STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF FACT-FINDING	)	BEFORE FACT FINDER: JAMES E. RIMMEL
WAYNE COUNTY JOINT VOCATIONAL SCHOOL EDUCATION ASSOCIATION, INC. (CERTIFIED STAFF)	)	CASE NO.: 99-NED-05-0537 FILE: 99-06-201
and	)	HEARING LOCATION:
WAYNE COUNTY JOINT VOCATIONAL SCHOOL	)	24 AKRON AND ORRVILLE, OHIO ISSUED: 28 JANUARY 2000

APPEARANCES

On Behalf of the Association:

Edward C. Schneider,
Labor Relations Consultant

On Behalf of the Board:

Helen S. Carroll,
Whalen & Compton

BACKGROUND

This matter comes on for factfinding after a declared impasse in negotiations following four (4) sessions between the parties, sessions that led to resolution of not one (1) single issue, leastwise that was identified to this fact finder. The fact is the parties came to factfinding with strong, hostile feelings toward the other with little or no identified concern being expressed about students or others having an interest in the outcome of these negotiations. While there was considerable rhetoric

concerning lack of good faith and whether either or both parties had reneged on earlier tentative agreement on given issues, the fact remains that no issues had been signed off on that could be deemed resolved. Through the process of two and one-half (2 ½) days of scheduled hearings, a number of issues (49) were finally signed off on that the parties have indicated I need not reference in this report. Suffice it to say, these agreements were the product of party frustration, recognition that true differences did not exist and/or were minor or simply "prodding" by myself. In any event, in going forward with the balance of the issues, the parties proffered nearly 2500 pages of exhibits, as well as testimony and argument, all of which have been considered in conjunction with the following statutory mandates:

1. Past collectively bargained agreements, if any, 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 interests 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 the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

That evidence (including post-hearing submittals) and argument, however, will not be iterated in this report, such being limited to a statement of the contract issue, specific recommendation(s) and a brief

rationale therefore. A review of these data do disclose the material differences/perspectives between these parties on most of the unresolved issues.

SECTION 1, PARAGRAPH I- AGREEMENT

RECOMMENDATION:

THE PARTIES' SUCCESSOR COLLECTIVE BARGAINING AGREEMENT IS TO RUN FROM 1 JULY 1999 THROUGH 30 JUNE 2002.

RATIONALE:

To recommend anything less than that allowed by statute, given the relationship that exists here, including open hostility and distrust, would be lunacy. Stated otherwise, with the possible exception of a wage reopener, I do not believe these parties should be provided an opportunity, short of the statutorily prescribed three (3) year period, to feed their mutual dislike/distrust. In this way, it is hoped that through other less critical contacts, a better relationship might be fostered.

It is also relevant that the previous agreement of the parties ran for a period of three (3) years and the majority of school districts within Wayne County have contracts of three (3) year durations.

SECTION 1, PARAGRAPH II - RECOGNITION

RECOMMENDATION:

THE SECOND AND THIRD PARAGRAPHS UNDER THE RECOGNITION SECTION OF THE PARTIES' AGREEMENT SHOULD READ AS FOLLOWS:

INCLUDED IN THE APPROPRIATE UNIT ARE: ALL FULL-TIME PERSONNEL ("PERSONNEL" MEANS ALL FULL-TIME CERTIFIED CLASSROOM TEACHERS, FULL-TIME GUIDANCE COUNSELORS, FULL-TIME COORDINATORS, SCHOOL NURSE, FULL-TIME ADULT EDUCATION INSTRUCTORS). FULL-TIME IS DEFINED TO MEAN BEING SCHEDULED TO WORK AT LEAST 5 HOURS PER DAY, 5 DAYS PER WEEK , OR 120 DAYS DURING THE COURSE OF THE SCHOOL YEAR (JULY 1 THROUGH JUNE 30). CURRENT BARGAINING UNIT MEMBERS ARE GRANDFATHERED INTO THE BARGAINING UNIT.

EXCLUDED: SUPERINTENDENT, ASSOCIATE SUPERINTENDENT, PRINCIPAL, DIRECTOR, TREASURER, SUPERVISOR AND SUBSTITUTE TEACHERS ARE EXCLUDED FROM THE ASSOCIATION. EFFECTIVE JULY 1, 1993, AND CONTINUING THROUGHOUT THE TERM OF THIS AGREEMENT, ALL NEW ADULT EDUCATION INSTRUCTORS, WHETHER FULL OR PART-TIME. NO EMPLOYEE MAY BECOME ELIGIBLE FOR MEMBERSHIP IN THE BARGAINING UNIT BY COMBINING ANY FORM OF SUBSTITUTE EMPLOYMENT WITH PART-TIME EMPLOYMENT.

RATIONALE:

While both parties proposed changes in these provisions, neither proffered sufficiently cogent evidence to establish a sound bases for this undertaking. Stated otherwise, there is a significant difference between that which one might want versus what is factually/statutorily appropriate. As for the exclusion of new Adult Education Instructors hired after 1 July 1993, the appropriateness of the parties previous exclusion, vis a vis the certified unit, should be addressed by SERB if either deems it appropriate. In any event, this record simply does not suffice to warrant a recommendation otherwise.

