable than the District proposal that omits an increase in the lump-sum payment for 1992-93. A total of seven employees would receive such a payment under the Association at minimal cost to the District."

In its reply brief, the Association substantiated its exhibits relating to the lump-sum payments, which would be generated to various employees by its offer. Such costs would amount to \$9,016.53 (1991-92), \$9,773.93 (1992-93) and \$7,730.00 (1993-94), for a total of \$26,519.63. The Association contends that such increases are reasonable "when compared to the increases granted to the other members of the bargaining unit", and further, that the

District's proposal is "clearly unreasonable because it fails to grant six employees any wage increases whatsoever for 1992-93."

### The District's Position

The District characterizes the Association's offer as follows:

1. In 1991-92 employees who are red-circled, that is their present wage exceeds the wage offered by the 1991-92 schedule, will receive a 4% increase in the form of a lump-sum payment.
2. In 1992-93, red-circled employees will receive an additional 4% increase over their 1991-92 wage in the form of a lump-sum payment for a total of an 8% lump-sum payment.
3. In 1993-94, red-circled employees will receive an additional 3% increase over their 1992-93 wage, for a total of an 11% lump-sum payment. The continual increasing of the lump-sum employees under the Union's offer is excessive.
4. It must be noted, that under the Union's offer, red-circled employees who are ultimately placed on the wage schedule continue to receive lump-sum payments, in addition to their wage increase

...

"In effect, by virtue of the continual payment of lump-sum payments throughout the contract's duration, the Union's lump-sum proposal is a means of providing employee's with higher earning capacities without having to inflate the wage schedule.

Based on the evidence, it is clear that the Union's proposal is excessive in terms of lump-sum payments the District must pay in addition to the increases generated by the proposed wage schedules. Under the Union's proposal, there is no compromising, no bringing of the wages and benefits into a more structured system. The Union wants the people who were low to be caught up, but those who are above the comparables to be catapulted even further above their counterparts. The excessive nature of the Union's lump-sum payment proposal precludes the award of their offer. The District's proposal is the more reasonable and customary approach and should be adopted."

The District points out that its offer, is as set forth by the Arbitrator under "background", and further, that "once the wage schedule catches up to the employee's wage, the employee is placed on the schedule and the lump-sum payments are discontinued."

### Discussion as to Lump Sum Payments

The fact that the lump sum payments proposed in the Association's offer is limited to a "small group of employees" is not a sufficient basis for favoring the Association's proposal. While the Association contends that the costs generated by its offer relating to lump sum payments are reasonable when compared to the increases granted to the other members of the bargaining unit, it overlooks the fact that at least in 1990-91 the recipients of said lump payments received significantly greater wage rates than those received by other unit personnel occupying positions in the same classification. Furthermore, the Association's proposals indicate a desire to perpetuate the wage differentials existing between those receiving the lump sum payments and those employees who obtain wage increases pursuant to the schedules agreed upon by the Association and the District.

It is interesting to note that the parties agreed to continue the two classifications of Food Service Worker I and Food Service Worker II, and that they recognized the difference in the wage rates applicable to said classifications. The schedules agreed upon indicate that in 1993-94 there will be a difference in the hiring rate between the I and II positions of \$.84 per hour, while the maximum rate difference amounts to \$1.04 per hour. Despite the discrepancies which have existed among the employees in the Secretary classification, there is no indication in the record reflecting that either party, during their bargaining, proposed the establishment of additional Secretary classifications.

The Association's proposal, in the opinion of the Arbitrator, would tend to perpetuate the lump sum payment practice for a longer period of time, even beyond the term of the instant agreement, than would the offer of the District. The Arbitrator favors the latter's offer

with respect to lump sum payments.

Bus Drivers - Compensation and Fringe Benefits

Throughout the three years of the agreement, the District has employed thirty-six Bus Drivers, twenty-nine who are considered regulars, with an additional seven as substitutes. Fifteen of the drivers work more than 600 hours during the school year, and the remaining do not. Prior to the establishment of the representative status of the Association, the District and the Bus Drivers, apparently through some type of bargaining, reached an accord in January 1990, and pursuant thereto, during the 1991-92 school year the drivers had received a 5% increase in their wages resulting in the following payments being made to them:

Regular Routes - \$9.31 per trip and \$.22 per mile  
Extra-curricular trips - \$4.84 per hour and \$.15 per mile  
In city extra-curricular trips - \$6.55 per hour and \$.15 per mile  
Bonus of 2% on total earnings and one "uniform" shirt paid for by the District.

The offers of the parties relating to Bus Drivers compensation for the school years 1992-93 and 1993-94 are set forth previously herein.

During their negotiations the parties reached agreement on a number of contractual fringe benefits generally applicable to bargaining unit employees, and while its offer contained no fringe benefit proposals specifically applicable to Bus Drivers, the Association apparently considers that it did not need to do so because of the general application of the fringe benefit provision relating to unit employees. However, in its offer relating to the drivers, the District sets forth the following:

"Bus Drivers do not receive contractual benefits (except health insurance if they meet the criteria under Article 1\*). Bus Drivers receiving sick leave shall be grandfathered."

The fringe benefit provisions which the parties have agreed upon during their bargaining are applicable to unit employees having certain qualifications, but excluding bus drivers, relate to the following fringes:

Right to use personal or emergency leave when school is canceled	Emergency leave
Holiday pay	Personal business leave
Jury duty pay	Sick leave (unless driver has been receiving such leave)
Payment for physical exam	Military leave
Pay for required training	Long-term disability insurance
Travel reimbursement for use of personal vehicle	Dental insurance
	Life insurance

The Position of the Association

The Association contends that monetary increases be applicable to all three components, i.e. - per hour, per trip and per mile rates, as proposed by the Association, "is more reasonable because it recognizes that the drivers under the previously agreed upon policy are paid three different rates and should receive a raise on all three rates." It sets forth that there is no good reason for not rolling in the wage increase for 1992-93 and 1993-94, and making such increases part of the driver wage schedule. It points out that the District's proposal providing for a lump sum payment "creates a substantial gap between the contractual wage rates and what the drivers will actually receive in pay for 1992-93 and 1993-94." The Association characterizes the District's offer as being "unreasonable when compared to Pulaski and Southern Door" districts, the only two districts in the Association's proposed pool having bargaining agreements covering bus drivers. It contends that the District provided "no

reasonable basis for denying bus drivers" any of the fringe benefits agreed upon for other unit employees, and it points out that its offer provides for health insurance benefits to be implemented on receipt of the instant award.

#### Position of the District

The District contends that its offer proposed wage increases which exceed those paid to drivers in the employe of Pulaski and Southern Door. It argues that there is no justification for increasing the rates applicable to mileage and hours. It justifies payment of increases in the form of a lump sum, since it provides for increased compensation while slowing down the growth of schedule wages, thus conforming with the rates paid by the Pulaski and Southern Door. Southern Door has not settled on any agreement beyond the 1992-93 school year, while the Pulaski agreement covers both 1992-93 and 1993-94. The District compares the compensation paid drivers on the basis of single routes of 70 miles, and that in 1992-93 Pulaski drivers received a total daily pay of \$31.20, and at Southern Door, the drivers received a total daily pay of \$34.00, compared to \$34.76 resulting from the District's offer. \$35.76 per trip would be generated by the Association's offer, and that the District's offer for 1993-94 would generate \$35.32 per trip, while the Association's offer would generated \$36.74, compared to the Pulaski's compensation of \$32.90.

*The District sets forth, in part, its argument with regard to fringe benefits as follows:*

"The District's proposal with respect to fringe benefits for the bus drivers provides for health insurance benefits (if eligible) and grandfathers employees for sick leave benefits. The Union cries foul claiming bus drivers are losing benefits they once had and are not gaining the same benefits as those received by Pulaski drivers. First of all, only two bus drivers were previously eligible for sick leave benefits under the old policy and they are grandfathered under the District's proposal so no one is losing sick leave benefits... The parties agreed to expand the health insurance benefits so that employees who worked at least 1,080 hours would be eligible for health insurance

with a 91% employer contribution. In addition, employees who work at least 720 hours are now eligible to receive pro-rated insurance. This expanded health insurance benefit can cost the District a considerable amount of money. In the case of bus drivers, there are now nine who are eligible for health insurance who previously had not been. ...The expanded health insurance benefits could cost the District as much as \$25,344 for the newly eligible bus drivers alone... Pulaski bus drivers do not receive paid health insurance benefits. They are given only the option of purchasing benefits at their own cost. Pulaski bus drivers receive no vacation benefits and under the previous policy neither did the Oconto Falls bus drivers. Nor does the Union's proposal provide for vacation leave benefits for bus drivers. Only full-time, twelve month employees are eligible for vacation benefits.

