

STATE OF MONTANA
BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF UNFAIR LABOR PRACTICE NOS. 19 and 22-80:

HUNTLEY PROJECT EDUCATION)
ASSOCIATION,)

Complainant in No. 19-80)
Defendant in No. 22-80,)

- vs -)

FINAL ORDER

YELLOWSTONE COUNTY SCHOOL)
DISTRICT NO. 24,)

Complainant in No. 22-80)
Defendant in No. 19-80.)

No exceptions having been filed, pursuant to ARM 24.26.215,
to the Findings of Fact, Conclusions of Law and Recommended
Order issued on February 27, 1981;

THEREFORE, this Board adopts that Recommended Order in this
matter as its FINAL ORDER.

DATED this 3d day of April, 1981.

BOARD OF PERSONNEL APPEALS

By *John Addy*
John Addy
Chairman

CERTIFICATE OF MAILING

I, *Jennifer Jacobson*, do hereby certify and state
that a true and correct copy of the above FINAL ORDER was mailed
to the following on the 6 day of April, 1981:

Emilie Loring
HILLEY & LORING, P.C.
Executive Plaza - Suite 2G
121 4th Street North
Great Falls, MT 59401

Doris Poppler
DAVIDSON, VEEDER, BAUGH, BROEDER
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Billings, MT 59101

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STATE OF MONTANA

BEFORE THE BOARD OF PERSONNEL APPEALS

In the Matter of Unfair Labor Practices Nos. 19 and 22-80:

HUNTLEY PROJECT EDUCATION)
ASSOCIATION)
Complainant in No. 19-80,)
Defendant in No. 22-80,)
vs.)
YELLOWSTONE COUNTY SCHOOL)
DISTRICT NO. 24,)
Complainant in No. 22-80,)
Defendant in No. 19-80.)

FINDINGS OF FACT,
CONCLUSIONS OF LAW;
AND RECOMMENDED ORDER

* * * * *

I. INTRODUCTION

On May 23, 1980 the Huntley Project Education Association filed an unfair labor practice charge against Yellowstone County School District No. 24 alleging that the District: (1) violated 39-31-401(1), (2) and (3) MCA by interfering with protected employee rights, by interfering with the administration of the labor organization and by discriminating against an employee because of her union activities; (2) violated 39-31-401(1), (2) and (3) MCA by placing that employee on probation because she called a union meeting; (3) violated 39-31-401(5) MCA by refusing to abide by a collective bargaining agreement; and, (4) violated 39-31-401(1) and (2) MCA by adopting a policy requiring teachers to seek District approval before accepting an Association office. The School District answered on June 9, 1980 and denied all allegations. On June 16, 1980 the District filed unfair labor practice charges against the Association. It alleged the following violations: (1) 39-31-402(2) MCA by interfering with protected employer rights under 39-31-303(1), (4), (5) and (7) MCA when an employee engaged in an unauthorized



1 evaluation of one of the District's principals; (2) 39-41-402(1)
2 MCA by coercing and harassing one of the District's princi-
3 pals; and, (3) 39-31-303(1), (4), (5) and (7) and 39-31-402
4 MCA by interfering with protected employer rights by conduct-
5 ing an unauthorized evaluation of a principal and failing to
6 bargain in good faith. The Association filed its answer on
7 June 27, 1980 and denied the allegations. On motion of the
8 parties both charges were consolidated on June 20, 1980. A
9 hearing was held in Worden on September 5, 1980 at which the
10 Association was represented by Emilie Loring and the District
11 by Doris Poppler.

12 II. ISSUES

13 1. Did the School District violate 39-31-401(1), (2)
14 or (3) MCA by reprimanding and placing on probation teacher
15 Knippel because she called two meetings of teachers and
16 distributed an evaluation form to teachers to evaluate their
17 principal?

18 2. Did the School District violate 39-31-401(5) MCA
19 by requiring that Association use of school buildings for
20 meetings be approved by each principal as well as the prin-
21 cipal of the building to be used?

22 3. Did the School District violate 39-31-401(1) or
23 (2) MCA by adopting a policy which requires teachers to seek
24 its approval for time off prior to accepting an Association
25 office?

26 4. Did the Association violate 39-31-402(2) MCA by
27 the action of teacher Knippel in distributing the evaluation
28 form? Did such action interfere with District rights under
29 39-31-303(1), (4), (5) or (7) MCA?

30 5. Did the distribution of the evaluation form consti-
31 tute a violation of 39-31-402(1) MCA?

