

86-038 109

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of
State Employment Relations Board,
Complainant,

v.

Perrysburg Board of Education,
Respondent.

CASE NUMBER: 85-UR-08-4095

ORDER
(Opinion Attached)

Before Chairman Day, Vice Chairman Sheehan, and Board Member Fix;
August 14, 1986.

Pursuant to an unfair labor practice charge filed by the Perrysburg Education Association (Charging Party), the Board conducted an investigation in accordance with Ohio Revised Code Section 4117.12 and found probable cause to believe that the Perrysburg Board of Education (Respondent) had committed an unfair labor practice in violation of Ohio Revised Code Section 4117.11. A complaint was issued and the matter was assigned to a Board hearing officer who considered the case upon stipulations of fact into which the parties entered in lieu of a hearing. The Board has considered the hearing officer's report, the record, the exceptions to the report, and responses. The Board also notes that the Respondent has filed a request for oral argument.

The issues in this case are adequately developed in the written documents submitted to the Board. Therefore, the request for oral argument is denied. For the reasons stated in the attached opinion, incorporated by reference, the Board adopts the hearing officer's conclusions of law and recommendations, and orders the Respondent to:

A) Cease and desist from interfering with, restraining or coercing employees in the exercise of rights guaranteed in Ohio Revised Code Chapter 4117, from refusing to bargain collectively with the exclusive representative, and from otherwise violating Ohio Revised Code Section 4117.11(A)(1) and (5).

B) Take the following affirmative action:

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1) Post for sixty days, in all Perrysburg Local School District buildings where the affected employees work, the Notice to Employees furnished by the Board stating that the Perrysburg Board of Education shall cease and desist from the action set forth in paragraph A, above, and shall take the affirmative action set forth in paragraph B.

2) Reinstate the same schedule and teacher-student contact time which existed prior to the 1985-86 academic year unilateral changes.

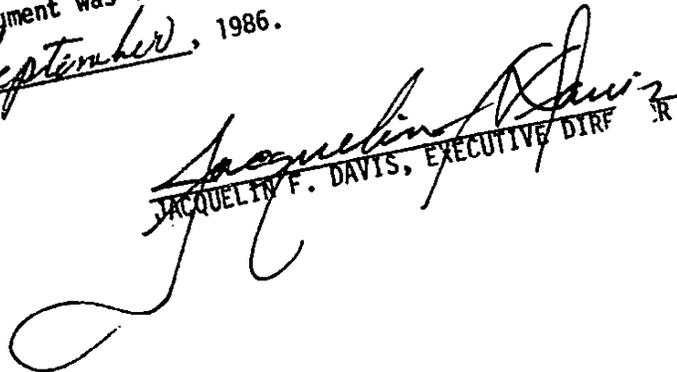
3) Immediately offer to negotiate with the exclusive representative regarding the amount of teacher-student contact time, making any bargain reached effective to the beginning of the 1985-86 academic year.

Additionally, the Board orders the parties to engage in collective bargaining pursuant to Ohio Revised Code Section 4117.08 on the subject of teacher-student contact time.

It is so ordered.
DAY, Chairman; SHEEHAN, Vice Chairman; and FIX, Board Member, concur.


JACK G. DAY, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this 15th day of September, 1986.


JACQUELIN F. DAVIS, EXECUTIVE DIR

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Case No. 85-UR-08-4095

OPINION

Sheehan, Vice Chairman:

Pursuant to the agreement of the parties, this case was decided on stipulations of fact in lieu of a hearing.

In its exceptions to the Hearing Officer's proposed order, among points the Respondent raised was that the increase in pupil contact time was "influenced by several factors," namely: an increase in the State's minimum standards for education imposed under R.C. 3301.07(D) and the demand of the Perrysburg community for an increase in both the quality and diversity of the education available.

However, none of these points now being raised in the exceptions was moved to be placed in the record by the Respondent as part of the stipulations of fact. Once the record is closed, it is too late for a party to raise factual issues which were known to it at the time the stipulations of fact were made.

Nevertheless, the Board did review the Respondent's claim¹ that it was exempt from the duty to bargain on this issue pursuant to 4117.10(A). In pertinent part, 4117.10(A) provides:

..., the minimum standards promulgated by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code prevail over conflicting provisions of agreements between employee organization and public employers.

The Board could find no conflict in the terms of the collective bargaining agreement and the application of R.C. 3301.07 and Administrative Code 3301-35-02. If changes in teacher-student contact time were necessitated by the increase in minimum standards, then the Respondent failed to make its rebuttal.

For those reasons, the Board adopts the Hearing Officer's conclusion of law and recommendations.

Chairman Day and Board Member Fix concur.

¹Page 4 Respondent's Exceptions

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