

ONAWAY AREA COMMUNITY SCHOOLS
GRIEVANCE COMMITTEE MEETING

October 30, 2023

amended - JD

Call to order.

A special meeting of the Onaway Area Community School District's Grievance Committee was held in the Media Center. Called to Order by President, James Rieger at 5:00 p.m. on October 30, 2023.

Pledge of Allegiance was recited.

Roll Call.

Committee Members Present: John Palmer, Mike Hart, James Rieger, Jodi Brewbaker, Barbara Hoffmeyer, and Kymberli Wregglesworth.

Guests: Union President Bryan Pyle, Maddison McLean, Lorrie Kowalski, and Erin Chaskey.

Approval of agenda.

Hart moved to approve the agenda as written, supported by Palmer. All in favor. Motion carried.

Regular Business.

Presentation by Maddison McLean.

President Rieger- First, the substantive merits of the grievance as I have told Jim, I believe this is just political posturing by the Union. A grievance is an allegation that the District employer violated a provision of the collective bargaining agreement. Hear, the teacher and the Union allege that two board members violated Article VII, Section F of the Teacher Contract, which requires that "Reprimands shall be delivered in private." The allegation is that the two board members violated this contractual provision during the September 20, 2023 policy committee meeting that I attended by asking me questions related to the teacher placement issue regarding this teacher (from her initial hired position to a special education position). To the best of my recollection, neither board member named the teacher at the policy committee meeting, but questioned me about the process for hiring and teacher placement, and questioned how they could know that the District got the most qualified person for the special education position if the position wasn't posted. One of the Board members may have questioned the teacher's qualifications, but it was noted that the teacher was certified and qualified for special education. In any case, as a matter of factual significance, neither board member appeared to reprimand the teacher. A reprimand is a rebuke, an initial step in progressive discipline where there is either a verbal or written warning that the employee engaged in some type of misconduct. The two board members questioned me about the policy

and process, they did not reprimand the teacher. The questions and comments raised in the policy committee meeting by the Board members were not disciplinary in nature. Second, if the union and teacher insists that the statements made and questions raised by the Board members at the September 20 Policy Committee meeting were in fact a reprimand then point out that the teacher discipline is (as of now) a prohibited subject of bargaining. See MCL 423.215(3)(m). See Detroit Public Schools 29 MPER 30 (2015); Shiawassee Intermediate School District Education Association 30 MPER 13 (2016); Ionia County Intermediate Education Association 30 MPER 18 (2016), MERC noted that public school labor unions may discuss the employer's decisions about disciplinary process and procedures as well as decisions to discipline individual teachers, but ruled that 15(3)(m) prohibits them from bargaining over those issues. MERC stated: "[I]f the parties do bargain over prohibited subjects and reach an agreement on those subjects, that agreement is unenforceable." MERC specifically stated that "contract provisions regarding teacher discipline or discharge are unenforceable when they are contained in a collective bargaining agreement between a public-school employer and the labor organization representing teachers." More importantly for the grievance position, MERC held: "Since 15(3)(m) prohibits parties from bargaining over a public-school employer's decision regarding teacher discipline, a union's demand to arbitrate a grievance over teacher discipline is an unlawful effort to attempt to enforce contract provisions made unenforceable by 15(3) (m) and is a breach of the union's duty to bargain in violation of 10(2)(d)." According to this MERC decision, even if the board members reprimanded the employee (i.e., imposed discipline on the teacher) the Union "has no authority to challenge the employers' disciplinary decision through grievance arbitration."

So, in a nutshell, the grievance should be dismissed because either (1) the Board members did not reprimand the teacher as a matter of fact, or (2) the reprimand is a form of discipline and therefore a prohibited subject of bargaining that cannot be challenged through the next step-grievance arbitration. Please let me know if you have any questions
Daniel R Martin, Attorney- Thrun Law

Palmer moved to deny the grievance as recommended by Thrun Law. No support. Motion failed. Brewbaker moved to allow the grievance, supported by Wregglesworth. Discussion held. Roll call vote: Palmer- no, Hart-no, Rieger-no, Brewbaker-yes, Hoffmeyer-yes, Wregglesworth- yes. Motion failed.

Citizens Present/Time

Chad presented to the Board. No action taken.

Jessica Chandler presented to the Board. No action taken.

Taed Price presented to the Board. No action taken.

Max Boettger presented to the Board. No action taken.

Wayne Vermilya presented to the Board. No action taken.

Adjournment

Hart moved to adjourn at 6:01 p.m., supported by Palmer.



Secretary, Board of Education

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