Pulaski bus drivers do not receive holiday pay. Only two bus drivers at Oconto Falls were previously eligible for two days of holiday pay, yet the Union's proposal expands this benefit to provide all bus drivers four days of holiday pay.... The only leave benefit Pulaski drivers receive is three funeral leave days. The Association is proposing five leave days - three for funeral leave and two for personal leave. Under the old policies, only two drivers were eligible for personal/funeral leave... The Union is proposing to expand this benefit so that all drivers, regardless of hours worked, are eligible for personal/funeral leave of five days per year. Pulaski drivers receive sick leave. The Union complains that the District proposal eliminates a benefit previously enjoyed by its drivers. ...Under the old policy, only two drivers were eligible for sick leave benefits and they will not lose same due to the grandfather clause in the District's proposal. The Union is proposing to expand sick leave benefits so all drivers are eligible.

The Association also complains that Pulaski has a better retirement benefit than Oconto Falls because drivers are not eligible for the Wisconsin Retirement System are provided with an annuity. Oconto Falls drivers never previously received an annuity nor did any of the other support staff personnel. Presently fifteen of the twenty-nine regular drivers are eligible for WRS benefits. The remaining employees work less than 600 hours per year and therefore are not eligible for WRS according to the state guidelines... On the basis of comparability and more importantly, the District's final offer must be awarded."

### Discussion

The Association's argument that the bus drivers should receive increases on the three components of their duties, as existed during the school year 1992-93, because to not so provide would be unreasonable, simply on the claim that it deviated from said method in the latter school year, and it also alleges that "no good reason" exists for the District not



proposing to roll in its offered increases into the bus driver wage schedule. The Association does not further explain such claim of "unreasonableness". Further, while the Association criticizes the offer of the District for not rolling in the increases in the bus driver wage scale, it made no such protest in proposing lump sum wage increases for "red-circled" employees, or with respect to its proposal relating to guaranteeing certain unit employees a 5% wage increase.

The cited portion of the District's argument relating to its offer dealing with the proposed driver wage increases, and also relating to the fringe benefits issues, were set forth by the District in its initial brief. Both parties filed reply briefs, and in its reply brief the Association did not take issue with the comparisons set forth by the District, except with the latter's contention that the Southern Door agreement does provide its bus drivers with holiday pay. In that regard the Association calls attention to the contractual provision in the latter agreement which provides five paid holidays to 9 month employees who work 20 hours per week, and further that the latter agreement contained no provision excluding bus drivers from receiving holiday pay

Nevertheless, the Arbitrator favors the District's proposal relating to the issues involving compensation and fringe benefits applicable to the bus drivers.

#### Term of Agreement

The proposals of each of the parties relating to the "Term of the Agreement", that is the time period in which the agreement shall be in effect, is not in issue. In that regard both proposals contain the following identical language - "This agreement shall be in full force and effect from July 1, 1991 through June 30, 1994." The Association proposes that the sentence

following said quoted language should read - "Unless specifically noted herein, all provisions of this Agreement shall be retroactive to July 1, 1991." The District's proposal in that regard reads - "Provisions shall be retroactive only if so stated on an item-by-item basis."

### The Position of the Association

The Association, in its brief, criticizes the District for submitting in its brief a figure on the cost of retroactivity of holiday for the first time during the course of this proceeding, and in addition, the Association contends that the costs so indicated have been overestimated, in that 12 month secretaries and custodial maintenance personnel have been receiving such benefit pursuant to past District policy, and that therefore, only the remaining employees in the bargaining unit would be entitled to retroactive holiday pay under the Association's proposal. The Association proposes, therefore, that the Arbitrator disregard the District's argument relating to the cost of the holiday pay retroactivity. It argues that "simple equity" demands that retroactive holiday pay be provided.

With respect to an objection presented by the District during the course of the hearing relating to the retroactive application of the grievance procedure, the Association, in its brief, responds as follows:

"Despite the Association's stipulation at the hearing that it would not do so, the District again raises this matter in its initial brief. Now the District is worried that 'the grievance procedure would not be retroactive on matters not raised at the hearing.' In this regard the Association avers that it would have a serious timeliness problem before a grievance arbitrator if it tried to grieve an item that it had not previously brought before the District under existing District policy. The fact is that no such item exists in the opinion of the undersigned. Therefore, this red-herring issue now being promoted by the District should be rejected by the Arbitrator."

## The Position of the District

The District in its brief contends that the Association language on retroactivity as contained in the latter's offer "is unreasonable and must not be implemented". In support thereof, the brief of the District sets forth the following:

"The Association claims that because they stipulated at the hearing that they would not file grievances with respect to personnel matters raised by the District, that the Arbitrator should favor neither offer regarding this issue. While the Union stipulated that a number of complaints which had arisen from the time the unit was organized would not be subject to the grievance (procedure), they refused to stipulate that the grievance procedure would not be retroactive. The Union wants the right to use the grievance procedure with respect to any matter which arose during the last 2 1/2 years which may have been resolved prior to any language being drafted on the issue. Accordingly, anything could be grieved on the current language of the contract, even if at the time of the problem the current language did not exist. This approach leaves the Employer liable for failing to do something under language which was not even in effect at the time the problem arose. The Union's refusal underscores the importance of the retroactivity clauses contained in the proposal.

The retroactive clause of the Union's proposal also requires the District to pay retroactive holiday benefits. This alone will cost the District over \$32,000 in retroactive holiday pay. this cost is in addition to expenses the District must incur for retroactive vacation benefits under each of the parties offers."

## Discussion

The cost to the District for the monetary benefits which would be generated by the retroactive application of the Association's proposal is not, in the opinion of this Arbitrator, a basis for favoring the District's offer limiting retroactivity to those provisions specifically setting forth their retroactive application. It is the application of, or the denial of, other employee rights established in the collective bargaining agreement, whichever offer is selected by the Arbitrator. The fact that the Association was willing to stipulate that it would not seek grievance procedure remedies with respect to matters called to the attention of the District, in writing, during the course of their bargaining, indicates only a limited exception to the

retroactivity provision proposed by the Association, and said stipulation does not prevent the possibility of a chaotic processing of grievances over matters which arose between July 1, 1991 and the date on which the rights and obligations of the employees and the Association, as their bargaining representative, as well as the rights and obligations of the District, are established by this award of the Arbitrator, and at the same time by the implementation of the contractual provisions previously agreed upon by the parties. Therefore, on said basis, the Arbitrator selects the District's provision set forth in "Term of Agreement".

#### State Mandated Revenue Caps

Prior to the close of the hearing, the Arbitrator requested that he be provided with data concerning the impact, if any, of the recently passed state legislation regarding revenue caps. In response to said request the District sent a number of District documents pertaining thereto to both the Arbitrator and the Association. The District acknowledged that it will not have any potential problems until the 1994-95 budget, and the Association agrees that current revenue caps do not have an adverse effect on the agreement involved herein.

Upon the basis of the above and foregoing the undersigned issues the following.

Award

The final offer of the District is deemed to be the more acceptable towards meeting the statutory criteria set forth in Sec. 111.70(4)(cm)7 of the Municipal Employment Relations Act, and therefore it shall be incorporated into the 1991-94 collective bargaining agreement of the parties, together with the provisions agreed upon during their bargaining, and during the mediation conducted by the Arbitrator at the request for the parties.

Dated at Madison, Wisconsin this 9<sup>th</sup> day of May, 1994.



Morris Slavney  
Arbitrator

OCONTO FALLS SUPPORT STAFF  
TENTATIVE AGREEMENTS

*CSH 7/9/93*

ARTICLE I - AGREEMENT

Section 1.01: This agreement is entered into by and between the Oconto Falls School District, hereinafter referred to as the "Board", and the Oconto Falls Council of Educational Support Personnel, hereinafter referred to as "Association". The purpose of this document is to record the complete and full agreement between the Board and Association on wages, hours and conditions of employment.