SECTION 1, PARAGRAPH II - RECOGNITION

RECOMMENDATION:

AMEND THE FINAL PARAGRAPH FROM THE FORMER AGREEMENT UNDER THE

RECOGNITION SECTION TO READ AS FOLLOWS:

> THE BOARD AND THE ASSOCIATION, THROUGH THEIR RESPECTIVE REPRESENTATIVES, SHALL NEGOTIATE ON WAGES, HOURS, TERMS AND OTHER CONDITIONS OF EMPLOYMENT AND THE CONTINUATION, MODIFICATION, OR DELETION OF AN EXISTING PROVISION OF A COLLECTIVE BARGAINING AGREEMENT, WITH THE INTENTION OF REACHING AN AGREEMENT, OR TO RESOLVE QUESTIONS ARISING UNDER THE AGREEMENT.

RATIONAL:

The afore proviso I believe will remove any ambiguity as to what the parties' obligations are and is a direct quote from that set forth under Section 4117.01 (G) of the Revised Code. If both adhere to these mandates, the need for filing ULPs should be reduced, if not eliminated.

SECTION 1 - DUES DEDUCTION

RECOMMENDATION:

> ANY QUALIFIED PERSONNEL EMPLOYED FULL-TIME BY THE BOARD WHO IS ELIGIBLE TO BE A MEMBER OF THE ASSOCIATION, MAY HAVE THE ASSOCIATION DUES OR FAIR SHARE FEE DEDUCTED THROUGH A PAYROLL DEDUCTION PLAN SET UP IN THE TREASURER'S OFFICE. THE ASSOCIATION SHALL PRESENT IN WRITING TO THE BOARD TREASURER THE AMOUNT TO BE DEDUCTED FOR DUES OR FEES BY 1 SEPTEMBER OF EACH YEAR BY NAME OR WITHIN 60 DAYS OF EMPLOYMENT, WHICHEVER IS EARLIEST. DEDUCTIONS SHALL BE EQUALLY MADE OVER THE REMAINING PAYS OF THE YEAR. THE ASSOCIATION SHALL HOLD THE BOARD HARMLESS FOR ANY MATTER REGARDING COLLECTION OF DUES OR FAIR SHARE FEE. THOSE WHO ARE NOT MEMBERS OF THE ASSOCIATION WILL BE PROVIDED, BY THE ASSOCIATION, ALL RELEVANT INFORMATION CONCERNING THEIR RIGHTS TO WITHHOLD CERTAIN PORTIONS OF SAID FEES FROM PRESCRIBED CONTRIBUTIONS, SAID DATA TO BE RECEIPTED BY THE MEMBER AND A COPY OF THAT RECEIPT PROVIDED THE BOARD'S TREASURER WITH THE ASSOCIATION'S SUBMITTAL.

RATIONALE:

Evidence clearly reflects that this practice is common within Wayne County and does not demonstrate that the requirement to pay said fees would be odorous or statutorily impermissible. Likewise, on this record, it appears there are only a few who do not belong to the Association and yet are reaping the fruit of the Association's efforts on behalf of bargaining unit members.

SECTION 1, PARAGRAPH IV-A
PROCEDURES FOR CONDUCTING NEGOTIATIONS

RECOMMENDATION:

THIS PARAGRAPH SHOULD READ AS FOLLOWS UNDER THE PARTIES' SUCCESSOR AGREEMENT:

> THE BOARD, OR DESIGNATED REPRESENTATIVE(S) OF THE BOARD, WILL MEET WITH REPRESENTATIVES DESIGNATED BY THE ASSOCIATION FOR THE PURPOSE OF DISCUSSION AND REACHING A MUTUALLY SATISFACTORY AGREEMENT. ALL NEGOTIATIONS SHALL BE CONDUCTED EXCLUSIVELY BETWEEN SAID TEAMS. EACH NEGOTIATING TEAM SHALL BE LIMITED TO FOUR (4) MEMBERS, ONE OF WHOM WILL BE DESIGNATED AS SPOKESPERSON FOR THEIR RESPECTIVE TEAMS. EITHER SIDE MY CHOOSE TO HAVE AN ATTORNEY/CONSULTANT AT THE TABLE AND DESIGNATED AS SPOKESPERSON. WHILE NO FINAL AGREEMENT SHALL BE EXECUTED WITHOUT RATIFICATION BY THE ASSOCIATION AND THE BOARD, THE PARTIES MUTUALLY PLEDGE THAT THEIR REPRESENTATIVES SHALL BE CLOTHED WITH ALL THE NECESSARY POWER AND AUTHORITY TO MAKE PROPOSALS, CONSIDER PROPOSALS AND MAKE CONCESSIONS IN THE COURSE OF NEGOTIATIONS. THE PARTIES MAY CALL UPON PROFESSIONAL CONSULTANTS TO ASSIST IN NEGOTIATIONS PROVIDED THAT DURING ALL NEGOTIATION MEETINGS BETWEEN THE PARTIES, SUCH CONSULTANTS SHALL NOT BE IN ATTENDANCE, WITH THE EXCEPTION OF SECTION H, RESOLVING DIFFERENCES. THE EXPENSE OF SUCH CONSULTANTS SHALL BE BORNE BY THE PARTY REQUESTING THEM.

RATIONALE:

Given the noted animosity, it is believed that guidelines of this nature are essential to future successes in negotiating agreements. Whether this proviso is, in the final analysis, unenforceable, leastwise as to stated number limitations, that decision will have to be made by SERB. The parties had a limitation under the terms of their prior agreement and I see no reason to change that concept, although the provided for number has been increased.

