

**IN THE MATTER  
OF  
FACT FINDING  
OPINION & AWARD**

STATE EMPLOYMENT  
RELATIONS BOARD

2001 OCT 10 A 11: 12

<b>BETWEEN</b>	<b>CASE NO: SERB 01-MED-03-0183</b>
<b>The Dalton Local Education Association</b>	<b>FACT FINDER: JOHN S. WEISHEIT</b>
<b>And the</b>	<b>HEARING DATE(S): Sept. 7 &amp; 15, 2001</b>
<b>Dalton Local Board of Education</b>	<b>AWARD ISSUED: October 9, 2001</b>

**REPRESENTATION  
by**

<b><u>Employer Representatives</u></b>	<b><u>Union Representatives</u></b>
William C. Pepple, Esq., Representative Donna M. Andrew, Employer Rep. Ass't Roger Saurer, Supt. Robin L. McFarren, Ass't Treas. Ralph Basinger, Treas.	Richard Schneider, Representative Diane Meslman, DLEA Pres. Mike Doey, DLEA Barg. Team Robin Evan-Del Ciapo, DLEA Barg. Team Kevin Walton, DLEA Barg. Team Lynn Ramsey, DLEA Barg. Team

**AUTHORITY**

This matter was brought before Fact Finder John S. Weisheit, in keeping with applicable provisions of ORC 4117 and related rules and regulations of the Ohio State Employment Relations Board. While the parties did not comply in a timely manner with the filing of pre-hearing position reports, each party did present to the Fact-Finder materials including issues at impasse and such issues therefore were considered for recommendation in keeping with the rules and regulations of SERB and ORC 4117.

## **BACKGROUND**

The, Dalton Local Board of Education, hereinafter called the “Employer” and/or the “Board”, recognizes the Dalton Local Education Association, hereinafter called the “Union”, and/or the “Association”, as the exclusive bargaining representative for all certificated staff employed by the Board, except building principals, all Central Office Administrators or Supervisors, substitute teachers, educational aides, and school nurse. The Board and Association engaged in bargaining for a successor Agreement to the one expiring June 30, 2001.

Negotiations started on May 23, 2001, and the parties held three (3) more bargaining sessions, the last being held June 8, 2001. This Fact Finder was appointed to this case by SERB on or about August 23, 2001. It was understood by the Fact Finder that the parties wished to proceed to Fact Finding as expeditiously as possible. In consultation with the parties, the initial Fact-Finding Hearing was scheduled and conducted on September 7, 2001, with proceedings concluded on September 15, 2001. At the conclusion of the Hearing, the parties indicated they had nothing additional to submit on behalf of their bargaining position and acknowledged that they had a fair and ample opportunity to present such facts and documentation to support their respective positions. The parties mutually agreed to extend The Fact Finding period until October 15, 2001, to allow the Fact Finder to prepare and issue the Fact Finding Report. The Hearing was then closed .

In compliance with ORC 4117.14(C)(4)(e), and related rules and regulations of the State Employment Relations Board, the following criteria were given consideration in making this Award:

1. Past collectively bargained agreements between the parties;
2. Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

3. The interest and welfare of the public, the ability of the public Employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
4. The lawful authority of the public Employer;
5. Any stipulations of the parties;
6. Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in public service or in private employment.

### **STATUS OF ISSUES**

All Sections of the Agreement tentatively agreed to, or otherwise resolved prior to the convening of the parties at the beginning of the initial Fact Finding Hearing are entered in regular print. Issues at impasse at the start of the Fact Finding Hearing are those Sections that are in bold text and underlined.

<b>Article</b>	<b>Section(s)</b>	<b>Title</b>
I	101	Recognition
II	201, 202, 203, 204, 205, 206, 207, 208, 209, <b><u>210</u></b>	Negotiations Procedure
III	301, <b><u>302, 303</u></b> , 304, <b><u>305, 306</u></b> , 307, <b><u>308, 309</u></b>	Grievance Procedure
IV	<b><u>401, 402, 403, 404, 405,</u></b> <b><u>406, 407, 408</u></b>	Sick Leave

Article	Section(s)	Title
V	501, <u>502</u> , 503, <u>504</u> , <u>505</u> , <u>506</u> , <u>507</u> , <u>508</u> , 509, <u>510</u> , <u>511</u> , 512, 513, <u>514</u> , 515, <u>516</u> , 517, <u>518</u> , <u>519 (New)</u> , <u>520 (New)</u>	Teacher Rights
VI	601, 602, <u>603 (New)</u>	Board Rights
VII	<u>701, 702, 703, 704</u> ,	Salary
<u>VIII</u>	801, 802, 803, 804, <u>805</u>	<u>Supplemental Salary</u>
IX	<u>901, 902, 903-B, 904, 905(New)</u>	Other Compensation
X	<u>1001</u> , 1002, <u>1003</u> , <u>1004</u> , <u>1005</u>	Insurance
<u>XI</u>		<u>Liability Settlement</u>
XII	1201, 1202, <u>1203</u> , <u>1204</u>	Association Rights
XIII	<u>1301</u> , <u>1302</u> , <u>1303</u> , <u>1304</u> , <u>1305</u> , <u>1306</u> , <u>1307</u> , <u>1308</u>	Intent & Duration

Appendices	Title
A	Grievance Form
B	Request for Attendance at Professional Meetings
C	Voluntary Transfer Form
D	<u>Professional Teacher Appraisal Form</u>
E	E-1 Athletic Appraisal Form E-2 Non-Athletic Appraisal Form
F	<u>Complaint Notification Form</u>

Appendices	Title
G	Regular Teachers Substituting for Other Teachers Time Sheet
(New)	<b><u>100% Tuition Reimbursement Form</u></b>

**ISSUES TENTATIVELY AGREED TO  
AT THE FACT FINDING HEARING**

The following issues were tentatively agreed to by the parties during the Fact Finding Hearing.