*CSH 3/8/93*

ARTICLE II - RECOGNITION

Section 2.01: The Board recognizes the Association as the sole bargaining agent for all regular full-time and regular part-time secretarial, clerical, custodial, maintenance, food service, aides, bus mechanics and bus drivers but excluding supervisory, managerial, confidential, casual, professional employees. [Note: No Agreement on Board proposal for 2.02]

Section 2.02: Temporary employees are those employees who are hired for a specific period of time which shall not exceed six (6) months per contract year. After six (6) months of employment within a contract year, such employees shall become bargaining unit members and shall be granted all rights under the agreement, including seniority retroactive to the first day of employment.

*CSH 3/8/93*

ARTICLE III - MANAGEMENT RIGHTS

Section 3.01: Management retains all rights of possession, care, control, and management that it has by law, and retains the right to exercise these functions except to the precise extent such functions and rights are restricted by the express terms of this Agreement. These rights include, but are not limited by enumeration to, the following rights:

1. To direct all operations of the school system;
2. To establish and require observance of reasonable work rules and schedules of work;
3. To hire, promote, transfer, schedule and assign employees in positions with the school system;

*Done 7/22/93*

4. To suspend, discharge and take other disciplinary action toward employees for just cause;
5. To relieve employees from their duties because of lack of work or any other legitimate reason;
6. To maintain efficiency of school system operations;
7. To take whatever action is necessary to comply with State or Federal law;
8. To introduce new or improved methods or facilities;
9. To select employee, establish quality standards, and evaluate employee performance;
10. To contract out for goods or services provided that no employee will be laid off as a result of subcontracting;
11. To determine the method, means and personnel by which school system operations are to be conducted;
12. To take whatever action is necessary to carry out the functions of the school system in situations of emergency;
13. To determine the educational policies of the school district;
14. To determine the kinds and amounts of services to be performed as pertains to School District operations and the number and kinds of classifications to perform such services; and
15. To utilize temporary employees or workfare or New View or other similar program personnel provided that at the time of or as the result of such action no existing positions are eliminated, no employees are laid off or on layoff.

*CSH 5/8/93 (entire page)*

*AMZ 7/22/93*

CSH 3/8/43

Section 3.02: The District agrees that it will exercise the rights enumerated above in a fair and reasonable manner, and further agrees that the rights contained herein shall not be used for the purpose of undermining the Union or discriminating against its members. The exercise of the foregoing powers by the Board, the adoption of the policies, rules, regulations, and practices in furtherance thereof, and the use of judgment and discretion in connection therewith, shall be limited only to the specific and express terms of this Agreement and applicable law.

CSH 3/8/43

ARTICLE IV - ASSOCIATION RIGHTS

Section 4.01: The Association will have the right to place notices, circulars, and other materials in support staff mailboxes. Copies of all such material will be given to the building principal, but his/her advance approval will not be required. The Association will also have the right to use the interschool mail to distribute material of the aforesaid type, provided that such material shall neither be detrimental to the school nor the individuals involved in administration of the District.

Section 4.02: There will be a bulletin board for use by the Association in each school building, which will be in the faculty work room for the purpose of displaying notices, circulars, and other such materials. Nothing posted shall be of a political nature or be detrimental to the school system or to the administration.

Section 4.03: The Association shall be permitted reasonable use of any school meeting facilities for executive or Association meetings outside of school hours without cost. The principal of the building in question will be notified in advance of the proposed time and place of any meeting and will grant permission so long as there is a janitor scheduled to be on duty at the time required, and there is no conflict with other commitments which have been previously scheduled.

Section 4.04: The Association will be permitted to use designated school duplicating or audio-visual equipment provided the use of the equipment does not conflict with the other commitments. The Association shall pay for all consumable supplies and be responsible for any damage to equipment while the equipment is being used for Association purposes.

JMR 7/22/43



Section 4.05: At the time of distribution of the Master Contract, the Board agrees to provide the President of the Association with 10 copies of the Master Contract.

Section 4.06: One employee designated by the Association as building representative shall be released from duty without loss of pay to attend any meeting between a grievant and a representative of the Board relative to the grievance if said meeting is called by the Administration during the employee's regular working hours.

Section 4.07: The Association officials agree to provide written notification to the Board within five (5) working days following election or selection of representatives, stewards, or other Association officials.

*CSA 3/8/93*

*CSA 3/8/93*

ARTICLE VI - GRIEVANCE PROCEDURE

Section 6.01: The purpose of this procedure is to provide an orderly method for resolving grievances. A determined effort shall be made to settle any differences at the lowest possible level in the grievance procedure.

Definitions:

1. A "grievance" is a claim based upon an event or condition which affects the interpretation, meaning, or application of any of the provisions of this Agreement.  
  
A grievant may be an employee, a group of employees or the Oconto Falls Council of Educational Support Personnel.
2. The term "days" when used in this contract shall mean all days within the 365 calendar year except weekends or vacation days within the school term and weekends and holidays in the summer.
3. The grievant has the right to have a representative of his/her own choosing present at any step of the procedure. A member of the Association Grievance Committee shall attend any meetings required to process the grievance.

*Am2 7/22/93*

Step I: The grievant shall promptly attend to resolve the grievance informally between the grievant and his/her supervisor. If the grievance is not resolved informally, it shall be reduced to writing by the grievant who shall submit it to the supervisor. If a grievant does not submit his/her grievance to the supervisor in writing in accordance with Step I within fifteen (15) days after the facts upon which the grievance is based first occurred or first became known to the grievant, the grievance will be deemed waived. The supervisor shall meet with the grievant and then reply in writing to the grievant within fifteen (15) days after receipt of the written grievance. It is understood that some grievances may not involve a supervisor. In such cases, the grievance will be initiated to the District Administrator within fifteen (15) days, and the grievance will proceed as indicated in Article \_\_\_\_, Step II.

Step II: If the grievance is not settled in Step I and the grievant wishes to appeal the grievance to Step II, the grievant may file the grievance in writing to the District Administrator within ten (10) days after receipt of the supervisor's written answer. The written grievance shall include a clear concise statement of the grievance including the fact or facts upon which the grievance is based, the issues involved, the agreement provisions alleged to be violated, the specific relief sought, and the signature of the grievant along with the date of signing. The District Administrator or his/her representative shall thoroughly review the grievance, arrange for the required discussion, and give a written notice to the teacher not later than ten (10) days after receipt of the written grievance.

Step III: If the grievance is not resolved in Step II, the grievant may file the grievance in writing with the Clerk of the Board within ten (10) days after receipt of the answer from the District Administrator or his/her representative.

The Board shall consider the grievance at its next regular meeting, the following regular meeting or at any special meeting for that purpose in the interim. The grievant shall have the right to present his/her position to the Board at such meeting.

The Board shall within ten (10) days after the meeting advise the grievant in writing of the action taken with regard to the grievance.

*CSH 3/8/93 (entire page)*

*DLR 7/22/93*

Step IV: Grievances not settled in Step III of the grievance procedure may be appealed to arbitration provided:

Written notice of a request for arbitration is made with the Clerk within ten (10) days of receipt of the answer of the Clerk in Step III.

When a timely request has been made for arbitration, the parties or their designated representatives shall select an impartial arbitrator. Failing to do so, they will within ten (10) days of the appeal jointly request the Wisconsin Employment Relations Commission to submit a list of five (5) arbitrators. As soon as the list has been received, the parties or their designated representatives shall determine by lot the order of elimination and thereafter each shall in that order alternately strike a name from the list and the fifth and remaining name shall act as the arbitrator. The arbitrator shall schedule a hearing on the grievance and after hearing such evidence as the parties desire to present shall render a written recommendation. The decision of the arbitrator, within the scope of his authority, shall be final and binding upon the Board, the Association, and the staff. The Board and the Association will share equally any joint cost of the arbitration procedure, such as the fees and expenses of the arbitrator and the cost of hearing room.