32 6. Did the calling of the meeting by teacher Knippel

1 interfere with employer rights under 39-31-303(1), (4), (5)
2 or (7) MCA and violate 39-31-402 MCA?

3 7. Is this the proper forum for hearing these charges?

4 III. FINDINGS OF FACT

5 Based on the evidence on the record including the sworn
6 testimony of witnesses, I find as follows:

7 1. The Huntley Project Education Association affili-
8 ated with the Montana Education Association is the exclusive
9 representative for purposes of collective bargaining for all
10 teachers of Yellowstone County School District No. 24 Worden
11 who are certificated in Class 1, 2, 4 or 5 under state law.
12 Mary Knippel is one of those teachers.

13 2. Ms. Knippel has worked as an elementary teacher
14 for the District for eleven years. She has been active in
15 the Association for approximately eight years and has been
16 its president for about the last six years. She also has
17 been an Association delegate and has been on the negotiating
18 team for most of her eleven years of employment with the
19 District. The District knows she is a union activist.

20 3. The District's physical plant is comprised of
21 three major buildings, all within close proximity of each
22 other, an elementary building, a junior high building and a
23 high school building. Ms. Knippel works in the elementary
24 school in which Billie Strissel is the principal. Ms.
25 Strissel has held that position for the last two school
26 years. Calvin McRae is the Superintendent of the District
27 and as such is the administrator in charge of carrying out
28 District policy set by the Board of Trustees.

29 4. There are approximately 18 teachers in the elemen-
30 tary school. The basic duty hours are from 8:00 a.m. until
31 4:00 p.m. The time from 8:00 to 8:15 a.m. and from 3:30 to
32 4:00 p.m. is preparatory time or time for faculty meetings.

1 Only the Superintendent or a principal has authority to call
2 a faculty meeting. At 8:15 a.m. teachers are required to be
3 in their classrooms. Students leave at 3:30 p.m. Whenever
4 a teacher leaves the building during the duty day he or she
5 is expected to obtain permission of the principal.

6 5. Regular monthly Association meetings are held at
7 3:45 p.m. in the high school building. The high school
8 principal is notified of the meeting. Other principals are
9 usually not notified.

10 6. On April 16, 1980 Ms. Knippel called a special
11 meeting of the Association for 3:45 p.m. in the high school
12 building. She notified the high school principal but did
13 not notify the principals of the other two buildings.
14 District policy requires that teachers not leave the build-
15 ing to which they are assigned during the basic duty day
16 unless they first make arrangements with their principal.

17 7. On April 18, 1980 Ms. Knippel called a meeting of
18 elementary teachers in her classroom at 8:00 a.m. The
19 purpose of the meeting was to air grievances some of the
20 teachers had against principal Strissel. There were personal
21 ill feelings between Ms. Knippel and Ms. Strissel. The
22 meeting lasted until 8:25 a.m. and was held without permis-
23 sion of the elementary principal or the superintendent. At
24 least one of the elementary teachers who was invited to
25 attend the meeting was not a member of the association and
26 had not been invited to attend previous association meetings.
27 Only elementary teachers attended, teachers from the other
28 schools were not invited. Ms. Knippel knew when the meeting
29 went beyond the proper time it was a violation of school
30 policy.

31 8. On the same day, after the April 18, 1980 meeting,
32 Mr. McRae met with Ms. Knippel and Ms. Strissel. Knippel

1 told him that the April 18th meeting was not an Association
2 meeting. She believed it would have been harder in the
3 future to hold meetings at 3:45 p.m. McRae informed her
4 that he was going to put a letter in her personnel file.
5 The following letter, dated May 2, 1980, from McRae to
6 Knippel was placed in her file:

7
8 An MEA meeting was called by Ms. Knippel and held at
9 3:45 p.m. on Wednesday, April 16, 1980. Only the High
10 School Principal was asked. The Junior High and Elementary
11 Principals were not notified or asked if an MEA meeting
12 could be held during school time. In the future all MEA
13 meetings must be held outside of school time or clearance
14 for an MEA meeting must be obtained from each principal to
15 have a meeting on school time.

16 Ms. Knippel called an Elementary Faculty meeting for
17 the morning of April 18, 1980 in the faculty room and kept
18 the staff past 8:15 a.m. Two things are wrong here:

- 19 1. No teacher has been given authority by the admini-
20 stration or the board to call faculty meetings.
- 21 2. All staff members are required by the Principal to
22 be in their rooms by 8:15.