ARTICLE	SECTION	TITLE
III	302, 303, 306, 308, 309, except for: D. Step IV, 1.	Grievance Procedure
IV	403 A, C, D (403B Open), 407	Leaves of Absence

**SUMMARY OF THE RESPECTIVE POSITIONS  
ON ISSUES AT IMPASSE**

The following issues remain at impasse with a summary of each party's position as understood by the Fact Finder.

Employer	Issue	Union
Establish a mutually agreed alternate dispute procedure, MAAD instead of Statutory procedure currently included.	<b>Art. II Neg. Proc.</b> Sec. 210-Impasse Proc.	Retain current language.
Retain current language.	<b>Art. III- Griev. Proced.</b> Sec. 309- Final Step	Replace "binding arbitration" for advisory arbitration as the final step.

<b>Employer</b>	<b>Issue</b>	<b>Union</b>
<p>Consider Association proposed increase in the number of days excessive.</p> <p>Propose to retain current language in defining immediate family.</p> <p>Retain current language.</p> <p>Retain current language.</p> <p>Reject inclusion of the provision in the Contract.</p>	<p><b>Art. IV- Lv. Of Abs.</b> Sec. 401-A - Sk. Lv.</p> <p>B - Definition of Immediate Family</p> <p>C - Med. related appointments.</p> <p>D - Advance time notification of Absence.</p> <p>E. - Time units for use of Sick Lv.</p>	<p>Propose to increase maximum accumulation of sick leave days from the current 219 to 250 days.</p> <p>Propose to establish a single, expanded number of individuals covered under the definition of immediate family for illness or death.</p> <p>Delete subsection "H", and substitute the signing of an absence form as an affidavit to justify the use of sick leave.</p> <p>Change current language to read "... as soon as he/she is aware of the need for use of sick leave."</p> <p>Add new provision allowing sick leave to be used in 1/4 day increment.</p>
<p>Add restrictions for use of personal days.</p> <p>Opposes Association proposal to include a provision allowing conversion of unused personal lv. to sick lv.</p>	<p><b>Art. IV- Lv. Of Abs.</b> Sec. 402 - Personal Lv.</p>	<p>Reject Board proposal to restrict use of personal lv.</p> <p>Propose teacher's right to convert unused person lv. to be sick lv.</p>
<p>The Board proposes revised language.</p>	<p><b>Art. IV- Lv. Of Abs.</b> <b>Sec. 403-B</b> <b>Prof. Mtg. Lv.</b> Tentative Agreement reached on this issue except for subsection B.</p>	<p>The Association proposes to retain current language.</p>

<b>Employer</b>	<b>Issue</b>	<b>Union</b>
Proposes to retain current language.	<b>Art. IV- Lv. Of Abs.</b> Sec. 405-Childcare Lv.	Proposes to modify certain provisions, notably related to duration, permissive vs. mandatory right and extension of such leave.
Add provision that days used under terms of this section would be subject to teacher payment of insurance premiums for the day.	<b>Art. IV- Lv. Of Abs.</b> Sec. 406-No Pay Earn Days	Proposes to retain current language.
Oppose inclusion in the Agreement.	Article 4 Section ____ (New)- Assault Lv	Leave to cover physical disability sustained in the course of work. Lv. not charged to sick lv.
Retain current language.	<b>Art. V- Tchr. Rts.</b> Sec. 502 - Vacancies	Add lang. Re: Posting to inc. vacancy notices be placed in tchr mail-boxes during school yr.  Add: conditions under which the bargaining unit member has preference in filling a vacancy to non-bargaining unit member.
Propose adding lang. citing “financial reasons” as a cause for initiating RIF.  Prop limiting recall rights to 24 months.	<b>Art. V- Tchr. Rts.</b> Sec. 504 - Reduction in Staff	Retain current language.
Retain current language.	<b>Art. V- Tchr. Rts.</b> Sec. 505 - Supt’s Tchr’s Adv Comm.	Change language regarding the title of the Association representatives.

<b>Employer</b>	<b>Issue</b>	<b>Union</b>
<p>Proposes lang. indicating evaluation to be in compliance with this provision and limited contract teachers are evaluated in accordance with ORC 3319.11.</p> <p>Replace related forms.</p>	<p><b>Art. V- Tchr. Rts.</b> Sec. 506 - Evaluation</p>	<p>Delete the 2 noted references to ORC 3319.11</p> <p>Right of tchr. to be given written reason, if requested.</p> <p>Retain current forms.</p>
<p>Retain current language.</p>	<p><b>Art. V- Tchr. Rts.</b> Sec. 507 - Multi-Yr. Limited. Tchng. Cont.</p>	<p>Add lang. limited a noted deficiency to cause a limited contract of less duration than previously held, to be “adequate to justify “ the contract period reduction..</p>
<p>Add detailed provisions to this Section.</p>	<p><b>Art. V- Tchr. Rts.</b> Sec. 508 - Discipline Action</p>	<p>Retain current language.</p>
<p>Limit conference time provision to full-time teachers.</p>	<p><b>Art. V- Tchr. Rts.</b> Sec. 510 - Sch Day Plan &amp; Lunch Time</p>	<p>Revise lang. defining length of school day to that in place in 1998 instead of the “current schedule”.</p>
<p>Current language.</p>	<p><b>Art. V- Tchr. Rts.</b> Sec. 511 - Class Size</p>	<p>Add language to limit an absolute number of 28 students or the maximum set by law or regulation.</p>
<p>Add language requiring teachers to administer medication/drug to a student when the health and/or safety of the student is threatened.</p> <p>Retain current language on other issues.</p>	<p><b>Art. V- Tchr. Rts.</b> Sec. 514 - Tchr Rts.</p>	<p>Retain current lang. regarding the dispensing of medication/drugs.</p> <p>Add language providing for 3 work days between the close of a grading period and the time grades are due.</p> <p>Provide for Pupil Activity Supervision Validations at no cost to coaches.</p>