CSM 3/9/93

CSM 3/8/93

ARTICLE VII - PROGRESSIVE DISCIPLINE PROCEDURE

Section 7.01: The District shall utilize progressive discipline in dealing with its nonprobationary employees, except when the alleged conduct giving rise to the disciplinary action warrants a stronger penalty. Progressive discipline action is defined as the following:

- (1) Oral reprimand (with the option of inserting a statement outlining the oral reprimand into the employee's personnel file)
- (2) Written reprimand
- (3) Suspension (either paid or unpaid)
- (4) Discharge

DMR 7/27/93

Section 7.02: At the time disciplinary material is placed in the employee's personnel file, two copies will be provided to the employee, one of which the employee may give to the Union.

Section 7.03: No nonprobationary employee shall be suspended, discharged or otherwise disciplined without just cause. Any such action asserted by the District or any agent or representative thereof shall be subject to the grievance procedure of the Agreement.

Section 7.04: Each employee shall be provided with a copy of all materials placed in the employee's personnel file. There shall be only one (1) personnel file for each employee and it shall be maintained in the office of the District Administrator. The employee shall initial all disciplinary materials in his/her personnel file. The initialing of materials shall only indicate that the employee has seen the material and received a copy of same, and shall not be interpreted to mean that the employee concurs with the material. Each employee shall have the right to react in writing to any disciplinary materials contained in the employee's personnel file copy. The personnel file of each employee shall be available for examination by the Union upon written authorization of the employee if the employee is involved in a disciplinary procedure.

Section 7.05: When an employee is required to appear before the Board or the administration concerning any matter which could adversely affect his/her employment, his/her position, or his/her salary, the employee shall be entitled to have a representative of the Union present. Further when an employee is required to appear before the Board, he, she shall be advised in writing of the reasons for the requirement.

CS# 3/8/93

CS# 3/8/93

#### ARTICLE VIII - JOB POSTING

Section 8.01: Vacancies - Whenever a vacancy occurs within one of the job classifications found in Appendix "A" of this Agreement and the District desires to fill that vacancy, or when the District creates a new position, the job vacancy shall be made known to all employees through job posting.

JW2 7/22/93

Section 8.02: Posting - Job vacancies shall be posted on bulletin boards in convenient locations in each school for ten (10) working days. The Association president/designee shall have access to all unit job postings and shall be provided a copy of the any job posting upon request and at no charge to the Association. The position shall not be advertised outside the unit if a unit person who posts for it is determined to be qualified for the position by the Board.

Section 8.03: Notice - The job posting shall set forth the job title, pay range, work location, and the name of the person to whom the application is to be returned.

Section 8.04: Applicants - Any employee interested in such vacancy may submit his/her name in writing to the person indicated on the posting. The Association president or designee may submit a proxy application signed by the employee for postings opening in any employee's absence.

Section 8.05: Selection - Vacancies shall be filled with the most senior qualified internal applicant. Whether or not any internal applicant is qualified shall be determined by the Board or its designee in its sole discretion. Seniority computations are specified above in Section \_\_\_\_\_. The employee receiving the position shall have a trial period of up to thirty (30) calendar days in which to prove his/her qualifications for the job. If at any time during the trial period the employee fails to make satisfactory progress to qualify for the new position, he/she shall be returned to his/her former position and selection shall be made from among the remaining applicants. In the event the employee does not desire the position within the thirty (30) day trial period, the employee may return to his/her former position at his/her former rate of pay.

Section 8.06: If the District utilizes qualification tests such tests shall be uniformly administered to all internal and external applicants. The Association, upon request, can receive verification of the test results. *CSA 3/8/93*

*CSA 3/8/93*  
ARTICLE XVI - JURY DUTY LEAVE

Section 16.01: Absence resulting from a summons to serve on jury duty will be considered as an excused absence with pay. The absence with pay shall be limited to the difference between the amount of compensation the employee might receive as a result of the absence and the regular daily salary rate. The employee shall present the District with a statement showing the amount of pay received as a result of the absence.

*DWR 7/27/93*

CSA 3/8/93

ARTICLE XX - DUES DEDUCTION

Section 20.01: Upon receipt of a lawfully executed, written authorization from an employee, the District shall make deductions from the salary of such employee the total amount of dues needed to cover membership in the Association, subject to the following conditions:

1. There must be a specific written authorization from the employee for the deduction of dues.
2. The dues shall be deducted in uniform amounts of the Association's annual dues as certified to the District by the Association prior to September 1.
3. The District shall remit once each month the amount deducted from each pay period to the Association.
4. In the event of an error in the deduction of dues, the District reserves the right to correct such errors in subsequent payroll periods.
5. The School District will not be required to deduct dues from employees who are no longer on the district's active payroll.

CSA 3/8/93

ARTICLE XXI - FAIR SHARE

Section 21.01: Employees shall be free to join or not to join the Association. No employee shall be discriminated against by either the Board or the Association organization because of membership or nonmembership in any organization.

Section 21.02: In the event an employee chooses not to become a member of the Association, that employee shall be required to contribute to the Association the fair share of the cost of representation by the Association and as certified to the District by the Association. Non-member employees required to make said payment to the Association shall either pay by lump sum payment to the Treasurer of the Association, or the District shall deduct the fair share amount from the wages of said non-members at the same time, and in the same manner, as for those employees holding Association membership.

DWR  
7/22/93

Section 21.03: The Association agrees to certify to the District only such fair share costs as are allowed by law, and further agrees to abide by the decisions of the Wisconsin Employment Relations Commission and/or courts of competent jurisdiction in this regard. The Association agrees to inform the District of any change in the amount of fair share costs.

Section 21.04: The Association shall provide employees who are not members of the Association with an internal mechanism within the Association which is consistent with the requirements of the State and Federal law, and which will allow those employees to challenge the fair share amount certified by the Association as the cost of representation and to receive, where appropriate, a rebate of any monies to which they are entitled. To the extent required by State or Federal law, the Association will place in an interest-bearing escrow account any disputed fair share amounts.

Section 21.05: The Association and the Wisconsin Education Association Council do hereby indemnify and shall save the District harmless against any and all claims, demands, suits, or other forms of liability including court costs that shall arise out of or by reason of action taken, or not taken, by the District, which District action or non-action is in compliance with this agreement, and in reliance on any lists or certificates which have been furnished to the District pursuant to this Article, provided, that the defense of any such claims, demands, suits, or other forms of liability shall be under the control of the Association and its attorneys. However, nothing in this section shall be interpreted to preclude the District from participating in any legal proceedings challenging the application or interpretation of this article through representatives of its own choosing and at its own expense.

Section 21.06: Nothing in the foregoing shall prevent Association members or those subject to fair share payments from transmitting dues/payments directly to the Association Treasurer in a lump-sum payment. In the event that a lump-sum payment is made, the Association will promptly inform the District and exempt those employees from the payroll dues deduction.

*CSA 3/8/93 (entire page)*

*JUR 7/22/93*

CSA 3/8/93

ARTICLE XXII - SAVINGS CLAUSE

Section 22.01: If any provision of this Agreement shall be held invalid or in conflict with any federal or state law, the remainder of the Agreement shall not be affected thereby and the parties shall enter negotiations on the invalid section upon notice of one of the parties.

JWR 7/24/93

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OCONTO FALLS SUPPORT STAFF  
ADDITIONAL TENTATIVE AGREEMENTS

June 21, 1993  
(Revised July 19, 1993)

I. From Association Proposals

1. 5.0 DEFINITION OF EMPLOYEES

5.3 Probation

5.3.1 All newly hired employees shall be on probation for a period of sixty (60) actual working days from the initial date of their employment, during which period such newly hired employee may be disciplined or discharged in the discretion of the Employer, so long as the reason is not illegal or unlawful.

5.3.2 Probationary employees shall have all the rights of employees under this Agreement except as specified above. There shall be no extension to the probationary period unless specifically agreed-to, on a case by case basis, by mutual agreement between the parties.

5.4 Trial Period Involving Transfer: Employees who move from one department, division, or classification to a new department by the posting procedure or otherwise, shall serve a 30 calendar day trial period in the new department. If, during this trial period, the employee wishes to return to his/her former position, he/she may do so by notifying the District Administrator in writing with a copy to the Union. If during this 30 calendar day period the District wishes to return the employee to his/her former position, the district may do so by notifying the employee in writing, complete with the reason(s) for same, and with a copy to the Union, and the employee shall return to his/her former position.

