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September 17, 2007

William Rearick
Superintendent
Tiverton Public Schools
Central Administration Building
100 North Brayton Rd
Tiverton RI 02878

RE: The Fair Labor Standards Act (FSLA) 29 U.S.C. S.201 *et seq.*

Dear Superintendent Rearick:

My office is informed that the regular pay for salaried teachers was not the required full amount. As you know, the Tiverton Teachers are exempt workers under the Fair Labor Standards Act (FSLA) 29 U.S.C. S.201 *et seq.* Section 541.118(a) of the Act states that an employee will be considered paid on a salary basis if

Under his employment agreement he regularly receives each pay period on a weekly or less frequent basis, a predetermined amount constituting all or part of his compensation, which amount is not subject to reduction because of variations in the quantity or quality of the work performed.

An interpretation of your action leads one to fairly conclude that it is now the school committee's policy to consider teachers non-exempt. Otherwise, it occurs to me that the withholding of pay is a willful violation under the federal statute and may subject the violator to criminal sanctions (29 U.S.C. S. 216(a)). Such willful violations are punishable by fines up to \$10,000, and, for a second conviction, an additional prison sentence of up to six months.

If it is the policy now of the school committee to consider the teachers non-exempt employees, under the law Teachers are required to be paid overtime for all hours of work beyond the statutory limits. If workers entitled to overtime payments are not paid what is owed to them under the law, compensatory and liquidated damages may be awarded. Additionally, punitive damages may be called for (*Travis v. Gary Community Mental Health Ctr., Inc.*, 921 F. 2d 108 (7th Cir. 1990)).

Please clarify your understanding of the exemption status for the workers in the NEA Tiverton bargaining unit in order for the members to adequately calculate the overtime

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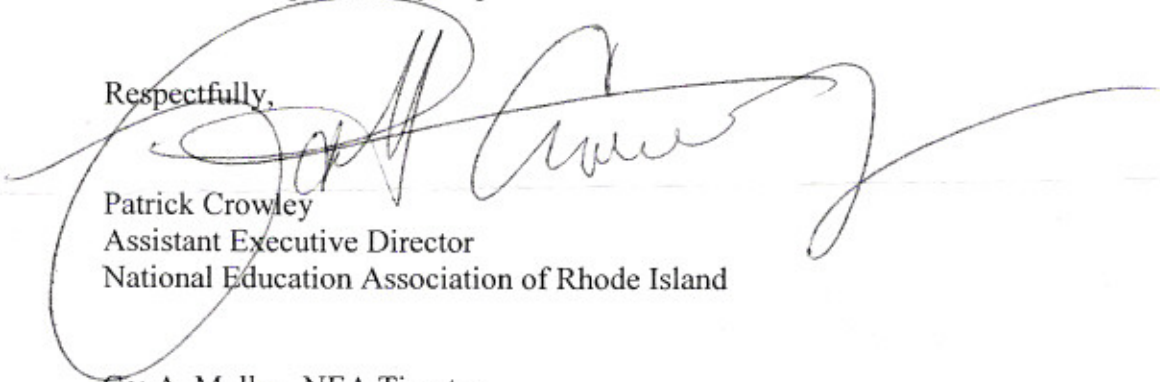
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paid owed to them in time for the next pay roll period. If, however, the refusal to pay the teachers their agreed upon salary was inadvertent, we will work with you to remedy the situation as expeditiously as possible.

Respectfully,



Patrick Crowley
Assistant Executive Director
National Education Association of Rhode Island

Cc: A. Mullen, NEA Tiverton
Members of the School Committee