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FF 6/23/79

STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF FACT FINDING .
BETWEEN:

ROSEVILLE COMMUNITY SCHOOLS
(Employer)

MERC CASE NO. D78-L2691

and

AFSCME LOCAL 411, AFL-CIO
(Union)

FINDINGS AND RECOMMENDATIONS

APPEARANCES:

FACT FINDER: Mario Chiesa

FOR THE EMPLOYER:

Ronald H. Greve, Esq.
Richard Powers, Asst. Supt.
Debra Wangrud, Personnel Coordinator
Sue Silavs, School Psychologist
Anthony Maksym, Arbor Elementary
Principal

FOR THE UNION: Thomas M. Melton, Staff Rep. Council 25
Virginia Knuth, Chairperson, Local 411
Dominica Bazzo, Steward, Local 411

INTRODUCTION

As a result of an agreement reached between the parties this matter came to hearing on June 21, 1979 at the Roseville Community Schools Administration Building, Roseville, Michigan.

The parties requested an immediate adjudication of this matter; thus, your Fact Finder, after carefully considering all of the evidence, has set forth in this memorandum a summary of the findings and recommendations.

ISSUE

This dispute concerns the language contained in Article XVIII - Work Schedules and Rules, .Section 18.04, of the 1975-1978 Collective Bargaining Agreement. That language states:

"Lunchroom supervisors may be employed to supervise students under the direction of a certificated employee. They will be assigned to areas of the buildings and grounds as necessary by the Building Principal. It shall be their responsibility to uphold the rules as established and report infractions as directed. They shall not be employed as full time lavatory attendants."

In order to understand this dispute, a short background discussion is necessary.

The employees involved herein are lunchroom supervisors. Their duties basically revolve around supervising students during lunchroom and playground periods. The Employer also employs matrons, which will be established below, have substantially different duties except for a possible overlap regarding the lunchroom and playground activities.

The school has a number of students affected by learning disabilities (L.D's). The lunchroom supervisors contend that they should not be required to supervise L.D's during the lunch or playground period because this is actually the work of the matrons and since the matrons receive a higher salary, the lunchroom supervisors should not be required to perform the work. Further, the lunchroom supervisors maintain that if they must supervise the learning disability students, then they should receive the same salary as do matrons.

FINDINGS OF FACT

Both parties were afforded an opportunity to present all relevant evidence. The Union placed a number of documents in the record, while the Employer presented the testimony of Sue Silavs, a school psychologist, and Anthony Maksym, the Arbor Elementary Principal.

After carefully considering all of the documents and the testimony contained in the record, your Fact Finder has concluded that the record establishes that the following statements are accurate and acceptable findings of fact:

A. The matrons must assist children to and from the school buses and supervise children who must carry their own belongings, etc. The lunchroom supervisors do not do this. The matrons must direct and assist children in taking off and putting on coats, etc. The lunchroom supervisors do not do this. The matrons must supervise lavatory activities as necessary. The lunchroom supervisors do not do this. The matrons must assist teachers as necessary. The lunchroom supervisors do not do this. The matrons must assist in maintaining neatness in the classroom. The lunchroom supervisors do not do this. The matrons must assist in reinforcing programs set up for special problems. The lunchroom supervisors do not do this. The matrons must assist children in spelling, math and reading. The lunchroom supervisors do not do this. The matrons are consistently involved with the children. The lunchroom supervisors are not. The matrons must assist in lunchroom program and feeding problems. The lunchroom supervisors are involved in this area. The matrons must assist in playground and recess time activities. Again, the lunchroom supervisors are involved in this area.

B. The record indicates that the ratio of children without learning disabilities to those with learning disabilities is approximately 30-1.

C. A child with a learning disability may need special attention, but that attention is directed only to academic problems. The record does not indicate that children with learning disabilities have behavioral problems which are of a different nature or are more intensified than those possessed by children without learning disabilities.

D. The school has available learning disability programs which range from the learning disabled child being placed in a regular classroom with a teacher consulting with a

social worker, to the last step, where a child is totally removed from the classroom. In between the two extremes are first, a situation where the learning disabled child is in a regular classroom, but receives additional help; second, a situation where the learning disabled child is in a regular classroom and at times in a special classroom.

E. The philosophy regarding children with learning disabilities indicates that the environment into which the child is placed must be the least restrictive as possible and any restrictions must be justified by the need of the individual child and not the school's convenience.

F. The propensity for a child with a learning disability to enjoy better mental health is intensified if the child is treated in a manner which does not differentiate he or she from the children who do not suffer from a learning disability.

G. While in the past special education teachers may have been receiving a salary higher than a comparable regular teacher, presently, special education teachers receive the same salary as do regular teachers with comparable degrees and experience.

H. While it is true that the matrons also supervise lunchroom and playground activities, it appears that at least the potential exists that the duties performed by the matrons during playground activities may be an extension of a program or course of activity that was instituted in the classroom.

I. At least at Arbor Elementary School, out of a population of slightly less than 300 students, there are only 10 children involved in the learning disability program.

REASONS AND RECOMMENDATIONS

After considering all the available evidence, your

Fact Finder recommends that the language contained in Article XVIII - Work Schedules and Rules, Section 18.04, remain the same in the new Collective Bargaining Agreement. Obviously, this means that your Fact Finder does not recommend that the position offered by the Union be accepted. This recommendation is based upon the reasons stated below.

In examining the findings, it becomes apparent that the above recommendation is supported and in fact mandated by the findings stated above.

An examination of the evidence indicates that children suffering from learning disabilities do not present discipline problems which are substantially different than those presented by children without learning disabilities. Since this is so, the record does not establish that the lunchroom supervisors, if required to supervise children with learning disabilities, are faced with a substantially different situation than they would be if they were only required to supervise children without learning disabilities. Further, the evidence indicates that the number of children suffering from a learning disability is miniscule compared with the total number of children enrolled in the school.

Additionally, when examining the question from the viewpoint of what is best for the child, it becomes apparent that the least restrictive environment, and frankly, the least discernible discrimination, that the child is forced to suffer, is obviously in the best interest of the child. Thus, if it were necessary to classify learning disability children as children who could not be supervised by lunchroom supervisors, but had to be supervised by matrons, it would certainly place an unjustified characterization upon the children with learning disabilities.

The evidence clearly establishes that the job duties imposed upon matrons are substantially different than the job duties imposed upon lunchroom supervisors.. Even if there is a very slight overlap in the area of lunchroom and playground activities, this overlap is De Minimus. It does not justify equalization of the wage rates.

CONCLUSION

Your Fact Finder has carefully considered the evidence before rendering the above mentioned recommendation. He feels that the recommendation can serve as a reasonable and just basis for settling this dispute.


MARIO CHIESA

June 23, 1979