<b>Employer</b>	<b>Issue</b>	<b>Union</b>
Substitute current language with a shorter, general statement of administration directives.	<b>Art. V- Tchr. Rts.</b> Sec. 516 - Parental Complaints	Propose change in form, retain current provision substance.
Propose new entry year program with details to be developed by committee.	<b>Art. V- Tchr. Rts.</b> Sec. ___ (New) Mentor Program Entry -Year Program	Propose a new provision with details included in the proposal.
Propose inclusion addressing the re-employment of retired teachers.	<b>Art. V- Tchr. Rts.</b> Sec. ___ (New) Emp. of Retired Teachers	Oppose inclusion in the Agreement.
Proposed provision to solicit parent and student feedback of teachers.	<b>Art. V- Tchr. Rts.</b> Sec. ___ (New) - Educ. Feedback Program	Opposes inclusion of Board proposal to the Agreement.
Propose inclusion of a management rights clause to make the Agreement a self-contained document.	<b>Art. VI - Board Rights</b> 603 - Management Rts.	Opposes the inclusion of the Board proposal.
Proposes retaining current index and increasing base rate (BA/BS) : Eff. Jul. 1, 01 ..... \$ 26,900 Eff. Jul. 1, 02 ..... 27,400 Eff. Jul. 1, 03, ..... 27,900	<b>Art. VII - Salary</b> Sec. 701-704 Salary Index	Proposes increasing index factors and base salary amounts : Base rate increase (BA/BS) Eff. Jul. 1, 01....\$28,776 Eff. Jul. 1, 02.... 30,934 Eff. Jul. 1, 03..... 32,790
Proposes current adding the position of Intermediate Wrestling to the Agreement. Adds language indicating a teacher's primary responsibility is related to the curricular activities with Board discretion to retain authority of assigning supplemental contracts.	<b>Art. VIII - Supp. Salary</b>	Proposes adding several positions to the supplemental salary schedule. It proposes increasing the number of index steps and increases some index step rates.

<b>Employer</b>	<b>Issue</b>	<b>Union</b>
<p>Proposes increasing maximum accumulation of days by 1 day each year for the next 3 years to a maximum of 63 days.</p> <p>Rejects Association alternate provision.</p>	<p><b>Art. IX - Other Comp.</b> Sec. 901 - Severance Pay</p>	<p>Proposes increasing the maximum accumulation to 61 days effective July 1, 2001, plus 1 day each successor contract year.</p> <p>Proposes an alternate severance benefit.</p>
<p>Proposes current language</p>	<p><b>Art. IX - Other Comp.</b> Sec. 902 - STRS Pickup</p>	<p>Add a provision providing a true 1% pickup, increasing by 1% each year to a maximum of 3%.</p>
<p>Proposes revising funding for tuition reimbursement limiting such to a requirement of Board approval.</p> <p>Rejects Association proposal to increase the number of LPDC meeting time.</p> <p>Rejects reimbursement for accredited correspondence &amp; televised course work.</p> <p>Proposes to add restrictions into current language related tuition given teacher upgrading certificate and/or licensing requirements.</p>	<p><b>Art. IX - Other Comp.</b> Sec. 903 - Local Prof. Dev. Comm./Tuition Reimbursement</p>	<p>Proposes increasing tuition reimbursement amount from \$9,000 to 10,000 per year.</p> <p>Proposes increasing LPDC meetings from 4 to 10, ½ day meeting per year.</p> <p>Proposes adding accredited correspondence/television courses subject to reimbursements.</p> <p>Proposes retaining current language on this provision.</p>
<p>Retain current language.</p>	<p><b>Art. IX - Other Comp.</b> Sec. 904 - Mileage</p>	<p>Increase mileage reimbursement for outside district travel rate from 27¢ to the IRS rate per mile.</p> <p>Increase inside district travel from \$25.00 to \$40.00 per year.</p>

<b>Employer</b>	<b>Issue</b>	<b>Union</b>
Retain current practice. Rejects inclusion under terms of the Agreement.	<b>Art. IX - Other Comp.</b> Sec. (New) - Extended Time	Include provision listing extended time positions in the Agreement with Technology Coordinator extended time being increase to 10 days.
Life Insurance face rate to be \$28,000 for the 2001-2002 school year; \$29,000 for the 2002-2003 school year; and \$30,000 for the 2003-2004 school year.	<b>Art. X - Insurance</b> Sec. 1001 - Life Ins.	Increase rate of life insurance from \$28,000 to \$40,000.
Propose freezing Employer contribution at current dollar amount.  Retain current dependent children age for coverage at age 23.  Reject Association proposal of making an annual payment to teachers electing not to participate in the Health and prescription drug program.	<b>Art. X - Insurance</b> Sec. 1003 - Hosp./MM	Propose the Employer pay 100% premiums for traditional and/or PPO.  Increase dependent children to age 24.  Include a provision to pay any teacher opting out of the health and drug plan ½ of annual premium for not enrolling in such plan.
Reject Association Proposal	<b>Art. X - Insurance</b> 1004 - Prescription Drug	Propose the Board pay 100% of teacher premium for Traditional or PPO Plan
Rejects Association Proposal	<b>Art. X - Insurance</b> Sec. 1005 - Vision	Proposes including a vision insurance coverage plan.
Proposes language indicating a teacher may be held liable in connection of a negligence claim.	<b>Art. XI - Liability</b> <b>Settlement</b>	Retain current language.
Proposes to revise fair share fees.	<b>Art. XII - Asso. Rts.</b> Sec. 1203 - Asso. Dues/Fees	Proposes to retain current language.

