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August 2004

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on New Hampshire School Boards

Volume I, Number

Preparing for Collective Bargaining: What Every School Board Needs to Know!

Many of you will be engaging in collective bargaining with one or more employee groups this fall. We find that in any given year approximately one-third of school boards in the State will be bargaining labor agreements.

This issue of focus is devoted to some basic information concerning preparation that we hope you will find useful as you begin the process of negotiations. Future issue will deal with timelines, impasse, and school district meeting issues.

Part I: The “BASICS”

Why do we engage in this process?

Public employers, specifically including local school boards, are required by state statute to bargain with their employees that have organized into bargaining units.

What statute requires us to bargain?

RSA 273-A. That statute spells out the basic requirements and processes.

What are the basic obligations of a school board under RSA 273-A.?

To bargain in “good faith” with employee groups over “terms and conditions of employment. “Bargaining in good faith” and “wages, hours, and terms and conditions of employment” are not self-defining terms.

“Bargaining in Good Faith”

This is one of the primary requirements under our bargaining law, and is often misunderstood and misapplied (particularly by the employee groups).

The bargaining law defines good faith bargaining by stating that “it involves meeting at reasonable times and places in an effort to reach agreement on the terms of employment...” Importantly, and often forgotten in the tussle of the process, it goes on to state

Important things to remember about “good faith” bargaining

It applies to *both* the school board and the employee group.

It does not require that you agree to any proposal made by the employee group(s). However, it does require a school board and the employee group to give due consideration to the “mandatory” proposals (see below) made by the other.

The phrase is often used inaccurately by the employee group(s) as a pressure tactic in the bargaining process.

“Terms and Conditions of Employment”

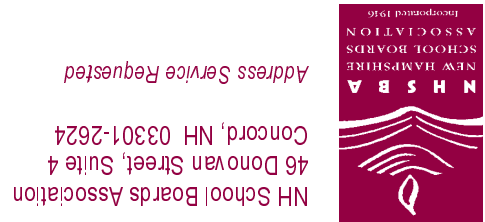
The statute states that this phrase means “wages, hours and other conditions of employment other than managerial policy within the exclusive prerogative of the public employer...”

Unfortunately, this is not a particularly helpful definition. Under case law interpreting this phrase, there are three categories of subjects for bargaining:

Mandatory subjects are those that primarily affect working conditions of the employees. Good examples of mandatory subjects are length of work year, salary schedule, and number of days of various types of leaves.

When these subjects are proposed by either the school board or employee group, there is

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matter. However, you need to remember that there is no legal obligation to agree such a proposal.

Non-mandatory subjects are those that primarily involve the management and administration of the school district. Good examples of non-mandatory subjects are determination of the school calendar, setting the length of the student day, and layoff by seniority only. When these types of subjects are proposed, there is no legal obligation to bargain over them.

Illegal subjects are those that the school board and employee group may not bargain about, even if they would desire to do so. Good examples are proposals which would alter state or federal law – requiring less than is required by federal and state statutes.

As you can tell, this is a very complicated area of the bargaining law. You should consult local counsel on particulars in this area.

The Role of the School Board

The primary role of the school board is to determine what it wants, and what its bargaining limits are. This process is called setting the parameters. The board should set bargaining parameters only after reviewing the current agreement for problem areas, analyzing the employee bargaining proposals, and looking at labor market comparisons.

The role of the board is also to designate a bargaining team. This may include board members, administrators, and possibly an outside professional negotiator.

The role of the board is not to determine the strategy on HOW to do the bargaining. That is best delegated and left to the board bargaining team. However, the full board should expect progress reports as the bargaining progresses.

For more information, plan to attend our upcoming workshop!

Negotiating Well: **How to Even the Odds at the Bargaining Table**

- Basics of bargaining
- What the law requires
- The “reality” of bargaining
- Your role as a Board member
- Review of current bargaining issues
- Effective Board strategies
- Mock bargaining

4:00—8:30 pm

September 23, 2004
Bow High School

September 30, 2004
White Mountains Regional
High School

Call now to register!

It's easy to register for NHSBA workshops and conferences.

Call

603-228-2061 or
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603-228-2351

NHSBA can also provide an individualized workshop for your board!
To schedule, please call Ted Comstock, Executive Director.

Watch for our annual issue of the Teacher Contract Summary!

This valuable tool provides statewide contract comparison data to member boards. Your board's copy will arrive at your SAU office in early September.