

1 BEFORE THE LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

2
3 IN THE MATTER OF THE WASHOE COUNTY
4 SCHOOL DISTRICT

5 AND

6 THE WASHOE COUNTY TEACHERS ASSOCIATION.
7

8 D E C I S I O N

9 When Chapter 288, the Local Government Employee Relations
10 Act, was enacted in 1969, valuable rights both on the part of the
11 local government employees and the local government employer were
12 relinquished in order to provide a more harmonious labor-management
13 relationship on the local government level. NRS 288.180 declared
14 strikes on the part of public employees to be illegal. NRS 288.150,
15 Subsection 1, imposed upon the local government employer the duty
16 of good faith negotiation with employee organizations on matters
17 concerning wages, hours, and conditions of employment. However,
18 NRS 288.150, Subsection 2, recognizes that the local government
19 employer still maintains what is referred to as management preroga-
20 tive, i.e. the responsibility under appropriate situations to
21 direct its employees; hire, promote, suspend, or terminate employees;
22 maintain efficiency of its governmental operations; and to otherwise
23 proceed to do such things, without reference to negotiation or any
24 negotiated agreement which, if not done, would seriously infringe
25 upon the local government employer's duty to the taxpayers and to
26 the public.

27 Although it has been urged upon this Board by the counsel
28 for the Washoe County School District that the provisions of Sub-
29 section 2 limit the areas of negotiability on matters relating to
30 wages, hours, and conditions of employment if said matters also
31 involve any items in Subsection 2, the Board rejects this view as
32 untenable.

1 It is presumed the Legislature in enacting Chapter 288 did
2 not enact a nullity. Under the school district's interpretation
3 of the relationship between NRS 288.150, Subsection 1, and
4 NRS 288.150, Subsection 2, any matter, including the very question
5 of wage scale, involves management prerogative; and consequently,
6 under said view would not be negotiable.

7 The Board does not believe that the Legislature so intended
8 such an interpretation. Public employees by this Act have been
9 denied perhaps their most valuable right--the right to strike. On
10 the other hand, the local government employer has retained the
11 right to define and recognize particular bargaining units, the
12 right to exercise its management prerogatives without reference
13 to negotiation or any prior negotiated agreement.

14 It is the opinion of the Board, therefore, that any matter
15 significantly related to wages, hours, and working conditions is
16 negotiable, whether or not said matters also relate to questions
17 of management prerogative; and it is the duty of the local govern-
18 ment employer to proceed and negotiate said items.

19 20 FINDINGS OF FACT

21 Based upon the evidence introduced, the Board makes the
22 following findings of fact:

23 Class Size: Class size is significantly related to wages,
24 hours, and working conditions inasmuch as student density
25 directly affects a teacher's workload including the required
26 hours of preparation and post-class evaluation; affects the
27 teacher's control and discipline problems; affects the teacher's
28 teaching and communication techniques; and affects the total amount
29 of work required for a fixed compensation.

30 Article F. Professional Improvement: The professional
31 improvement of a teacher is significantly related to working
32 conditions since it directly affects his career opportunities

1 within his profession as well as his ability to more effectively
2 produce meritorious results in the classroom. However, no evidence
3 has been presented to show that the determination of standards of
4 the quality of education for a school district is so significantly
5 related to wages, hours, and working conditions as to abrogate
6 management prerogatives of the local government employer.

7 Article J. Student Discipline: The matter of student dis-
8 cipline is significantly related to a teacher's working conditions
9 since the requirements for discipline at any given time usually
10 demand a priority of the teacher's attention. The degree of con-
11 trol and discipline required in a classroom affects the demands on
12 a teacher's ability to effectively teach the class.

13 Article K. School Calendar: The selection of those days that
14 a teacher must work in a given school year is significantly related
15 to the teacher's working conditions and the amount of work the
16 teacher is expected to perform for a fixed compensation.

17 Article N. Teacher Performance: The evaluation of a
18 teacher's performance is significantly related to wages and work-
19 ing conditions inasmuch as the evaluation affects transfer,
20 retention, promotion and the compensation scale.