<b>Employer</b>	<b>Issue</b>	<b>Union</b>
Include as new provision in the Agreement.	<b>Art. _ (New) Non-renewal Sec. (New) - Non-renewal of Limited Teaching Contracts</b>	Oppose inclusion of this provision.
Proposes a 3 year duration of the Agreement.	<b>Art. XIII - Intent &amp; Duration</b>	Proposes no more than a 2 year Agreement.
Propose deletion of current Form and inclusion of new form.	<b>Append. D- (New) - Prof. Tchr App. Visitation/Conf. Form</b>	Retain current Form.
Propose revision of current Form.	<b>Appendix D-1 Tchr Classroom Observation Form &amp; Performance Rating</b>	Retain current Form.
Propose new provision be added to the Agreement.	<b>Appendix D-2 Tchr Summative Evaluation</b>	Oppose inclusion of Board proposed provision.
Propose deletion of the current Form.	<b>Append. F - Complaint Notification Form</b>	Retain current Form
Propose inclusion of this form.	<b>Append. __ (New) Tuition Reimbursement Form</b>	Reject Board proposal.

## **DISCUSSION & DETERMINATION**

### **General**

The issues at impasse are considered collectively with recommendations being made issue by issue as called for under terms of ORC 4117 and relevant SERB rules and regulations.

The parties engaged in limited bargaining and impasse declared based on procedural factors. This results in a significant number of issues remaining to be resolved before a successor Contract is attained. While it is difficult to assess priority of all issues, the Board and

Association have communicated positions regarding concepts reflected in many of the issues at impasse. These concepts are given significant consideration in making determination and recommendation in this Report.

The economic issues at impasse are considered collectively. There is no issue regarding ability to pay argued by the parties. It is essential that the parties are aware in rights arbitration/Fact Finding that a determination that an employer has the ability to pay is, by itself, not controlling in granting the Union's financial demands. It is also a general practice in consideration of wage proposals to consider the cost factor of other economic benefit demands, at least during the initial year(s) of the labor contract at issue. This is a significant factor in this instant situation, as a number of the Union demands reflect additional cost factors in addition to the base salary rate.

Recommendations were made on an item by item basis as called for under ORC 4117. Generally accepted standards were applied in making the findings and recommendations in this Report.

### **Fact Finder's Determination**

#### **Issue by Issue**

The following determinations were made considering the totality of issues put before the Fact Finder and the rationale for modification to, deletion of, or addition to the Agreement. Rationale is based on commonly accepted standards normally applied in interest arbitration in labor disputes.

<b>Issue</b>	<b>Discussion &amp; Determination</b>
<b>Art. II Neg. Proc.</b> Sec. 210- Impasse Procedure	The Board argues statutory procedures impeded the bargaining process in this instant case. While statute does define a bargaining time period, the parties can and often do, by mutual agreement, extend the bargaining time lines.

Issue	Discussion & Determination
<p><b>Art. II Neg. Proc.</b>            Sec. 210-            Impasse Proc.</p>	<p>The Board proposal to substitute the statutory impasse Fact Finding procedure with a MAAD (mutually agreed to alternate dispute resolution procedure) is a quite common procedure. It calls for mediation under the guidance of a FMCS mediator instead of the statutory provision of Fact Finding. Use of FMCS mediation is commonly used in private sector labor dispute resolution. It is considered that such a procedure, in this instant case will allow the parties to focus on the substantive issues in the bargaining process rather than undue emphasis on procedural matters. This recommendation needs to be considered in context with other procedural matters and contract enforcement terms put before the Fact Finder.</p> <p>The Association contends that “mutual” agreement is pivotal to including such a provision. This Report is advisory in nature and subject to rejection by either party. To accept this Report requires mutual agreement of the parties.</p> <p>In this instant situation, it is considered more appropriate to incorporate the Board proposal in the Agreement.</p> <p><b>Recommendation:</b></p> <p>It is recommended to include the Board proposal in the Agreement by substituting FMCS mediation as an alternate dispute procedure instead of Fact Finding, under the statutory procedure.</p>

Issue	Discussion & Determination
<p><b>Art. III- Grievance Procedure</b> Sec. 309- Final Step</p>	<p>Another key element in a “stand alone” contract requires fairness and finality in the resolution of grievances. This applies to all terms of the Agreement and is considered as significant to the Union as a clear management rights provision is considered significant to the Employer. Binding arbitration is established as the generally accepted final step in the resolution of grievances. Such a provision is considered an integral part in the recommended Agreement.</p> <p><b>Recommendation</b> It is recommended the Agreement should include the substitution of the term “binding” for “advisory” in the final step of the grievance procedure of the expiring contract.</p>
<p><b>Art. IV- Lv. Of Abs.</b> Sec. 401-A - Sk. Lv. B - Definition of Immediate Family C - Med. related appointments. D - Advance time notification of Absence. E. - Time units for use of Sick Lv.</p>	<p>Argument sited to modify provisions in this Article is limited in persuading this Fact Finder to recommend change. Such recommendation is limited where there was an expressed agreement in concept between the parties.</p> <p><b>Recommendation:</b> It is recommended to include Section 401 into the Agreement using the language of the expiring contract with the following changes: * Increase the maximum accumulation of sick leave days in Subsection E. from 219 to 225 days.</p>

