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BEFORE THE BOARD OF PERSONNEL APPEALS

MISSOULA ELEMENTARY UNIT )  
OF THE MONTANA EDUCATION )  
ASSOCIATION, )  
 )  
Complainant, )  
 )  
-vs- )  
 )  
BOARD OF TRUSTEES OF SCHOOL )  
DISTRICT NO. 1, MISSOULA, )  
MONTANA, )  
 )  
 )  
Defendant. )

ULP-12-1975

FINDINGS OF FACT,  
CONCLUSION OF LAW,  
AND ORDER AS  
RECOMMENDED TO THE  
BOARD OF PERSONNEL  
APPEALS

I Introduction

The Missoula Elementary Unit of the Montana Education Association (hereinafter referred to as MEA) filed an unfair labor practice charge with the Board of Personnel Appeals alleging that the Board of Trustees of School District No. 1, Missoula, Montana (hereinafter referred to as Trustees) had violated section 59-1605(1)(e), R.C.M. 1947. The Trustees have responded to MEA's allegation and deny having committed an unfair labor practice. A hearing on MEA's charge was held in Missoula, Montana on September 30, 1975 before me. Emilie Loring, of the law firm of Hilley and Loring, Great Falls, Montana represented MEA. Candance C. Fetcher and Dennis E. Lind, deputy county attorneys for Missoula County, represented the Trustees. Both parties filed briefs after the hearing.

II Findings of Fact

1. MEA alleges that the Trustees failed to bargain in good faith by unilaterally changing the working conditions of employees whom MEA represents. Specifically, MEA charges that the Trustees adopted a school calendar which contained one day more than the calendar for the school year 1974-75 (as set out in a collective bargaining agreement between the

1 Trustees and MEA) although no change in the school calendar  
2 was proposed by either the MEA or the Trustees during contract  
3 negotiations.

4 Relevant evidence shows that this calendar was adopted by  
5 the Trustees on March 11, 1975 and announced to staff through  
6 Administrative Council Meeting minutes on March 12, 1975.

7 2. I note that section 59-1605(1)(e) is a section of an  
8 act popularly known as the Montana Public Employee's Collective  
9 Bargaining Act. This Act was not applicable to teacher ne-  
10 gotiations at the time the alleged offense occurred in March  
11 of 1975. Rather, the Professional Negotiations Act for Teachers  
12 (Title 75, Chapter 61, R.C.M. 1947) was applicable.<sup>1</sup>

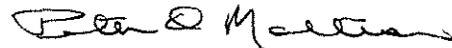
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14 III Conclusion of Law

15 The Board of Personnel Appeals lacks the necessary juris-  
16 diction to adjudicate MEA's unfair labor practice charge be-  
17 cause the conduct alleged by MEA to constitute an unfair labor  
18 practice occurred before the Montana Public Employee's Collective  
19 Bargaining Act applied to teachers.

20  
21 IV Recommended Order

22 Accordingly, MEA's unfair labor practice charge is hereby  
23 dismissed.

24 Dated this 2nd day of January, 1976.

25  
26 

27 Peter O. Maltese  
Hearing Examiner

28  
29 <sup>1</sup>I note that the Professional Negotiations Act for Teachers  
30 enumerated certain employer unfair practices and provided for pro-  
31 cedures to restrain those practices in district court. This Act  
was repealed effective July 1, 1975 at which time the Montana Public  
Employee's Collective Bargaining Act with its enumerated unfair  
labor practices and procedures was made applicable to teachers.

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CERTIFICATE OF MAILING

I hereby certify that I mailed a true copy of the above Findings of Fact, Conclusions of Law, and Order as Recommended to the Board of Personnel Appeals to the following persons:

Candance C. Fetcher  
Deputy County Attorney  
Missoula County Court House  
Missoula, Montana 59801

Emilie Loring  
HILLEY & LORING  
1713 Tenth Avenue South  
Great Falls, Montana 59405

Dated this 2nd day of January, 1976.

  
Peter O. Maltese

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BEFORE THE BOARD OF PERSONNEL APPEALS

MISSOULA ELEMENTARY UNIT OF THE )  
MONTANA EDUCATION ASSOCIATION, )  
Complainant, )  
-vs- )  
BOARD OF TRUSTEES OF SCHOOL )  
DISTRICT NO. 1, MISSOULA )  
COUNTY, MONTANA. )  
Defendant. )

ORDER

The Board of Personnel Appeals, having considered oral argument on the Complainant's exceptions to the hearing examiner's proposed findings of fact, conclusions of law and recommended order at our meeting on February 10, 1976; and at our meeting on March 22, 1976; and good cause appearing therefor:

IT IS ORDERED that the exceptions to the hearing examiner's proposed findings of fact, conclusions of law and recommended order be, and the same is hereby denied.

DATED this 29<sup>th</sup> day of March, 1976.

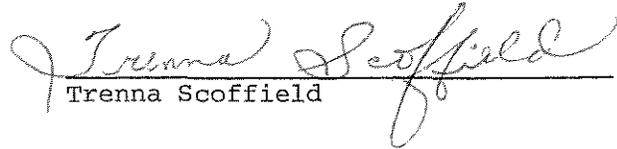
  
Brent Cromley, Acting Chairman  
Board of Personnel Appeals

CERTIFICATE OF MAILING

I, Trena Scoffield, hereby certify that I did, on the 30<sup>th</sup>  
day of March, 1976, mail a true and correct copy of the Board of Personnel Appeals  
Order to the following:

Hiley & Loring  
1713 Tenth Ave. So.  
Great Falls, Montana 59405

Candace C. Fetscher  
Deputy County Attorney  
Missoula County Courthouse  
Missoula, Montana 59801

  
Trena Scoffield

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