23 These problems were discussed with you and Ms. Strissel
24 on Friday April 18, 1980. These are clear violations of
25 administrative regulation and board policy. Further viola-
26 tions will lead to disciplinary action.

27 9. On or about May 2, 1980, outside school hours, Ms.
28 Knippel gave an evaluation form identified by an association
29 logo, to each of the teachers in the elementary building for
30 them to use in evaluating Ms. Strissel's performance. The
31 form was to be completed and returned to Knippel. The
32 distribution was not done with the permission of Ms. Strissel
or Mr. McRae. At about 10:00 a.m. Mr. McRae called Ms.
Knippel in and asked her to retrieve the forms by the end of
the day. As of 10:00 a.m. the following Tuesday she had not
done so. McRae notified her there would be a formal disci-
plinary hearing in his office. The distribution of the form
caused unrest among some of the teachers. Some of the
teachers did not approve of the method by which the princi-

1 pal was to be evaluated. There had been ill feelings toward
2 Ms. Strissel by some of the teachers during the entire
3 school year.

4 10. At 3:45 p.m. on May 14, 1980 Ms. Knippel, an MEA
5 Uniserve Director and Mr. McRae met in his office at which
6 time he gave her the following letter, dated May 9, 1980,
7 from him:

8 On the morning of Friday May 2, 1980, it came to my
9 attention that Miss Knippel had given a Principals Evalua-
10 tion form to each of the Elementary building staff for the
purpose of evaluating Billie Strissel, the Elementary Prin-
cipal...

11 I find you to be in violation of the teachers agreement,
12 the board policy on staff appraisal, and the following board
policies:

- 13 a. 232 Line and Staff Relations
14 b. 323.3 Board - Staff Communications
c. 323.32 Board Communications to Staff

15 Prior to giving the Principal's Evaluation form to the
16 staff, Ms. Knippel was reprimanded for two other violations.
These violations show a definite lack of cooperation and
cannot be tolerated.

17 Based on the violation to date, I am putting you on
18 probation for the remainder of the school year. If further
19 violations of Board Policy occur, I will have no choice but
to recommend to the board that you employment here be termi-
nated.

20 At the same meeting Ms. Knippel gave Mr. McRae her
21 rebuttal to the letter dated May 2, 1980, it reads:

22 I. I called an HPEA meeting for April 16, 1980, to be held
23 at the High School beginning at 3:45 p.m. In accordance
24 with the 1979-1981, Professional Agreement, Article IV,
ASSOCIATION AND TEACHER RIGHTS, Section 3, Use of
25 Buildings, which states:

26 Scheduling the use of buildings and equipment
27 shall be subject to approval of the building
principal in advance of the time and place
(emphasis added).

28 A. This meeting was scheduled for 3:45 p.m., which
29 has been a past practice in the school system for
many years.

30 B. Future meetings of the Association shall be held
31 in accordance with the 1979-1981 Professional
32 Agreement, which was mutually agreed to by the
District and the Association on May 1, 1979.

1 II. Mr. McRae's allegations that I called a faculty meeting
2 is in error. I, as President of the Huntley Project
3 Education Association, called a legal Association
4 meeting prior to the beginning of the school day. My
5 right to call such a meeting is found in the 1979-1981
6 Professional Agreement under Article IV. Further,
7 Montana statutes protect such Association activity as
8 found in 39-31-201, MCA and 39-31-205 MCA.

9 III. Finally, if the School District persists in trying to
10 circumvent the 1979-1981 Professional Agreement as it
11 pertains to the Huntley Project Education Association
12 and/or its officers, we shall be forced to pursue
13 39-31-401 MCA.

14 11. In response to Ms. Knippel's above rebuttal state-
15 ment Mr. McRae wrote another letter dated May 15, 1980 and
16 put it in her file with a copy to her. It states:

17 I think we should keep the record straight relating to
18 the two issues in my letter to you dated May 2, 1980.

19 In your letter of rebuttal dated May 14, 1980, you
20 state you called a legal Association meeting. You did
21 not obtain the permission of the building Principal,
22 Billie Strissel to hold that meeting. You are in
23 violation of the Teachers Agreement ARTICLE IV SECTION
24 C.

25 When Ms. Strissel and I discussed this issue on April
26 18, I asked Miss Knippel if she had called a local
27 M.E.A. meeting. Miss Knippel stated in front of a
28 witness, Billie Strissel, that it was not an M.E.A.
29 meeting and that the M.E.A. did not have anything to do
30 with the meeting. Teachers in the other two buildings
31 had not been informed that an H.P.E.A. meeting had been
32 called for the morning of April 18, 1980. The Element-
ary staff understood it was a building faculty meeting.

