

Jan 8 10 48 AM '98

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF FACT FINDING)	SERB
)	Case No. 97-MED-07-0743
between)	
)	Paraprofessionals
TOLEDO FEDERATION OF TEACHERS,)	
AFT, AFL-CIO,)	
)	
Employee Organization)	
)	
and)	
)	
THE TOLEDO BOARD OF EDUCATION)	
)	
Public Employer)	

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 took place on November 26, 1997. Thereafter, the parties agreed that the Fact Finder's report was to be issued on or before January 6, 1998.

The parties appeared with 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. Sciariani, 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 several occasions prior to the hearing pursuant to their negotiations for a Collective Bargaining Agreement.

The Fact Finder took into consideration the criteria listed in Rule 4117-9-05(J) of the State Employment Relations Board.

II. UNRESOLVED ISSUES

A. TFT ISSUES

TFT Issue No. 1 - Recognition.

The TFT wants to represent substitute paraprofessionals who are not represented currently by any union. There are approximately thirty-six substitute paraprofessionals employed by the Board. Further, the TFT proposes that the following job categories be included in the recognition section of

the paraprofessional contract: Extended Day Kindergarten, Computer Resource Lab, and Comparability Professionals. These employees pay union dues and are members of the unit. These jobs were created during the term of the last Collective Bargaining Agreement. The Computer Resource Lab Paraprofessionals have been employed by the Board for many years, with a different title, doing in some cases, the same work. The Board has negotiated separate memoranda of understanding regarding the work rules of Computer Resource Lab Paraprofessionals and Extended Day Paraprofessionals. All that changed was the job title. The employer unilaterally created the position of Comparability Paraprofessional without negotiations with the TFT. The TFT wants to represent all of these paraprofessionals and include them within the Collective Bargaining Agreement.

The Board is willing to add the job titles but does not want to recognize the substitute paraprofessionals as a group. The issue of recognition of these units should be decided by SERB and not by fact finding or arbitration. The Board believes that the Fact Finder does not have jurisdiction to determine the inclusion of these units within the Collective Bargaining Agreement.

Absent an agreement on the part of the Board to recognize these units, the matter should be resolved by the appropriate legal authority and not by this Fact Finding award.

Recommendation - No change.

TFT Issue No. 2 - Release Time for Grievance Representative.

The TFT proposes that a grievance representative appointed by the Federation President shall be released one hour per day in order to perform the duties of this position. The hours shall be scheduled at the end of the school day. The representative does not have sufficient time to perform Federation grievance work or attend hearings. There are 414 paraprofessionals who must be represented and the representative should not be required to perform her work entirely outside of

school hours.

The Board objects to this proposal because it needs the coverage of paraprofessionals during school time.

This Fact Finder believes that the Grievance Representative should be allocated some time to perform their grievance work during the school day, the same as other grievance representatives for other units. The TFT's proposal is not unreasonable and should be accepted.

Recommendation - The TFT proposal is recommended.

TFT Issue No. 3 - Additional Compensation for Increased Workload.

The TFT proposes that when there is no substitute available for a regular contract teacher, and another teacher agrees to take the students of the absent teacher, the paraprofessional assigned to the receiving teacher should receive three hours of pay at his or her daily rate. There is admittedly a shortage of teachers substitutes. When this occurs, some teachers are required to accept more students when a teacher is absent. Teachers who receive extra students are compensated in addition to their regular salary. Paraprofessionals who take on additional students should also be paid additional compensation. The workload of the paraprofessional increases just as the workload increases for the teacher.

The Board argues that the workload for a paraprofessional does not always increase when their assigned teacher receives extra students. Sometimes a paraprofessional is only assigned to one student and that assignment would not increase because other students are added to the teacher's responsibility.

This is cost issue which should continue to be negotiated between the parties.

Recommendation - No change.

TFT Issue No. 4 - Property Loss Fund.

This issue has been agreed upon between the parties.

TFT Issue No. 5 - Donation of Sick Leave Days to other Paraprofessionals.

The TFT proposes that paraprofessionals be allowed to donate up to five sick days per year to another member of the Bargaining Unit. The Board objects to this proposal for a number of reasons. There are many administrative problems. Certain employees are soliciting other days from other employees.

Recommendation - No change.

