STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
FACT FINDING

ROYAL OAK SCHOOLS

and

MERC Case No. D02 C0454

ROYAL OAK EDUCATIONAL SUPPORT
PERSONNEL ASSOCIATION, MEA/NEA
/

Report

Thomas L. Gravelle, Fact Finder

August 23, 2003

FINDINGS, RECOMMENDATIONS AND REASONS

The fact finding hearing of this matter was held on May 7, 2003 in Royal Oak, Michigan.

Present for the Association were:

Bruce Anderson
Francis Renou
Kim Pino
Gerald E. Haymond

Present for the Royal Oak School District were:

Andy Linell
John Schwartz
Sandra Standel
Gary P. King

The parties filed post-hearing briefs, which I have reviewed together with the entire record.

FACT FINDING LAW AND RULES

Section 25 of the Labor Mediation Act (LMA) of 1939, 1939 PA 176, as amended, provides for fact finding as follows:

> When in the course of mediation ..., it shall become apparent to the commission that matters in disagreement between the parties might be more readily settled if the facts involved in the disagreement were determined and publicly known, the commission may make written findings with respect to the matters in disagreement. The findings shall not be binding upon the parties but shall be made public.

Rule 137 of the Administrative Rules of the Employment Relations Commission, R 423.137, explains the contents of the fact finder report as follows:

> Rule 137. (1) After the close of the hearing, the fact finder shall prepare a fact finding report which shall contain:
>
> (a) The names of the parties.
>
> (b) A statement of findings of fact and conclusions upon all material issues presented at the hearing.
>
> (c) Recommendations with respect to the issues in dispute.
>
> (d) Reasons and basis for the findings, conclusions and recommendations. ...

MERC has explained that "factfinding is an integral part of the bargaining process." County of Wayne, 1985 MERC Lab Op 244; 1984 MERC Lab Op 1142; *aff'd* 152 Mich App 87 (1986). The fact finder's report reinstates the bargaining obligation and should be given serious consideration. City of Dearborn, 1972 MERC Lab Op 749.

BACKGROUND

The parties are negotiating their second collective bargaining agreement. It is for the period July 1, 2002 to and including June 30, 2004.

The parties' first agreement (for the period 1999-2002) was only reached after protracted negotiations. In the course of those negotiations, the members of the bargaining unit voted out a different labor organization and voted in the Association.

Last winter, the parties reached a tentative agreement. It provided for a one year contract ending on June 30, 2003; a 2% wage increase retroactive to July 1, 2002; capping employer contributions for TriMed health insurance for the period of the contract, which would not result in any employee contributions until June 30, 2003; a 1% off-schedule payment to each cafeteria employee; and all terms of the agreement continuing in effect on a day-to-day basis during negotiations for the parties' next agreement. (E Ex. 12).

Despite the Association's support of the tentative agreement, the membership voted it down.

The parties' differences are monetary. The Association wants more than the School District thinks it can afford without jeopardizing its long-term financial security.

At the hearing, the parties stipulated that the School District's factual information is accurate. Therefore, I am relying on it, as pertinent.

ABILITY TO PAY

The key issue is the School District's financial status. It is a gathering storm.

The School District can be thought of as a large family which must live within its budget. This requires planning for the future as well as for the moment.

Under Michigan's Proposal A, the School District is funded primarily by the State of Michigan through payments called "foundation allowances." In turn, the foundation allowances are funded by Michigan sales tax receipts.

Because of a down-turn in Michigan's economy in the last two years, sales tax receipts have declined. Further, Michigan's current reported unemployment rate is over 7%. As a result, significant increases in sales tax receipts are unlikely, at least in the immediate future. In 2002-2003, the State **reduced** its foundation allowance to the School District for categorical programs by **$332,000**.

Under Proposal A, the state funding is per enrolled student. For 2002-2003, the School District received $8,850 per student. However, for 2002-2003, the School District had 82 fewer students than for 2001-2002. This represents a **decline** in revenue of more than **$725,000**.

In reviewing ability to pay, a key concept is "fund equity." This is the amount of money the School District has in its general fund after paying its current expenses. Fund equity is like a family's savings account. It is often referred to as a "rainy day" fund. Unless excessive, it is imprudent to use it for day-to-day expenses.

Experts in public school finance believe that a school district's fund equity should be between 15% and 20% of its annual expenditures. For the 1998-2001 fiscal years, the state-wide average fund equity for school districts was 15% of expenditures. (E Ex. 36).