Issue	Discussion & Determination
<p><b>Art. IV- Lv. Of Abs.</b>  <b>Sec. 402 - Personal</b>  <b>Lv.</b></p>	<p>Argument sited as reason(s) to modify existing language in this provision is not persuasive to recommend change.</p> <p><b>Recommendation:</b>  It is recommended to include Section 402 into the Agreement using the language of the expiring contract.</p>
<p><b>Art. IV- Lv. Of Abs.</b>  <b>Sec. 403-B</b>  <b>Prof. Mtg. Lv.</b>  Tentative Agreement reached on this issue except for subsection B.</p>	<p>Argument sited as reason(s) to modify existing language in this provision is not persuasive to recommend change.</p> <p><b>Recommendation:</b>  It is recommended to include Section 403-B into the Agreement using the language of the expiring contract</p>
<p><b>Art. IV- Lv. Of Abs.</b>  <b>Sec. 405-Childcare</b>  <b>Lv.</b></p>	<p>Argument sited as reason(s) to modify existing language in this provision is not persuasive to recommend change.</p> <p><b>Recommendation:</b>  It is recommended to include Section 405 into the Agreement using the language of the expiring contract</p>
<p><b>Art. IV- Lv. Of Abs.</b>  <b>Sec. 406-No Pay</b>  <b>Earn Days</b></p>	<p>Argument sited as reason(s) to modify existing language in this provision is not persuasive to recommend change.</p> <p><b>Recommendation:</b>  It is recommended to include Section 406 into the Agreement using the language of the expiring contract.</p>

Issue	Discussion & Determination
<p><b>Art. IV</b>  <b>Lvs. Of Absence</b>  <b>___(New)</b>  <b>Assault Lv.</b></p>	<p>Cited reason(s) to add this is provision to the Agreement and lacking cost projections related thereto, are basis to not recommend inclusion of this issue in the Agreement.</p> <p><b>Recommendation:</b>  It is recommended that this issue not be included in the Agreement.</p>
<p><b>Art. V- Tchr. Rts.</b>  <b>Sec. 502 -Vacancies</b></p>	<p>Argument sited as reason(s) to modify existing language in this provision is not persuasive to recommend change.</p> <p><b>Recommendation:</b>  It is recommended to include Section 502 into the Agreement using the language of the expiring contract.</p>
<p><b>Art. V- Tchr. Rts.</b>  <b>Sec. 504 - Reduction</b>  <b>in Staff</b></p>	<p>Argument sited as reason(s) to modify existing language in this provision is not persuasive to recommend change.</p> <p><b>Recommendation:</b>  It is recommended to include Section 504 into the Agreement using the language of the expiring contract.</p>
<p><b>Art. V- Tchr. Rts.</b>  <b>Sec. 505 -</b>  <b>Supt's Tchr's</b>  <b>Adv Comm.</b></p>	<p>Argument sited as reason(s) to modify existing language in this provision is not persuasive to recommend change.</p> <p><b>Recommendation:</b>  It is recommended to include Section 505 into the Agreement using the language of the expiring contract.</p>

Issue	Discussion & Determination
<p><b>Art. V- Tchr. Rts.</b> <b>Sec. 506 -</b> <b>Evaluation</b></p>	<p>This provision needs considerably more discussion between the parties before it would be determined appropriate to make any recommended changes.</p> <p><b>Recommendation:</b> It is recommended to include Section 502 into the Agreement using the language of the expiring contract.</p>
<p><b>Art. V- Tchr. Rts.</b> <b>Sec. 507 - Multi-Yr.</b> <b>Limited. Tchng.</b> <b>Cont.</b></p>	<p>Individual contract provisions are a significant ingredient of “terms and conditions of employment”. Considered in context of Contract totality, negative action imposed on a teacher’s individual contract status, be it a reduction in time or termination, is considered a disciplinary action. As such, justification of a reduction of an existing term is merited by other terms of Agreement and recommendations made elsewhere in this Report. Absent evidence that the current provision is being universally and uniformly applied and persuasive facts justify a change in this provision, the Fact Finder lacks a meaningful base to recommend change.</p> <p><b>Recommendation:</b> It is recommended to include Section 507 into the Agreement using the language of the expiring contract.</p>

Issue	Discussion & Determination
<p><b>Art. V- Tchr. Rts.</b> <b>Sec. 508 -</b> <b>Discipline Action</b></p>	<p>For similar reasons addressed in the prior issue, and lack of compelling facts to support change, the Fact Finder is not persuaded to make any recommendation of change in this provision at this time.</p> <p><b>Recommendation:</b> It is recommended to include Section 508 into the Agreement using the language of the expiring contract.</p>
<p><b>Art. V- Tchr. Rts.</b> <b>Sec. 510 - Sch. Day</b> <b>Plan &amp; Lunch</b> <b>Time</b></p>	<p>Argument sited as reason(s) to modify existing language in this provision is not persuasive to recommend change.</p> <p><b>Recommendation:</b> It is recommended to include Section 510 into the Agreement using the language of the expiring contract.</p>
<p><b>Art. V- Tchr. Rts.</b> <b>Sec. 511 - Class Size</b></p>	<p>Argument sited as reason(s) to modify existing language in this provision is not persuasive to recommend change.</p> <p><b>Recommendation:</b> It is recommended to include Section 511 into the Agreement using the language of the expiring contract.</p>

Issue	Discussion & Determination
<p><b>Art. V- Tchr. Rts.</b>  <b>Sec. 514 - Tchr Rts.</b></p>	<p>Argument cited as reason(s) to modify existing language in this provision is not persuasive to recommend change.</p> <p><b>Recommendation:</b>  It is recommended to include Section 502 into the Agreement using the language of the expiring contract.</p>
<p><b>Art. V- Tchr. Rts.</b>  <b>Sec. 516 - Parental Complaints</b></p>	<p>Argument cited as reason(s) to modify existing language in this provision is not persuasive to recommend change.</p> <p><b>Recommendation:</b>  It is recommended to include Section 516 into the Agreement using the language of the expiring contract.</p>
<p><b>Art. V- Tchr. Rts.</b>  <b>Sec. ___ (New)</b>  <b>Mentor Program Entry -Year Program</b></p>	<p>Insufficient discussion on this issue has occurred between the parties to form a factual basis of a recommendation on this matter. It is therefore determined the parties should continue dialogue on this matter to the attainment of mutual agreement which can then be incorporated into a future contract.</p> <p><b>Recommendation:</b>  It is recommended to not include any provision on this issue into the Agreement at this time.</p>

