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STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF FACT FINDING)

between)

TOLEDO FEDERATION OF TEACHERS,)
AFT, AFL-CIO,)

Employee Organization)

and)

THE TOLEDO BOARD OF EDUCATION)

Public Employer)

SERB

Case No. 97-MED-07-0742

Substitute Teachers Agreement

FACT FINDING REPORT

Mitchell B. Goldberg

Appointed Fact-Finder

I. INTRODUCTION

The undersigned, Mitchell B. Goldberg, was appointed as the Fact Finder for the subject case pursuant to the regulations of the Ohio State Employment Relations Board on October 31, 1997. A hearing was conducted on November 26, 1997. Thereafter, the parties agreed that the Fact Finder's report was to be issued on or before January 6, 1998.

Each of the parties had representatives and witnesses at the hearing. The principal representatives for the TFT were Francine Lawrence, President, and David N. Schnorf, Attorney. The principal representatives for the Board were James M. Sciarini, Attorney, and Richard Daoust, Deputy Superintendent.

Prior to the hearings, each of the parties submitted prehearing statements pursuant to Section 4117-9-05 of the rules of the State Employment Relations Board.

The parties submitted to the Fact Finder a general description of the function of the employer and a general description of the employees in the Bargaining Unit. The parties met on November 6, 1997 and November 13, 1997 prior to the hearing pursuant to their negotiations for a Collective Bargaining Agreement.

Consideration in this report was given to all of the criteria listed in Rule 4117-9-05 (J) of the State Employment Relations Board.

II. MEDIATION

Some mediation occurred prior to and during the hearing. The parties reached agreement on certain issues. A copy of the tentative agreement reached between the parties is attached to marked Appendix A.

III. UNRESOLVED ISSUES

The following issues presented by each of the parties were unresolved prior to the hearing:

A. TFT ISSUES

Issue No. 1 - Class III. - Continuous Building Substitutes.

The TFT proposes that Continuous Building Substitutes be assigned to attend elementary schools as determined by the greatest student enrollment. The assignments should be made from the Class I. list. These are the substitutes who are assigned any where at anytime. Continuous Building Substitutes are already present in the high schools and junior high schools. It is recognized that Continuous Building Substitutes perform a better substitute job because they are known to the students and they provide continuity.

The Board is opposed to any mandated staffing level for Continuous Building Substitutes. The Board needs a certain amount of flexibility to assign substitutes on the basis of need and a certain amount of management discretion is needed to work within the Board's budgetary constraints.

Because this proposal may present some financial problems for the Board, it is not recommended that it be implemented at this time.

Recommendation - No change.

Issue No. 2 - Vacancies.

The TFT proposes that vacancies be offered to Contract Continuous Building Substitutes based on seniority. Vacancies will then be offered to non-contract Continuous Building Substitutes.

The Board objects to this proposal because it needs flexibility in assigning Continuous Building Substitutes. The Board assignments as they presently exist help the Board attain its required racial integration of the faculty in each school building. Permitting assignments to be based on

seniority would eliminate the Board's ability to meet these requirements.

The Board's position has merit. Moreover, the TFT should be willing to offer the Board something in return for this proposal in order to obtain additional seniority benefits.

Recommendation - No change.

Issue No. 3 - Compensation for being left off the rotation list.

A problem is created when a substitute is assigned to a school and then placed at the bottom of the rotation list. The problem occurs when the substitute is not released from the school at the end of the assignment. The substitute winds up losing wages because he or she is not released by the school. This creates problems for the school system as well. The district loses class coverage time because of the unavailability of the substitute. Regular teachers are required to double up on their classes. Instruction and classroom control suffers because of the higher number of students in the class. This problem also adversely affects discipline.

The Board recognizes that the failure to release a substitute from a school causes problems on a case by case basis. It is not willing, however, to admit that it is always the fault of the administrators when this occurs. The Board is willing to explore this issue and to discuss procedures to improve communications to prevent the problem from arising. The Board is not willing to have imposed upon it an economic penalty when it is not clear on a case by case basis as to whether the administrators or the substitutes cause the problem.

The parties should continue to negotiate over this issue in order to provide better communications and to create a solution other than the payment of additional compensation which the Boards views as a penalty.

Recommendation - No change.

Issue No. 4 - Sick Leave Accumulation.

Substitutes who have accumulated certain amounts of sick leave propose to be paid additional compensation. Under the present contract language substitutes cannot utilize their sick leave accumulation until they receive a teaching contract. Many substitutes do not intend to receive teaching contracts but they need to be compensated for their accumulated sick leave. This proposal would help attract substitute teachers and keep the current substitute pool intact.