Here, for 2001-2002, the School District had a healthy fund equity of 20.16%. However, for 2002-2003, the School District's fund equity has **fallen to 13.61%**. (E Ex. 36). This represents **a one-year decline of 32%**.

What happened? For 2002-2003, the School District's expenditures exceeded its revenues by a few million dollars. An initial calculation by the School District (E Ex. 6) shows that its revenues for 2002-2003 were over **$1,000,000 lower** than for 2001-2002, whereas the School District's **expenditures increased by about $5,000,000.** On April 29, 2003, the School District reduced this difference by $1,500,000 by reason of a "favorable budget variance." (E Ex. 36). This change resulted in the fund equity for 2002-2003 being 13.61%. As mentioned above, this represents a decline in fund equity of 32% from the previous year.

For 2003-2004 and for some time beyond, the School District's projected revenues are stagnant. There are two reasons for this.

First, as mentioned above, Proposal A foundation allowances are not expected to go up.

Second, in recent years the School District has experienced a significant decline in students residing in Royal Oak. For example, between September of 2000 and September of 2002, the decline of residential students was 7.5% (or 453 students). (E Ex. 10). For 2002-2003, this decline represents a loss of foundation allowances in the sum of $4,000,000 (453 students x $8,851).

It is only by admitting "Schools of Choice" non-residential students in increasing numbers that the School District has avoided a significant contraction. As of September 2000, there were 629 non-resident students, or 9.4% of the total student population of 6709. However, as of September 2002, non-resident student enrollment had increased to 1026, or 15.4% of total enrollment of 6649.

Even with non-resident students included, as of September 2002, the School District had 82 fewer students than as of September 2001. As mentioned above, with the foundation allowance being $8,850 per student, this decline in enrollment represents a loss of more than $750,000.

An outside consultant has prepared a chart showing steadily declining residential enrollment from 6975 in 1996-1997 to 5323 for 2002-2003 to 4062 projected for 2008-2009. (E Ex. 10). This will involve the loss of millions of dollars in foundation allowances.

Under this projection, the only way the School District can approximate the current level of services for the next few years is to increase its non-resident students every year to the point where they would represent about 40% of total enrollment (*i.e.*, 2600 non-residential students divided by 6600 total students).

The School District would face a political problem and a potential competitive problem if it sought to continue to increase the number of its non-residential students.

The political problem is that a survey of Royal Oak residents conducted by an outside polling service shows that Royal Oak residents believe that the percentage of non-resident students should be limited. (E Ex. 10). Accordingly, the School District already has placed some limits on accepting new enrollees.

The potential competitive problem is that the School District does not have a legal monopoly on enrolling non-residential students. Several contiguous school districts already engage in "Schools of Choice." (E Ex. 9). Further, three other contiguous school districts - Birmingham, Troy and Southfield - receive very high per-pupil foundation allowances, are not experiencing declining residential enrollments, and have not yet resorted to enrolling non-residential students to increase their revenues. However, if they were to do so, they would provide stiff competition to Royal Oak for non-residential students, and might even compete for Royal Oak residential students in some instances (especially if Royal Oak were forced to curtail student services to meet expense obligations).

Returning to the key concept of fund equity, the School District has prepared a 5-year fund balance projection. (E Ex. 6). It projects slightly declining general fund revenues from $66,460,000 for 2003-2004 to $65,493,000 for 2007-2008. It then estimates the consequences of not curtailing expenses for this period: (1) Beginning in 2003-2004, expenditures would increase about 3% per year; (2) the fund balance would go into deficit in 2004-2005; and (3) for 2007-2008, the deficit would rise to about $35,000,000. As with the projected decline in residential student enrollment, perhaps this deficit projection is pessimistic; however, it is not irrational.

It would be unreasonable to ignore these projections.

Because of the financial concerns outlined above, the administrators of the School District have recommended various staff reductions, and the proposals discussed below.

Even with staff reductions and other prospective measures, as of April 2, 2003 the School District has projected **a net operating deficiency of $493,000 for 2003-2004.**

Under the tentative one-year agreement rejected by the bargaining unit earlier this year, the additional cost to the School District was about $264,000. (E Ex. 13). Under the School

District's proposed two-year contract, the additional cost is about $462,000. (E. Ex. 26).

The School District has estimated that under the Association's proposed two-year contract, the additional cost is about $836,000 (Er. Ex. 25).