SECTION 2, PARAGRAPH D - NEGOTIATIONS AGREEMENTS 1999

RECOMMENDATION:

THE AFORE REFERENCED PARAGRAPH SHOULD READ AS FOLLOWS:

EXCEPT AS OTHERWISE PROVIDED HEREIN, THIS AGREEMENT SHALL BE EFFECTIVE 1 JULY 1999, AND SHALL REMAIN IN EFFECT UNTIL 30 JUNE 2002, AT WHICH TIME IT SHALL EXPIRE. IN THE EVENT THAT THE BOARD AND THE ASSOCIATION FAIL TO SECURE A SUCCESSOR AGREEMENT PRIOR TO THE EXPIRATION DATE OF THIS AGREEMENT, THE PARTIES MAY MUTUALLY AGREE, IN WRITING, TO EXTEND THIS AGREEMENT FOR ANY PERIOD OF TIME.

RATIONALE:

This, for the most part, is housekeeping, given that which is contained under Section 1, Paragraph 1 above.

SECTION 2 - MANAGEMENT'S RIGHTS

RECOMMENDATION:

THE SUBJECT PROVISO SHOULD READ AS FOLLOWS IN THE PARTIES'

SUCCESSOR AGREEMENT:

> THE BOARD, THROUGH ITS REPRESENTATIVES, HAS THE RIGHT: TO DETERMINE MATTERS OF INHERENT MANAGERIAL POLICY, SUCH AS PROGRAMS, STANDARDS AND SERVICE, OVERALL BUDGET, UTILIZATION OF TECHNOLOGY AND ORGANIZATIONAL STRUCTURE; TO DIRECT, TO SUPERVISE, EVALUATE AND HIRE EMPLOYEES; TO MAINTAIN EFFICIENCY AND EFFECTIVENESS, AND DETERMINE METHODS AND PERSONNEL FOR THE CONDUCT OF OPERATIONS; TO SUSPEND, DISCIPLINE, DEMOTE, OR DISCHARGE ACCORDING TO THE NEGOTIATED AGREEMENT AND/OR STATE STATUTE, OR LAY OFF, ASSIGN, SCHEDULE, PROMOTE OR RETAIN EMPLOYEES; TO DETERMINE THE ADEQUACY OF THE WORK FORCE TO WORK; TO DETERMINE THE OVERALL MISSION OF THE EMPLOYER; TO EFFECTIVELY MANAGE THE WORK FORCE; AND TO CARRY OUT THE MISSION THE WAYNE COUNTY JVSD AS DETERMINED BY THE BOARD.

RATIONALE:

While the phrase "subject to the terms of this Master Agreement" as proffered by the Association is common terminology in Management Right's provisions, that proffered was made inconsistent with the ground rules governing these negotiations relative to the timeliness of proposals. As such, the Board's motion relative to consideration of such was sustained and this request was summarily dismissed. Accordingly, I have recommended the continuation of that which existed under the parties' prior Agreement.

SECTION 2 - ASSOCIATION'S RIGHTS

RECOMMENDATION:

THE PARAGRAPH GOVERNING PUBLICATION OF THE AGREEMENT IS TO BE AMENDED TO READ AS FOLLOWS:

> THE BOARD AND ASSOCIATION SHALL EQUALLY SHARE IN THE COST OF PRINTING OF THE MASTER AGREEMENT IN SUFFICIENT NUMBERS

AND IN STANDARD AGREEMENT FORMAT FOR ALL THE MEMBERS OF THE ASSOCIATION, ADMINISTRATION AND THE BOARD, PLUS TEN (10) ADDITIONAL COPIES EACH FOR THE BOARD AND ASSOCIATION. AS NEW EMPLOYEES ARE HIRED, THE PARTIES SHALL PROVIDE SUCH EMPLOYEES, UPON COMPLETION OF THEIR PROBATION PERIOD, A COPY OF THE MASTER AGREEMENT.

RATIONALE:

It is common practice within Wayne County, as well as many other districts throughout the State of Ohio, for bargaining unit members to be provided a copy of a governing collective bargaining agreement. This is appropriate and, at times, can lead to a better understanding by all concerned as to what the parties' agreements are and are not. I have deliberately not set forth the precise size of the printed contract called for above in the hope that the parties may be able to agree on this one issue!

SECTION 2 - STUDENT MISCONDUCT - TEACHING DUTY (NEW MATTER)

RECOMMENDATION:

THE BOARD WILL CONSIDER THE SUGGESTIONS ADVANCED BY THE ASSOCIATION CONCERNING INDIVIDUAL STUDENT MISCONDUCT, PARTICULARLY THAT INVOLVING REPEAT OFFENDERS. THE BOARD OR ITS DESIGNEE, HOWEVER, RESERVES THE ABSOLUTE RIGHT TO DETERMINE WHAT ACTION, IF ANY, IS TO BE TAKEN AGAINST A GIVEN STUDENT FOR MISCONDUCT.

RATIONALE:

While this obviously is a serious issue, an issue that cannot be summarily ignored, especially when dealing with the welfare of students, teachers, administrators, etc., it is something that cannot get bogged down in the type of hostile environment present in this relationship. There is, moreover,

nothing of record to show that the provided for exchange would be ill-advised in this instance.

SECTION 2 - GRIEVANT PROCEDURE

PARAGRAPH B - FORMAL PROCEDURE - GRIEVANCE MEETINGS

RECOMMENDATION:

> NAMED GRIEVANTS OR A REPRESENTATIVE OF THE CLASS AND THEIR SELECTED ASSOCIATION REPRESENTATIVE SHALL BE RELEASED FROM REGULAR DUTIES TO ATTEND MEETINGS SCHEDULED DURING WORK TIME IN CONNECTION WITH THE PROCESSING OF ANY GRIEVANCE.

