

Scenario 4 Response
“The Superintendent”
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The Scenario

For eight years (under 2 separate four-year contracts) Dr. Holloway served as superintendent of schools in Acme County. On July 1 of 2002, the Acme County school board unanimously voted to renew Dr. Holloway’s contract for another four years. The school board was most impressed with his leadership in achieving acceptable SOL results in each of the division’s schools. Continued improvement in SOL results were part of his new contract. He accepted the new contract and continued to serve as superintendent.

At the completion of the first two years of Dr. Holloway’s new contract, SOL results were slightly improved, but many of the schools did not make Adequate Yearly Progress (AYP) under the new federal law, *No Child Left Behind*. At a board meeting where Dr. Holloway was not present, the school board voted 3 to 2 to terminate his contract. The board agreed to “buy out” the remaining two years, at full salary. The board chair notified Dr. Holloway of the decision by registered mail. The letter stated that his contract had been terminated and that he would receive his full salary for the remaining two years in one lump sum payment. No reasons were given for terminating his contract.

Dr. Holloway immediately retained an attorney and filed a lawsuit against the board. He claimed that his due process protections were violated.

What are the issues? How would a judge rule in this situation?

My Summary

Summary: The school division was NOT in the wrong in four out of four instances.

Action: School stipulated continued improvement of SOL results as part of the contract.

If an employee willingly enters into a contract for employment with an employer, unless that contract is unconstitutional or violates other statutory provisions, that employee’s continued employment is contingent upon the satisfactory fulfillment of the terms of said contract.

In *Poteat v. Harrisburg School District*, Fourteenth Amendment due process violation claims were found not to apply to superintendent dismissal cases, with or without hearing.

Poteat further upholds that if a contract contains a buyout provision – such as the lump sum provision triggered in Dr. Holloway’s case in this scenario – there is no Fourteenth Amendment violation.

Poteat goes on to echo its statements where the First Amendment is concerned, though Dr. Holloway is not seeking remedy under that provision in the scenario.

Action: Board voted to terminate contract without individual present.

Because the *Poteat* precedent holds that Dr. Holloway’s Fourteenth Amendment rights were not violated, he is not afforded due process under law, and therefore the Board is at liberty to dismiss him without his presence.

This is in fact a common practice in school divisions throughout the United States.

However, this issue has been more robustly decided, specifically in *Board of Education v. Morris* in Oklahoma Supreme Court, which held that without violation of state statute or of contractual stipulation, the appellant in the case (the superintendent) was not entitled to a due process hearing.

Superintendents are not certificated, tenured employees, and are therefore not entitled to procedures and rights afforded specifically to those that fit that teacher description.

Action: Board agreed to compensate Dr. Holloway for full salary package of contract.

This is an essential contractual obligation of the division, as without it a termination hearing would likely be required under the provisions of the Fourteenth Amendment. As the Board complied with the full severance package provision, there is no violation in this action; to the contrary it is a constitutionally and contractually requisite action on the board of the Board.

Action: Former superintendent alleges due process rights violation.

Poteat establishes a precedent that refutes Dr. Holloway's claims. *Adams v. School District No. 5 of Jackson County* further upholds this precedent, especially where evaluation criteria (e.g., the SOL scores) and dismissal are concerned.

Conclusion

It does not appear that Dr. Holloway has suffered a violation of his Fourteenth Amendment rights, and does not appear to have a viable remedy under due process provisions. It appears that the School Board acted properly given the specifics of the situation.

However, one must question the wisdom of inserting *or of agreeing to* a stipulation specifically tied to student performance, such as scores on a standardized test.

It seems that Dr. Holloway "dug his own grave" by signing a contract including that specific provision.