<b>Issue</b>	<b>Discussion &amp; Determination</b>
<p><b>Art. V- Tchr. Rts.</b>  <b>Sec. ___ (New)</b>  <b>Emp. of Retirees as</b>  <b>Tchrs.</b></p>	<p>Argument sited as reason(s) to modify existing language in this provision is not persuasive to recommend change. Existing terms are determined appropriate to address this matter.</p> <p><b>Recommendation:</b>  It is recommended this proposed provision should not be included into the Agreement at this time.</p>
<p><b>Art. V- Tchr. Rts.</b>  <b>Sec. ___ (New) -</b>  <b>Educ. Feedback</b>  <b>Prog.</b></p>	<p>Argument sited as reason(s) to modify existing language in this provision is not persuasive to recommend change.</p> <p><b>Recommendation:</b>  It is recommended to not include this provision into the Agreement.</p>
<p><b>Art. VI</b>  <b>Board Rights</b>  <b>Sec. 603 -</b>  <b>Management Rts.</b></p>	<p>It is determined the inclusion of a management rights provision will benefit the parties in this instant situation as part of general policy essential to assist future contractual relations between the parties .</p> <p>In order to reduce possible misunderstanding of language, it is recommended that such a provision parallel the language set forth in ORC 4117.08.</p>

Issue	Discussion & Determination
<p style="text-align: center;"><b>Art. VI</b> <b>Board Rights</b> <b>Sec. 603 -</b> <b>Management Rts.</b> <b>cont'd</b></p>	<p><b>Recommendation:</b></p> <p>It is recommended to include the following language as Sec. 603 Management Rights, of the Agreement:</p> <p>Unless the Board agrees otherwise in a collective bargaining agreement, the Board retains the right to:</p> <ol style="list-style-type: none"> <li>1. Determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the public employer, standards of services, its overall budget, utilization of technology, and organizational structure;</li> <li>2. Direct, supervise, evaluate, or hire employees;</li> <li>3. Maintain and improve the efficiency and effectiveness of Board operations;</li> <li>4. Determine the overall methods, process, means, or personnel by which governmental operations are to be conducted;</li> <li>5. Suspend, discipline, demote, or discharge for just cause, or lay off, transfer, assign, schedule, promote, or retain employees;</li> <li>6. Determine the adequacy of the work force;</li> <li>7. Determine the overall mission of the Board as a unit of government;</li> <li>8. Effectively manage the work force;</li> <li>9. Take actions to carry out the mission of the Board as a governmental unit.</li> </ol>

Issue	Discussion & Determination
<p align="center"><b>Art. VI</b> <b>Board Rights</b> <b>Sec. 603 -</b> <b>Management Rts.</b> <b>cont'd</b></p>	<p><b>Recommendation cont'd</b></p> <p>The Board is not required to bargain on subjects reserved to the management and direction of the Board except as affect wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement.</p> <p>A member of the bargaining unit may raise a legitimate complaint or file a grievance based on the collective bargaining agreement.</p>
<p><b>Art. VII - Salary</b> <b>Sec. 701-704</b> <b>Salary</b></p>	<p>As noted in other sections of this Report, regarding economic issues, it is more appropriate in this case to focus emphasis of change on the issue of base salary. While comparisons used support the respective positions of the parties on the economic issues, all will reflect the economic status of the bargaining unit in a relevant manner by adjustment of the current base pay rate.</p> <p>The facts introduced indicate the Board's salary proposal amounts to about a 6% increase during the life of the Agreement while the Association increase is computed by the Board to reflect about 22 ½ % increase for the same time period. The facts establish that ability to pay is not at issue. This, by itself, does not give rise to support or recommend the Association economic proposal in part or whole without additional facts to support such a position. Such additional fact basis is not found. The Association argument is not persuasive to recommend a change in the salary index.</p>

Issue	Discussion & Determination
<p><b>Art. VII - Salary</b>  <b>Sec. 701-704</b>  <b>cont'd</b></p>	<p>Local comparisons reflect the expiring salary rate high in the area for members of the bargaining unit. A Recent study released by the State Employment Relations Board reflects overall annual wage increases for various public employee units range around 3 to 4.25% in any given year over the previous 10 years. (Re: SERB Quarterly, Vol. 16, First Quarter 2001, No. 56 ). This report indicates teacher contract settlements reflect a trend of about a 3.25 to 3.5% range of increase in the most recent years. It is recognized that these figures do not recognize what other economic changes in negotiated terms attained in those years.</p> <p>This Fact Finder is aware that other economic terms are negotiated and periodically such terms are added to or otherwise modified from time to time. This includes such matters as salary schedule index, supplemental pay rates and structure, severance benefits, sick leave buyout provisions, pension plan pickups, etc. To attain fact finding recommendations of these or similar economic issues, requires supportive facts, on a case by case basis as well as general financial data that are determined to justify such recommendations. Such modifications are not found in this instant case.</p> <p>It is determined proper to sustain a comparative salary ranking. Such is considered to support the recommended increase in relationship of limited recommendations on other economic issues.</p>

