

VERMONT LABOR RELATIONS BOARD

GRIEVANCE OF: )  
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 )  
 VERMONT STATE COLLEGES STAFF) DOCKET NO. 84-53  
 FEDERATION, VFT, AFT, AFL- )  
 CIO )

### FINDINGS OF FACT, OPINION AND ORDER

On November 8, 1984, the Vermont State Colleges Staff Federation, VFT, AFT, AFL-CIO ("Federation") filed a grievance with the Vermont Labor Relations Board alleging the Vermont State Colleges ("Colleges") violated Article 20 of the collective bargaining agreement between the Federation and the Colleges, effective for the period July 1, 1983 to June 30, 1985, by not making every effort to accommodate employee requests for a reduced lunch period as a means of implementing an increase in the workday at Castleton State College.

A hearing was held before Board Members Kimberly H. Cheney, Chairman, and William G. Kemsley, Sr., on July 16, 1985. Member James S. Gilson was absent and has not participated in the decision. VFT Staff Representative Peter Konkle represented the Federation. Attorney Nicholas DiGiovanni represented the Colleges.

The Federation filed Requested Findings of Fact and a Memorandum of Law on July 24, 1985. The Colleges filed a brief on August 1, 1985.

### FINDINGS OF FACT

1. The Colleges have four traditional campus-based institutions: Johnson State College, Lyndon State College, Vermont Technical College and Castleton State College. The Federation is the collective bargaining representative for all non-faculty employees at these colleges excluding

the Chancellor, College Presidents, Deans, Business Managers and all management, supervisory, confidential and professional employees. The Federation and Colleges were parties to a collective bargaining agreement effective from July 1, 1983 to June 30, 1985.

2. Prior to July 1, 1984, the regular workweek at Castleton State College was 35 hours per week, and at the other three colleges the regular workweek was 37 1/2 hours per week.

3. Prior to July 1, 1984, the typical lunch period for Castleton employees was one hour although there were a few exceptions (i.e., employees had one-half hour lunch or no lunch)(Employer Exhibits 2, 3).

4. At the other three colleges, the duration of lunch periods vary with some employees having one hour for lunch and other employees having one-half hour.

5. During negotiations for the 1983-85 Contract, the Colleges proposed increasing the workweek at Castleton to 37 1/2 hours per week to make it uniform with the other three colleges. The Colleges and Federation agreed to increase the workweek at Castleton to 37 1/2 hours effective July 1, 1984.

6. In agreeing upon the increase in hours, the parties discussed how the increase would be implemented. The Federation initially proposed the increase should be accomplished by reducing the one-hour lunch period at Castleton to one-half hour. The Colleges refused to agree to a guaranteed reduction in the lunch period by 30 minutes. The Federation next proposed that employees' requests to reduce their lunch period to one-half hour not be denied except for "good cause". The Colleges found this language unacceptable. Ultimately, the Colleges proposed the following language to be inserted as Article 20, Section 1, of the 1983-85 Contract, and it was agreed to by the Federation:

The normal workweek at the Lyndon, Johnson and VTC campuses shall be 37 1/2 hours per week. The normal workweek at Castleton shall be 35 hours per week. However, effective July 1, 1984, the normal workweek at Castleton State College shall be 37 1/2 hours per week. Castleton State College will make every effort to accommodate employee requests to first reduce one-hour lunch breaks to one-half hour as a means of implementing the increase in hours at CSC.

7. The estimated cost of the increase in hours was \$50,000 for Castleton.

8. Along with the increase in hours at Castleton, the parties also agreed that effective July 1, 1984, overtime shall be paid for all hours worked in excess of 40 hours per week at each of the colleges. Previously, two colleges paid overtime after 37 1/2 hours and two colleges paid overtime after 40 hours (Article 20, Section 3, of the 1983-85 Contract).

