

BEFORE THE ARBITRATOR

In the Matter of the Arbitration
of a Dispute Between

MID-STATE VOCATIONAL-TECHNICAL
FACULTY ASSOCIATION

and

MID-STATE VOCATIONAL, TECHNICAL AND
ADULT EDUCATION DISTRICT

Case 62
No. 50426
MA-8251

(Goal Instructor Grievance)

Appearances:

Mr. Thomas S. Ivey, Jr., Executive Director, Central Wisconsin UniServ Councils South/West, appearing on behalf of the Association.
Ruder, Ware & Michler, S.C., Attorneys at Law, by Mr. Dean R. Dietrich and Ms. Cari L. Hoida, appearing on behalf of the District.

ARBITRATION AWARD

Pursuant to the request made by Mid-State Vocational-Technical Faculty Association, hereinafter referred to as the Association, and the subsequent concurrence by Mid-State Vocational, Technical and Adult Education District, hereinafter referred to as the District, Dennis P. McGilligan was appointed Arbitrator by the Wisconsin Employment Relations Commission pursuant to the procedure contained in the grievance-arbitration provisions of the parties' collective bargaining agreement, to hear and decide a dispute as specified below. 1/ He .aring in the matter was originally scheduled to begin on September 7, 1994. At the start of the hearing, the District moved that the Arbitrator find that the Association had actually raised two separate grievances in the GOAL instructors' grievance which the District argued should be litigated separately, and that, upon so finding, the Arbitrator should recuse himself from one

1/ On January 31, 1994, Patrick T. Kubley, MSTC Faculty Association Grievance Chair, filed a Request to Initiate Grievance Arbitration on behalf of the Association in the above-entitled matter. On February 23, 1994, Dean R. Dietrich, District representative, filed a request with the Wisconsin Employment Relations Commission "that one of the two Mid-State VTAE grievance arbitration cases (Goal Instructor and Osborne Grievances) recently assigned to Dennis McGilligan be assigned to another arbitrator." That request was denied by letter dated March 29, 1994, from Marshall L. Gratz, Attorney/Team Leader, to Dietrich.

of the two separate grievances. In the alternative, the District moved that the Arbitrator find the aforesaid grievance involved two separate issues and that the issues should be bifurcated to allow separate litigation of the issues before the Arbitrator. The Association opposed both motions. Thereafter, the parties filed written arguments in support of their positions which were received by the undersigned on September 20, 1994. By letter dated September 28, 1994, the undersigned issued "a modified bench decision with some supporting rationale" denying both motions of the District. Hearing was then conducted on October 13, 1994 and April 12, 1995 at the Mid-State Technical Institute, Wisconsin Rapids, Wisconsin. The hearing was transcribed. The parties completed their briefing schedule on June 26, 1995. After consideration of the evidence and arguments made by the parties, the Arbitrator makes and renders his decision and Award.

ISSUES:

The parties were unable to stipulate to the issue. The Association framed the issue as:

Did the District violate the terms and conditions of the Master Contract Agreement between the Mid-State VTAE District Board and the Mid-State VTAE Faculty Association when they failed to properly compensate the goal instructors under the teaching load formula?

While the District framed the issues in the following manner:

Whether the College violated the Master Contract Agreement in the manner in which it determined compensation for GOAL instructors and particularly:

1. Whether the workload formula should be used for prorating fringe benefits or determining the full-time/part-time status of GOAL instructors?
2. Whether certain GOAL instruction should be considered lecture rather than individualized instruction?

Based on the entire record, the Arbitrator frames the issues as follows:

1. Did the District violate the parties' collective bargaining agreement by the manner in which it compensated GOAL instructors?