C&A 7/19/93

DRR 7/22/93

OFTA2  
071993

2. 11.0 - SENIORITY

- 11.1 Seniority shall be defined as the continuous and uninterrupted length of service within the District as measured in days worked per contract year beginning on the last date of hire as a regular employee. Accumulation of seniority shall begin from the employee's first working day. In the event that more than one individual employee has the same starting date of work, position on the seniority list shall be determined by drawing lots. Seniority shall not accrue nor be considered interrupted while an employee is on an approved unpaid leave.
- 11.2 Probationary employees shall have no seniority until the completion of the probationary period at which time their seniority shall revert to their first day of work.
- 11.4 An employee moving from one classification to another will maintain continued seniority in the classification they are leaving but establish a new seniority in the new classification.

Example: Someone has been a instructional aide for 7 years and moves into a secretarial position. After two years he/she would have 9 years seniority as a clerical aide but only two years seniority as a secretary.

- 11.5 The Employer shall prepare, maintain, and post the seniority list. The initial seniority list shall be prepared and posted in all buildings of the District within fifteen (15) workdays after the effective date of this Agreement, with revisions and updates prepared and posted annually thereafter. A copy of the seniority list and subsequent revisions shall be furnished to the President of the Union. Any grievance regarding the accuracy of the seniority list must be filed within fifteen (15) days of the posting.

- 11.6 Loss of Seniority. Previously accrued seniority shall be lost if an employee:

1. Quits;
2. Is discharged;
3. Voluntarily transfers to a non-bargaining unit position after thirty (30) calendar days;

OFTA2  
071993

CS# 7/19/93  
JWR 7/22/93

4. Fails to report to work within five (5) working days after having been recalled from layoff;
5. Fails to report for work at the termination of an approved leave of absence;
6. Is retired;
7. Exhausts all recall rights.

CSA 7/19/93  
AWR 7/22/93

3. 12.0 - REDUCTION IN PERSONNEL, LAYOFF AND RECALL

12.1 When the District eliminates a job or reduces hours of employment because of reduced workloads, budgetary or financial limitations, or for reasons other than performance or conduct of the employee, the following procedure shall be used within each classification:

12.1.1 To the extent feasible, reduction in staff shall be accomplished through normal attrition or by voluntary waiver of seniority.

12.3 A laid-off employee shall, upon application, and at his/her option, be granted priority status on the substitute list according to his/her seniority. Laid-off employees may (at his/her option) have their health, dental and life insurance continued by paying the regular monthly provider group-rate premium for such benefits to the District. Such Employee shall also have the right of first refusal for temporary positions as outlined in Section 2.02 above, but acceptance of a temporary position shall not break the lay-off status. Temporary work shall be at the temporary rate. Refusal to accept such position shall not void the laid-off employee's recall rights. A recalled employee shall be given five (5) calendar days from receipt of notice, excluding Saturdays, Sundays and holidays, to report to work, unless subject to the language of Section 11.6(4).

12.4 (1) Laid-off employees shall be recalled in order of seniority, with the most senior being recalled first, to any position available in their classification(s) for which they are qualified. However, no laid-off employee shall be required to accept a position having a lower pay rate, or lesser hours of employment per week than his/her previous position. Notices of recall shall be sent by certified or registered mail to the last known address as shown on the District's records. The recall notice shall state the time and date on which the employee is to report back to work. Proof of attempted delivery by the postal service shall constitute proof of delivery.

(2) It shall be the employee's responsibility to keep the District notified as to his/her current mailing address.

(3) A recalled employee shall be given five (5) work days from receipt of notice, excluding Saturdays, Sundays

OFTA2  
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and holidays, to report to work unless otherwise employed and subject to termination notice restrictions under another employers.

- (4) The District may fill the position on a temporary basis until the recalled employee can report for work, providing the employee reports within the five (5) day period.
- (5) Subject to the option outlined in 12.4(1) above, employees recalled to full-time work for which they are qualified are obligated to take said work.
- (6) Subject to the option outlined in 12.4(1) above, an employee who declines recall to full-time work for which he/she is qualified shall forfeit his/her seniority rights.

12.5 Employees on layoff shall accrue seniority during the period of such layoff.

12.6 An employee shall lose all recall and seniority rights after having been on layoff for eighteen (18) months from date of layoff.

*CSH 7/19/93*

*DMR 7/22/93*

4. 14.0 CONDITIONS OF EMPLOYMENT

14.4 Omit - See 10.06 p. 19.

14.12 Physical Examination and X-Rays (Effective with receipt of arbitrator's award)

At the time of employment, every employee is required to have a physical examination; forms may be obtained at the Superintendent's office. The District will determine the scope and doctor or practitioner performing the examination at a specified cost. The physical examination may be performed by the employee's family physician but the Board will pay only the amount which would have been charged under the Board's scope and allowable cost. If an employee terminates his or her employment within the first two months, the cost of the physical examination will be deducted from their last pay check. All food service employees are required to have a skin test or chest x-ray every five (5) years.

14.13 Required Training (Effective with receipt of arbitrator's award)

The District shall pay all expenses, mileage, lodging, etc. for off-site, out-of-town training that is required by the District.

14.15 RESIGNATIONS AND TERMINATIONS

14.15.1 The employment relationship shall be terminated if an employee (1) voluntarily quits, (2) is discharged, (3) fails to report for work at the end of an approved leave of absence, (4) is retired, (5) exhausts all recall rights, (6) fails to report to work within five (5) work days after having been recalled from layoff.

14.15.2 Employees who absent themselves from work without notification to or approval by the District may subject themselves to discipline up to and including discharge.

15.15.3 Employees wishing to leave their employment must submit their resignation in writing to the Superintendent at least two (2) weeks in advance of their planned departure. It is expected that employees will give as much notice of termination as possible in order to facilitate recruitment and

OFTA2  
071993

CSH 7/19/93  
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orientation of new staff.

- 14.15.4 Employees upon leaving employment will be compensated for accumulated vacation days at their regular rate of pay. Employees terminated for cause will forfeit all accumulated vacation days.
- 14.15.5 Employees leaving employment must return materials, equipment and keys, before their last day of work. Any items of value not returned will subject the employee to a deduction from their last pay check in the amount of the item(s) not returned.
- 14.15.6 An employee's employment status will be terminated after twenty-four months of unavailability for work or until the accumulated sick leave has been exhausted, whichever is longer. LTD payments, if available, shall continue, however.

14.16 SEXUAL HARASSMENT

All employees must have the right to a work environment free from intimidation and harassment because of their sex, race, religious and ethnic origin. The Oconto Falls Area Public School District prohibits any physical, verbal, or visual harassment. Employees should report any complaints to the district administrator.

Supervisors are to be watchful of situations involving possible sexual harassment and shall not condone such actions. Reports of any alleged sexual harassment shall immediately be made to the district administrator.

14.17 ACCIDENTS

All work-related injuries, regardless of their severity, shall be reported to the employee's immediate supervisor as soon as possible following an injury. Employees can obtain an injury report form from their supervisors or from the school district office. The District will maintain employee accident records and file Workers Compensation claims.

14.18 TRANSPORTATION OF STUDENTS IN PRIVATE VEHICLES

Support staff employees shall not transport students in private vehicles without the advance written authorization of the District Administrator, nor shall employees be required to do as a condition of employment.

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*JMR 7/22/93*

14.19 TRAVEL REIMBURSEMENT (Effective with receipt of arbitrator's award)

Mileage will be paid to employees required to utilize their own vehicles for school business. Mileage must be approved by the District Administrator or his/her designee. Other necessary expenses incurred in the performance of school business will be reimbursed upon the submittance of receipts. The milage rate will be the same as the rate for other District employees in effect at the time the mileage was accrued.

14.21 PAY PERIODS

All employees will be paid biweekly on alternate Fridays.

14.24 Bus Driver Procedures

14.24.1 (Effective with receipt of arbitrator's award)  
Bus Drivers' Work Site: Bus drivers shall be afforded access at the bus garage to restroom facilities, vending machines, coffee machines in the drivers' lounge facilities.

14.24.2 (Effective with receipt of arbitrator's award)  
The document entitled "Bus Garage Protocol and Procedure" distributed to bus drivers shall be valid to the extent it is not in conflict with the provisions of the Collective Bargaining Agreement.