9. On January 4, 1984, the "Ad Hoc Committee", comprised of representatives of the Colleges and Federation, met. At that meeting, Jean DeVoe (Federation president, negotiating team member and Castleton library employee) noted the increase in hours at Castleton would take place the following July and indicated to Colleges representatives Castleton employees wanted their lunch period reduced to account for the increased work hours rather than their workday lengthened. Nothing in particular came out of this discussion.

10. As the July 1, 1984, implementation date approached, officials at Castleton began considering how the increased hours would be implemented. Castleton President Thomas Meir met with administrators on what the best use of the extra time would be and how it could be implemented. The Administration's preliminary conclusion was the one-hour lunch period should be retained and the work day lengthened one-half hour.

11. On June 11, 1984, Meier and Robert Bruce, Castleton Business Manager, met with DeVoe. DeVoe stated Castleton employees wished to have their lunch hour reduced to a half-hour as the way to implement the increase in hours worked. DeVoe requested the Castleton Administration reconsider its decision to lengthen the workday rather than reduce the lunch period to implement the increase in work hours.

12. On June 19, 1984, Meier, DeVoe and Bruce met again. DeVoe indicated the Castleton Chapter of the Federation had unanimously requested that all lunch breaks be reduced to a half-hour to implement the change. DeVoe presented Meier with a memorandum indicating "some of the reasons" for the request were that lengthening the workday would: 1) result in increased costs for those using babysitters and/or day care centers; 2) mean children at home would have a longer period without supervision; 3) make it impossible for someone to take a 4:00 p.m. class; 4) result in employees traveling in darkness during winter months and family dinners being late; and 5) prevent employees from making personal appointments with other professionals outside of working hours (Federation Exhibit 1, Page 15).

13. DeVoe suggested Meier meet with staff to personally discuss the issues. The President agreed and a meeting was arranged for June 26 with staff of the college's offices and library (Employer Exhibit 4).

14. At the June 26 meeting, staff expressed their preference for reducing lunch hours. Some staff members suggested that, however the implementation occurred, it should result in consistency of hours among offices. Meier discussed the Administration's reasons for preserving the lunch hour and lengthening the work day to 4:30 p.m. These included:

1. Need for extended office coverage from 4:00 p.m. to 4:30 p.m. for better service.
2. Consistency in hours of operation. A student or prospective student may have a need to deal with several offices with regard to admissions and related matters. With some closing at 4:00 p.m. and others at 4:30 p.m., this resulted in occasional delays.
3. Need to give staff performing tedious office work a meaningful break for lunch.
4. Increase interaction between staff by having a long lunch break.
5. Maintaining a full hour so that staff could attend noontime activities such as concerts, lectures, parties and meetings which frequently were scheduled around the noon hour.

15. On June 28, 1984, Business Manager Bruce issued a memorandum indicating that for most office workers, including the library, the new work hours would be 8:00 a.m. to 4:30 p.m. with one hour for lunch (Employer Exhibit 1). There were a few exceptions. Patricia Trombley at the college's Rutland Center had her lunch break cut to a half-hour. Department secretaries Carol Schneider of the Nursing Department and Janice Rousse of the Physical Education Department previously had half-hour lunch breaks and that was maintained. Stan Van Gundy of the Physical Education Department maintained his variable schedule.

16. Around the same time, Joe Cannon, Director of the Physical Plant, met with the custodians and maintenance staff, 21 employees in total, to review the matter there. The custodians and physical plant employees all expressed a preference for shortening the lunch period. The College first agreed to this for the custodians, but preferred to add the extra half hour to the end of the day for maintenance. With a 3:00 p.m. departure time, late afternoon maintenance was deferred. The additional half hour provided the Administration with the opportunity to have general maintenance coverage until 3:30 p.m. However, at a meeting between Cannon and the physical plant employees in late June, the staff

again pressed for cutting the lunch hour instead. After further consideration, the Administration agreed to honor the collective request. On June 28, 1984, Bruce informed maintenance, custodial and security staff the workday would not be extended and instead the lunch break would be reduced by a half hour (Employer Exhibit 1).