2. If so, what is the appropriate remedy?

FACTUAL BACKGROUND:

BARGAINING HISTORY

1983-1985 Agreement

On November 26, 1994, the parties entered into the following agreement:

MEMORANDUM OF UNDERSTANDING

Amendment to 1983-1985 Master Contract
between
Area Board of Mid-State Vocational, Technical
and Adult Education District
and
Mid-State Vocational-Technical Faculty Association

IT IS HEREBY AGREED by and between the Area Board of Mid-State Vocational, Technical and Adult Education District, hereinafter referred to as the "Board", and the Mid-State Vocational-Technical Faculty Association, hereinafter referred to as "Association", that all Goal Instructors, currently employed by the Board or those who will be employed by the Board in the future, shall be included in the bargaining unit represented by the Association. "Goal Instructors" is defined as those who are regularly employed by Goal positions for not less than eighteen (18) hours per week during the academic year.

IT IS FURTHER AGREED that all Goal Instructors will, effective with the signing of this Memorandum, be fully covered by all of the terms and conditions of the 1983-85 Master Contract, hereinafter referred to as the "Contract" between the Board and the Association except for the following:

1. Seniority

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2. School Calendar

The following adjustments shall be made to accumulate Goal instructors working 18 or 30 hours per week.

	<u>Student Contact Days(Hours)</u>	<u>Record Days(Hours)</u>	<u>Faculty In-Service Days(Hours)</u>	<u>Holidays (Hours)</u>	<u>Total Contract Days(Hours)</u>
SCHOOL YEAR TOTALS/DAYS (Full-Time)	175	5	4	6	190
Hours	1225	35	28	42	1330
GOAL 30 Hrs Per Week	1050	30	24	36	1140
GOAL 18 Hrs Per Week	630	18	14.4	21.6	684

3. Benefits

Also, prorated as above are leaves of absence, benefits under Article VII; sick leave, bereavement leave, professional leave, business leave, etc. Unless otherwise dictated by law, other fringe benefits (such as health and dental insurance) are also prorated.

1992-1994 Agreement

Contract negotiations between the Association and the District began in 1991 or 1992 for a successor to the 1989-1992 Agreement between the parties. The 1992-1994 Agreement was signed by the parties on February 15, 1993.

The subject of workload dominated the negotiations. During negotiations, the Association proposed that a workload formula be adopted to ensure parity in compensation and full-time assignments between the Industrial Division and the General Education and Business Divisions. The Association wanted to reduce the maximum workload in the Industrial Division from twenty-eight hours to something less. As a result, the parties spent at least four to six negotiation sessions analyzing individual teaching loads in the aforesaid divisions and discussing the balance of workload across those divisions. GOAL instruction was not discussed or studied in any detail during these sessions, and did not come up until the end of the bargaining.

In addition, the Association proposed that the Recognition Clause be amended to provide that the Association would be recognized as representative for all instructors with a workload of 40 or more points on the workload formula. The District rejected the Association's proposal to change the Recognition Clause (recognition continued "for all full-time teaching personnel who teach 50% or more of a full teaching schedule") but continued to negotiate over the workload formula.

The Association's initial proposal (and Preliminary Final Offer) proposed to treat GOAL as a "Special Program" under its proposed workload formula, with 30 hours of instruction as a full load. In the past, the District considered 28 hours to be a full load in the GOAL program. The parties could not reach an agreement on the point values and column designations which would identify the different teaching environments under the workload formula. Therefore, the parties agreed to mediation which was conducted on October 27, 1992.

During mediation, the parties agreed to reduce the current 28 hour maximum load for industrial instruction to 24 hours. The parties also agreed that 28 hours would be a full load for GOAL instruction, consistent with the practice of assigning hours in that department. Column designations for the workload matrix were also established, however, the specific definitions for each type of instructions were not clearly developed. Thereafter, Brian Oehler, Vice President of Academic Affairs, and Leo Chalton, President of the Association, worked together to draft the definitions for each column in the Workload Matrix. Oehler testified that they agreed that the GOAL program would be under the "Individualized Instruction" column.

The Association and the District's Board ultimately ratified the 1992-1994 Agreement and compensation based on workload computations was implemented at the District effective with the 1992-1993 school year. The parties differ as to how GOAL instructors were to be treated under this workload formula.