RATIONALE:

While it is appropriate to provide for a clear understanding of the rights of grievants and representatives to attend scheduled grievance meetings, the pay aspect which the Association sought in its proposal, not being a record, I cannot blindly adopt that which is requested, leastwise in its entirety. I realize that this issue flows directly from the contemptuous relationship surrounding the rights of the Association's negotiating team to seek relief from work with pay for negotiations. I do believe, moreover, the parties need to deal with this matter in a definitive, reasonable cost basis, something that has not been done on this record. An alternating practice might be a good place to start. In any event, this residual issue is best left for a later time.

SECTION 3 - SALARY AGREEMENT

RECOMMENDATION:

> EFFECTIVE 1 JULY 1999, INCREASE THE BASE WAGE FOR TEACHING STAFF BY 3.5%.

> EFFECTIVE 1 JULY 2000, INCREASE THE BASE WAGE FOR TEACHING STAFF BY 3.5%.
>
> SIXTY (60) DAYS PRIOR TO THE EXPIRATION OF THE SECOND CONTRACT YEAR UNDER THIS AGREEMENT, THE PARTIES WILL MEET AGAIN TO NEGOTIATE OVER WAGES ONLY FOR THE THIRD YEAR OF THIS AGREEMENT, I.E., 1 JULY 2001 THROUGH 30 JUNE 2002. OTHER THAN THE BASE WAGE REOPENER, NO OTHER INCREASES IN INDEXES ARE TO BE MADE UNDER THE SUCCESSOR COLLECTIVE BARGAINING AGREEMENT. . . .

RATIONALE:

This amount is consistent with the average within Wayne County and elsewhere within the state. It also exceeds the cost of living over the term of the parties' prior collective bargaining agreement. As for the reopener, I believe it is appropriate to limit the parties' next round of negotiations to a single matter and it places them in a better position to access the impact of the new funding formula prescribed under state statute for this type of institution.

SECTION 3, PARAGRAPH 1 - SALARY AGREEMENT

RECOMMENDATION:

THE EXISTING LANGUAGE FOUND AT THE END OF THE TEACHER INDEXES A AND B WILL BE CONTINUED UNDER THE SUCCESSOR AGREEMENT, NAMELY, THAT WHICH PROVIDES :

> EXTENDED TIME WILL BE CALCULATED ACCORDING TO STAFF MEMBERS PLACEMENT ON THE SALARY SCHEDULE UP TO A MAXIMUM OF STEP 18. EFFECTIVE JULY 1, 1993, THE EMPLOYEE'S SHARE OF RETIREMENT WILL BE SHELTERED BY THE BOARD.

LIKEWISE, AT THE BASE OF SCHEDULE B.1, THE CONCLUDING PARAGRAPHS SHOULD CONTINUE TO READ AS FOLLOWS:

THE SALARY REFLECTS A 184 DAY TEACHERS WORK YEAR. EXTENDED TIME (WHEN APPLICABLE), PER DAY RATE, WILL BE FIGURED BY USING 180 DAYS DIVIDED INTO THE TEACHER'S PLACEMENT ON THE SALARY SCHEDULE UP TO THE EIGHTEENTH STEP OF THE SALARY SCHEDULE. THE EIGHTEENTH STEP OF THE SALARY SCHEDULE SHALL BE THE MAXIMUM USED TO FIGURE EXTENDED TIME.

FOR THE PURPOSE OF FIGURING A PER DAY RATE FOR AN EMPLOYEE THAT DOES NOT COMPLETE HIS OR HER CONTRACT, A 184 DAY FIGURE WILL BE USED TO DETERMINE A PER DAY RATE FOR TIME WORKED ON THE CONTRACT.

RATIONALE:

The Board's evidence relative to this approximating the cost to the Board of 9.3% as proposed by the Association simply was not rebutted or shown to be appropriate under this total agreement before me. This recommendation is premised on the costs of increases provided elsewhere and the uncertainty surrounding the new state funding formula for this type of institution.

SECTION 3, PARAGRAPH III - TEACHING DAY - DEFINED

RECOMMENDATION:

EFFECTIVE THE 2001/2002 SCHOOL YEAR, THE FOLLOWING MODIFIED PROVISIONS UNDER THIS PARAGRAPH SHOULD BE INCLUDED IN THE PARTIES' SUCCESSOR COLLECTIVE BARGAINING AGREEMENT:

THE TEACHING DAY SHALL BE SET AT 7.5 HOURS (SEVEN AND ONE-HALF CLOCK HOURS) MINUS A 30 MINUTE DUTY FREE LUNCH. HOURS FOR SOME FACULTY MUST BE NECESSARILY WORKED TO ACCOMMODATE THEIR PROGRAM NEEDS RATHER THAN THE NORMAL PATTERN. ALL TEACHERS, EXCLUDING VOCATIONAL TEACHERS ASSIGNED TO TEACH TWO FULL LABORATORY PERIODS, (AN AM AND PM LAB) SHALL BE PROVIDED A MINIMUM UNINTERRUPTED (NO STUDENT CONTACT) FORTY (40) CONSECUTIVE MINUTES OF