The School District also has estimated that under its proposed new agreement the total compensation for a Grade "A" employee with 15 years of service and TriMed, two-person health insurance for 2003-2004 would be $53,560. This, in turn, would be a 5.43% increase in total compensation over 2001-2002. (E Ex. 15).

This increase of 5.43% in total compensation is offered despite stagnant revenues.

THE BARGAINING UNIT

The non-teaching bargaining unit represented by the Association consists of 165 employees. Of these, 114 are in "Operations," including maintenance employees, custodial employees, and bus drivers. 41 are food service employees. 10 are hall supervisors.

60% of the employees in the bargaining unit receive health insurance. 40% do not.

The food service employees are in a special situation: In lieu of the School District contracting food service to a private provider (as now permitted by state law), the parties agreed to financial terms which have made the food service employees competitive with for-profit, private food services.

FACTORS TO BE CONSIDERED

In addition to the primary factor of ability to pay (discussed above), internal bargaining units as well as comparable school districts are often considered in fact finding.

The School District has five bargaining units, plus a group of unrepresented administrators. The history of wage increases for these six groups for the period 1993-1994 through 2001-2002 shows comparable percentage increases of 19% to 21%, except for the administrators whose wages increased only 15.51%. During this period, the bargaining unit before me had wage increases of 19% plus an additional 4% in off-schedule payments, along with 2 additional off-schedule payments of $300 (1995-1996) and $247 (1996-1997). Over the years, then, this bargaining unit has received internally equitable wage increases.

The School District has cited the following school districts for purposes of comparison: Berkley, Clawson, Ferndale, Hazel Park, Lamphere, Madison Heights and Oak Park. The School District's rationale is that these school districts are both geographically contiguous and experiencing declining residential enrollment.

The Association accepts these school districts but would add Birmingham, Troy and Southfield for the reason that they also are contiguous to Royal Oak. However, these three districts receive high foundation allowances; are not experiencing declining residential enrolments; and have not yet found it necessary to participate in Schools of Choice. Their affluence is partially revealed by an exhibit showing that they pay their teachers more than any other contiguous school districts. (E Ex. 37).

I agree with the School District's rationale for its proposed comparable school districts. The three additional school districts proposed by the Association simply do not share the financial problems faced by the Royal Oak School District. Geographic proximity can be misleading. For example, Bloomfield Hills is contiguous to Pontiac; but in other respects their school districts are inapposite.

In making my recommendations, I will keep an eye on the seven contiguous school districts proposed by the School District; however, in light of the School District's financial circumstances (discussed at length above), the focus must be on working within a responsible budget.

DISPUTED ISSUES

The parties have agreed to all terms of new agreement except for the following disputed issues submitted to fact finding:

1. Wages
2. Longevity Pay
3. Health Insurance
4. Overtime Pay
5 Cafeteria Employee Off-Schedule Payment

1. WAGES

The Association proposes that hourly wages be increased 3 % for the 2002-2003 school year retroactive to July 1, 2002; and 3% for the 2003-2004 school year retroactive to July 1, 2003.

The School District proposes that hourly wages be increased 2% for the 2002-2003 year retroactive to July 1, 2002, and to maintain for the 2003-2004 year the wage determination formula which the parties agreed to in their 1999-2002 agreement.

A. Findings of Fact

The wage determination formula requested by the School District for 2003-2004 is found in Appendix A of the parties' 1999-2002 agreement.

There, the parties agreed that for 2001-2002, salary increases (if any) were to be based on a "total compensation" formula rooted in "the School District's per pupil foundation allowance under the State School Aid Act;" and "[i]n no event shall the compensation of an employee in the unit be reduced due to the application of this formula." The precise formula calculates a wage increase based upon increases in the School District's per-pupil foundation allowance, reduced by increases in the cost of retirement contributions, and Social Security and Medicare taxes.

Under this formula, the bargaining unit members received a 3% wage increase for the 2001-2002 school year. This wage increase was higher than that of any other bargaining unit within the School District.

As can be seen, the formula is centered on the amount of the foundation allowance. While the formula does contain set-offs for increases in payroll taxes and retirement contributions, it does not contain a set-off for increases in health insurance premium payments (which have soared in recent years).[1]

The wages of the bus drivers and hall supervisors are well above average among comparable school districts. (E Exs. 18, 38).

As for the cafeteria employees, the parties have agreed to make their compensation competitive with private, for-profit food services, in lieu of their work being privatized. On this point, two of the seven comparable school districts have privatized their food services. (A Ex. 6). Therefore, while the wages of the School District's cafeteria employees are on the low side in comparison with those comparable school districts which have not privatized, at least they continue to have School District employment and collective bargaining representation.