Michael Cole, Chief Negotiator for the Association during these negotiations, testified that the workload formula first came into being in the instant Agreement, and that the idea behind the workload formula "was to determine a maximum workload." Cole also testified that the Association's bargaining members understood that GOAL lab meant individual instruction, and that the Association rejected a District Board proposal to exclude GOAL instructors from the workload formula or any specific column (while agreeing to exclude agricultural workers from said formula as requested by the Board at the same time). Cole admitted that there was no language in the Agreement providing for proration of fringe benefits for part-time employees and that the workload formula was never intended to determine full-time status only "maximum load."

Cole stated that he was not aware the definitions were worked out following mediation between Oehler and Chalton. Cole also did not recall any discussions during bargaining as to how the workload formula would apply to part-time teachers.

Ed Leehe, one of the Association bargaining team members and "primarily responsible" for the workload formula presented to the Board, testified that initially "we didn't anticipate a GOAL person teaching many different courses on campus" but during bargaining at the time the column entitled Individualized Instruction came up we "meant that Individualized Instruction was the GOAL lab. If they were to teach any other course that might pertain to another program off campus or what ever the case might be, they were under a different category." Leehe also testified that the concern behind the workload formula was overload compensation. Leehe stated that if a GOAL instructor was "teaching a structured class with a course number as a lecture . . . they would be given that as a lecture . . . and would be given compensation according to that issue." But, according to Leehe, a lecture course number had to be assigned to that teacher for that class, in order to receive compensation for a lecture.

Ronald Grundeen, chair of the Association's Language Committee for the bargain, testified that discussion occurred during bargaining "on the idea of definite separation between the GOAL lab and lecture-discussion in that all lecture-discussion regardless was to be in that column." Grundeen also testified that the final wording of the definitions was agreed to after the mediation. Grundeen's notes of the discussions over GOAL reflect the Association's understanding that there was a difference between GOAL lab and GOAL instructors teaching in a structured class and that the GOAL instructors teaching in a structured class would be compensated under the lecture column. These notes, however, do not reflect that the parties ever reached an agreement over same.

Brian Oehler, on the other hand, testified for the District that the parties agreed during mediation to put the entire GOAL program under the Individualized Instruction column rather than putting it under the special provision or ignoring it entirely. Oehler added that the parties stayed with "the twenty-eight hour denominator but really didn't change the way we did business." Oehler did not recall any "suggestion" that GOAL instruction be divided into lecture and individualized instruction. Oehler stated that there was never an agreement during bargaining that the workload formula would be used as a methodology for determining whether someone was full-time or part-time or whether somebody should receive proration of benefits. The main purpose of the workload formula, according to Oehler, was to clarify workload environments particularly within the Industrial area and to determine overload compensation. Oehler pointed out that prior to implementation of the workload formula the District had ranges of total hours for determining overload compensation and felt with the new workload formula the parties were placing a value on "the environment within the type of course they're teaching."

William Lindroth, Dean of General Education and Academic Support for the District, works closely with the GOAL program. He also participated in the bargaining for the instant Agreement. Lindroth testified that the GOAL program was not a primary issue of discussion during bargaining and that he was surprised over the Association's "initial proposal that actually

would have expanded GOAL instructor contract requirements rather than" maintain the status quo and he was "not quite sure of the logic behind" said proposal. Lindroth added that "the final agreement put in place a sort of state of being or whatever historical status what had gone before in terms of GOAL contact." Lindroth concluded by stating that it was his understanding that the final agreement between the parties was to place the GOAL program under the Individualized Instruction column of the workload formula.

Thomas Cunningham, Personnel Director for the District and Chief Negotiator during the time in question, testified that proration of fringe benefits for part-time employes kicked in after half-time employment as a matter of practice, and was not based on any language in the Agreement. Cunningham added that there was never any agreement by the District to modify contract language "to determine status or proration based upon the Workload Formula."

GOAL INSTRUCTION

The GOAL program at the District is located at the Marshfield, Stevens Point and Wisconsin Rapids campuses with a small one room class at the Adams campus. GOAL instructors provide elementary and secondary level instruction to students who are seeking a high school equivalency diploma, to English as a second language students, and to students who are trying to improve their skills. Classes are taught with specific learning objectives for each student based upon the student's level of education and needs.