PLANNING TIME PER DAY. "PLANNING TIME" SHALL BE DEFINED TO MEAN TIME SPENT IN THE ACT OF PROFESSIONAL PREPARATION TO CONDUCT INSTRUCTIONAL ACTIVITIES. UP TO 200 MINUTES PER YEAR PER EMPLOYEE OF PLANNING TIME MAY BE ASSIGNED BY THE ADMINISTRATION TO ASSIST WITH SCHOOLWIDE PROMOTIONAL ACTIVITIES SUCH AS, BUT NOT LIMITED TO, 8TH GRADE TOURS. CLASSROOM TEACHERS MAY BE ASSIGNED THE FOLLOWING DUTIES SO LONG AS A 30 MINUTE DUTY FREE AND UNRESTRICTED LUNCH AND AT LEAST ONE 40 MINUTE PREP PERIOD ARE PROVIDED AS SPECIFIED ABOVE:

STUDY HALL, CAFETERIA DUTY, REST ROOM DUTY, TIME OUT ROOM RELIEF DUTY, PARKING LOT DUTY.

NO CLASSROOM TEACHER, EXCLUDING VOCATIONAL TEACHERS ASSIGNED TO TEACH TWO FULL LABORATORY PERIODS (AN AM AND PM LAB), WILL BE ASSIGNED MORE THAN AN AVERAGE OF 270 INSTRUCTIONAL MINUTES PER DAY PER 180 DAY SCHOOL YEAR. PROFICIENCY REMEDIATION IS CONSIDERED TO BE INSTRUCTIONAL TIME. CLASS SIZE SHALL BE LIMITED TO 25 STUDENTS PER CLASS AND NO MORE THAN 150 STUDENTS PER DAY PER TEACHER.

IN RECOGNITION OF THE INCREASED WORK DAY (AND EFFECTIVE FOR SCHOOL YEAR 2001/2002), ALL EMPLOYEES WHO WORK 90% OR MORE OF THEIR SCHEDULED TIME IN THE SCHOOL YEAR WILL RECEIVE A ONE-HALF (1/2%) PERCENT ANNUAL BONUS ON 30 JUNE. SAID BONUS WILL BE PAID BASED UPON AN EMPLOYEE'S RATE OF PAY AS OF 1 JUNE OF THAT SCHOOL YEAR.

RATIONALE:

These changes appear to be consistent with the evolving environment at this vocational institution. The Association's efforts, however, to tie the teacher's work day under this definition to that of the students simply has not been shown to be appropriate or wise. In any event, the lengthening of the school day is consistent with that which exists elsewhere in Wayne County.

SECTION 3, PARAGRAPH IV - COVERING CLASSES

RECOMMENDATION:

THE PARTIES' SUCCESSOR AGREEMENT SHOULD INCLUDE THE FOLLOWING PROVISO:

> EACH CERTIFIED EMPLOYEE, EXCLUDING ADULT EDUCATION CERTIFICATED EMPLOYEES, WILL ANNUALLY COVER 160 MINUTES AT NO CHARGE TO THE DISTRICT. EMPLOYEES WILL NOT BE ASSIGNED TO COVER CLASSES EXCEPT IN THEIR AREA OF CERTIFICATION. ASSIGNMENTS WILL BE MADE BY AN ADMINISTRATOR OR AN ADMINISTRATOR'S DESIGNEE.
>
> ONCE THE 160 MINUTES ARE COMPLETED, TEACHERS WHO AGREE TO COVER CLASSES WILL BE REIMBURSED AT A RATE OF $15.00 PER 40 MINUTES CLASSROOM AND $50.00 PER 150 MINUTE LAB PERIOD.

RATIONALE:

It appears that these stipends have not been increased for nearly ten (10) years and the requested increases are appropriate and reasonable at this time. It does not appear that the cost associated with this added benefit will prove to be substantial.

SECTION 3, PARAGRAPH VI - SUPPLEMENTAL CONTRACTS

RECOMMENDATION:

> THAT SET OUT UNDER THIS PARAGRAPH IN THE PREVIOUS AGREEMENT SHOULD BE CONTINUED UNDER THE TERMS OF THE SUCCESSOR COLLECTIVE BARGAINING AGREEMENT SAVE FOR THE STIPEND PROVIDED UNDER THE INITIAL PARAGRAPH WHICH SHOULD BE INCREASED $100 PER YEAR COMMENCING IN THE SECOND YEAR OF THIS SUCCESSOR AGREEMENT, I.E., $5,000 TO $5,100, ETC.

RATIONALE:

The Board's proposal to delete this section in its entirety was tied directly to its request to increase the work day under a separate article, a request that was modified somewhat in this report. As for the Association's attempt to reduce the defined period of 280 to 240 minutes, there is absolutely nothing of record to demonstrate what the cost thereof might be over the term of the new agreement nor why this is in the best interest of the parties. In any event, I do believe that a modest increase in this area is appropriate.

