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WHEN A BOARD OF EDUCATION DECIDES TO REDUCE THE NUMBER OF TEACHERS, AND IT DETERMINES WHAT A REASONABLE REDUCTION IN THE STAFF CONSTITUTES—THE SUPERINTENDENT OF SCHOOLS MUST GIVE PREFERENCE TO TEACHERS WITH A CONTINUING CONTRACT AND SENIORITY WHEN MAKING A REDUCTION—SENIORITY REFERS TO THE LENGTH OF CONTINUOUS SERVICE IN THE DISTRICT IN WHICH THE REDUCTION IS BEING MADE. §3319.17, R.C.

SYLLABUS:

1. Where a board of education decides that it will be necessary to reduce the number of teachers, it may, under Section 3319.17, Revised Code, make a reasonable reduction, and teacher's contracts may be suspended for this purpose in accordance with the recommendation of the superintendent of schools. What is a reasonable reduction in such a case is left to the judgment of the board of education.

2. In making his recommendation, the superintendent must, within each teaching field affected, as designated on the teaching certificates of the teachers concerned, give preference to teachers on continuing contracts and to teachers who have greater seniority.

3. Where used in Section 3319.17, Revised Code, "seniority" refers to length of continuous service in the district in which the reduction is being made, and a particular teacher's "seniority" should be computed from the date from which he has served continuously in the district.

Columbus, Ohio, April 12, 1962

Hon. George Schilling, Jr., Prosecuting Attorney
Clinton County, 98 East Locust Street, Wilmington, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"I respectfully request your formal opinion, in your official capacity as Attorney General of Ohio, as to the following matters:

"In a new local school district created and existing pursuant to the terms of R.C. 3311.26, and under the reduction-suspension of employment section R.C. 3319.17 and the next succeeding section R.C. 3319.18:

"(1) Is it the duty of the county superintendent of schools to make the recommendation of suspension of con-

tract or is the law construed to mean said function is to be performed by the new local district's executive head?

"(2) As to section 3319.17 R.C. please interpret and construe the last three words in the first sentence thereof, 'a reasonable reduction.'

"(3) As perhaps it may be necessary to reduce the numbers of teachers in a newly created and existing local school district at the elementary and the high school levels, please construe and interpret the second and third sentences of R.C. 3319.17, with special emphasis upon the definition, meaning, and construction of the words: 'teaching field affected,' 'teachers who have greater seniority,' and 'the order of seniority of service in the district'?

"(4) Does the interpretation of seniority apply only to the years taught in the newly created district or does it apply to the number of years taught in the old geographical district and in the newly created district? May valid seniority be given for broken years of service as a public school teacher and may seniority status be gained by public school teaching done in schools outside of a particular local school district when a teacher therein is considered for suspension?

"I submit to you that there are other opinions from the office of the Attorney General on parts of the matters within, but they are not totally determinative of these matters, especially as regards the term seniority; I have found the following Ohio Attorney Generals Opinions for the following years and numbered respectively as follows: 1951/225; 1952/1773; 1958/2457; and 1960/1263.

"As contract consideration time for teachers is approaching, I would appreciate your earliest consideration upon this matter."

Section 3319.17, Revised Code, to which your request refers, reads as follows:

"When by reason of decreased enrollment of pupils, return to duty of regular teachers after leaves of absence, or by reason of suspension of schools or territorial changes affecting the district, a board of education decides that it will be necessary to reduce the number of teachers, it may make a reasonable reduction. In making such reduction, the board shall proceed to suspend contracts *in accordance with the recommendation of the superintendent of schools* who shall, within each teaching field affected, give preference to teachers on continuing contracts and to teachers who have greater seniority. Teachers, whose continuing contracts are suspended, shall have the right of restoration to continuing service status in the order of seniority of

service in the district if and when teaching positions become vacant or are created for which any of such teachers are or become qualified." (Emphasis added)

1. Regarding your first question in which you ask if it is the duty of the county superintendent of schools to make the recommendation of suspension of contract or if the law should be construed to mean that said function is to be performed by the new local district's executive head, the statute plainly says that in making the reduction, the board shall proceed to suspend contracts in accordance with the recommendation of *the superintendent of schools*.

I can only conclude, therefore, that the power to make the recommendation of suspension of contracts in a local school district situation under Section 3319.17, *supra*, is the sole function of the superintendent of schools.

2. Referring again to language in Section 3319.17, *supra*, your second question requests an interpretation of the phrase "a reasonable reduction" as found at the end of the first sentence of such section.

