

TEACHERS' RETIREMENT BOARD MEETING
May 7, 2009

CALL TO ORDER:

Chairman Tim Ryan called the meeting to order at 2:31 PM in the Teachers' Retirement System Conference Room, 1500 East 6th Avenue, Helena, Montana.

BOARD MEMBERS PRESENT:

Tim Ryan - Chairman
Jeff Greenfield – New Board Member
Darrell Layman – Board Member
James Turcotte – Board Member

ABSENT:

Scott Dubbs- Board Member
Kari Peiffer – Board Member

STAFF PRESENT:

Natalie Chamberlain – Retired Benefits Specialist
Janet Cooper – Benefits Officer
Dan Gaughan – Accounting/Fiscal Manager
Bill Hallinan – Information Technology Manager
Karla Scarf – Retired Payroll Manager
Denise Pizzini – Chief Legal Counsel
Tammy Rau – Deputy Executive Director
David Senn – Executive Director

OTHERS PRESENT:

Tom Bilodeau – MEA-MFT
Charlene Suckow – MREA
Elizabeth Kaleva – Counsel for Wesley Young
Wes Young – Frontier School District Dean of Students

ADOPT AGENDA - Chairman Ryan asked for additions or changes to the Agenda for May 7th. Finding none, Chairman Ryan requested a motion to adopt the Agenda.

MOTION/VOTE: Member Turcotte move to adopt the agenda. Seconded by Member Layman, the motion passed unanimously.

PUBLIC COMMENT ON BOARD RELATED ITEMS: Chairman Ryan called for public comment on Board related items. No public comments were made.

Frontier School District:

Eligibility for Retirement Benefits – Wesley Young

Ms. Pizzini gave a brief overview of the facts and discussion of this case from the February meeting. At this time, Mr. Young has tendered a settlement offer, through his legal counsel, Elizabeth Kaleva, by which settlement offer Mr. Young would agree to discontinue his employment with the Frontier school district under three contracts/position descriptions - one in a purported 1/3 time TRS-reportable position, and two other positions that Mr. Young argues are not TRS-reportable, as Director of Transportation and Director of Maintenance – and in exchange for his promise to discontinue working in the three positions, the TRS Board would agree not to pursue any additional recovery from Mr. Young for benefits paid during the term of his employment in three positions.

Ms. Kaleva briefly reviewed the School District's process in hiring Mr. Young in the three positions, explaining that, because of the size of the Frontier School District, they could not afford a second full-time administrator, and they could not logistically go down to just one administrator, after conversations with Mr. Young, the School District determined it was appropriate to reduce the principle position and designate the position as "Dean of Students." Mr. Young applied for and was hired for the Dean of Students position. Ms. Kaleva acknowledged that the Dean of Students position is a TRS-reportable position. Ms. Kaleva went on to explain that the School Board, at the same time, identified two other position needs - a Director of Maintenance and a Director of Transportation. She indicated that Mr. Young applied for both positions, was the most qualified candidate, and was hired by the School Board to fill both positions. Ms. Kaleva argued that the Montana Constitution vests the School Board with local control, which means the school board has exclusive authority to determine how many employee positions are filled in their School District, and what the duties of those positions are. Ms. Kaleva argued that the job descriptions for the maintenance and transportation positions do not qualify to be reported to TRS.

Ms. Kaleva acknowledged there may be concerns that the jobs were created so Mr. Young could draw his retirement benefits and continue to work in the school district in excess of the earnings limitations imposed by law. She stated that many school districts have taken similar advantage of the same "loop hole" in the law. She advised the Board to look at the Montana Constitution and local control, and the implementing statute, 20-3-323, MCA, which outlines the duties and powers of School Boards. She further asserted that the TRS Board is statutorily bound by what positions are eligible for the TRS, and the two additional job descriptions filled by Mr. Young are not, therefore, TRS cannot require those positions be reported to TRS.

Ms. Kaleva indicated that if this matter goes to a contested case hearing, there will be other similar positions identified with similar position descriptions that are being reported to PERS, and to which TRS has not objected.