SECTION 3, PARAGRAPH VI-b-COMMERCIAL DRIVER'S LICENSE (CDL) EXPENSE REIMBURSEMENT

RECOMMENDATION:

INCLUDE THE FOLLOWING UNDER TERMS OF THE PARTIES' SUCCESSOR COLLECTIVE BARGAINING AGREEMENT:

> THE SUPERINTENDENT SHALL AUTHORIZE REIMBURSEMENT OF THE COST OF A COMMERCIAL DRIVER'S LICENSE FOR ASSOCIATION MEMBERS WHEN SUCH REIMBURSEMENT IS REQUESTED BY THE PRINCIPAL TO ENHANCE THE AVAILABILITY OF TRANSPORTATION SERVICES FOR STUDENTS. PHYSICALS REQUIRED TO OBTAIN A CDL WILL BE REIMBURSED UP TO $250.00 WHEN PROVIDED BY A PHYSICIAN SELECTED BY THE BOARD. IF THE ASSOCIATION MEMBER CHOOSES TO LEAVE THE DISTRICT PRIOR TO THE END OF ANY SCHOOL YEAR IN WHICH CDL EXPENSE REIMBURSEMENT HAS BEEN PROVIDED, THE AMOUNT OF THE REIMBURSEMENT WILL BE RETURNED TO THE DISTRICT BY DEDUCTION FROM THE MEMBER'S FINAL PAY.

RATIONALE:

If the Board is to provide this level of service, it is appropriate that the cost associated with securing a CDL be borne by the Board within reasonable limits. In other words, this is a cost of

doing business that should not be passed on to an employee.

SECTION 3, PARAGRAPH IX - RETIREMENT PAYMENT

RECOMMENDATION:

THAT NO PERCENTAGE CHANGE BE MADE UNDER THE TERMS OF THE NEW SUCCESSOR COLLECTIVE BARGAINING AGREEMENT RELATIVE TO THE CALCULATION OF RETIREMENT PAY. IN OTHER WORDS, THE 25% PRESENTLY PROVIDED IS TO BE CONTINUED. ADDITIONALLY, THE FOLLOWING SHOULD BE ADDED UNDER THIS SECTION:

ONE TIME $10,000.00 RETIREMENT PAYMENT 1999/2000 YEAR ONLY - A ONE-TIME PAYMENT OF $10,000.00, SUBJECT TO ALL APPROPRIATE DEDUCTIONS, WILL BE MADE TO ANY FULL-TIME CERTIFICATED BARGAINING UNIT MEMBER WHO MEETS THE FOLLOWING CONDITIONS:

1. PROVIDE WRITTEN NOTICE TO THE TREASURER OF THEIR INTENT TO RETIRE ON OR BEFORE 1 APRIL OF THE 1999/2000 SCHOOL YEAR. THIS WRITTEN NOTICE OF INTENT MUST BE PROVIDED WITHIN 30 DAYS OF THE EXECUTION OF THIS MASTER AGREEMENT.

2. WHEN THE BARGAINING UNIT MEMBER ACTUALLY RETIRES ON OR BEFORE 1 APRIL OF THE 1999/2000 SCHOOL YEAR.

RATIONALE:

The parties appear to be in agreement as to the benefit of this one (1) time offer, arguing simply over the mechanics and the effective date. The afore, I believe, reflects that which the parties generally agreed upon in their discussions at hearing.

SECTION 3, PARAGRAPH XIV - INSURANCE PACKAGE

RECOMMENDATION:

AS IT PERTAINS TO THE PROVISION DEALING WITH THE EMPLOYEE GROUP HOSPITALIZATION PLAN, THAT WHICH EXISTED UNDER THE FORMER AGREEMENT SHOULD BE CARRIED OVER INTO THE NEW AGREEMENT, THAT BEING:

> WITH THE EXCEPTIONS NOTED ABOVE, THE BOARD WILL PAY 80% OF THE PREMIUMS AND THE MEMBER WILL PAY 20% OF THE PREMIUMS EACH MONTH OF THE CONTRACT FOR THE BC/BS MAJOR MEDICAL PACKAGE OR EQUIVALENT. A MEMBER HAS THE OPTION TO SELECT SUPER BLUE SELECT OR EQUIVALENT BY PAYING THE DIFFERENCE BY PAYING THE DIFFERENCE IN THE COST OF PLAN VERSUS THE COST TO THE BOARD OF THE REGULAR HOSPITALIZATION PACKAGE. A SECTION 125 PLAN WILL BE OFFERED AT NO COST TO BARGAINING UNIT MEMBERS TO SHELTER THEIR PORTION OF THE PREMIUM PAYMENT SUBJECT TO APPLICABLE TAX LAWS.

RATIONALE:

The Association's sole reference in support of its argument for 100% pay is that the Superintendent has been provided a plan at 100%. While that fact may be relevant, it is simply not sufficiently cogent to warrant the awarding of the Association's proposal in this regard, a proposal by its own calculations that would increase overall employment costs by 1.5%. This, in light of that which appears elsewhere, simply has not been justified.

SECTION 3, PARAGRAPH XV - LEAVE

RECOMMENDATION:

DELETE THE FINAL FOURTH PARAGRAPHS UNDER THE PRESENT INITIAL PROVISIONS OF THIS SECTION SUBSTITUTING THEREFORE THE FOLLOWING:

ATTENDANCE BY MEMBERS OF THE BARGAINING UNIT IS CRITICAL TO SUPPORTING THE BOARD ADOPTED PHILOSOPHY AND ACHIEVING THE BOARD ADOPTED OBJECTIVES OF THE WAYNE COUNTY JOINT VOCATIONAL SCHOOL DISTRICT.

ANY UNUSED ADMINISTRATIVE PERSONAL LEAVE AT THE END OF ANY SCHOOL YEAR WILL BE CONVERTED TO SICK LEAVE AT THE RATE OF ONE DAY OF ADMINISTRATIVE PERSONAL LEAVE EQUALS ONE DAY OF SICK LEAVE.