17. On June 29, the Federation filed a grievance on behalf of unit members who did not have their lunch hour reduced. The Federation alleged the workweek schedule violated the Contract by not reflecting any effort to accommodate employee requests for a reduced lunch period (Employer Exhibit 5).

18. The changed work schedule was implemented on July 1, 1984, and resulted in the following change for the 14 employees on whose behalf the grievance before us was filed:

<u>NAME</u>	<u>DEPT.</u>	<u>HOURS</u> <u>JUNE '84</u>	<u>LUNCH</u> <u>JUNE '84</u>	<u>HOURS</u> <u>JULY '84</u>	<u>LUNCH</u> <u>JULY '84</u>
Valerie Rand	Fine Arts	8:00-4:00	1 hour	8:00-4:30	1 hour
Mary Giordano	Leavenworth	8:00-4:00	1 hour	8:00-4:30	1 hour
Marie Kramarz	Education	8:00-4:00	1 hour	8:00-4:30	1 hour
Jean DeVoe	Library	8:00-4:00	1 hour	8:00-4:30	1 hour
Claudia Jung	Library	8:00-4:00	1 hour	8:00-4:40	1 hour
Mildred Murray	Library	8:00-4:00	1 hour	8:00-4:30	1 hour
Karen Sanborn	Library	8:00-4:00	1 hour	8:00-4:30	1 hour
Ruby Cram	Career Planning	8:30-4:30	1 hour	8:30-5:00	1 hour
Jane Foley	Financial Aid	8:00-4:00	1 hour	8:00-4:30	1 hour
Rosemary Johnson	Financial Aid	8:00-4:00	1 hour	8:00-4:30	1 hour
Margaret King	Admissions	8:30-4:30	1 hour	8:00-4:30	1 hour
Dolores Parker	Admissions	8:00-4:00	1 hour	8:00-4:30	1 hour
Jill Green	Registrar's	8:00-4:00	1 hour	8:00-4:30	1 hour
Linda Wetherby	Registrar's	8:00-4:00	1 hour	8:00-4:30	1 hour

(Employer's Exhibit 2)

19. In late July, 1984, the Federation dropped the grievance it had filed on June 29 after approving a memorandum from Bruce to supervisors on the subject (Employer Exhibits 6-8). Bruce's memorandum provided in pertinent part as follows:

It is our intent to make reasonable effort to accommodate realistic and necessary requests by employees. Accordingly, please assess any requests from your staff for on-going one-half hour lunch breaks, rather than the current one hour, and notify me in writing as to reasons for the request and implications resulting from it. We anticipate receiving a thorough evaluation of the impact granting or not granting the request would have on the functioning of your operations. After all organizational units have responded to requests they have received, we will review them for total college implications and advise you of the action to be taken.

In addition, it is our intention to attempt to accommodate whenever possible the requests for special circumstances such as doctors appointments, class schedules, "going away" luncheons, etc., by allowing employees to "make up" time in a fair and reasonable manner.

(Employer Exhibit 7)

20. During the ensuing two months, the 14 employees indicated in Finding 18 made further requests for a reduced lunch period. These requests were re-examined by the Castleton Administration but were ultimately denied.

21. In the case of the employees in the Financial Aid, Admissions and Registrar's Offices, Meier based the denial on the following factors:

1) the desirability of having those offices open for business until 4:30 p.m., rather than 4:00 p.m.; 2) the need to have all the offices closing at the same time due to the interrelatedness of the offices; and 3) the different job functions of employees in the same office making it essential for all the employees to be in the offices until they closed.

22. With respect to the single department secretaries (i.e., Valerie Rand, Mary Giordano and Marie Kramarz), Meier believed it was necessary for them to stay until 4:30 p.m. because they were closely tied in with the Academic Dean's Office and other offices which remained open until 4:30 p.m.