GOAL instruction has often been done through work books, computer programs and individualized instruction. In recent years, however, due to the large number of students with the same instructional needs, group instruction (structured classes) has been used more frequently as a method of providing instruction to GOAL students. GOAL structured lecture-discussion classes share commonalities with lecture-discussion classes in other departments including classes held during a regularly defined block of time, specific certifications/training required of instructors in order to teach certain courses, formal presentations to groups generally followed by class discussion, pre-class preparation and organization of materials, assessment of student needs/progress primarily outside of class time, similar numbers of students in classes and attendance in class recorded by instructor.

There is one full-time, 35 hour per week GOAL instructor at the District; the remaining GOAL instructors are contracted for 18-30 hours per week. District generated "Instructor Position Descriptions" defining work expectations for GOAL instructors are the same or similar as those work expectations for instructors within the General Education Division at the District. While GOAL instructors have areas of focus in the teaching they perform, students enroll in the GOAL program without designating subject areas and receive education in those areas where skill levels need improvement based upon testing and evaluation by the instructors and other professionals. GOAL students have open entry and open exit. GOAL students earn either an S or a U for satisfactory or unsatisfactory unlike other areas of the District where a letter grade is awarded. GOAL students may make use of more pre-prepared instructional materials (by publishers and others) because of similar needs or characteristics. Lab activity is mostly one-on-one activity with little if any group instruction similar to what takes place in a structured class.

PERTINENT CONTRACTUAL PROVISIONS:

PREAMBLE

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The articles stated in this agreement supersede all policies and procedures described in the District Personnel Policies and Procedure Manual.

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ARTICLE IV

NEGOTIATION PROCEDURE

1. Each year, during the month of February, the Board and the Association agree to meet to confer and negotiate in good faith in accordance with the procedures set forth herein in an effort to reach agreement on all matters raised by either party concerning questions of wages, hours, and conditions of employment. Any agreement reached shall apply to all members represented by the Association, be reduced to writing, and be executed by the appropriate and duly authorized officer or officers of the Board and the Association.

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5. This Agreement may not be modified in whole or part by the parties except by an instrument in writing duly executed by both parties.

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ARTICLE V

GRIEVANCE PROCEDURE

Section C - Procedure

Step 5

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c. The arbitrator so selected will confer with representatives of the Board and the Association, and hold meetings promptly and will issue a decision on a timely basis. The arbitrator's decision will be in writing and will set forth the findings of fact, reasoning, and conclusions of the issue submitted. It is understood that the function of the arbitrator shall be to interpret and apply specific terms of the Agreement. The arbitrator shall have no power to make salary adjustments unless there has been an improper application of the salary provisions of this Agreement, or add to, subtract from, amend, alter or modify any terms of this Agreement. The decision of the arbitrator will be final and binding

on both parties.

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ARTICLE VI

WORKING CONDITIONS

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Section F - Teaching Load

1. A number of factors shall be considered in determining work assignments among teaching staff so that workloads will be distributed equitably. In addition to teacher contact hours, other primary factors shall be considered in assigning teacher work and determining overload and underload status. Other primary factors include: teaching environment, classifications, and the number of teacher preparations.

a. General Teaching Environment Definitions

Lecture-Discussion: A structured class in a block of time one or more periods in length consisting of formal presentations to groups generally followed by discussion. Organization of course materials and the presentation of subject matter requires considerable pre-class preparation on the part of the instructor. Most of the evaluation of student activities is generally accomplished beyond class time.

Laboratory: A structured class in a block of time one or more periods in length. Emphasis is on student participation to learn concepts and principals through presentations, demonstrations and simulated scientific tasks. Class content requires pre-class preparation on the part of the instructor. A moderate amount of student evaluation may be accomplished in class, although a portion of the evaluation is generally accomplished beyond class time.

Shop: A structured class in a block of time usually two or more periods in length. Emphasis is in

student practice and manipulative skill development through simulated occupational tasks. Instructor presentations and demonstrations are given as part of the class. Most student evaluation is accomplished in class, although a portion of the evaluation may be accomplished beyond class time.

