Clark County School District No. 161

PERSONNEL **5295**

Professional Employee Representation for Purposes of Negotiations

In accordance with the applicable provisions of the Idaho Code, in order for the District to engage in negotiations with an authorized Local Education Organization, upon Board request, the organization shall be required to demonstrate to the District that it has been duly chosen and selected by fifty percent (50%) plus one (1) of the professional employees of the District, excluding administrative personnel, as their representative organization for negotiations.

Commencing Negotiations

A party interested in commencement of negotiations shall provide the other party notice of such interest, in writing.

If the Board is interested in commencement of negotiations, it shall provide written notification to any representative organization for which membership is known to exist at the District (i.e. local affiliation with IEA, AFT, NWPEA etc.). If the District is not aware of any membership, the District has no obligation to provide notice. However, if the District is aware that a local educational entity has fifty-percent (50%) plus one (1) dues paying members, the District need only contact this one organization about a desire to commence negotiations.

If an organization is interested in the commencement of negotiations, a written letter shall be advanced by the organization to the Board's Clerk. An organization interested in the commencement of negotiations need not be a formal organization with any ties to any state or national entity. Such organization may be entirely comprised of a local group of professional employees of the District, with no affiliation to any outside organization.

Identification of the Number of Professional Employees Required for Negotiations

Upon notification of interest in commencing negotiations, whether such is by the District or by an organization, the District shall prepare a list of all professional employees of the District currently on contract, excluding those serving as administrative personnel.

District personnel shall ascertain from this list what number of individuals the organization must represent to obtain Local Education Organization status for the purpose of negotiations pursuant to the fifty percent (50%) plus one (1) statutory requirement.

The District shall notify the organization of the representation number necessary to meet the fifty percent (50%) plus one (1) statutory requirement. This notification shall be in writing or via electronic communication so as to maintain a record of such communication.

If an employee is a partial administrative FTE and a partial teaching FTE, and is counted as such on the District's State reporting, the District may include the partial teaching FTE, only to the extent of the percentage of the partial teaching FTE, in the listing and calculation for representative status.

If any question arises as to the number of professional employees required to reach the fifty percent (50%) plus one (1) representative status, a meeting shall be held between a District representative(s) and representation of the organization to review the manner in which the figure was reached.

Obtaining Authorizations and Representative Status

The organization's process for obtaining authorization for representative status for the purposes of negotiations must include the following:

i. Representation authority for the purpose of negotiations must be documented in writing.
ii. Representation authority for the purpose of negotiations must be associated with the current school year in question and not based off of authorization from a prior school year, even if such is contended to be continuing or rolling. The current school year's representation authority status shall be noted on the written authorization from the professional employee.
iii. For representation status for the purpose of negotiations, the subject employee need not be a member, dues paying or otherwise, of any official labor organization, association or union.

Both parties shall keep in mind a number of additional considerations from the Code of Ethics for Idaho Professional Educators and the Idaho Right to Work Laws which indicate:

i. Unethical conduct includes willfully interfering with the free participation of colleagues in professional associations.
ii. The right to work shall not be subject to undue restraint or coercion.
iii. The right to work shall not be infringed or restricted in any way based on membership, affiliation, or financial support of a labor organization or the refusal of the same.
iv. No person shall be required, as a condition of employment or continuation of employment:
    1. to resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization, or
    2. to become or remain a member of a labor organization, or
    3. to pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization, or
    4. to pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization, or

5. to be recommended, approved, referred, or cleared by or through a labor organization.

v. It is unlawful to deduct from the compensation of any employee any fees, assessments, or other charges paid over to a labor organization, unless the employee has first provided the District with a signed written authorization. The employee may revoke the authorization for withholding at any time by giving written notice of such revocation to the District.

vi. It is unlawful for any person, by any threatened or actual intimidation or by any damage or threatened damage to the property of an employee/prospective employee or the family of an employee/perspective employee, to compel or attempt to compel an employee to join, affiliate, or financially support a labor organization or to refrain from doing so.

vii. It is unlawful to cause or attempt to cause an employee to be denied employment or discharged from employment because of support or nonsupport of a labor organization by inducing or attempting to induce any other person to refuse to work with an employee.