TFT Issue No. 6 - Increased Compensation when a Paraprofessional is not available.

The parties have agreed to the TFT proposal on this issue.

TFT Issue No. 7 - Credit for Seniority.

The TFT proposes that a paraprofessional who works for the Board and then resigns would be credited for all previous years of service when they are rehired by the Board. Prior service credit is permitted for the teachers. The same should apply to paraprofessionals.

The Board distinguishes between teachers and paraprofessionals because paraprofessionals are paid on an hourly basis. Teachers have historically received prior service credit but paraprofessionals have not historically received this benefit.

Recommendation - No change.

TFT Issue No. 8 - Compensation.

This Fact Finder recommends the same across the board percentage increases for each contract year as recommended for the teachers contract. The Me-Too clause should also be applicable.

The TFT also proposes changes to the professional growth credit, an increase in longevity pay, an additional vacation day and vacation pay. The TFT further proposes that paraprofessionals who are full-time but who work a four day schedule shall receive personal leave days the same as full-time employees who work a five day schedule. The TFT further proposes to increase the miles under Article 21 (A) from 200 miles to 250 miles.

The Board objects to all these proposals based upon increased costs.

Recommendation - No change. It is noted that the TFT has withdrawn its proposal on severance pay.

TFT Issue No. 9 - Additional Conference Day.

The TFT proposes that an additional conference day be added to the calendar of paraprofessionals. This day will follow the last day of school. Attendance shall be required. All paraprofessionals would receive six hours of pay. The program for this day shall be developed cooperatively by the Board and the Federation. This day is necessary for the training of paraprofessionals who are required to work each day during the school year.

The Board believes that the paraprofessionals have sufficient time for training. The cost of this additional day would be approximately \$40,000.00.

Recommendation - No change.

TFT Issue No. 10 - Duration of Contract.

The duration of the contract shall be a three year contract as recommended in the Teacher's Fact Finding Report.

B. BOARD ISSUES

Board Issue No. 1 - Inclusion of new job classifications in Bargaining Unit.

See Board Issue No. 1 in Teachers Report. The same recommendation is made here.

Board Issue No. 2 - Limit on Personal Days.

The Board proposes to limit the number of personal days in which a paraprofessional can be out of the building. Specifically, the Board wants to limit the amount of personal days used in May. The Board offered to give the four day employees the same number of personal days as five day employees in exchange for this proposal. The TFT responded with a proposal to limit the number of personal days in May to two. The TFT offered to be paid for not using days but the Board rejected this proposal.

The parties should continue to negotiate because it appears they are close to a resolution of this issue.

Recommendation - No change.

Board Issue No. 3 - Declared Holiday.

The parties have agreed to the Board's proposal on this issue.

Board Issue No. 4 - Medical Insurance Coverage.

The present contract provides partial coverage for employees working 12-14 hours per week, single coverage to employees working 15-19 hours per week and family coverage to employees working 20 or more hours per week. The Board proposes language to provide full benefits to those employees working 24 hours per week or more. This is the same level of coverage provided to members of the AFSCME Bargaining Unit.

The TFT opposes this proposal because the Board has rejected parity arguments made by the paraprofessionals with other provisions of the AFSCME contract. The paraprofessionals are behind the AFSCME Union in vacation days and pay.

Recommendation - No change.

Board Issue No. 5 - Transitional Work Program.

This was the same proposal raised in the teachers contract. The findings and recommendations in the teachers report should apply to this report.

Board Issue No. 6 - Community Partners.

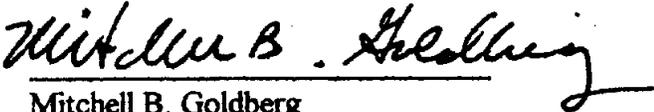
The Board wants to continue this program which was developed by a separate memorandum of understanding between the parties and is not part of the Collective Bargaining Agreement. The Board believes that this is a good program and that it should be continued.

The TFT has serious questions about the training component for this program.

Because the parties did not agree to make this program part of the Collective Bargaining Agreement, the TFT should not be obligated to continue the program beyond the requirements set forth in the memorandum of understanding unless the parties negotiate and resolve all of the issues which are of concern to the TFT regarding this program.

Recommendation - No change.

Respectfully submitted,



Mitchell B. Goldberg
Fact Finder

Date January 6, 1998