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Individual Instruction: Specifically planned learning experiences based on identified objectives. Emphasis is on practice or skill development within small group or one to one environment. Instructors are responsible for periodic check points and supervision. Instruction may be tutorial in nature and may include media presentations and demonstrations.

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b. Teaching Contact Hours

Instructors will be assigned teaching hours per calendar week in accordance with the following limits.

TEACHING WORKLOAD PERCENTAGES

<u>Hours Per Week</u>	<u>*Lecture Discussion</u>	<u>Laboratory</u>	<u>Shop</u>	<u>Clinical</u>	<u>Supervised Field Exp.</u>	<u>Individualized Instruction</u>	<u>Special Assignment</u>
1	4.8	4.2	4.2	3.8	3.6	3.6	2.9
2	9.5	8.3	8.3	7.7	7.1	7.1	5.7
3	14.3	12.5	12.5	11.5	10.7	10.7	8.6
4	19.0	16.7	16.7	15.4	14.3	14.3	11.4
5	23.8	20.8	20.8	19.2	17.9	17.9	14.3
6	28.6	25.0	25.0	23.1	21.4	21.4	17.1
7	33.3	29.2	29.2	26.9	25.0	25.0	20.0
8	38.1	33.3	33.3	30.8	28.6	28.6	22.9
9	42.9	37.5	37.5	34.6	32.1	32.1	25.7
10	47.6	41.7	41.7	38.5	35.7	35.7	28.6
11	52.4	45.8	45.8	42.3	39.3	39.3	31.4
12	57.1	50.0	50.0	46.2	42.9	42.9	34.3

13	61.9	54.2	54.2	50.0	46.4	46.4	37.1
14	66.7	58.3	58.3	53.8	50.0	50.0	40.0
15	71.4	62.5	62.5	57.7	53.6	53.6	42.9
16	76.2	66.7	66.7	61.5	57.1	57.1	45.7

TEACHING WORKLOAD PERCENTAGES (Continued)

Hours Per Week	*Lecture Discussion	Laboratory	Shop	Clinical	Supervised Field Exp.	Individualized Instruction	Special Assignment
17	81.0	70.8	70.8	65.4	60.7	60.7	48.6
18	85.7	75.0	75.0	69.2	64.3	64.3	51.4
19	90.5	79.2	79.2	73.1	67.9	67.9	54.3
20	95.2	83.3	83.3	76.9	71.4	71.4	57.1
21	100.0	87.5	87.5	80.8	75.0	75.0	60.0
22		91.7	91.7	84.6	78.6	78.6	62.9
23		95.8	95.8	88.5	82.1	82.1	65.7
24		100.0	100.0	92.3	85.7	85.7	68.6
25				96.2	89.3	89.3	71.4
26				100.0	92.9	92.9	74.3
27					96.4	96.4	77.1
28					100.0	100.0	80.0
29							82.9
30							85.7
31							88.6
32							91.4
33							94.3
34							97.1

*As of the 1993-94 contract year, 20 hours per week is established as a 100 percent assignment limit within the lecture/discussion environment.

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d. Special Provisions

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- (3) Section F does not pertain to agricultural division, apprentice, independent study, or instructional television courses.
- (4) A 100% assignment limit for the math lab is established at 25 hours per week.

2. An assignment range of teaching contact hours, teaching load factors and preparations, converted to a percentage, shall not exceed 115%, nor shall be less than 85% for a given instructor without special considerations. Staff members who have less than 85% teaching load may be assigned additional responsibilities based upon the special assignment workload ratio. Staff members will not be assigned to teaching load of more than 115% without the instructors consent. Any staff members assigned responsibilities greater than 105% shall be compensated at the individuals annual salary for the percentage in excess of 105%.

3. Overload payments will be computed at the end of the school year and will be based on the average of both semesters.

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ARTICLE IX

RULES OF AGREEMENT

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Section B - Duration

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2. This agreement contains the entire understanding of the parties as to wages, hours, and conditions of employment. No previous understandings, Board policy, or practices shall in any way determine the respective rights or duties of the parties hereto, except as required by law.

