

BEFORE THE ARBITRATOR

In the Matter of the Arbitration	:
of a Dispute Between	:
	:
EDGAR PROFESSIONAL EDUCATION	: Case 8
ASSOCIATION	: No. 45828
	: MA-6770
and	:
	:
SCHOOL DISTRICT OF EDGAR	:
	:

Appearances:

Mr. Thomas J. Coffey, Executive Director, Central Wisconsin UniServ Council - North, on behalf of the Association.
Mr. Steven Holzhausen, Membership Consultant, Wisconsin Association of School Boards, Inc., on behalf of the District.

ARBITRATION AWARD

The above-entitled parties, herein the Association and District, are privy to a collective bargaining agreement providing for final and binding arbitration before a Wisconsin Employment Relations Commission staff arbitrator. Pursuant thereto, I heard this matter on September 16, 1991 in Edgar, Wisconsin. The hearing was not transcribed and both parties filed briefs which were received by October 7, 1991.

Based upon the entire record, I issue the following Award.

ISSUE:

Did the District violate Article 14 of the contract when it refused to reimburse grievant Lori A. Bychinski for taking a pre-approved graduate course after she resigned and, if so, what is the appropriate remedy?

DISCUSSION:

Bychinski, a Language Arts teacher, asked District Superintendent Barkley Anderson on or about April 23, 1990, for permission to take a three-credit graduate level course during the upcoming summer months entitled "Developmental Reading in Elementary and Middle School". Anderson gave her permission to do so. At that time, Bychinski did not tell Anderson that she was thinking of leaving her employment and Anderson had no reason to believe that she would be leaving.

Bychinski did not reveal that fact until May 14, 1990, when she submitted her letter of resignation. The District's School Board that night accepted her resignation. Anderson's last day of employment as a teacher was thus May 25, 1990.

Bychinski subsequently took the above-entitled graduate course during the summer of 1990. In September, 1990 - when she was employed elsewhere at another school district - she submitted her grade and a request for reimbursement pursuant to Article 14 of the contract. The District in March, 1991, turned down her request on the ground that she no longer was employed by the District, hence leading to the instant grievance.

In support therein, the Association primarily argues that Bychinski has "met all of the requirements of the disputed language"; that nothing therein excludes payment "for a teacher who does not teach in the District after

earning the credit"; that Bychinski's continuing employment with the District was evidenced by the fact that she was still paid every two weeks and continued to receive health and dental insurance benefits during the summer of 1990 and up to August 29, 1990; that the concept of promissory estoppel warrants the reimbursement she seeks; and that the use of the word "may" in Article 14 and the discretion that it vests in the District to approve such courses cannot negate the fact that Anderson here preapproved her course, hence removing any element of discretion that he otherwise may have had.

The District, in turn, mainly contends that Bychinski is not entitled to the reimbursement she seeks because she was not employed by the District after she took her course and that if Anderson had known of her impending resignation he never would have agreed to let Bychinski take her course.

The resolution of this issue largely turns upon Article 14, entitled "Additional Education", which provides:

"Additional education will be recognized at the rate of \$34.13 per semester credit to a maximum of 11 credits per year. Official proof must be furnished and payment will be made in March following the earning of the credits, providing the teacher has taught in the Edgar system prior to the earning of these credits. Any course taken by degree teachers for enrichment purposes, and approved in advance by the District Administrator, may be reimbursed."

There obviously is nothing in this language expressly addressing the question posed here - i.e., whether a teacher terminating her employment can be reimbursed for a preapproved course.

But this is hardly surprising since, but for certain exceptions which are expressly spelled out to the contrary, contracts generally presuppose that employes must be working in order to be covered by their provisions and to receive contractual benefits.

The benefits, after all, are part of an employer's quo which are given in exchange for an employe's quid, - i.e., that person's labor. In short, employers pay employes in return for what employes give them.

Here, it is clear that the District has agreed to Article 14 because it expects something in return for its payment of tuition costs - i.e., better-educated teachers so that they can better teach their pupils. That is why the salary schedule here also provides for greater compensation for teachers with additional education. It also explains why Article 14 is sandwiched between Article 13 which provides for the payment of additional credits and Article 15 which refers to the salary schedule and its recognition that teachers with additional education receive additional compensation.

Bychinski has obviously failed to offer anything in return for the reimbursement she seeks here, as her course has not helped the District one whit. 1/ Absent any such quid, there need not be any quo.

1/ The course nevertheless may enable Bychinski to receive a higher salary from her new employer who can profit from the supposed increase in her ability which the course has brought about and which is normally recognized in teacher salary grids.

It thus is immaterial that Anderson previously approved Bychinski's course because he clearly did so on the reasonable assumption that she would be returning to teach the following year and thereby use her added knowledge for the District's benefit. Since Bychinski then chose not to tell Anderson that she might be leaving, and since she never asked him whether that understanding was still good after her letter of resignation was submitted, the concept of "promissory estoppel" is inapplicable since it presupposes the disclosure of all pertinent facts given rise to the supposed promise. That did not happen here. 2/

Given all of the above, it therefore is my

AWARD

1. That the District did not violate Article 14 of the contract when it refused to reimburse grievant Lori A. Bychinski for taking a preapproved graduate course after she resigned from the District.

2. That the grievance hereby is denied and dismissed.

Dated at Madison, Wisconsin this 6th day of December, 1991.

By Amedeo Greco /s/
Amedeo Greco, Examiner

2/ The fact that Bychinski continued to be paid and to receive health and dental insurance after her last teaching day and up to August 29, 1990 has little bearing on this case since those matters related to Bychinski's past employment in the 1989-1990 school year and hence do not go to the question posed here - i.e., whether she is entitled to additional compensation when she never performed any additional duties for the District.