

In January 2011, a tenured high school teacher with 16 years experience in our school district showed an "R" rated movie to her psychology class students, ages 16-18, over the course of two days. The movie, *The Butterfly Effect*, contained full frontal female nudity, sexual deviance, drug and alcohol use, and homicidal violence. She did not have parent or administrative permission to show the movie, which was contrary to district policy. She would not have received permission had she asked.

The high school principal held two due process meetings to investigate the incident. The teacher and her local union representatives, also teachers, attended each. During the second meeting the principal determined he would need to interview students to complete his investigation. He placed the teacher on non-disciplinary paid administrative leave so the teacher could not interfere with the questioning of students.

The teacher and her union representatives left the meeting and went to a nearby conference room to debrief. In that room the teacher became agitated at being placed on paid leave and threatened to kill herself and the high school principal. She continued her threats to kill herself and the principal when she and another union representative moved from the conference room to her classroom. The union representatives were distressed and told administration only of the suicide threats. Administration called 911 to have someone respond who was trained to deal with suicidal threats.

After talking with the teacher for an hour, the responding police officer escorted the teacher out of the school building. Once they left, the union representatives then told administration about the death threats against the principal.

Granted, at this point the teacher's actions were unproven pre-investigation allegations, but even for the due process to follow, things moved up a notch. Our veteran superintendent assumed the investigation and a Personal Protection Order was obtained to keep the teacher away from the principal and the school. The superintendent knew that teacher discipline involving loss of more than three days pay would trigger tenure proceedings. He also knew that with the allegations of an offensive movie compounded by death

threats, and threats of suicide, no parent would ever want their child in that teacher's classroom. She could not return to the district.

Immediately the Michigan Education Association appointed an attorney for the teacher. In addition, a MEA Uniserve Director, also an attorney, represented the teacher. Despite the potential for unbudgeted expense, the district obtained an attorney, because two union attorneys can tie a district into legal knots, and because tenure proceedings are far too complex to successfully undertake without the guidance of a labor attorney.

Because investigations prior to tenure proceeding need to be carefully completed, and because the MEA representatives were unavailable for several scheduled meetings, the investigation continued for nearly two months. During this time the district added staff to maintain a secure high school and employed a substitute to replace the teacher under investigation. With teacher remaining on paid leave with full benefits, there was no incentive for the MEA to deal with the issue quickly.

The total compensation cost to the district for the teacher on leave was approximately \$10,000 per month for a nine-month school year. The cost to the district for the extra staff was approximately \$3,750 per month. The tenure process contains a total of 290 days of appeal, and that is if every action happens within statutory timelines. They often take longer.

We looked at time lines and expected the tenure process would end with a decision from the Tenure Commission in the November 2011 through February 2012 range. The district then estimated the considerable cost. The teacher remaining on paid leave, employment of a replacement teacher, and legal fees could easily cost the district in the \$200,000 range over a period of nine months to a year. And then, the Tenure Commission, who is known to rule in the teacher's favor even when they have committed serious disciplinary breaches, could rule in the teacher's favor and place the teacher back to the classroom.

Instead the superintendent negotiated a severance agreement with the MEA for the voluntary resignation of the teacher. While the estimate for tenure proceedings was in the \$200,000 range, the total cost to the district for the severance agreement was \$130,000. The \$130,000 settlement was money the district would have spent anyway on extra staff, and money the teacher would have received anyway while on paid leave during the tenure process.

The severance agreement was a forced choice, limited options business decision. It guaranteed the teacher's resignation, and it was some \$90,000 less expensive for the district than the tenure process.

This is what we have learned.

- The vast majority of our teachers are hard working and effective.
- For those few who are not, once a teacher has earned tenure the "reasonable and just" standard for discipline or discharge means either a job for life, or a huge expense for a school district.
- Our administrators are employed under an "arbitrary and capricious" standard per school code (MCL 380.1229). Our administrators have longevity in their positions because their performance meets School Board expectations.
- The Tenure Act is written poorly when discipline as minor as four days without pay can trigger the tenure process.
- Requiring that a teacher remain on paid leave during the tenure process is very costly and counter productive to the goal of having quality teachers in our classrooms.
- The Tenure Commission is seen as bias in their many decisions to reinstate teachers.
- The process for teacher discharge under the Tenure Act is far too complex, time consuming, and expensive.

Thank You For This Opportunity To Speak Before You.