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Ms. Kaleva advised the Board that she is willing to work with Ms. Pizzini and Mr. Senn to come up with a rule which addresses the "loop hole" that led to this issue and TRS' concerns.

Chairman Ryan asked if the Board had any questions and/or comments:

Member Turcotte asked if Exhibit A was the current contract for the Dean of Students and if it pertains to a full time employee? Ms. Kaleva commented that it is not 1 FTE in a public school, it is limited to 142 hours a month and 1 FTE for a public school administrator is 260 days. It is not 1/3 time, because it doesn't need to be. Mr. Senn commented that full-time service under TRS statutes means 180 days per year or 140 hours per month for nine months; and part-time service is service that is less than full-time.

Member Turcotte asked how a member can work part-time 1/3 and have time to work two other 1/3 time jobs.

Ms. Pizzini commented that the issue before the Board was whether one TRS-reportable position is described as three positions so that Mr. Young would be eligible to receive TRS retirement benefits. The Board has a legal obligation to determine if Mr. Young is eligible for benefits under the circumstances.

Ms. Pizzini asked a number of questions of Mr. Young and Ms. Kaleva to clarify the process and timeframes by which Mr. Young was hired by the School District under the three position descriptions.

Member Layman commented on the process by which Mr. Young was hired under three position descriptions: he submitted his resignation, the School District cut the Principal position, the School District created the Dean of Students, Director of Transportation, and Director of Maintenance positions, and the total pay for all three positions was \$53,000. Member Layman inquired whether this amount is more than the previous Principal position paid? Why didn't they just give Mr. Young a pay raise as Principal, as he did the same job description before? Ms. Kaleva advised Mr. Young not to respond and that they would move forward, and thanked the Board for their time.

MOTION/VOTE: Member James Turcotte moved to deny retirement benefits for Mr. Wesley Young. Seconded by Member Darrell Layman.

Chairman Ryan called for public comment on related items and the motion. No public comments were made. The motion passed unanimously.

Strategic Planning:

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SWOT Analysis is completed, the Strategic planning analysis on strengths, weakness, opportunities, and threats, have been reviewed by the staff. The next step is to discuss, process, and document the 2009 goal and objectives.

Mr. Senn reviewed the Goals and Objectives to hire a communications officer, and suggested the Board delay hiring a communications officer until the system was better funded.

Mr. Kerins asked if the SWOT analysis, commitment worksheet, and the TRS 2009-2010 Goals & Objectives now could be used for public consumption. Member Mr. Layman felt the documents needed to be screened one more time, they are looking good, but a little rough in some areas.

Chairman Ryan commented that hiring of a communications officer should be kept at the front of the short term objectives, and that the cost should not be a factor, having the right individual could benefit, and save this system money.

It was the consensus of the Board to continue to work on the SWOT analysis, postpone hiring a communication officer, and to move forward with the remaining goals and objectives.

Board Members Communication Policy

Ms. Pizzini presented the proposed policy regarding communications by Board members with third parties related to TRS matters. The draft policy is intended to provide guidelines for Board member communications with third parties, in all circumstances, from acting as good will ambassadors for the retirement system to being asked for explicit information regarding benefits, pending issues, etc. Essentially, Board members should provide only prepared materials, refer individuals to the retirement system's statutes and administrative rules, and refer individuals to TRS staff for questions regarding benefits, pending matters, etc.

Policy on Policies

Mr. Senn reviewed the draft "policy on policies" which describes the proposed process by which TRS will develop and maintain policies in the future. Ms. Pizzini discussed the legal function of policies in an entity like TRS, and the value of ensuring that functions that are performed routinely are performed similarly and in conformity with the law and Board's direction each time. She also discussed the importance of keeping a record of policies issued, their effective dates, and who's responsible for implementing them, etc.,

MOTION/VOTE: Member James Turcotte moved to adjourn the meeting. Seconded by Member Jeff Greenfield, the motion passed unanimously.

ADJOURNED

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The meeting was adjourned for the day at 4:52 p.m.