The wages of School District custodial and maintenance employees are favorable among comparable school districts for

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[1] **In their negotiations for the 1999-2002 agreement, the parties agreed that there would not be a set-off for health insurance premium increases in exchange for a cap on School District liability for health insurance premium increases. This is discussed below in addressing the parties' health insurance disputed issues.**

their first three years (at which time they reach the top of their wages scales) but are relatively low in ensuing years. The reason is that in some comparable school districts the top of wage scales is reached after four or five years.

B. Recommendation:

I recommend that the School District's wage proposal be adopted.

I also recommend that the parties consider adopting a letter of agreement in which they agree to conduct an "equity" study of comparable school districts limited to the overall compensation[2] of custodial and maintenance employees with at least 5 years of seniority, in order to review whether an "equity" adjustment would be advisable (budget permitting) for the affected School District employees beginning with the 2004-2005 year.

C. Reasons

I think that a 2% wage increase for 2002-2003 is reasonable given that the School District ran a significant deficit for 2002-2003, resulting in its fund equity being reduced below the desirable level of 15% to 20% of expenditures. In addition, a 2% raise is within the range of the 1.62% and 2.5% raises which

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[2] **Overall compensation is the sum of money paid by an employer for an employee's wages, health insurance, dental insurance, life insurance, long term disability, vision insurance, longevity, retirement, FICA, etc.**

the other School District groups received for 2002-2003. (E Ex. 3).

As for 2003-2004, some background is in order. In their 1999-2002 agreement, the parties reasonably agreed to link wage increases to increases in foundation allowance receipts. Also, in recognition that there is no guarantee that foundation allowances always will rise (or that the limited set-offs would not increase), the parties further agreed that in no event would wages be reduced.

Because it is rooted in foundation allowance revenues, application of the formula for 2003-2004 is as reasonable as it was for 2001-2002 (when it yielded a 3% wage increase).

Further, in light of the School District's financial constraints a one-year wage freeze is not out of order.

In reviewing the comparable school districts cited by the School District (E Exs. 17-21), I have observed one possible discrepancy. It appears that the highest hourly wage rates of the School District's custodians and maintenance employees are significantly lower than the average highest hourly wage rates of their counterparts.

For 2002-2003 (including a 2% wage increase), the comparison follows:

Position	**Royal Oak**	**Average**
Maintenance-Skilled	16.60	18.16
Elem. Head Custodian	16.29	17.67
Asst. Head Custodian	15.59	17.10
"D" Rate Custodian	14.88	16.40

This variance emerges with about five years of seniority because School District employees reach the top rate in three years while in some of the comparable school districts the top rates are not reached until the fourth or fifth year.

2. LONGEVITY PAY

The Association proposes to delete the current longevity schedule and to replace it with an additional 25 cents per hour after completion of 10 years of service to the School District, and an additional 25 cents per hour after completion of 15 years of service.

The School District proposes to retain the existing language on longevity pay.

A. Findings of Fact

The Association's proposal would represent a net cost to the School District of $65,294. (E Ex. 25).

Three of the seven comparable school districts I am relying on have no longevity pay. (A Ex. 7). Of the remaining four, the the parties' longevity benefit is higher than one and lower than three.

B. Recommendation

I recommend that the current contractual language be retained.

C. Reasons

If the seven comparable school district longevity benefit (including those with a zero longevity benefit) were averaged, the School District's present longevity benefit would be about average.

Further, because of the School District's budgetary constraints, an increase in the longevity benefit at this time seems inadvisable.

3. HEALTH INSURANCE

The School District proposes to pay all insurance premiums for 2002-2003 and (1) to cap its liability for premium increases beginning with 2003-2004, (2) to limit eligibility for fully funded health insurance for newly hired employees only if they are regularly scheduled to work 40 hours per week, (3) to limit fully funded coverage for newly hired full-time employees to single-subscriber insurance until they reach the top of the salary schedule, and (4) to add a provision that the collective bargaining agreement will remain in full force on a day-to-day basis until a successor agreement is ratified by both parties.

The Association proposes that (1) MESSA "Tri-Med" be fully funded by the School District or, (2) if an employee opts for MESSA "Choices," the employee will pay the difference between "Choices" and "Tri-Med."

A. Findings of Fact

In recent years, the cost of health insurance has soared. In 2002-2003 alone, the School District's Tre-Med premiums increased by 15.7%.

