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### **Distinguishing Between Retirement and Resignation**

Many school district employment contracts and collective bargaining agreements provide for retirement benefits such as continuing health insurance coverage. However, most employment contracts and collective bargaining agreements do not provide for such benefits when an employee resigns. For this reason, it is important that an employment contract or collective bargaining agreement clearly distinguish between the terms “retirement” and “resignation” as they relate to an employee’s benefit eligibility. In *Ryberg v. Board of Education of the School District of the Menomonie Area*, the Wisconsin Court of Appeals emphasized the importance of making this distinction and highlighted the difficulty that an employer and employee may have in agreeing to a “common-sense” definition of these terms.

*Ryberg* involved a district administrator who had worked for a school district for eight years. The administrator’s last two-year contract was set to expire on June 30, 1997, but was extended through the 1997-98 school year. However, on June 1, 1997 the administrator submitted his resignation, effective July 31, 1997. After submission of his resignation, the administrator and the District entered into a final short-term employment contract, covering July 1 through July 31, 1997, which contained the provisions at issue in this case.

The final short-term employment contract provided four different methods for its termination: (1) the resignation of the administrator; (2) the retirement of the administrator; (3) the termination of the contract by the mutual agreement of the parties; and (4) the termination of the administrator by the School Board for cause. The contract also contained an early retirement provision that had appeared in the administrator’s previous employment contracts. Under this provision, the administrator was eligible for a one-year retirement stipend and one year of paid health insurance coverage if he elected to take an early retirement. The contract did not define retirement, resignation, termination by mutual agreement, or termination for cause.

Following his resignation, the administrator accepted a full-time position with a university. On November 11, 2002, the employee notified the District that he was claiming early retirement benefits under his final, short-term contract. When the District refused the claim, arguing that the employee had not retired within the meaning of the contract, the administrator brought suit. The circuit court concluded that the administrator was entitled to the retirement stipend but not the health insurance benefit. Both the District and the employee appealed this decision.

On appeal, the administrator and the District disputed the meaning of the term “retirement” as it was used in the contract. The administrator argued that the terms “retirement” and “resignation” were synonymous and that the means by which he terminated his contract were, therefore, irrelevant to his eligibility for early retirement benefits. The District, however, argued for a more restrictive definition of retirement. Under the District’s definition, retirement referred only to an employee’s decision to cease working altogether, or at a minimum, to cease working in a particular field. The District claimed that the administrator had not retired because he had left to pursue another position in a similar field, i.e., educational administration.

The Court of Appeals reversed the lower court, holding that the administrator had not retired within the meaning of the contract. The court rejected the arguments made by both sides that the term “retirement” had a single, unambiguous meaning. Instead, the court examined the structure of the contract to narrow down possible interpretations. The court noted that the contract provided four separate methods for its termination and, therefore, intended to make some meaningful distinction between those methods. The court rejected the administrator’s interpretation that the terms were synonymous because it rendered part of the contract meaningless. However, the court also found that the District’s interpretation was overly restrictive. Rather than setting out a single definition of

retirement, the court simply stated that whatever retirement meant, it could not include resignation in this specific contract. The court held that, because the administrator designated his termination as a resignation, he could not have retired within the meaning of the contract and was not eligible for the early retirement benefits.

Although the Court of Appeals found in favor of the District in this case, it is important for other school districts to keep the court’s analysis in mind when drafting retirement and resignation provisions within employment contracts and collective bargaining agreements. As the Court of Appeals noted, the term “retirement” is inherently ambiguous. Depending on the context and the intent of the contracting parties, retirement can refer to an entire spectrum of employment changes, including an employee’s decision to leave a specific position, to leave one field of employment and move into another, or to leave paid employment altogether. Issues may also arise if an employee elects to stop working and then returns to work after finding retirement unsuitable.

Because the definition of these terms may have a significant effect on a school board’s obligations under an employment contract, a school district should include an appropriate definition of retirement and resignation in any employment contract that distinguishes between these terms in relation to an employee’s eligibility for post-employment benefits or other compensation.

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