23. Meier based the denial of a one-half hour lunch to the four Library employees primarily on the desirability of having consistency in times between offices. The Library remains open much later than the offices, and unlike other offices is open on weekends. Also, there is less interaction among the Library and departments and offices than there is among departments and offices.

24. The evidence does not indicate why Ruby Cram, an employee in the Career Planning Office, worked from 8:30 a.m. to 5:00 p.m., whereas other Grievants here worked from 8:00 a.m. to 4:30 p.m.

25. Since the implementation of the changed work schedule, the College has allowed employees to adjust their work schedules due to doctor's appointments and similar matters. In addition, in a few cases where employees wanted to take courses starting at 4:00 p.m., the College allowed the employees involved to take a half-hour for lunch, and leave at 4:00 p.m. instead of 4:30 p.m. during the semester.



#### OPINION

At issue is whether the College made "every effort to accommodate employee requests to first reduce one-hour lunch breaks to one-half hour as a means of implementing the increase in hours" at the College pursuant to Article 20, Section 1 of the Contract.

This case turns on what constitutes making "every effort" to accommodate employee requests. The contractual mandate to make "every effort" has to be judged against the purpose of lengthening the workday. The purpose was to make Castleton's workweek uniform with the other three campus-based colleges in the State Colleges system. Castleton employees were to be compensated for the increased hours they worked at an estimated cost of \$50,000 to the College. Efforts to accommodate employee requests for a reduced lunch hour must recognize the right of the College to require more extended office coverage and better service as a result of the increased cost.

It is evident the College made every effort to accommodate employee requests. First, the College granted the requests of almost half the bargaining unit members by granting requests of all the custodians and maintenance employees for a half-hour lunch.

Second, while ultimately denying the request of most office workers for a half-hour lunch, it is evident the College made every effort within the meaning of the Contract with regard to these staff when the College's legitimate business needs are taken into consideration. The College determined there was a need for extended office coverage from 4:00 p.m. to 4:30 p.m. for better service and that offices needed to have consistency in hours of operation. Efforts to accommodate had to take into account these business considerations.

Within these legitimate constraints, the College made every effort to accommodate employee requests for a half-hour lunch. President Meier and Business Manager Bruce met with office staff and by all indications fully considered employee requests. While most office staff requests were denied, the College agreed to a half-hour lunch where employees had previously had a half-hour lunch or had no need for consistent office hours with other employees. Also, while deciding to generally lengthen the workday by a half-hour to 4:30 p.m., the College allowed individual accommodations for doctor's appointments, course work and related matters.

The majority of the 14 Grievants herein work in either business, administrative or department offices which are interrelated and among which there is frequent interaction. In those offices, the desirability of having consistent hours of operation and all employees working in those offices until closing time at 4:30 p.m. is clear. That need is less clear for the four Grievants who work in the Library. The Library remains open much later than the offices during the week, and Library employees have less interaction with other office staff than do other office employees. However, the College's desire for consistency in work hours among office staff overrides employee interests for a shorter workday. To grant Library employees a reduced lunch hour while denying it to others would create the potential for employee Balkanization, a result to be avoided.

Finally, no evidence before us indicates why Ruby Cram, an employee in the Career Planning Office who begins and ends her day a half hour later than other Grievants, should have her request for a half-hour lunch granted due to her different work hours. Without such evidence, we decline to treat her differently than other employees.

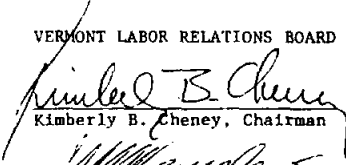
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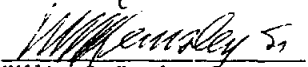
Now therefore, based on the foregoing findings of fact and for the foregoing reasons, it is hereby ORDERED:

The Grievance of the Vermont State Colleges Staff Federation, VFT, AFT, AFL-CIO, is DISMISSED.

Dated this 21<sup>st</sup> day of October, 1985, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

  
Kimberly B. Cheney, Chairman

  
William G. Kemsley, Sr.