RATIONALE:

This recommendation appears to mirror that which the parties came close to in their previous discussions, albeit unsuccessfully.

SECTION 3, PARAGRAPH V - LEAVES
SUBPARAGRAPH C- ASSOCIATION LEAVE

RECOMMENDATION:

THE SUCCESSOR COLLECTIVE BARGAINING AGREEMENT OF THE PARTIES SHOULD REFLECT THE FOLLOWING AMENDED PROVISIONS UNDER THE SUBJECT SECTION, NAMELY:

MEMBERS OF THE ASSOCIATION SHALL BE GRANTED AN ACCUMULATION TOTAL OF UP TO FOUR (4) DAYS OF LEAVE PER WORK YEAR, TO BE DIVIDED AMONG MEMBERS OF THE ASSOCIATION, AS DETERMINED BY THE ASSOCIATION, TO ATTEND ANY AFFILIATED MEETINGS, CONFERENCES OR CONVENTIONS. THIS LEAVE SHALL BE GRANTED IN INCREMENTS OF NOT LESS THAN ONE-HALF (½) DAY. THIS LEAVE IS WITHOUT LOSS OF PAY. EXPENSES INCURRED BY MEMBERS ARE TO BE PAID BY THE ASSOCIATION. ADDITIONALLY, THE ASSOCIATION NEGOTIATING TEAM WILL RECEIVE A TOTAL OF FIFTY (50) HOURS OF LEAVE WITH PAY TO ATTEND JOINT NEGOTIATION SESSIONS.

RATIONALE:

This recommendation is in keeping with the overall discussions of the parties and arguably to address an issue that is the focal point of much of the acrimony that has been present throughout these negotiations. That recommended for initial coverage is reasonable. I believe, moreover, that proposed by the Association relative to open-ended rights simply cannot be rightly adopted in this recommendation.

SECTION 3, PARAGRAPH XV - LEAVES/JURY DUTY/ COURT APPEARANCE

RECOMMENDATION:

THE PARTIES' SUCCESSOR AGREEMENT SHOULD INCLUDE THE FOLLOWING AMENDED PROVISIONS:

> EMPLOYEES ARE ENCOURAGED TO SERVE ON JURY DUTY AS AN ACT OF PUBLIC SERVICE. THE EMPLOYEE WILL BE PAID THE DIFFERENCE BETWEEN THE EMPLOYEE'S REGULAR COMPENSATION AND THE RENUMERATION RECEIVED FOR THEIR SERVICE AS A JUROR. (SECTION 3313.311 R.C.) THE ASSOCIATE SUPERINTENDENT AND THE APPROPRIATE SUPERVISOR SHALL BE NOTIFIED PROMPTLY WHEN A SUMMONS IS RECEIVED
>
> EMPLOYEES WHO ARE SUBPOENAED TO APPEAR IN COURT WILL BE PROVIDED FULL COMPENSATION. WITNESS FEES RECEIVED MUST BE PAID TO THE BOARD. LEAVE WILL NOT BE DEDUCTED FROM ANY OTHER TYPE OF LEAVE.

RATIONALE:

These types of coverages are common in the public sector and while not rising to the level being sought by the Association here, appear to be reasonable under all circumstances/evidence present. The open-endness of that being sought in addition by the Association simply was not

supported by any cogent evidence.

SECTION 3, PARAGRAPH XVI - ASSIGNMENT AND TRANSFER PROCEDURES

RECOMMENDATION:

THE FOLLOWING SHOULD BE INCORPORATED UNDER THE TERMS OF THE PARTIES' SUCCESSOR AGREEMENT:

> THE APPROPRIATE PLACEMENT OF QUALIFIED AND COMPETENT STAFF IS ESSENTIAL TO THE SUCCESSFUL FUNCTIONING OF THE DISTRICT. THE BOARD WILL STRIVE TO ASSIGN TEACHERS AND ADMINISTRATORS TO POSITIONS IN WHICH THEIR SERVICES WILL MOST BENEFIT THE INSTRUCTIONAL PROGRAM OF THE DISTRICT.
>
> ALL STAFF WILL BE PROVIDED AN UP-TO-DATE JOB DESCRIPTION FOR THE AREA OF THEIR RESPONSIBILITY. WITHIN SIXTY (60) DAYS OF THE CONSUMMATION OF THIS SUCCESSOR AGREEMENT, A DATE-STAMPED COPY OF AN UP-DATED JOB DESCRIPTION WILL BE PROVIDED TO EACH EMPLOYEE AS WELL AS THE PRESIDENT OF THE ASSOCIATION. THE JOB DESCRIPTION WILL BE A SPECIFIC LIST CONTAINING DUTIES PERFORMED ON A ROUTINE AND REGULAR BASIS. EACH JOB DESCRIPTION WILL INCLUDE THE NUMBER OF CONTRACT WORK DAYS. NO JOB DESCRIPTION WILL BE CHANGED WITHOUT PRIOR NOTIFICATION TO THE ASSOCIATION.

RATIONALE:

The afore is reflective of that which the parties last proposed, save for the Association's apparent demand that no descriptions be changed without mutual agreement. Such a restriction is contrary to long-standing labor/management practices and simply would not allow for a smooth transition of changes in programs, especially since no impasse resolution procedure was proffered.