Neutral Party Selection

The District shall create a list of three (3) neutral individuals from which one (1) will be selected by the parties to serve as the "Neutral Party", the individual responsible for reviewing and determining if the organization has met the representative status of fifty percent (50%) plus one (1) as required by statute.

This list shall be prepared in writing and all such individuals on the list shall have been contacted to assure their willingness and capability to perform such duties and:

i. Such neutral individual shall not be or have been a former employee with the District and shall not have a spouse, parent, child, or grandchild who is or has been a former employee of the District.

ii. Such neutral individual shall not be or have been a former employee or member of any affiliated state organization or fellow local organization affiliated with a state organization associated with the local organization seeking representative status and likewise shall not have a spouse, parent, child or grandchild who is or has been a former employee or member of the affiliated state organization or a fellow local organization associated with the state organization.

iii. Such neutral individual list shall be generated from a review of local current and/or former public officials and public citizens who serve the community. Examples may include but not be limited to: local city council members or employees, local mayor or mayor's office employees, local legislators, employees of the State Department of Education, employees of the State Board of Education, local judges or county clerk's, officials or officers at a local banking institution, etc.

A meeting shall be held between a District representative(s) and representatives of the organization seeking to obtain Local Education Organization status. At such meeting, the written list of neutral individuals will be provided and discussed. If the parties cannot mutually agree to

select one of the individuals from the list, the parties shall take alternative turns, each striking one individual from the list to leave a final selection, with the organization seeking to obtain representative status having the first option to strike a name. The final name left after each side has had the chance to strike one will serve as the Neutral Party responsible for determining if the organization has met the representative status of fifty percent (50%) plus one (1) as required by statute.

Subsequent to selection of the neutral party, both the District and organization shall sign written notification of the selection and neither party shall have communications, directly or indirectly, with the neutral party, absent the consent and participation of the other party.

Neutral Party Review

Jointly, the District and the organization shall provide the Neutral Party with the following information to ascertain representative status:

i. The District shall provide, in writing, to the Neutral Party, the list of professional employees on contract, excluding administrative personnel, prepared pursuant to step number 2, above.
ii. The organization shall provide, in writing, to the Neutral Party, the current written authorization documentation, from each professional employee who has signed such, documenting authority to act as a representative for the purpose of negotiations.
iii. The organization is not required to provide the current written authorization documentation to the District or its administration, but may choose to do so if it so desires.
iv. The District shall provide a copy of this policy as well as a copy of Section 33-1272, Idaho Code.

The neutral party shall then compare the list provided by the District and the written authorizations from the organization. Upon completion of the comparison, the neutral party shall prepare a written letter indicating the exact percentage of District Professional Employees, to the second decimal, that have provided written authorization to the organization to serve as a representative for negotiations purposes. This letter shall be notarized and jointly provided to the District and the organization seeking representation status for the purpose of negotiations.

Final Steps

If representative status of fifty percent (50%) plus one (1) has been obtained, the parties then may initiate the negotiation process with the now determined Local Education Organization for the purpose of negotiations. If such representative status has not been met due to failure to meet the statutory required levels, negotiations shall not commence.

If no new organization seeks to obtain representative status for the purpose of negotiations and to be deemed the local education organization, in due course the District's Board may establish compensation and benefits and other working conditions as it deems appropriate.

Legal Reference:	I.C. § 33-1271	School Districts – Professional Employees – Negotiation Agreements
	I.C. § 33-1272	Definitions
	I.C. § 33-1271	School Districts – Professional Employees – Negotiations
	I.C. § 44-2001	Declaration of Public Policy
	I.C. § 44-2003	Freedom of Choice Guaranteed, Discrimination Prohibited
	I.C. § 44-2004	Voluntary Deductions Protected
	I.C. § 44-2006	Coercion and Intimidation Prohibited
	IDAPA 08.02.02.076	Code of Ethics for Professional Educators

Policy History:
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