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Teachers must sign off on extra IPS school days

Examiner says district broke state law in case pitting union rights, No Child Left Behind reforms

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A state hearing officer has ruled that Indianapolis Public Schools broke Indiana law when it decided to add extra days of class at four schools without consulting with the teachers union first.

The case is the first in the state and among the first nationally to pit teachers' bargaining rights against districts trying to comply with the federal No Child Left Behind law, which requires that chronically low-performing schools face dramatic changes.

IPS has appealed the ruling to the Indiana Education Employment Relations Board, but the hearing officer's recommendation would undo a cascade of changes caused by adding 25 extra days to the school year at four struggling schools.

That would involve changing the start date for school next year and reassigning dozens of teachers back to the schools they were at a year ago -- a move complicated by the fact that one of those schools is closing.

"This is a big undertaking," hearing examiner Mary Jane Lapointe wrote. "Yet making all these changes unilaterally in violation of the law was no less a big undertaking."

Superintendent Eugene White said the district will begin negotiating with teachers this month in hopes of reaching an agreement. If no compromise is made, the district would have to cancel the extra days of classes at Donnan and Marshall middle schools and School 44.

The fourth school affected, Longfellow Middle School, is slated to close.

White said the district believes providing the extra days of class will help students catch up and allow those schools to make adequate yearly progress, or AYP, under the federal law. He said he hopes a deal can be reached with the union to allow for the extended year.

"If there's no agreement, we would not be able to have the extra days for those kids that did not make AYP," he said, "and that would not be a good thing."

In her ruling, Lapointe said the federal law says districts must obey state laws on negotiating with teachers unions.

Lapointe ruled IPS broke those state laws in five ways: failing to discuss adding days, failing to discuss changes in benefits as a result, failing to discuss changing the way the calendar operated, failing to discuss reassigning teachers, and sending information about the changes to teachers without going through the union.

IPS doesn't agree with the ruling, White said, but plans to obey any laws that apply to the district. He hopes to continue the practice of adding extra days for troubled schools.

"We're going to pursue making sure we can get it back in place," he said.

Mona Dilts, a teacher at Marshall Middle School, said she thinks district officials should have known their decision was illegal from the beginning.

"They tried to use No Child Left Behind as a smokescreen, and now we're just wondering how to fix it," she said. "The bottom line is, No Child Left Behind states you can't override negotiations."

Dilts said she thinks the teachers at the affected schools, including her, should be able to end their school year on May 28 like teachers at other schools.

Richard Darko, an attorney for the teachers union, said he is pleased that IPS plans to negotiate the hours and calendar issues related to extra days at failing schools.

"If they did that, that would probably satisfy us," he said. "We're not looking for blood. We just want them to bargain these things before they do them. Bargaining for '08 would be the right way to go about it."

But this is not the last time the issue will come up, as other districts find themselves having to make drastic changes under the No Child Left Behind law, Darko said.

If a school fails to meet targets on state tests -- even among one group of students, such as special-ed students or low-income students -- it is deemed to have failed to have made adequate yearly progress.

After failing for six years, schools that receive federal funding must replace their entire staffs or go through a similarly drastic restructuring.

Federal law requires that all schools have 100 percent pass rates on the state tests in English and math by 2014 or face those consequences.

"More and more districts are going to be facing this No Child Left Behind failure-to-make-progress status," Darko said. "We see it as a very important case."