Issue	Discussion & Determination
<p><b>Art. VII - Salary</b> <b>cont'd</b> Sec. 701-704 Salary</p>	<p><b>Recommendation:</b> It is recommended that Article VII include the following:</p> <ol style="list-style-type: none"> <li>1. Section 701, Salary Index, be included in the Agreement as it appears in the expiring contract.</li> <li>2. Section 702, Salary Effective July 1, 2001, be included in the Agreement reflecting a base salary (BS/BA) in the amount of \$ 27,324, and each step of the Salary schedule be increased in keeping with the index.</li> <li>3. Section 703, Salary Effective July 1, 2002, be included in the Agreement reflecting a base salary (BS/BA) in the amount of \$ 28,280 and each step of the Salary schedule be increased in keeping with the index.</li> <li>4. Section 704, Salary Effective July 1, 2003, be included in the Agreement reflecting a base salary (BS/BA) in the amount of \$ 29,412 and each step of the Salary schedule be increased in keeping with the index.</li> </ol>
<p><b>Art. VIII - Supp. Salary</b></p>	<p>It is determined that the parties have not engaged in sufficient dialogue regarding many of the substantive proposed changes in this provision. It is also noted that any increase in the regular salary schedule will result increase in supplemental pay rates as well as other economic terms, according to existing terms of the Agreement. Such are recognized as part of the economic increase in the Agreement during its duration.</p>

<b>Issue</b>	<b>Discussion &amp; Determination</b>
<p><b>Art. VIII - Supp. Salary cont'd</b></p>	<p><b>Recommendation</b></p> <p>It is recommended that Article VIII - Supplemental Salary, be included in the Agreement as set forth in the expiring Contract with the following changes:</p> <ol style="list-style-type: none"> <li>1. The supplemental index in the expiring agreement be modified to reflect the regular base salary in effect for the duration of the Agreement.</li> <li>2. The position of Intermediate Wrestling be added as a supplemental activity consistent with the Board action taken on Feb. 23, 1999.</li> </ol>
<p><b>Art. IX - Other Comp. Sec. 901 - Severance Pay</b></p>	<p>Based on discussion by the parties expressed at the Fact Finding Hearing, the following recommendation is made.</p> <p><b>Recommendation:</b></p> <p>Section 901 - Severance Pay, should be included in the Agreement as set forth in expiring Contract except for subsection B.</p> <p>Subsection "B" is recommended to read:</p> <p>B. Teachers with ten (10) years and above service in the Dalton Local District will receive severance pay of one-third (1/3) of his/her accrued, unused sick leave up to a maximum of sixty-three (63) days.</p>

<b>Issue</b>	<b>Discussion &amp; Determination</b>
<p><b>Art. IX - Other Comp. Sec. 902 - STRS Pickup</b></p>	<p>Any increase in STRS pickup will be considered as a salary increase during for the duration of the Agreement. As such, the economic salary increase reflects cost consideration of this provision.</p> <p><b>Recommendation</b></p> <p>It is recommended to include the language of Section 902 in the expiring contract into the Agreement.</p>
<p><b>Art. IX - Other Comp. Sec. 903 - Local Prof. Dev. Comm./Tuition Reimbursement</b></p>	<p>Insufficient discussion on this issue has occurred between the parties to form a factual basis of a recommendation on this matter. It is therefore determined the parties should continue dialogue on this matter to the attainment of mutual agreement which can then be incorporated into a successor contract.</p> <p><b>Recommendation:</b></p> <p>It is recommended to include in the Agreement the provisions of this Section set forth in the expiring contract.</p>

Issue	Discussion & Determination
<p><b>Art. IX - Other Comp. Sec. 904 - Mileage</b></p>	<p>It is determined appropriate to recommend a modest increase in this matter to allow the parties to focus on more significant issues in dispute.</p> <p><b>Recommendation:</b></p> <p>It is recommended to include in the Agreement the language set forth in Section 904 of the expiring contract including the following change:</p> <ol style="list-style-type: none"> <li>1. "The IRS rate" to replace "twenty-seven cents (27¢)" and;</li> <li>2. "Thirty-five dollars (\$35.00)" to replace "twenty-five dollars (\$ 25.00).</li> </ol>
<p><b>Art. IX - Other Comp. Sec. (New) - Extended Time</b></p>	<p>Argument sited as reason(s) to include this provision is not persuasive to be recommended.</p> <p><b>Recommendation:</b></p> <p>It is recommended this provision should not be included into the Agreement at this time.</p>
<p><b>Art. X - Insurance Sec. 1001 - Life Ins.</b></p>	<p>It is determined that a modest increase in Life Insurance is appropriate at this time.</p> <p><b>Recommendation:</b></p> <p>It is recommended to include in the Agreement the terms as stated in the expiring contract with the following change.</p> <ol style="list-style-type: none"> <li>A. Life insurance provided by the Board shall be \$30,000.</li> </ol>

Issue	Discussion & Determination
<p><b>Art. X - Insurance</b> <b>Sec. 1003 -</b> <b>Hosp./MM</b></p>	<p>Insufficient discussion on this issue has occurred between the parties to form a factual basis of a recommendation on this matter. It is therefore determined the parties should continue dialogue on this matter to the attainment of mutual agreement which can then be incorporated into a future contract. Cost implications of this issue are given consideration with the recommendation for Salary.</p> <p><b>Recommendation:</b> It is recommended to include in the Agreement the language regarding this provision set forth in the expiring contract.</p>
<p><b>Art. X - Insurance</b> <b>Sec. 1004 -</b> <b>Prescription Drug</b></p>	<p>Insufficient discussion on this issue has occurred between the parties to form a factual basis of a recommendation on this matter.</p> <p><b>Recommendation:</b> It is recommended the Agreement include the terms set forth in Section 1004 of the expiring contract .</p>
<p><b>Art. X - Insurance</b> <b>Sec. 1005 - Vision</b></p>	<p>Insufficient discussion on this issue has occurred between the parties to form a factual basis of a recommendation on this matter. Cost implication are given consideration in the Salary recommendation.</p> <p><b>Recommendation:</b> It is recommended to not include any provision on this issue into the Agreement at this time.</p>

