

# LYME-OLD LYME SCHOOLS

*Regional School District #18*

*A Private School Experience*



*in a Public School Setting*

## **Special Board of Education Meeting**

January 29, 2020

*Board Present:* Diane Linderman, Chair; Martha Shoemaker, Vice Chair; Jean Wilczynski, Treasurer; Steven Wilson, Secretary; Rick Goulding; Suzanne Thompson

*Absent by Previous Arrangement:* Stacey Leonardo; Jennifer Miller; Mary Powell St. Louis

*Administration Present:* Ian Neviaser, Superintendent of Schools; Melissa Dougherty, Director of Special Services; John Rhodes, Director of Facilities and Technology

*Others Present:* Attorney Kyle McLain; Julia Werth, *Connecticut Examiner*

*Members of the AFT present:* Lisa Daly, President; Matthew Calovis; Dean Dorsey; Philip Fazzino; Tisha Kirk; Jennifer Rozanski; Wayne Schneider

The meeting was called to order by Chairwoman Linderman at 6:30 p.m. The Pledge of Allegiance was recited. The purpose of the meeting was to hold a grievance hearing. Mrs. Linderman turned the meeting over to Attorney Kyle McLain who explained the process for the meeting.

The grievance was brought forth by the AFT Union representing nine custodians and maintenance workers who argued that any time they are called in for overtime work after the end of their previously-scheduled shift, they should be paid a minimum of three hours.

*The Grievants included the following staff members:* Matthew Calovis; Lloyd Diaz; Phillip Fazzino; Mark Kus; Ronaldo Namin; Efrain Rivera; Johnny Rivera; Gina Rivera-Hernandez; Wayne Schneider

The following evidence was presented by Phillip Fazzino on behalf of the AFT members listed above relative to the grievance:

*49 Lyme Street, Old Lyme, Connecticut 06371*

**T: 860-434-7238 F: 860-434-9959 E: [neviaseri@region18.org](mailto:neviaseri@region18.org) [www.region18.org](http://www.region18.org)**

*Statement of Grievance: The above named Region 18 non-certified personnel were not paid overtime pay per the Collective Bargaining Agreement for overtime. The above named employees were notified via personal cell phones on Sunday, December 1, 2019 at 1:46 p.m. to come into work early for the following day shift on Monday, December 2, 2019 [for snow removal]. As a result, the above named employees reported to work at their respective assignments at the earlier time.*

*On December 20, all the above named employees received their paychecks with the overtime of two (2) hours not paid and missing for the call-in time on December 2, 2019. [It was noted that another occurrence of the staff not being paid a minimum of three hours occurred on December 17, 2019 but was not formally listed in the grievance but Superintendent Neviasser recognized it as part of the grievance.]*

*The employees were notified of the call-back to work over 47 hours after the end of their regular shift. The contract between AFT Union members and Region 18 states our members will be compensated three (3) hours minimum pay for being called back to work after completing their regular shift. This call to work by John Rhodes, via text message, was not work scheduled in advance.*

Article(s) Violated in AFT Contract

Article XXI – Hours of Work. Section 3

*When a full-time non-certified employee is called into work on an unscheduled workday or is called back to work after completing his/her regularly scheduled shift, the employee shall be paid for a minimum of three hours. This shall not apply for work scheduled in advance or if employees are advised prior to the end of their shift that they must return to work.*

Connecticut Department of Labor

Wage and Workplace Standards Division

Sec. 31-60-11. Hours Worked.

*(c) When an employee is subject to call for emergency service but is not required to be at a location designated by the employer but is simply required to keep the employer informed as to the location at which he may be contacted, or when an employee is not specifically required by his employer to be subject to call but is contacted by his employer or on the employer's authorization directly or indirectly and assigned to duty, working time shall begin when the employee is notified of his assignment and shall end when the employee has completed his assignment.*

Remedy Sought:

All above named employees want to be paid a total of three (3) hours pay for the call back time on December 2, 2019. Thus, all paychecks will be modified to reflect an increase of two (2) additional hours pay for December 2, 2019 for the above named employees.

Mr. Fazzino presented the following in support of the grievance:

Document #1 – wording from AFT Contract (noted in previous paragraph...Article XXI – Hours of Work).

Document #2 – text from John Rhodes, Director of Facilities and Technology, dated December 1, 2019 at 1:46 p.m. (Sunday) indicating staff should report to work at 5:00 a.m. on December 2, 2019 (example of notice given after regular shift had ended on Friday).

Document #3 – Phillip Fazzino’s timesheet reflecting the payment of one hour of overtime pay for December 2, 2019.

Document #4 – email from John Rhodes dated December 2, 2019 at 7:00 a.m. indicating staff should report to work at 4:00 a.m. for snow removal the following morning (example of notice given during regular shift).

Document #5 – text from John Rhodes dated December 16, 2019 at 9:00 p.m. indicating staff should report to work the following day at 4:00 a.m. (example of notice given after regular shift had ended).

Document #6 – Phillip Fazzino’s timesheet reflecting the payment of two hours of overtime pay for December 17, 2019.

Document #7 – text message from John Rhodes dated December 10, 2019 at 10:40 a.m. indicating staff should report to work at 5:00 a.m. the following morning to clear snow (example of notice given during regular shift).

Mr. Fazzino presented the following documents which showed a past practice of being paid a minimum of three hours:

Document #8 – Phillip Fazzino’s timesheet reflecting three hours of overtime for snow removal on January 9, 2018.

