

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of
State Employment Relations Board,
Complainant,

v.

Bowling Green Board of Education,
Respondent.

CASE NUMBER: 85-UR-02-3025

ORDER
(Opinion attached)

Before Chairman Sheehan, Vice Chairman Davis, and Board Member Latané;
March 17, 1988.

On February 26, 1985, the Bowling Green Educational Association (Charging Party) filed an unfair labor practice charge against the Bowling Green Board of Education (Respondent). Pursuant to Ohio Revised Code (O.R.C.) §4117.12, the Board conducted an investigation and found probable cause to believe that an unfair labor practice had been committed. Subsequently, a complaint was issued alleging that the respondent had violated O.R.C. §§4117.11(A)(1) and (A)(5) by unilaterally converting from a six-period day to a seven-period day. The case was heard by a Board hearing officer.

The Board has reviewed the record, the hearing officer's proposed order, exceptions, cross-exceptions, and responses.

The Board, for reasons stated in the attached opinion, incorporated by reference, adopts the Stipulations, Findings of Fact, Conclusions of Law and Recommendations, with the deletion of Recommendation No. 2(B)(v).

The Respondent is ordered to:

A. Cease and desist from:

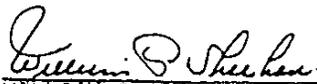
- (1) Interfering with, restraining, or coercing employees in the exercise of rights guaranteed in Chapter 4117 of the Revised Code, and from refusing to bargain collectively with the exclusive representative of its employees recognized or certified pursuant to Chapter 4117 of the Revised Code, and from otherwise violating §§4117.11(A)(1) and (A)(5).

B. Take the following affirmative action:

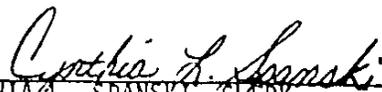
- (1) Post for sixty (60) days in all Bowling Green Board of Education buildings where certificated personnel work, the NOTICE TO EMPLOYEES furnished by the SERB stating that the Bowling Green Board of Education shall cease and desist from the actions set forth in Paragraph (A) and shall take the affirmative action set forth in Paragraph (B).
- (2) Immediately engage in good faith collective bargaining with the exclusive certified bargaining representative of its employees regarding the number of class periods within a school day and the amount of teacher-student contact time within a school day.
- (3) Make any bargain reached effective with the start of the 1988-89 school year.
- (4) Return to a 6-period, 55-minute per period, school day effective with the 1988-89 school year, unless the parties reach a different agreement in the interim.
- (5) Notify the SERB in writing within twenty (20) calendar days from the date the Order becomes final of the steps that have been taken to comply therewith.

It is so ordered.

SHEEHAN, Chairman; DAVIS, Vice Chairman; and LATANE, Board Member, concur.


WILLIAM P. SHEEHAN, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this 20th day of April, 1988.


CYNTHIA L. SPANSKI, CLERK

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OPINION

Sheehan, Chairman:

The issue in the instant case is whether the Respondent's conduct and actions constituted interference, restraint, or coercion and a refusal to bargain in violation of Ohio Revised Code (O.R.C.) §§4117.11(A)(1) and (A)(5) when the Respondent unilaterally converted from a six-period school day to a seven-period one.

The hearing officer found in the affirmative and his proposed order recommended in part that the Respondent return to the 6-period/55 minute per period day effective with the beginning of the 1988-89 school year unless the parties reach a different agreement in the interim; immediately engage in good faith collective bargaining with the exclusive representative regarding the number of class periods within a school day and the amount of teacher-student contact time within a school day; and compensate for parallelism certain employees whose teaching duties were increased as a result of the change to the seven-period school day.

The Board adopts the hearing officer's stipulations, findings of fact, conclusions of law, and recommendations with the single exception of Recommendation 2(B)(v), the back pay award to certain teachers.

In this case, the Board is disinclined to approve back pay. The compensation award fashioned by the hearing officer, which appears to be the only configuration possible, produces an inequitable remedy. For instance, under the former six-period school day, a number of teachers (approximately eleven) were required to teach six periods a day. The remainder were teaching less. Those teaching the six-period day were never compensated for the larger workload. Surely, when the school is returned from the seven-period day, some teachers again will be required to teach six periods a day. It appears woefully inequitable to compensate these thirty teachers for this increased teaching assignment during the term of the seven-period day, when other teachers have and, when returned to the old system, most certainly will carry the same teaching load but without additional remuneration. Moreover, teachers are under contract with their salaries set by the school year, not by the hour. For these reasons, the Board deletes 2(B)(v) of the hearing officer's recommendations.

Davis, Vice Chairman, and Latané, Board Member, concur.