SECTION 3, PARAGRAPH XVI (a) - VACANCY/POSTING

RECOMMENDATION:

THE FOLLOWING SHOULD BE INCORPORATED AS A NEW PARAGRAPH UNDER THE PARTIES' SUCCESSIVE COLLECTIVE BARGAINING AGREEMENT:

WHEN THE BOARD DETERMINES TO FILL A VACANCY CREATED BY DEATH, RESIGNATION, RETIREMENT, TERMINATION, NON-RENEWAL, TRANSFER, OR PROMOTION OF AN EMPLOYEE OR WHEN THE BOARD CREATES A NEW BARGAINING UNIT POSITION, IT WILL POST NOTICE OF SAID VACANCY AS PROVIDED BELOW:

NOTICE OF ANY VACANCY SHALL BE POSTED ON THE BULLETIN BOARD ACCESSIBLE TO ALL EMPLOYEES FOR FIVE (5) WORK DAYS SO THAT CURRENT EMPLOYEES MAY APPLY FOR THE POSITION. ALL SUCH POSTINGS SHOULD REFLECT THE CURRENT DUTIES OF THE JOB(S), ANNUAL SALARY AND NORMAL WORK SCHEDULE. APPLICANTS DESIRING TO BID FOR ANY SUCH VACANCY WILL DO SO WITHIN FIVE (5) DAYS OF POSTING ON A FORM PROVIDED BY THE BOARD.

ALL APPLICANTS APPLYING FOR A GIVEN JOB ARE RESPONSIBLE FOR INCLUDING WITH THEIR BID ALL RELEVANT EXPERIENCE, AS WELL AS ALL EDUCATIONAL CRITERIA THEY DEEM RELEVANT TO THE POSTED POSITION TO THE BOARD. WITHIN TEN (10) DAYS OF THE CLOSING OF THE POSTING PERIOD, APPLICANTS WILL BE NOTIFIED AS TO WHETHER THEY ARE DEEMED QUALIFIED TO WARRANT AN INTERVIEW. THE DECISION TO INTERVIEW ANY OR ALL APPLICANTS BEING WITHIN THE EXCLUSIVE JURISDICTION OF THE BOARD OR ITS DESIGNEE.

THE BOARD RESERVES THE RIGHT TO SELECT THE MOST QUALIFIED APPLICANT FOR THE POSITION WHO DEMONSTRATES S/HE POSSESSES THE ABILITY TO PERFORM THE JOB AT THE TIME OF THE POSTING. IN THE EVENT TWO (2) OR MORE BARGAINING UNIT MEMBER APPLICANTS HAVE RELATIVELY EQUAL QUALIFICATIONS, THEN THE SENIOR-MOST APPLICANT SHALL BE AWARDED THE POSITION. IF NO EMPLOYEE APPLIES DURING THE POSTING PERIOD OR NO CURRENT BARGAINING UNIT APPLICANT IS DEEMED QUALIFIED, THEN THE POSITION MAY BE ADVERTISED AND FILLED FROM THE OUTSIDE.

AN EMPLOYEE AWARDED ANY POSITION IN ACCORDANCE WITH THIS ARTICLE SHALL BE SUBJECT TO A THIRTY (30) WORK DAY PROBATIONARY PERIOD DURING WHICH TIME, SHOULD THE EMPLOYEE BE UNABLE TO PERFORM SATISFACTORY, S/HE SHALL BE RETURNED TO HIS/HER ORIGINAL POSITION.

RATIONALE:

In this day of age, it is elementary that bargaining unit personnel who can demonstrate the ability to perform a given assignment should be accorded the first opportunity to secure an assignment from within the bargaining unit. I believe that with the qualification criteria provided, the Board has ample safeguards to ensure that only qualified people are moved to a specific position.

SECTION 3, PARAGRAPH XVII - REDUCTION IN STAFF PROCEDURES

RECOMMENDATION:

THAT WHICH EXISTED UNDER THE PRIOR AGREEMENT RELATIVE TO THE REDUCTION IN STAFF SHOULD BE CONTINUED UNDER THE SUCCESSOR COLLECTIVE BARGAINING AGREEMENT SAVE THAT THE WORD "REASONABLE" WHICH SHOULD BE INSERTED IN THE INITIAL PARAGRAPH OF THESE PROVISIONS AT LINE 4 BETWEEN THE WORD "REASONS" AND "REDUCTION" SO THAT IT SHOULD READ ". . . OR FOR FINANCIAL REASONS, REASONABLE REDUCTIONS . . ..

RATIONALE:

It has long been recognized that among the criteria that can reasonably bring about a reduction in staffing are financial matters, especially given the sources of funding available to public education. The Association's bases for deleting the "financial reasons" criteria provided have not been cogently established on this record. Retention of this phrase also reduces possible ambiguity and argument over the term "reasonable."

SECTION 3, PARAGRAPH XVII - PARENT CONTACTS

RECOMMENDATION:

THAT PROPOSED BY THE ASSOCIATION RELATIVE TO LIMITATIONS UPON BARGAINING UNIT MEMBERS BEING REQUIRED TO MAKE A CERTAIN NUMBER OF PARENTAL CONTACTS IS NOT TO BE INCLUDED IN THE PARTIES' SUCCESSOR COLLECTIVE BARGAINING AGREEMENT.

RATIONALE:

While it would appear that the Board's directive in this area involves more form than substance, that which is being addressed here falls within the Management's Rights area. Even if that were not the case, a requirement mandating that the Board provide teaching staff with secretarial assistance and other support mechanism simply has not been shown to be warranted, wise or, for that matter, necessary.

JAMES E. RIMMEL
FACT FINDER