Document #9 – email from Holly McCalla, Business Manager, to Mark Kus, daytime custodian, indicating he would receive three hours of overtime pay.

Document #10 – Phillip Fazzino’s timesheet reflecting three hours of overtime pay for snow removal with a start time of 4:00 a.m. on March 8, 2018 and 5:00 a.m. on March 14, 2018.

Mr. Fazzino stated that during his tenure as Vice President of the AFT Union, the superintendent informed him that the custodial/maintenance staff would get a minimum of three hours of overtime pay when called in for snow removal after their regular shift had ended.

A copy of the grievance was submitted as part of the hearing. It is attached to these minutes for informational purposes.

Administration Rebuttal:

Mr. Neviasher reviewed the following wording from the AFT contract in support of not paying a minimum of three hours of overtime pay on December 2 and December 17, 2019:

*When a full-time non-certified employee is called into work on an unscheduled workday or is called back to work after completing his/her regularly scheduled shift, the employee shall be paid for a minimum of three hours. This shall not apply for work scheduled in advance or if employees are advised prior to the end of their shift that they must return to work.*

Mr. Neviasher noted that the employees were not called back to work and they were notified in advance that they were to report to work early to their shift, which normally begins at 6:00 a.m. in reference to the contract language of "This shall not apply to work scheduled in advance OR if they were notified before the end of their shift." Mr. Neviasher noted that the staff were not called back to work but told to come into work early the next day, they were notified in advance and, in terms of contract language, the administration was not obligated to pay a minimum of three hours.

Mr. Neviasher also provided documents that reflected that there was no evidence of staff being paid a minimum of three hours for snow removal when called into work early from 2015 to the present except three incidents in the 2017-2018 school year, which was before the current contract went effect.

Mr. Neviasher noted that during and after contract negotiations, the AFT union turned down a request to change the current language in the contract. He also noted that there are no incidents of past practice with the exception of the three incidents cited earlier, which were due to a misinterpretation of the contract language. He also noted that the Department of Labor does not recognize past practice if there is language in the contract relevant to the issue.

The Board asked various questions of Mr. Fazzino and Mr. Neviasher relative to this grievance.

The Board went into executive session at 7:43 p.m. to deliberate the grievance upon a motion by Dr. Goulding and a second by Mrs. Shoemaker.

The Board reconvened into open session at 9:07 p.m.

MOTION: Dr. Goulding made a motion, which was seconded by Mr. Wilson, to deny the grievance as presented by the AFT union.

VOTE: the Board voted unanimously in favor of the motion.

Several Board members voiced their hope that some type of agreement could be made between the parties on this snow removal issue, possibly via a memorandum of agreement.

The special meeting adjourned at 9:09 p.m. upon motion by Dr. Goulding and a second by Mrs. Shoemaker.

Respectfully submitted,

Steven Wilson, Secretary

**REGION 18 FEDERATION OF NON-CERTIFIED PERSONNEL  
LOCAL 6365, AFT-CT, AFT, AFL-CIO**

**GRIEVANCE**

**Name(s) of Grievant(s):**

Phillip Fazzino, Wayne Schneider, Johnny Rivera, Efrain Rivera, Gina Rivera, Loyda Diaz, Mark Kus, Ron Namin

**Date of violation:** December 2, 2019

**Date of filing STEP 1:** January 2, 2020

**Date of response STEP 2:** January 8, 2020

**Date of filing with Board of Education STEP 3:** January 21, 2020

**I. Statement of Grievance:**

The above named Region 18 non-certified personnel were not paid overtime pay per the Collective Bargaining Agreement for overtime. The above named employees were notified via personal cell phones on Sunday, December 1<sup>st</sup> at 1:46 pm to come in to work early for the following day shift on Monday, December 2<sup>nd</sup>, 2019. As a result, the above named employees reported to work at their respective assignments at the earlier time.

On December 20<sup>th</sup>, all the above named employees received their paychecks with the overtime of two (2) hours not paid and missing for the call-in time on December 2, 2019.

The employees were notified of the call-back to work over 47 hours after the end of their regular shift. The contract between AFT Union members and Region 18 states our members will be compensated three (3) hours minimum pay for being called back to work after completing their regular shift. This call to work by John Rhodes, via text message, was not work scheduled in advance.

**II. Article(s) violated:**

**ARTICLE XXI – Hours of Work. Section 3.**

When a full-time non-certified employee is called in to work an unscheduled workday or is called back to work after completing his/her regularly scheduled shift, the employee shall

be paid for a minimum of three hours. This shall not apply for work scheduled in advance or if employees are advised prior to the end of their shift that they must return to work.

**Connecticut Department of Labor  
WAGE AND WORKPLACE STANDARDS DIVISION**

**Sec. 31-60-11. Hours worked.**

(c) When an employee is subject to call for emergency service but is not required to be at a location designated by the employer but is simply required to keep the employer informed as to the location at which he may be contacted, or **when an employee is not specifically required by his employer to be subject to call but is contacted by his employer or on the employer's authorization directly or indirectly and assigned to duty, working time shall begin when the employee is notified of his assignment and shall end when the employee has completed his assignment.**

**III. Remedy Sought:**

All above named employees want to be paid a total of three (3 hours) pay for the call back time on December 2, 2019. Thus, all paychecks will be modified to reflect an increase of two (2) additional hours pay for December 2, 2019 for the above named employees.

Elizabeth Daly - PROXY

Elizabeth Daly - President AFT Local 6365

Signature of Grievant

Signature of Union Rep

1/2/2020

1/2/2020

Date

Date