There have been many attempts by courts to define the word "reasonable." It was said in *Altshuler v. Coburn*, 57 N.W. 831, that "an attempt to give a specific meaning to the word 'reasonable' is trying to count what is not number, and measure what is not space."

"Reasonable" is a relative term and the facts of the particular controversy must be considered before the question as to whether or not there has been a reasonable reduction. *Webster's Third New International Dictionary* (1961), at page 1892, defines "reasonable" as "being in agreement with right thinking or right judgment: not conflicting with reason: not absurd: not ridiculous: sensible: not extreme: not excessive."

To make a reasonable reduction it would seem a certain amount of discretion is placed in the hands of the board of education of the particular district. It would appear that the teacher needs of the particular school district, and the financial condition of the district, would be the prime factors to consider. A reasonable reduction of the teaching complement would then seem to be a reduction to the needs of the district, such needs being considered and judged by the particular board of education.

3. Your third question involves further interpretation of language found in Section 3319.17, *supra*. The first clause to be interpreted is

“teaching field affected.” Section 3319.22, Revised Code, refers to teaching certificates and the grades and types thereof; and the teaching “field” is designated therein.

Perhaps the ordinary meaning of the word “field” should be examined. Again referring to *Webster’s Third New International Dictionary* (1961), at page 845, “field” denotes a “limited and demarcated area of knowledge or endeavor to which pursuits, activities, and interests are confined, often one determinedly chosen at a certain time by the necessities of a situation. Synonymous to field are domain, sphere, province and territory.”

The ordinary meaning of the language of a statute is usually followed unless some special interpretation or meaning is indicated. I see no such indication in the instant case, and so feel that the word “field” refers to areas of learning such as history, English, particular languages, mathematics, etc. Such fields are designated on the teaching certificates of teachers unless a particular certificate is one of the older type in which no specific area of certification is stated, except for its being for teaching in high school or elementary school. In this last situation the teacher would then have seniority in every field in either high school or elementary school as the case may be.

If a teacher has an elementary certificate, then his “field” would be broader than a high school teacher who is certified to teach English or math. A person with a kindergarden primary type certificate would be in the field set out in the certificate and in Section 3319.22, Revised Code.

“Teachers who have greater seniority,” and “the order of seniority of service in the district,” are phrases the interpretation of which must be considered simultaneously. The word “seniority” is the heart of these phrases.

“Seniority” as used in Section 3319.17, Revised Code, and other statutes relating to public service, is not defined. In 79 Corpus Juris Secundum, page 1041, “seniority” is defined as:

“The state of being older in years, or in office, priority of age, service, or rank.”

Taking first the words of Section 3319.17, *supra*, reading “in the order of seniority of service in the district,” these words can only refer to seniority in the district in which the teachers are serving at the time the reduction is made. I can see no other interpretation of the language used.

Referring to the words "teachers who have greater seniority," in this case there is no specific reference to "district." The section of law does, however, deal with action taken in a particular district. Also, there is the other reference to service "in the district" which may be interpreted to show the intention of the legislature as to the meaning of the word "seniority" wherever found in the section. In view of these factors, and in view of the lack of other criteria to interpret the language concerned, I conclude that the words "teachers who have greater seniority" should be interpreted to mean teachers who have served the longest in the district at the time the reduction is made.

4. The first two, and the last, branches of the fourth question have already been considered in my answer to the third question. This leaves the query whether valid seniority may be given for broken years of service as a public school teacher.

While the term "seniority" refers to a state of being older in service, I construe this to mean older in continuous service. That is, where a teacher is employed by a school district, leaves such employment, and then is re-employed, his accumulation of seniority ended when he left his employment, and his current seniority should be computed from the date when he was re-employed by the district.

I thus conclude that valid seniority under Section 3319.17, *supra*, may not be given for broken years of service in the district.

In summary, therefore, it is my opinion and you are advised:

1. Where a board of education decides that it will be necessary to reduce the number of teachers, it may, under Section 3319.17, Revised Code, make a reasonable reduction, and teachers contracts may be suspended for this purpose in accordance with the recommendation of the superintendent of schools. What is a reasonable reduction in such a case is left to the judgment of the board of education.

2. In making his recommendation, the superintendent must, within each teaching field affected, as designated on the teaching certificates of the teachers concerned, give preference to teachers on continuing contracts and to teachers who have greater seniority.

3. Where used in Section 3319.17, Revised Code, "seniority" refers to length of continuous service in the district in which the reduction is

being made, and a particular teacher's "seniority" should be computed from the date from which he has served continuously in the district.

Respectfully,

MARK McELROY

Attorney General