The School District is not proposing that the employees pay any part of this 2002-2003 increase.

60% of the bargaining unit receives health insurance through the School District.

The School District's proposal for 2003-2004 (beginning June 30, 2003) would cap its funding for health insurance as follows:

Coverage	Monthly cap	Annual Cap
Family	$879.00	$10,548.00
2 person	$792.00	$ 9,504.00
Single	$354.00	$ 4,248.00

In 2003, some other groups of School District employees have had some health insurance deductions. (E Ex. 14).

Although the seven comparable school districts have not capped their health insurance premium payments, the record does not show the actual cost of their health insurance programs.

For this reason, it is possible that the School District - even with a cap - will pay more for each employee's health insurance than some comparable school districts.

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As mentioned above, Appendix A of the parties' 1999-2002 agreement contains a formula for wage raises based on the amount of foundation allowances, and subject to limited set-offs. The parties did not include a set-off for increases in the School District's payments of health insurance premiums. Rather, the parties made a trade-off: increases in such premiums were not included in exchange for the parties' agreement to the continuation[3] of cost sharing of health insurance premium increases.

Article 19 of the parties' 1999-2002 agreement contains the trade-off referred to above. There, the parties agreed that for the 2001-2002 school year, the School District's liability for insurance premiums would be capped, as follows:

ARTICLE 19-HOSPITALIZATION, DENTAL AND VISION INSURANCE

Section 19.1.

Effective October 1, 2000, the Board of Education will provide MESSA TriMed hospitalization program for all eligible regular employees covered by this agreement. **Beginning July 1, 2001, the District agrees to pay an additional increase of eight percent (8%) for the 2001-2002 year. If the increase exceeds the eight percent (8%),**

[3] I say "continuation" because in the previous (1994-1997) agreement with a different labor organization, "[a]ny and all increases in per capita insurance premiums above the per capita cost of June 30, 1997, shall be paid by the individual employee through a payroll deduction." Art. XIII, Section 16, Employee Contribution to Insurance Premiums. The School District chose not to enforce this provision, at a total cost to it of $281,126.05.

employees selecting health insurance will be obligated to pay the difference and do so through the District Section 1245 cafeteria plan.

B. Recommendations

I recommend that the School District's proposals be adopted. (E Ex. 24). They are summarized as follows:

Revise Article 19.2 to add the following:

-- No cost to employees for 2002-2003.

-- As of June 30, 2003, the School District's monthly financial responsibility for such insurance shall be capped at the following amounts:

Single	$354.00
2 Person	$792.00
Family	$879.00

The cost of any monthly premium in excess of these caps will be paid by the eligible employee by payroll deduction.

Revise the contract to provide that a new hire will be eligible for fully funded health insurance benefits, as set forth above, only if that employee is regularly scheduled to work forty (40) hours per week. Such a new hire shall be eligible only for fully funded single-employee subscriber benefits as set forth above until he or she reaches the top of the salary schedule. The employee may purchase additional insurance up to full family coverage.

Add the following sentence to the first Paragraph of Article 24:

> Should such notice be given in the manner set forth above, this collective bargaining agreement shall remain in full force and effect, in its entirety, on a day-to-day basis, until a successor agreement is ratified by both parties.

C. **Reasons**

My reasons for this recommendation are that medical coverage has sky-rocketed in recent years. For this reason, many employers in the private sector have reduced or eliminated medical insurance or required higher employee contributions. The public sector also has had to face this same problem. With many public employers, all employees from top to bottom have been called on to shoulder some of the burden.

With the School District, the problem is compounded by rising expenditures and stagnant revenues.

For several years, the parties have agreed to cap the School District's health insurance payments. To date, the employees have not yet contributed to the payment of health insurance premiums.

The School District has forgiven employees' contractual liability to compensate the School District the sum of $281,126.05 for premium increases after June 30, 1997. Further, as mentioned above, the School District is not seeking any employee payments for 2002-2003, the first year of the proposed contract.

The prospect of premium-sharing for health insurance is unwelcome to affected employees. Here, however, it should be softened by two facts. *First*, the School District is committed to paying large premiums, *e.g.*, up to **$10,548** for 2003-2004 for each eligible employee who opts for family coverage. *Second*, the projected cost to many employees is not excessive.

As to projected employee cost, the School District has estimated the cost of its health insurance proposal to a Grade "A" employee with 15 years of service and TriMed, two-person health insurance. (E Ex. 15). Assuming that health insurance would increase by 11.94% effective July 1, 2003, the School District would pay $9,504 for the year and the employee would pay $606 for the year, or about $50 per month.