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PARTIES' POSITIONS:

The Association initially argues that GOAL instructors teach lecture-discussion classes as defined by Article VI, Section F of the Agreement; that GOAL instructors should receive credit for this type of instruction on the workload matrix; that bargaining history supports this interpretation of the disputed contract language; and that to rule otherwise would result in an unfair and inequitable result because GOAL instructors would receive far less compensation than bargaining unit counterparts for similar work performed.

The Association also argues that the workload formula should be used for prorating fringe benefits and for determining the full-time status of GOAL instructors.

For a remedy, the Association requests that GOAL instructors be credited with percentages on the teaching load formula according to their actual work assignment using the classifications in Article VI, Section F; that any GOAL instructor whose workload range equals or exceeds the teaching load of other instructors with full-time contracts be issued full-time contracts; and that GOAL instructors not properly placed on the workload formula be made whole for lost wages and benefits retroactive to the beginning of the 1992-93 school year.

The District, on the other hand, maintains that since the contract is ambiguous as to whether the workload formula should be used to determine full or part-time status and/or proration of benefits for certain GOAL instructors the Arbitrator should examine past practice and bargaining history. The District argues that both past practice and bargaining history support a finding that the parties never intended the workload formula to be used to determine full-time status or proration of benefits.

For the same reasons, the District maintains that GOAL instructors have been properly compensated under the Individualized Instruction column of the workload formula.

The District rejects the Association's arguments regarding fair treatment of bargaining unit members stating "that what is fair is what was bargained between the parties"; cautions the Arbitrator against modifying or adding language to the Agreement to achieve the result requested by the Association; and opines that the Association's remedy is overbroad.

For a remedy, the District requests that the grievance be denied and the matter be dismissed.

DISCUSSION:

At issue is whether the District violated the parties' Agreement, particularly Article VI, Section F -- Teaching Load, by the manner in which it compensated GOAL instructors. For the reasons discussed below, the Arbitrator finds that there was no such contract violation.

The Association's grievance "alleges that GOAL instructors are not being properly compensated for their workload." The grievance also "alleges that the District's 30-hour-per-week GOAL instructors are presently being improperly prorated for compensation and benefits" and "are entitled to a full-time teaching contract and all the corresponding full-time compensation and benefits." For relief, the grievance requests:

1. All GOAL instructors be credited with percentages on the workload formula according to their specific work assignment using the classifications in the Master Contract Agreement Workload Formula. These classifications would include lecture/discussion, individualized instruction, laboratory, or any classroom environment and course descriptions within GOAL.
2. Any GOAL instructor whose workload percentage exceeds 85 will be given a full-time teaching contract. This contract would include full-time pay and full-time benefits as stipulated in the Master Contract.
3. Any GOAL instructor who was not properly placed on the workload formula be fully compensated at the proper salary and benefit level retroactive to the beginning of the '92-'93 school year.

Both the Association and the District rely on various portions of Article VI, Section F - Teaching Load to support their aforementioned positions. However, the contract language in question does not provide a clear and unambiguous resolution to the instant dispute. To the contrary, there are several interpretations that can be reasonably drawn from said language in

determining the proper compensation to be paid GOAL instructors as the parties' arguments demonstrate. 2/

2/ For example, while the agreement specifically excludes certain programs from the workload formula but not the GOAL program it doesn't necessarily follow that GOAL instructors should be treated like any other instructor in the bargaining unit and receive workload credit for their lecture-discussion classes as argued by the Association because the contract language in question does not provide a clear answer to the question of whether GOAL instruction should be treated as Lecture Discussion or Individualized Instruction. In addition, contrary to the Association's assertion, just because some GOAL instruction takes place in a "structured" setting doesn't mean that instruction fits the definition of Lecture-Discussion. As pointed out by the District, the Laboratory and Shop definitions also make reference to "structured" or group classes. In addition, the Individual Instruction definition provides for emphasis on "skill development within a small group or one to one environment." (Emphasis supplied) Clearly, as pointed out

(Continued on page 15)

2/ (Continued)

by the District, a group environment was envisioned under the definition of Individualized Instruction. In fact, GOAL instruction, whether one-to-one instruction or structured instruction, fits some of the language found in most of the General Teaching Environment

Definitions. Unfortunately, for the Association's position, said definitions do not provide a clear answer as to in which teaching environment GOAL instruction fits.