The Board admits that there is a shortage of substitute teachers but it is not willing to pay substitutes additional money for not working. Moreover, employees are entitled to substantial severance payments based upon accumulated sick time.

This is an economic item which should continue to be negotiated between parties.

Recommendation - No change.

Issue No. 5 - Reimbursement for the cost of physical exams and costs related to employment applications.

The TFT believes that the elimination of these costs will attract teachers to become employed as daily substitutes. This will help address the severe shortage problem.

The Board currently has a policy which addresses this issue when a critical shortage of applicants exist. The Board may waive the fees for a physical exam in its discretion on a case by case basis. The Board desires to maintain its discretion in this regard.

Recommendation - No change.

Issue No. 6 - Wages.

Recommendation - It is recommended that the substitutes receive the same percentage wage increases as issued to the teachers in Case No. 0741. The same rationale applies.

Issue No. 7 - Travel Pay.

The TFT proposes increasing the travel pay from \$2.00 to \$3.00. The Board raised the travel pay from \$1.00 to \$2.00 in 1996. This is an economic issue which should be negotiated between the parties.

Recommendation - No change.

Issue No. 8 - Planning.

The TFT proposes to increase the current rate for substitutes to cover another class during their planning time from \$9.55 to \$11.00. The Board objects to the additional cost.

This is another economic issue which must be negotiated between the parties.

Recommendation - No change.

Issue No. 9 - AD and D Insurance.

The TFT proposes increasing the amount of this insurance from \$30,000 to \$50,000. The Board objects to the additional cost.

Recommendation - No change.

Issue No. 10 - Medical Insurance.

Presently a substitute with a long-term assignment of 120 days or more which concludes after April 30th will continue to receive medical benefits for June, July and August. The Board pays 100% of the cost for June, 50% for the cost of July and 50% for the cost in August. The TFT proposes increasing the Board's obligation to 100% of the cost in each month. The current language further provides that at the conclusion of an assignment of 120 days or more prior to May 1st, the substitute shall have the option of purchasing medical benefits at the Cobra rate or those months remaining from the end of the assignment to June 1st, at which time the premiums for the months of June, July and

August will be paid at 50% of the Cobra rate by the substitute. The TFT proposes to change 120 days to 90 days or more prior to May 1st and the substitute would have the option of purchasing medical benefits at 50% of the Cobra rate for those months remaining from the end of the assignment to June 1st, at which time the premiums for the months of June and July will be paid by the Board. The premium for August will be paid at 50% of the Cobra rate by the substitute. The TFT believes that this added economic benefit will assist the Board in hiring sufficient substitutes.

The Board considers this proposal a substantial economic cost which it is not willing to assume.

This is another economic issue which should be negotiated and should not be imposed upon the parties.

Recommendation - No change.

Issue No. 11 - Duration.

A three year contract is recommended. See Teachers Fact Finding Report.

B. BOARD PROPOSALS

Board Issue No. 1 - Performance Report Procedure.

This proposal of the Board in Article IV has been agreed upon with the TFT.

Board Issue No. 3 - Half-days.

A substitute teacher is occasionally needed for only one-half days. At the secondary level, this would require the teaching of three classes. The contract defines a half-day position is one that lasts more than two hours, but less than three hours. In the event the substitute is scheduled into a class that is split to accommodate a lunch hour, the substitute would still teach three classes but would be on duty for three hours and fifteen minutes. The Board proposes language that would pay

substitutes for one-half day when the work schedule does not exceed three hours and fifteen minutes.

The TFT proposes to keep the language the same.

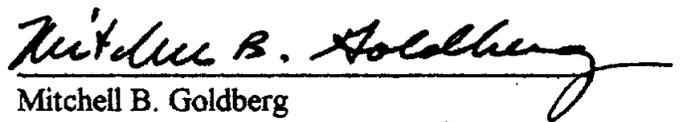
Recommendation - This appears to be an economic windfall which is available to certain substitutes but was not intended by the parties when the existing language was negotiated. The proposal of the Board is therefore recommended.

Board Issue - Priority Hiring

This is the same issue as Board Issue No. 7 in the teachers contract.

Recommendation - See Board Issue No. 7 in the Teachers Fact Finding Report.

Respectfully submitted,



Mitchell B. Goldberg
Fact Finder

Date January 6, 1998