12. The District adopted a policy a few years ago and
placed it under the heading of "Professional Organizations"
in the Policy Manual of the Huntley Project Schools, School
District No. 24, Yellowstone County, Worden, Mont. Revised
8-7-78, 8-20-19. The policy states:

Absence from work for the purpose of taking part
in activities of professional organizations shall
require Board approval. Therefore, staff members
who accept association offices and/or duties which
will require their absence from school during
working hours, or which otherwise will encroach

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upon the time they normally spend on their regular district assignments, are advised to seek Board approval before accepting such association offices or duties.

The policy has never been enforced.

13. The same Policy Manual contains a provision prohibiting teachers from leaving the building to which they are assigned during basic duty day without first making arrangements with the principal for the absence. The Manual also expresses, in detail, the District's policy regarding teacher - principal - superintendent - board communications. It provides, in essence, that formal communication should be up the hierarchy through the proper channels (teacher, principal, superintendent, board) and down the hierarchy in the reverse fashion. The policy points out that appeals to decisions made by an administrative officer may be appealed "...through procedures established by the Board. These procedures are found in Section XIII of the negotiated agreement." Where District policy conflicts with provisions of the collective bargaining agreement, the school board chairman believed that the contract controls.

14. The collective bargaining agreement between the parties provides, in pertinent part, the following:

GRIEVANCE PROCEDURE

A. Definitions

- 1. A grievance is defined as a complaint based on the conditions or circumstances under which a teacher works.
 - a. Grievances within the scope of this agreement may be processed through binding arbitration.
 - b. Grievances outside the scope of this agreement may be processed through level 4, but may not be taken through binding arbitration.

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E. Procedure

1. . . .

d. Decision: The decision by the arbitrator shall be rendered within thirty (30) working days after the close of the hearing. Decisions by the arbitrator in cases properly before him shall be final and binding upon the parties, as long as the decision does not violate any Montana laws and is within the terms and conditions of School District policy and this agreement.

IV. DISCUSSION

Of the several issues raised by these charges, as noted above, the first which should be decided is whether the Board of Personnel Appeals should defer to the contract grievance procedure. Unlike the National Labor Relations Board the BPA has not established principles for prearbitral deferral; however even if NLRB precedent were followed here, this is not the kind of case which fits the circumstances set forth under the Collyer doctrine. Collyer Insulated Wire 192 NLRB 837, 77 LRRM 1931 (1971). Among other things, the NLRB requires that the contract obligate each party to submit disputes to arbitration and that the arbitration clause be broad enough to embrace the dispute in question. Further, the contract and its meaning must be the center of the dispute. The contract between the parties to this dispute limits the binding force of the arbitrator's decision to those matters which do not violate District policy. The contract and its meaning do not lie at the center of this disagreement; the contract does not deal with, for example, the question of whether a teacher may evaluate a principal. Nor does it address the question of association violations of management's protected rights. Those reasons would be sufficient to decline deferral. However, the fact that both parties filed unfair labor practice charges and moved to have them consolidated for hearing and decision

1 coupled with the nature of the charges reinforces those
2 reasons.

3 Three basic questions are raised by these charges, the
4 answers to which will resolve all issues noted earlier.
5 First, was Ms. Knippel engaged in protected concerted acti-
6 vity when she called the April 16th and 18th meetings and
7 when she distributed the evaluation? Secondly, does the
8 District policy on seeking its approval before accepting
9 association office interfere with the administration of the
10 association or interfere, restrain or coerce the teachers in
11 exercising their rights under 39-31-201 MCA? And third, did
12 the Association violate 39-31-402(1) or (2) MCA by Ms.
13 Knippel's distribution of an evaluation form and calling a
14 meeting on April 18, 1980?