14.24.3 (Effective with receipt of arbitrator's award)  
Bus Drivers Manual: Provisions of the "Oconto Falls School District Manual" which conflict with provisions of the Collective Bargaining Agreement shall be subject to the appropriate contract provisions.

*CSA 7/19/93*

*JWR 7/22/93*



5. 15.0 HOLIDAYS

15.1 All employees shall be granted the following paid holidays each year according to the following schedule.

(1) School Year Employees

Labor Day  
Christmas Day  
New Year's Day  
One floating holiday

(2) Ten Month Employees

Labor Day  
Thanksgiving Day  
Day before Christmas (1/2)  
Christmas Day  
Day before New Year's (1/2)  
New Year's Day  
One floating holiday

(3) Twelve month Employees

Labor Day  
Thanksgiving Day  
Day before Christmas Day (1/2)  
Christmas Day  
Day Before New Year's (1/2)  
New Year's Day  
Good Friday (1/2)  
Memorial Day  
Independence Day  
One floating holiday

15.2 To be eligible for holiday pay, an employee must have worked both the day scheduled before and after the holiday unless excused by the District Administrator. Employees eligible for holiday pay shall receive their regularly scheduled hours' pay at their regular straight time hourly rate of pay. A floating holiday may be taken only after the providing of ten days prior notice to the District Administrator/designee.

15.3 If an employee is called into work on a holiday he/she will be paid double the regular straight time rate of pay.

*C&A 7/19/93*

*12/12/93*

6. 16.0 VACATIONS

- 16.2 Vacation pay shall be computed at the employee's regular scheduled hours at the employee's regular hourly straight time rate of pay for each week of vacation.
- 16.3 Selection of vacation days must have prior written approval of the employee's immediate supervisor. A minimum of ten (10) days advance notice, in writing, must be filed by the employee with the District Administrator. It is understood that the employer may limit the length of vacation any employee takes at any one time and also reserves the right to approve the scheduling of vacations so as not to interrupt the operations of the School District. Employees requesting vacation in the last two (2) months of the year are encouraged to submit vacation requests at least two (2) months in advance to allow the District flexibility in granting the vacation within the contract year. Employees who make such advance requests and are unable to take the vacation time allotted within the contract year through no fault of their own, shall have the right to carry over such allotment into the next contract year. However, the hourly wage rate paid for such vacation time shall be the previous year's rate.
- 16.4 An employee who properly resigns or retires his or her employment with the District (by giving a minimum of two (2) weeks' written notice to the District Administrator) shall receive vacation pay on a pro-rata basis provided the employee has worked at least 12 consecutive months. Vacations shall not accumulate from year to year.
- 16.5 Should a paid holiday fall during an employee's vacation, his/her vacation period shall be extended one (1) day for each holiday.
- 16.6 Should there be any conflict between employees desiring the same vacation period, the employee who first submitted his/her application shall be given preference. Preferences must be submitted to the supervisor by July 1 of each year.

*C&H 7/19/93*

*AWR 7/22/93*

7. 17.0 PAID AND UNPAID LEAVES

(Note: Sick Leave accumulation increases shall be retroactive unless the employee(s) status quo level of benefits allows the employee to earn more than the proposed schedule)

17.1 Sick Leave

1. Each employee shall earn one (1) day of sick leave in each month in which more than ten (10) days are worked to a maximum of twelve (12) per year, cumulative to one-hundred thirty (130). If a total of-ten-(10) days are worked cumulatively in more than one (1) partial month, one (1) day of sick leave shall be earned.
2. When an employee will be absent from work, he/she shall give notice as soon as he/she knows he/she will be unable to work, to the principal or person designated by the District Administrator to receive such notice.
3. An employee returning from any illness, whether or not sick leave benefits have been paid, may be required to submit to a medical examination at the expense of the Board or furnish a medical doctor's certificate of health prior to returning to work in order to safeguard the health of students and fellow employees.
4. All sick leave accumulations and premium payments of disability will terminate immediately upon termination of an employee's employment with the District.
5. During the first month of school, each employee will be provided with a statement relative to the amount of accumulated sick leave to date. Each employee will sign a duplicate copy indicating his/her acceptance of the accuracy of the information and return the signed copy to the District office.
6. No sick leave will be paid beyond the first day for which an employee would become eligible for long term disability whether the employee applies or not for that benefit.

17.2 Emergency Leave (Effective with receipt of arbitrator's award)

Emergency leave with pay may be granted but will not be cumulative. The employee shall notify the principal as soon as he/she is aware of the need to be absent. Any combination of the following absences shall not exceed three (3) days in any contract year:

CEA 7/22/93

AJR 7/22/93

- (1) Leave because of serious illness or injury to a member of the employee's household, or the employee's spouse, children, father and/or mother, mother-in-law and/or father-in-law.
- (2) Attendance at funerals of members of the employee's immediate family. "Immediate family" is interpreted to mean husband, wife, children, parents, grandparents, father-in-law, mother-in-law, brothers, sisters, brother-in-law, sister-in-law, grandparent-in-law, step children, step father, step mother, grandchildren or other members of an employee's household.
- (3) Leave to enable an employee to answer any summons or subpoena unless the employee is subsequently convicted of a criminal offense by a court of law.

(Effective with receipt of arbitrator's award)

17.3 Personal Business leave -- Two (2) days with pay per year will be granted for urgent personal business matters which cannot be conducted at any time outside the normal school day. This could include funerals not covered in 17.2(2). The granting of personal business leave will be at the discretion of the principal following the same practice as established under the teacher contract. The day shall not fall on a day immediately preceding or following a holiday or vacation day. Personal business leave is non-cumulative.

17.4 Jury Duty Leave -- Absence resulting from a summons to serve on jury duty will be considered as an excused absence with pay. The absence with pay shall be limited to the difference between the amount of compensation the employee might receive as a result of the absence and the regular daily salary rate. The employee shall present the District with a statement showing the amount of pay received as a result of the absence.

17.5 Military Leave  
Time necessary for an employee called to temporary active duty of a unit of the U.S. Reserves or the National Guard will be granted upon request provided that such obligations cannot be fulfilled on days when school is not in session. Each request for such leave will be accompanied by a letter from the immediate commanding officer of the employee stating that the temporary active duty obligation cannot be fulfilled when school is not in session.

*CSM 7/19/93*

*Aug 7/22/93*

OFTA2  
071993

17.6 Unpaid Leaves (Effective with receipt of arbitrator's award)

17.6.1 Application - Employees who wish to absent themselves from employment must make application for a non-paid leave of absence from the Employer. The employee may remain in the group health insurance program (if the carrier allows) by contributing the total premium in advance.

17.6.2 All requests for an unpaid leave of absence shall be made in writing at least ten (10) work days prior to the start thereof. In the event of extenuating circumstances, the ten (10) day notice may be waived at the discretion of the District Administrator/designee. The request must state the specific reasons and length of time requested for such leave.

17.6.3 The granting of unpaid leave of absence, the length of time for such leave, and the number of employees taking such leave shall be solely within the discretion of the District administrator/designee.

17.6.4 Abuse or fraudulent use of any of the various leave provisions of this Agreement shall result in loss of pay, suspension without pay, or discharge, for just cause. Employees must receive prior approval of the District Administrator before absenting themselves from work.

17.7 Wisconsin Family and Medical Leave Act

Employees shall be eligible for all rights available to them under the Wisconsin Family and Medical Leave Act.

CSA 7/19/93  
DWR 7/22/93

8. 18.0 FRINGE BENEFITS

18.1 Health Insurance: Effective upon ratification of this Agreement or receipt of the Arbitrator's award, the Board will pay up to the following amounts toward the single or family health insurance premium: The Board reserves the right to change the carrier provided that there is no reduction in existing coverages or in benefit levels as a result of such change.

<u>HOURS WORKED PER YEAR</u>	<u>BOARD CONTRIBUTION</u>	
	<u>Single</u>	<u>Family</u>
1080-2080 (or the regular school year hours)	91%	91%
720 - less than 1080	prorated on 1080 hrs/yr per 91%	

18.2 Long-Term Disability Insurance: The Board will provide a long-term disability insurance plan for employees with a ninety (90) day waiting period and ninety percent (90%) of salary benefit. The Board reserves the right to change the insurance carrier provided that there is no reduction in existing coverages or benefit levels as a result of such change.