21 Article P. Special Student Program: The evidence produced
22 in this hearing showed that management prerogatives predominate
23 the entire subject matter as existing in Washoe County in that the
24 Washoe County School District has provided a method and specialized
25 staff to fulfill the sensitive responsibility of the school
26 district to individual families in making determinations of which
27 children are to be labeled special education cases. The evidence
28 showed that the School District had relieved the teachers of this
29 responsibility and there was insufficient evidence produced by
30 the Teachers Association to demonstrate that the Association's
31 proposal would significantly affect or alter the teacher's working
32 conditions.

1 Article S. Differentiated Staffing: Any plan of different-
2 iated staffing which categorizes teachers on the basis of
3 competency, experience, responsibilities and other factors,
4 affects wages, hours, and working conditions of individual
5 teachers relative to their peers.

6 Article W. Teacher Load: Where a teacher works, the amount of
7 work done, and the kind of work done is a part of a teacher's
8 working conditions. The remuneration for overtime for extra work
9 assignments is a matter of wages and hours.

10 Article X. Instructional Supplies: The amount, type, quality,
11 and availability of instructional supplies affects the ability of
12 a teacher to discharge his job properly and is significantly
13 related to the teacher's working conditions and, in some cases,
14 hours.

15
16 CONCLUSIONS OF LAW

17 1. Class Size: The subject of class size is negotiable.

18 Article F. Professional Improvement: Article F, Sub-
19 paragraphs 3 and 4, are nonnegotiable only in relation to the
20 determination of the quality of education; the remaining matters
21 concerning professional improvement are negotiable.

22 Article H. Teacher Employment and Assignment: Counsel
23 for the petitioner has stipulated in his brief that the notice
24 provisions are negotiable; and consequently, there appears to be
25 no justiciable issue for this Board.

26 Article I. Vacancies and Promotions: Counsel for the
27 petitioner has stipulated in his brief that the notice provisions
28 are negotiable; and consequently, there appears to be no
29 justiciable issue for this Board.

30 Article J. Student Discipline: The subject of student
31 discipline is negotiable.

32 Article K. School Calendar: The subject of school
33 calendar is negotiable. In making this determination, the Board

1 recognizes that members of the community, other than teachers and
2 the School District, including parents, business community, the
3 State University system, students themselves, and other public
4 service agencies have an interest in the matter of a school
5 calendar.

6 Article L. Positions in Night School, Summer School, and
7 under Federal Programs: Counsel for the petitioner has stipulated
8 in his brief that the notice provisions are negotiable; and con-
9 sequently, there appears to be no justiciable issue for this Board.

10 Article N. Teacher Performance: The subject of teacher
11 performance is negotiable.

12 Article P. Special Student Program: The subject of
13 special student program as proposed and presently handled in
14 Washoe County is non-negotiable.

15 Article S. Differentiated Staffing: The subject of
16 differentiated teacher responsibility and flexible staff organiza-
17 tion is negotiable.

18 Article U. Teacher Files: Counsel for the petitioner
19 has stipulated in his brief that the notice provisions are
20 negotiable; and consequently, there appears to be no justiciable
21 issue for this Board.

22 Article V. Voluntary Change of Assignments: Counsel for
23 the petitioner has stipulated in his brief that the notice provi-
24 sions are negotiable; and consequently, there appears to be no
25 justiciable issue for this Board.

26 Article W. Teacher Load: The subject of teacher load is
27 negotiable. Although the Board recognizes that emergency
28 situations may occasionally arise in which the local government
29 employer may be compelled to assign or direct its employees
30 contrary to the provisions of a contractual clause, such a factual
31 situation does not render the subject matter non-negotiable but
32 merely provides the local government employer with justification

1 for exercising management prerogative under NRS 288.150, Subsec-
2 tion 2.

3 Article X. Instructional Supplies: The subject of
4 instructional supplies is negotiable.

5 Article Y. Information: Counsel for the petitioner has
6 stipulated in his brief that the notice provisions are negotiable;
7 and consequently, there appears to be no justiciable issue for
8 this Board.

9 Dated this 9th day of October, 1971.

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P. Thomas Eck, III, Chairman

Paul H. Dahlberg, Vice-Chairman

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