For this hypothetical employee, the School District has estimated total compensation (*i.e.*, expenditures by the School District attributable directly to the employee)[4] (a) for 2001-2002 of $50,781, and (if its proposals were adopted) (b) for 2002-2003 of $53,088, and (c) for 2003-2004 of $53,560. This represents an increase of $2,779 in total compensation over the two year period 2002-2004 paid by the School District, which is **a 5.43% increase in total compensation** for these two years. (E Ex. 15). When the $606 estimated employee health insurance payment is subtracted from the $2779 increase, the difference is $2,173, which is **a 4.3% increase in total compensation** for these two years. Here, the effect of the cap on total compensation is not as adverse as one might first think.

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[4] **The total compensation calculated by the School District contains the following direct employee costs: Wages, Health Insurance, Dental Insurance, Life Insurance, Long Term Disability, Vision Insurance, Longevity, Retirement and FICA.**

As for employees who may be hired later in the 2003-2004 school year, the limitations proposed by the School District are justified as a reasonable way to contain costs. Further, as to limiting School District fully paid health insurance to full-time, 40-hour employees who may be hired in the future, five of the seven comparable school districts observe this limitation. (E Ex. 22).

4. OVERTIME PAY

The Association proposes to delete the language in Article 10, Section 10.6(1) requiring an employee to actually work the day before and the day after the day in which overtime was accrued in order to receive pay at the rate of time and one-half.

The School District proposes to retain the current language.

A. Findings of Fact

Article 10, Section 10.6(1) of the parties' 1999-2002 agreement states in pertinent part:

> All work performed in excess of forty (40) hours worked in a normal work week will be paid at the rate of time and one-half (1-1/2). All work performed on Saturday excluding regularly scheduled hours of Tuesday through Saturday, or in excess of eight (8) hours a day during a normal work week, shall be paid at the rate of time and one-half (1-1/2) **if the employee actually worked the work day before the and work day following the overtime day**.

The Association is seeking to delete the highlighted language because it is concerned that it may be illegal under the Fair Labor Standards Act.

The School District disagrees because of the requirement in the first sentence to pay overtime for all hours worked in an ordinary work week in excess of 40 hours.

B. Recommendation

The parties may wish to add the following sentence after the highlighted language quoted above:

> Notwithstanding the preceding sentence, all work performed in excess of forty (40) hours in a normal work week will be paid at the rate of time and one-half (1-1/2).

C. Reasons

Under the second sentence of Article 10, Section 10.6(1), standing alone, an employee who worked 8 hours a day Monday through Friday (40 hours) and who also worked overtime on the following Saturday but who was absent from work the following Monday would be ineligible for overtime pay for the Saturday. This would violate the Fair Labor Standards Act.

The School District states that this could not occur because of the first sentence of Article 10, Section 10.6(1) which requires that overtime be paid for all hours worked in excess of 40 hours in a normal work week.

My recommendation would dispel any possible misunderstanding.

5. CAFETERIA EMPLOYEE OFF-SCHEDULE PAYMENT

The Association proposes that each cafeteria employee receive a 1% (off-schedule) payment in June of each school year.

The School District proposes that each cafeteria employee employed on June 16, 2003 receive 1% (off-schedule) payment for the 2002-2003 school year.

A. Findings of Fact

Article 16, VACATIONS, Section 16.12 of the parties' 1999-2002 contract states:

> In lieu of vacation, each cafeteria employee will receive a one-time (off-schedule) payment contained in a separate check equivalent of 1.00% of his/her then-current salary for each of the 1999-2000, 2000-2001, and 2001-2002 school years.

B. Recommendation

I recommend that the Association's proposal be adopted, so that the new Article 16, Section 16.12 will read:

> In lieu of vacation, each cafeteria employee will receive a one-time (off-schedule) payment contained in a separate check equivalent of 1.00% of his/her then-current salary for each of the 2002-2003, and 2003-2004 school years.

I note that the School District's language states that the employee be employed "June 16, 2003." The parties may wish to add to the recommended language this date as well as a June 2004 date for 2003-2004.

C. Reasons

I am making this recommendation for reasons of continuity, and because the payments are "in lieu of vacations." Each summer brings a summer vacation.

August 23, 2003

Respectfully submitted,

T L Gravelle

Thomas L. Gravelle
Fact finder