15 Public employees in Montana have the right to engage in
16 concerted activities for the purpose of collective bargain-
17 ing or other mutual and or protection. To interfere, restrain
18 or coerce them in the exercise of that right is an unfair
19 labor practice. Public employers, on the other hand have
20 the right to take disciplinary action for good cause related
21 to maintaining order and efficiency in operations. Where
22 there is a conflict between the employer's right to conduct
23 the public's business and the employees' right to engage in
24 concerted activities, one must balance their respective
25 rights. With respect to the two meetings called by Ms.
26 Knippel for which she received a warning letter; clearly,
27 the employer's right to control the activities of its
28 employees during the workday are supreme to an employee's
29 right to hold a meeting during those working hours without
30 permission. The Superintendent's admonition was warranted.
31 He did not interfere with protected rights because there
32 existed no right to meet during school hours unless proper

1 permission was obtained. The warning letter dated May 2,
2 1980 did not change the parties negotiated agreement regard-
3 ing the use of school buildings for Association meetings.
4 All it did was require that meetings on school time be
5 cleared with the principals. That requirement is reason-
6 able, particularly in light of testimony explaining that
7 principals need to know where the teachers are during the
8 basic duty day. There is no evidence on the record that the
9 District has attempted to control association meetings held
10 outside normal work hours. The difference between an employer
11 making certain demands if a meeting is to be held on company
12 time and making those same demands if the meeting is on the
13 employee's own time is significant.

14 When Superintendent McRae disciplined Ms. Knippel for
15 distributing the evaluation form he interfered with her
16 right to engage in concerted activities. That it upset Ms.
17 Strissel and disrupted her style of management must be
18 discounted when weighted against Ms. Knippel's right to
19 engage in concerted action. The question is a very simple
20 one, should a labor organization, acting through its offi-
21 cers, have the right under 39-31-201 MCA to discuss and
22 express opinions about supervisors? I believe the purposes
23 of the Act are best promoted by answering in the affirmative.
24 To hold otherwise would seriously impede their right to
25 express disfavor over conditions of employment - conditions
26 over which first line supervisors have considerable control
27 and influence. The evaluation was an internal union tool to
28 be used to attempt to arrive at a consensus of teacher
29 opinion on Ms. Strissel's performance in a position which
30 had significant impact on teacher working conditions. No
31 one would deny that the Association, acting through its
32 president, has every right to survey its members concerning

1 their opinions on school board candidates. For like reasons
2 they are entitled to refine and express a consensus of
3 opinions on their supervisor's abilities. Whether the
4 District chose to credit or discredit such opinion would
5 have been its decision.

6 The NLRB has held that employees have the right to
7 distribute union material on company property. Republic
8 Aviation v. NLRB 324 U.S. 793 (1945), 16 LRRM 620. The
9 Board of Personnel Appeals, because of the similarity of the
10 National Labor Relations Act and the Montana Collective
11 Bargaining for Public Employees Act, has been guided by NLRB
12 precedent. In deciding whether there has been a violation of
13 an employee's rights under Section 8(a)(1) of the NLRA, the
14 NLRB does not look to employer motive. The test is whether
15 the employee's conduct tends to interfere with free exercise
16 of employee rights under the Act. Cooper Thermometer Co.,
17 154 NLRB 502, 59 LRRM 1767 (1965). In the instant case the
18 distribution of the form did not interfere with teacher
19 duties and was done on their own time. That Ms. Strissel
20 was offended is insufficient reason to deny Ms. Knippel and
21 other teachers their right to engage in concerted activities
22 for their mutual aid. Here, the employer's conduct can be
23 termed "inherently destructive" of the employees' rights
24 under 39-31-201 MCA; therefore, no affirmative showing of
25 unlawful motivation was necessary. NLRB v. Great Dane
26 Trailers, Inc., 388 U.S. 26, 65 LRRM 2465 (1967).

27 It is an unfair labor practice under 39-31-401(2) MCA
28 for a public employer to dominate, interfere or assist in
29 the formation or administration of a labor organization.
30 The language of the Montana Act is the same as Section 8(a)
31 (2) of the NLRA. The question raised by the Association is
32 whether the District's policy on seeking its approval prior

1 to members taking Association office or duties interferes
2 with the administration of the Association.

3 It is not clear from the language of the policy that a
4 teacher must obtain approval of the District before accept-
5 ing office. If such were the case, it would amount to
6 interference. Hydro-Dredge Accessory Co., 215 NLRB 5, 87
7 LRRM 1557 (1974). However, it appears that the policy only
8 requires approval of the time off from duty required and
9 even then teachers are advised to seek approval. There is
10 no clear requirement that a teacher must have the School
11 District's stamp of approval before holding an Association
12 office. Also, the testimony of the School Board chairman
13 showed there was no intent to require that teachers get
14 approval prior to holding Association office. He also
15 testified the policy has not been enforced. There is suffi-
16 cient ambiguity in the language of the policy to render it
17 meaningless. There is no violation of either 39-31-401(1)
18 or (2) MCA.