18.3 Dental Insurance: Effective upon ratification or date of an arbitrator's award, the Board will pay up to the following amounts towards single or family dental insurance premiums. The Board reserves the right to change the carrier provided that there is no reduction in existing coverages or in benefit levels as a result of such change.

<u>HOURS WORKED PER YEAR</u>	<u>BOARD CONTRIBUTION</u>	
	<u>Single</u>	<u>Family</u>
1080-2080 (or the regular school year hours)	93.02%	95.71%
720 - less than 1080 (or the regular school year hours)	prorated on 1080 hrs per 93.02% or 95.71%	

*C&A 7/19/93*  
*DMR 7/22/93*

18.4 Life Insurance

The District shall provide and pay the full premium for a group life insurance plan for all employees. The term life insurance plan shall provide life insurance benefits to the next highest thousand dollars of salary.

18.6 If an employee resigns or is terminated District payment of all coverages shall cease at the end of the month the resignation or termination becomes effective. However, the employee has the option of continuing all such coverages as provided for in federal COBRA regulations.

18.7 Retirement

All employees working 600 hours or more each year are subject to the Wisconsin Retirement Program. Contributions consist of two parts: the employee's share and the District's share. The District shall pay 6.2% of the employee's share for all eligible employees.

*C&H 7/19/93*

*DWR 7/27/93*

9. 20.0 COMPENSATION

(As per District proposal 4/28/93)

20.02 Other Wage Provisions

New hires with no experience will be placed at the "Hire Rate" step of the appropriate lane of the Wage Schedule. Such employees will remain at this step for twelve (12) months.

(As per District proposal 4/28/93)

20.2.2 New hires with experience may, at the District's discretion, be placed no higher than Step 1 of the wage schedule.

(As per District's "Other Wage Provisions") 6/11/93

20.2.3 No employee shall suffer a loss in pay due to a transfer made by management. Employees posting to a new position shall be placed on the appropriate step of said salary lane based solely on years of experience with the District.

(As per District's "Other Wage Provisions" 6/11/93

20.2.4 Movement on the Wage Schedule

Personnel will normally move one step for each year of service. Movement will normally take place on July 1. The following exceptions may occur and shall be considered disciplinary actions.

1. An employee may be held to the previous year's step for below average performance.
2. An employee may be frozen at the previous year's wage rate for more serious nonperformance.

(As per District's "Other Wage Provisions") 6/11/93

20.2.5 New Employees Shall be Subject to the Following:

1. Twelve (12) month employees who began employment prior to December 31 will advance to the next step the ensuing fiscal year on July 1. Twelve (12) month employees who began employment after January 1 will remain on the step at which employment began the ensuing year.
2. School year employees who began employment prior to the first day of the second semester will advance to the next step the ensuing school year. Those school year employees who began employment on or after the first day of the second semester will remain on the step at which employment began the ensuing school year.

*C&A 7/19/93*

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OFTA2  
071993



10. 21.0 TERM OF AGREEMENT

22.1.1

Successor Agreement

On or before March 1st of the year during which the Agreement expires, the Association shall present its proposal for a successor Agreement to the District at an open meeting between the parties held solely for that purpose.

No later than thirty (30) days from the date of the above-mentioned meeting the District shall present its initial proposal to the Association at an open meeting held solely for that purpose. The parties, by mutual agreement could combine the above-mentioned open meetings. All subsequent bargaining sessions between the parties shall be held in closed session if either of the parties to this Agreement so requests.

22.2

This agreement reached as a result of collective bargaining represents the full and complete agreement between the parties and supersedes all previous agreements between the parties. Any supplemental amendment to this agreement shall not be binding upon either party unless executed in writing by the parties hereto. Waiver of any breach of this Agreement by either party shall not constitute a waiver of any further breach of this Agreement.

22.3

In the event that the parties do not reach a written successor agreement to this Agreement by the expiration date of this Agreement, the mandatory provisions of this Agreement shall remain in full force and effect during the pendency of negotiations and until a successor agreement is executed provided, however, that this Agreement shall not have a duration of more than three years.

*C&A 7/19/93*

*DWR 7/22/93*

I. From School District Proposals

1. ARTICLE X - HOURS OF WORK AND OVERTIME

Section 10.02.1: The work day shall consist of continuous hours unless specifically noted otherwise on a case-by-case basis.

Section 10.02.2: The work week shall consist of consecutive days unless specifically noted otherwise on a case-by-case basis.

Section 10.02.3: Schedule Posting: Work Schedules showing the employee's shifts, work days, and hours shall be posted in each school. In addition, all employees will be provided copies of their work schedules.

Section 10.03: All overtime hours worked must have prior approval by the District Administrator or designee. With prior approval, all hours actually worked over forty (40) hours per week, shall be paid at time and one-half (1-1/2) of the employee's regular straight time hourly rate of pay.

Section 10.04: The Employer reserves the right to schedule overtime work as required in a manner most advantageous to the Employer and consistent with the requirements of the School District in the public interest. All overtime shall be scheduled and distributed as equally as practicable among employees who, during the regular working hours, customarily perform the work required on a building-by-building preference. Maintenance employees shall have overtime based on a District-wide preference.

Section 10.05: Emergency Call-In Pay: Any employee called to return to work outside of his/her regular scheduled shift shall be paid a minimum of two (2) hours at one and one-half (1-1/2) times the regular rate. The District has the right to schedule two (2) hours of duties in such instances. The employee working on the Friday p.m. shift shall be the person called first in emergency call-in situations.

Section 10.06: Employees working five and one-half (5-1/2) or more hours per day shall be scheduled for two (2) fifteen (15) minute breaks and a one-half (1/2) hour unpaid lunch period. Part-time employees shall be scheduled for one (1) fifteen (15) minute break and an unpaid thirty (30) minute lunch period if they work four (4) hours or more.

OFTA2  
071993

CSM 7/19/93  
DWR 7/22/93

Employees who received a paid lunch period during the 1990-91 fiscal year shall continue to do so during the duration of this Agreement.

Employees with a one-half hour (1/2) unpaid lunch period shall receive the remainder of their one-half (1/2) hour at an alternate time if interrupted during their lunch period to carry out job duties.

Section 10.07: The normal work week shall be Monday through Friday.

Section 10.08: The Employer reserves the right to install time clocks in each building.

*CSA 7/19/93*

*AWR 7/22/93*

2. Section XIV - BUS DRIVER PROCEDURES

Section 14. : Bus Drivers Work Site: Bus drivers shall be afforded access at the bus garage to restroom facilities, vending machines, and coffee machines in the drivers' lounge facilities.

Section 14. : The document entitled "Bus Garage Protocol and Procedure" distributed to bus drivers shall be valid to the extent it is not in conflict with the provisions of the Collective Bargaining Agreement.

Section 14. : Bus Drivers Manual: Provisions of the "Oconto Falls School District Manual" which conflict with provisions of the Collective Bargaining Agreement shall be subject to the appropriate contract provisions.

Section 14.30: Extracurricular Summer Trips: Bus drivers shall be assigned for extracurricular summer trips on a seniority basis.

Section 14.31: Summer School Routes: Shall be assigned on a seniority basis on the condition that the driver is available for the entire summer school season.

3. ARTICLE XX - NO STRIKE CLAUSE

Section 20.01: Neither the Union nor any officers, agents, or employees will instigate, promote, sponsor, engage in, or condone any strike, sympathy strike, slowdown, concerted stoppage of work or any other intentional interruption of the operations of the School District. Any or all employees who violate any of the provisions of this article may be discharged or otherwise disciplined by the School District for proper cause.

4. TERM OF AGREEMENT

Section 21.1.1: Successor Agreement: On or before March 1st of the year during which the Agreement expires, the Association shall present its proposal for a successor Agreement to the District at an open meeting between the parties held solely for that purpose.

OFTA2  
071993

CSA 7/19/93  
DNR 7/22/93

No later than thirty (30) days from the date of the above-mentioned meeting the District shall present its initial proposal to the Association at an open meeting held solely for that purpose. The parties, by mutual agreement could combine the above-mentioned open meetings. All subsequent bargaining sessions between the parties shall be held in closed session if either of the parties to this Agreement so requests.

