

SOUTH DAKOTA DEPARTMENT OF LABOR AND REGULATION
DIVISION OF LABOR AND MANAGEMENT

**Kadoka Area Education Association,
Grievant,**

HF No. 14G, 2010/11

v.

DECISION

**Kadoka Area School District #35-2
And Board of Education,
Respondents.**

This matter comes before the Department of Labor and Regulation based on Grievant's Petition for Hearing on Grievance filed pursuant to SDCL§ 3-18-15.2. Anne Plooster appeared on behalf of Grievant, Kadoka Area Education Association. Rodney Freeman, Jr. represented Respondent, Kadoka Area School District #35-2 and Board of Education. The Department of Labor and Regulation conducted a hearing in Kadoka, South Dakota. Upon consideration of the live testimony given at hearing and the evidence presented at hearing, Grievant's Petition for Hearing and request for relief is hereby granted.

Issues:

Whether the Kadoka Area School District #35-2 and Board of Education violated, misinterpreted and/or inequitably applied the policies, rules and regulations, or negotiated agreement when it payment denied vouchers for a technology committee meeting.

Facts:

Based upon the record and the live testimony at hearing, the following facts are found by a preponderance of the evidence:

The Kadoka Area Education Association (Association) and the Kadoka Area School District #35-2 and Board of Education (District or Board) are parties to a Negotiated Agreement (Agreement).

On February 23, 2011, Laurie Prichard attended a technology committee meeting. She then submitted a voucher to be paid for her service/attendance at this meeting. The District administration denied her payment request.

Other facts will be developed as necessary.

Did Respondent violate, misinterpret, or inequitably apply the rules, policy, or Agreement when it denied payment vouchers for a technology committee meeting?

The Department's role in resolving a grievance is defined by SDCL§ 3-18-15.2. SDCL§ 3-18-15.2 reads, in part:

If, after following the grievance procedure enacted by the governing body, the grievance remains unresolved . . . it may be appealed to the department of labor . . . The department of labor shall conduct an investigation and hearing and shall issue an order covering the points raised, which order is binding on the employees and the governmental agency.

The burden of proof is on the grievant. *Rininger v. Bennett County Sch. Dist.*, 468 N.W.2d 423 (S.D. 1991).

"The contracts negotiated between public school districts and teachers are like any other collective bargaining agreement, and disputes over the agreement are resolved with reference to general contract law." *Wessington Springs Education Association v. Wessington Springs School District #36-2*, 467 NW2d 101, 104 (SD 1991). "When the terms of a negotiated agreement are clear and unambiguous, and the agreement actually addresses the subjects that it is expected to cover, there is no need to go beyond the four corners of the contract. The only circumstances in which we may go beyond the actual language of the collective bargaining agreement are when the agreement is ambiguous or fails to address a subject that it is expected to address." *Id.* (citations omitted).

The Agreement between Association and the District covers extra duty pay in Article II, Section E. Paragraphs 6 and 7 discuss payment for both required and voluntary participation. Section E provides in relevant part,

6. Teachers who are required to attend professional development training, seminars, symposia, technical training, committees or other activities shall be compensated at the rate of \$20.00 per hour.

7. Teachers who elect to take advantage of professional development opportunities and committees, provided by the district, outside of the regular school time will be paid at the rate of \$20.00 per hour.

The Association argues that the Agreement provides that teachers who choose to be on school district committees which meet outside the duty day will earn \$20.00 per hour for doing so. The Association argues that Ms. Prichard chose to serve on the technology

committee, a school committee that met after the duty day and therefore is entitled to payment under Article II, Section E, Paragraph 7.

The District argues that the technology committee is not a professional development committee and therefore falls outside the parameters of Article II, Section E, Paragraph 7. Association does not dispute that the technology committee is not a professional development committee; however the Association argues that the Agreement only requires that the committee be a school committee which meets outside the regular school time.

The terms of the Agreement when read as a whole are clear and unambiguous. It is evident from the plain meaning of Article II, Section E, Paragraph 7 does not require that a committee be a professional development committee, but rather only required that a committee be a school committee which meets outside the duty day. The technology committee meets that definition and therefore teachers are entitled to payment. The District violated the Agreement when it denied payment vouchers for the technology committee meetings.

Grievant shall submit proposed Findings of Fact, Conclusions of Law, and an Order consistent with this Decision within ten (10) days from the date of receipt of this Decision. Respondent shall have ten (10) days from the date of receipt of Grievant's proposed Findings of Fact and Conclusions to submit objections thereto or to submit proposed Findings and Conclusions. The parties may stipulate to a waiver of Findings of Fact and Conclusions of Law and if they do so, Grievant shall submit such Stipulation along with an Order in accordance with this Decision.

Dated this 4th day of April, 2012.

SOUTH DAKOTA DEPARTMENT OF LABOR AND REGULATION

/s/ Taya M Runyan

Taya M Runyan
Administrative Law Judge