Nor does past practice support the Association's position. In this regard, the Arbitrator points out that the record is undisputed that the District's past practice was to consider 28 hours of GOAL instruction as a full load. The record is also clear that proration of fringe benefits for part-time employees kicked in after half-time employment based on District policy not any contract language requiring same. Finally, the record is also clear GOAL instructors teaching in a "structured" class were not compensated the same as instructors teaching Lecture/Discussion in the General Education area.

The undersigned next turns his attention to bargaining history. The Association argues that bargaining history supports its interpretation of the disputed language. However, the record does not support a finding regarding same. To the contrary, evidence contained in the record establishes an equally persuasive case for the District's position.

In this regard the undersigned notes that the Association did make an attempt during the bargain for the 1992-1994 agreement to change the way GOAL instructors were compensated and to have GOAL instructors treated like other bargaining unit employees for wage and benefit purposes. However, the testimony of Association witnesses regarding the so-called agreement in bargaining to include GOAL instruction in a "structured" setting under the Lecture Discussion column of the workload formula is not persuasive. First, there is no agreement in writing to this effect, and, as pointed out by the Association, the agreement provides with respect to the Negotiation Procedure that any agreement reached "shall . . . be reduced to writing, and be executed . . ." (Article IV, Section 1). Secondly, none of the Association's witnesses testified that the parties actually reached a specific agreement to treat some GOAL ("structured") instruction as Lecture Discussion. Rather, Association witnesses testified in terms of "understanding" how GOAL lab would be treated ^{3/} or were somewhat contradictory as to how the GOAL proposal was originally intended ^{4/} or stated we were under the "impression" that "if they were to teach a structured class in GOAL . . . they were under . . . lecture," ^{5/}

or talked about "discussion" ^{6/} on the subject or acknowledged that Association bargaining notes reflected the Association's understanding of what to do with GOAL lecture-discussion but no agreement ^{7/} over same. Finally, the record supports a finding that the specific wording of the

3/ October 13, 1994 transcript (Tr. 1) p. 130.

4/ April 12, 1995 transcript (Tr. 2) p. 76.

5/ Tr. 2, p. 77.

6/ Tr. 2, p. 78.

7/ Tr. 2, p. 87.

definitions in the disputed contract clause was agreed to following mediation in separate discussions between Brian Oehler, representing the District, and Leo Chaltron, representing the Association. 8/ Chaltron was not called to testify by the Association in support of its interpretation of Article VI, Section F. 9/

District witnesses, on the other hand, testified clearly and precisely, that the parties agreed to place GOAL in the Individualized Instruction column, 10/ to retain the twenty-eight hour denominator for GOAL instructors, 11/ and to maintain the status quo for the GOAL program. 12/ This agreement was basically reached during mediation 13/ and was finalized when the definitions were later worked out by Oehler and Chaltron. 14/

8/ Tr. 2, pp. 13, 15 and 84.

9/ Tr. 2, p. 23.

10/ Tr. 2, pp. 12, 15 and 35.

11/ Tr. 2, p. 12.

12/ Tr. 2, pp. 12, 35.

13/ Tr. 2, pp. 13, 16.

14/ Tr. 2, pp. 13, 14.

In addition, bargaining history is undisputed that the purpose of the workload formula was to determine overload compensation 15/ and that there never was any agreement during bargaining to use said formula as a methodology for determining whether someone was full-time or part-time 16/ or to determine whether someone should receive prorating of benefits on the basis of the percentage listed in the workload formula. 17/

15/ Tr. 1, p. 140. Tr. 2, p. 79.

16/ Id.

17/ Tr. 2, p. 58.