Section 21.02: This agreement reached as a result of collective bargaining represents the full and complete agreement between the parties and supersedes all previous agreements between the parties. Any supplemental amendment to this agreement shall not be binding upon either party unless executed in writing by the parties hereto. Waiver of any breach of this Agreement by either party shall not constitute a waiver of any further breach of this Agreement.

Section 21.03: In the event that the parties do not reach a written successor agreement to this Agreement by the expiration date of this Agreement, the mandatory provisions of this Agreement shall remain in full force and effect during the pendency of negotiations and until a successor agreement is executed provided, however, that this Agreement shall not have a duration of more than three years.

#### 5. ADDENDUM

1. The positions held by Larry Peters, Phylis Urbanek, Janet Binkowski, Sally Wroblewski and Gloria Schindel shall include non-continuous hours as part of normal work duties.
2. Phylis Urbanek, Janet Bouche and Fonda Oninski shall be paid housekeeper/cleaner/courier rates despite performing certain aide work. Lynn Martinson shall be paid at the aide rate despite some portion of the workday spent performing secretarial duties.
3. Bart Schindel shall be paid eight (8) hours at the mechanic's rate and is assigned to one (1) route as a bus driver. Gloria Schindel shall work eight (8) hours as a secretary (including one-half (1/2) hour paid lunch subject to answering the phone) and have one (1) route as a bus driver.

CSM 7/19/93  
DUR 7/22/93

ARTICLE V - DEFINITION OF EMPLOYEE

Section 5.01.1: Regular Full-Time Fiscal Year Employees:

Employees in this category shall include employees who are assigned to a position for thirty-five (35) or more hours each week during the fiscal year.

Section 5.01.2: Regular Part-Time Fiscal Year Employees;

Employees in this category shall include employees who are assigned to a position for less than thirty-five (35) hours per week for fifty-two (52) weeks or for less than fifty-two (52) weeks during the District's fiscal year.

Section 5.02.1: Regular Full-Time School Year Employees:

Employees in this category shall include those employees who are assigned to a position for thirty-five (35) or more hours per week during the school year.

Section 5.02.2: Regular Part-Time School Year Employees:

Employees in this category shall include those employees who are assigned to a position of less than thirty-five (35) hours per week during the school year or for less than fifty-two (52) weeks during the District's fiscal year.

ARTICLE IX - SENIORITY/LAYOFF PROCEDURE

Section 9.03: Layoffs - For the purposes of this Agreement all employees shall be placed in the following classifications based on their current assignments:

- a. Maintenance/Custodian
- b. Housekeeper/Cleaner Courier
- c. Secretarial
- d. Food Service I and II
- e. Aide
- f. Bus Driver
- g. Bus Mechanic

Section 9.09: In the event of a reduction in workforce, the employer shall identify the specific positions to be eliminated or reduced, and shall notify those employees in those positions. Employees whose positions have been eliminated or reduced due to the reduction in workforce, or have been affected by a layoff/elimination of position, shall have the right to bump into a position equal to or closest in number of hours in their classification(s) for which they are qualified which is held by the least senior employees in the employee's classification. In no case shall a new employee

be employed by the employer while there are laid-off employees who are qualified for vacant or newly-created positions.

(Association drops final offer 12.0)

#### ARTICLE X - HOURS OF WORK AND OVERTIME

Section 10.02: Should it be necessary in the judgment of the Employer to establish daily or weekly work schedules departing from the normal work day or work week, notice of such change shall be given to the employee affected as far in advance as is reasonably practicable.

Assn. Proposal 14.06: A pay rate of time and one-half the regular hourly pay rate shall be paid for work performed after the close of the normal work day for a given employee on the Friday until the beginning of the normal work day on the following morning.

(Assn. drops 14.5)

#### ARTICLE XIV - CONDITIONS OF EMPLOYMENT

Section 14.25: Video Taping: The District may video tape students in order to help control student behavior. Insofar as resulting video tapes include the actions of an employee, the video tape may be used as evidence in disciplinary proceedings against the employee and the video tape may also be used for supplementing the District's regular work performance evaluation of the employee, provided that, in both cases, the employee was notified in advance that the video camera was in operation. The affected employee(s) and the Association shall have access to view and copy all video tapes used by the District in the above disciplinary or evaluation procedures described above.

Section 14.31: Kindergarten Route Subbing Assignments: Regular bus drivers shall be assigned sub work on kindergarten routes on a seniority basis so long as it does not interfere with their regular routes.

(Assn. drops its proposals numbered Sections 14.14, 14.14.2, and 14.24.6)

(Insert in ARTICLE XIV)

Equipment, Supplies and Training: The District will provide safety equipment as required by law or by District policy.

Health and Safety: All employees shall be covered by Worker's Compensation insurance. If any employee is injured while in the performance of duties for the District, the District shall continue to provide the employee with income equivalent to the income the employee could have earned had the employee not been injured by a combination of Worker's Compensation insurance and pro-rated accumulated sick leave as necessary through a deduction of one-third (1/3) of a sick day for each day while on Workman's Compensation. During any

period of recovery, the employee will be covered by all District insurance plans at the applicable contribution rate and will continue to accrue all other benefits as though the employee were regularly employed, if the employee is using accumulated sick leave, or for six (6) months, whichever time is longer. Once the accumulated sick leave has been used to make the employee whole has been exhausted (to a maximum of eighteen (18) months after the employee began receiving worker's compensation benefits), the employee will be permitted to continue insurance benefits at their own expense.

#### ARTICLE XVII - PAID AND UNPAID LEAVES

Section 17.06.6: Employees subpoenaed by the District for an arbitration proceeding or other administrative hearing during school time shall receive paid leave for that time if the proceeding is during working hours.

(Association drops 17.2)

#### ARTICLE XIX - EMERGENCY SCHOOL CLOSING

Section 19.01: Announcements informing employees of school closing shall be made on local radio stations. On the day of inclement weather, employees shall be responsible to listen for this information. Employees are subject to call-in for plant safety, maintenance, snow removal or other reasons given by the District Administrator. If school is cancelled, employees will not receive pay, but will have the opportunity to work on the first two (2) make-up days.

If school is held and closed early, employees shall be released from duties, if they are not required by the District administrator/designee to perform their regular duties. Under said early dismissal, employees shall not be paid for their regularly scheduled hours of work if not worked.

All unit employees may use emergency, personal or vacation days in excess of the two make-up days on which school is canceled or for days which the employee has not opportunity to make up.

(Association accepts Employr's proposal)

#### ARTICLE XXVII - TERMS OF AGREEMENT

Section 27.01: This Agreement, reached as a result of collective bargaining between the parties, constitutes the entire Agreement between the parties, and no verbal statements or past practice shall supersede any of its provisions. Any amendment or agreement supplemental hereto shall not be binding upon either party unless executive in writing between the parties. The parties further acknowledge that during the negotiations which resulted in this agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any bargaining, and that the understandings and agreements arrived at by the parties after exercise of that right and opportunity are set forth in this Agreement. Nothing in this provision, however, shall prevent written modification of this Agreement at any time by mutual consent of the parties.

(Association drops 22.4 - District drops 21.04)



External Comparable Pool Vacation Benefits  
Applicable to 12 Month Employees

<u>District</u>	<u>Years of Service</u>	<u>Days of Vacation</u>
<u>Clintonville</u>	1	5
	2	10
	8	15
	15	20
	After 20 years, 1/2 day for each year worked, up to 25 days	
<u>DePere</u>	1	5
	2	10
	10	15
	15	20
<u>Howard-Suamico</u>	1	5
	2	10
	8	15
	10	16
	12	17
	14	18
	15	19
16	20	
<u>Marinette</u>	6 months	5
	1	10
	3	10*
* Plus 1 day for each additional year up to 25 days		
<u>Menominee Indian</u>	1	10
	7	15
	10	20
	15	25
<u>Peshtigo</u>	1	5
	3	10
	8	15
	17	20
<u>Pulaski</u>	1	5
	2	10
	8	15
	14	20
	15*	
* Plus 1 day each year after 15 years, up to 25 days		

<u>District</u>	<u>Years of Service</u>	<u>Days of Vacation</u>
<u>Southern Door</u>	1	5
	3	10
	10	15
	15	20
	20*	
* After 20 years 1 day for every year thereafter, up to 25 days		
<u>West DePere</u>	1	5
	2	10
	3	12
	8	15
	12	17
17	20	