19 The School District urges that the Montana Constitution
20 and statutes vest the supervision and control of its affairs
21 in the Board of Trustees. One cannot dispute that proposi-
22 tion if it is qualified to say the supervision and control
23 must be exercised within the limits prescribed by Title 39,
24 Chapter 31. If the supervision and control of the District's
25 business; even with respect to wages, hours, fringe benefits
26 and other conditions of employment; have no limitations, the
27 Collective Bargainig for Public Employees Act has little or
28 no meaning. If, in the name of supervision and control, an
29 employer is permitted to encroach upon employee rights under
30 39-31-201 MCA, all basic collective bargaining for public
31 employees would be voided. The charge that the distribution
32 of the evaluation form violated managment policies, inter-

1 ferred with employer rights and amounted to a refusal to
2 bargain in good faith must be dismissed. The use of the
3 evaluation form was protected concerted activity. Whether
4 it violated District policy is immaterial. If it did in
5 fact violate policy, the policy is wrong and infringes upon
6 basic employee rights under Section 201. Unilaterally
7 adopted policies cannot be utilized to interfere with employee
8 rights. Section 39-31-402(2) MCA makes it an unfair labor
9 practice for a union or its agent to refuse to bargain
10 collectively in good faith with the employer. There is no
11 evidence on the record to show a refusal to bargain. There
12 was no request to bargain. When an employer is displeased
13 with employee conduct, his recourse lies in disciplinary
14 procedures, provided such conduct is not protected. An
15 employer has all the rights he needs to impose discipline,
16 except those bargained away or those found in the statute.

17 The calling of the meetings on school time and without
18 permission of the proper supervisory personnel, as noted
19 above, was not an actaivity which the employer could not
20 prohibit. It did so and issued a warning letter to Ms.
21 Knippel. But, Ms. Knippel's conduct did not violate 39-31-402
22 MCA. There was no refusal to bargain; there was no restrain-
23 ing or coercion of the employer in selecting its representa-
24 tive.

25 The distribution of the evaluation form was an activity
26 protected by the Act and could not, therefore, constitute a
27 violation of managment's rights. Unfair labor practices are
28 those matters enumerated in 39-31-401 and 402 MCA. Ford v.
29 University of Montana, 598 P. 2d 604 (1979).

30 V. CONCLUSION OF LAW

31 1. The District did not violate 39-31-401 MCA by
32 reprimanding and issuing a warning letter to Ms. Knippel for

1 calling the April 16 and 18, 1980 teacher meetings.

2 2. The District did violate 39-31-401(1) MCA by
3 disciplining Ms. Knippel for distributing the evaluation
4 form.

5 3. The District did not violate 39-31-401 MCA by
6 requiring that meetings on school time be cleared with the
7 principals of three buildings.

8 4. The District did not violate 39-31-401, MCA by
9 adopting a policy advising the Association to obtain its
10 approval for time off from work to participate in profes-
11 sional activities.

12 5. The Association did not violate 39-31-402 MCA by
13 the action of Ms. Knippel in distributing the evaluation
14 form. Interference with managements rights under 39-31-303
15 MCA do not constitute unfair labor practices per se.

16 6. The calling of the April 16 and 18, 1980 meetings
17 by Ms. Knippel did not constitute a violation of 39-31-402
18 MCA.

19 7. The Board of Personnel has properly exercised its
20 powers under 39-31-403 MCA by declining to defer these
21 charges to the contract grievance procedure.

22 VI. RECOMMENDED ORDER

23 IT IS ORDERED, after this Order becomes final, the
24 Huntley Project School District No. 24, its officers, agents
25 and representatives shall:

26 1. Cease and desist its violation of 39-31-401 MCA,
27 and

28 2. Remove from the personnel file of Ms. Knippel the
29 memorandum dated May 9, 1980 which placed her on probation.

30 IT IS FURTHER ORDERED that all other charges in this
31 matter be dismissed.

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VII. NOTICE

Exception to these Findings of Fact, Conclusions of Law and Recommended Order may be filed within twenty days service thereof. If no exceptions are filed, the Recommended Order shall become the Final Order of the Board of Personnel Appeals. Address exceptions to: Board of Personnel Appeals, Capitol Station, Helena, Montana 59601.

Dated this 27th of February, 1981.

BOARD OF PERSONNEL APEALS

BY *Jack H. Calhoun*
JACK H. CALHOUN
Hearing Examiner

CERTIFICATE OF MAILING

The undersigned does certify that a true and correct copy of this document was mailed to the following on the 27 day of February, 1981:

Emilie Loring
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