<b>Issue</b>	<b>Discussion &amp; Determination</b>
<p><b>Art. XI- Liability Settlement</b></p>	<p>It is determined too many significant related matters are left unaddressed to make any recommended changes in this provision at this time.</p> <p><b>Recommendation:</b> It is recommended the language set forth in the expiring contract be included in the Agreement.</p>
<p><b>Art. XII Association Rights Sec. 1203 - Asso. Dues/Fees</b></p>	<p>Argument is not persuasive to attain a recommendation to change the terms of this provision.</p> <p><b>Recommendation:</b> It is recommended the Agreement should include the terms set forth in the expiring contract.</p>
<p><b>Art. _ (New) Non-renewal Sec. (New) - Non-renewal of Limited Teaching Contracts</b></p>	<p>Argument is not persuasive to attain a recommendation to change the terms of this provision.</p> <p><b>Recommendation:</b> It is recommended not to include this provision into the Agreement.</p>
<p><b>Art. XIII Intent &amp; Duration</b></p>	<p>Based on testimony, documents, and text of the parties proposals and subsequent recommendations of the Fact Finder, it is determined the duration of the Agreement should be for three (3) years.</p>

Issue	Discussion & Determination
<p><b>Art. XIII - Intent &amp; Duration</b></p>	<p><b>Recommendation</b></p> <p>It is recommended that the language set forth in the expiring contract be included in the Agreement with the following changes:</p> <p><u>1301</u> This Agreement is made and entered into this __ day of the month of _____, in the year 20__, *****</p> <p><u>1305</u> Delete</p> <p><u>1306</u> This Agreement is effective July 1, 2001 through June 30, 2004.</p>
<p><b>Append. D- (New) - Prof. Tchr App. Visitation/Conf. Form</b></p>	<p>It is determined too many significant related matters are left unaddressed to make any recommended changes in this provision at this time.</p> <p><b>Recommendation</b></p> <p>It is recommended to not include this form in the Agreement.</p>
<p><b>Appendix D-1 Tchr Classroom Observation Form &amp; Performance Rating</b></p>	<p>The facts are not persuasive to support change in this issue at this time.</p> <p><b>Recommendation</b></p> <p>It is recommended to maintain the form as found in the expiring contract into the Agreement.</p>
<p><b>Appendix D-2 Tchr Summative Evaluation</b></p>	<p>It is determined too many significant related matters are left unaddressed to make any recommended changes in this provision at this time.</p> <p><b>Recommendation</b></p> <p>It is recommended to not include this form in the Agreement.</p>

Issue	Discussion & Determination
<p align="center"><b>Append. F - Complaint Notification Form</b></p>	<p>It is determined too many significant related matters are left unaddressed to make any recommended changes in this provision at this time.</p> <p><b>Recommendation</b> It is recommended to not include this form in the Agreement.</p>
<p align="center"><b>Append. G __New Tuition Reimbursement Form</b></p>	<p>The facts are not persuasive to support change in this issue at this time.</p> <p><b>Recommendation</b> It is recommended to not include this form in the Agreement.</p>

**SUMMATION OF THE  
FACT FINDER'S RECOMMENDATIONS**

- It is recommended that all items of tentative agreement prior to, and at the Fact Finding Hearing be included in the Agreement. If not otherwise addressed or agreed to by the parties, it is recommended such provisions of the expiring agreement be included in the Agreement unless modified and tentatively agreed to by the parties and/or recommended otherwise by the Fact Finder in the Award.

## TOTALITY OF AGREEMENT

- This will affirm the foregoing report, consisting of **33 pages**, inclusive of this page, and recommendations contained herein are made in this matter of this Award by the below signed Fact Finder.
  
- \* All matters presented before the Fact Finder and not specifically addressed were given due consideration but are not recommended for inclusion in the Agreement.
  
- If there is found conflict in the Report between the Fact Finder's Discussion and Recommendations, the language in the Recommendation shall prevail.
  
- \* All matters of tentative agreement reached at the Fact Finding Hearing are recommended to be included in the Agreement.

To the best of my knowledge, said Report and its included recommendations complies with applicable provisions of ORC 4117 and related Rules and Regulations adopted by the State Employment Relations Board.

I therefore affix my signature at the City of **Galion**, in the County of **Crawford**, in the State of **Ohio**, this date of **October 9, 2001**.

  
**John S. Weisheit, Fact Finder**

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STATE EMPLOYMENT  
RELATIONS BOARD

# CERTIFICATE OF SERVICE

2001 OCT 10 A 11: 12

*This will affirm that the Fact finding Report in the Matter of Fact finding between*

<b>BETWEEN</b>	
<b>Dalton Local Education Association</b>	
<b>and the</b>	
<b>Dalton Local Board of Education</b>	<b>CASE NO: SERB 00-MED-09-0956</b>

*was served to the below named parties at the stated addresses:*

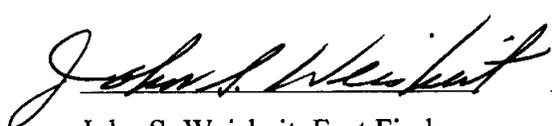
Mr. William C. Pepple  
Crown Centre, N.W.  
5005 Rockside Rd.-Suite260  
Cleveland, OH 44131-6808

Mr. Richard C. Schneider  
1480 E. Wayne Ave.  
Wooster, OH 44691

*by U.S. Postal Service mailed, Overnight Express, on October 9, 2001.*

*Copy of this Award was submitted U. S. Postal Service by First Class Mail to Dale Zimer, Director, Bureau of Mediation, SERB, 65 E. State St., Columbus, OH 43215-4213, on September 23, 2001.*

*I affirm, to the best of my knowledge that the foregoing is true and accurate and in keeping with ORC 4117 and related SERB Rules and Regulations.*

 9-10-01  
John S. Weisheit, Fact Finder                      Date