# BEFORE ARBITRATOR AUDREY B. EIDE, ESQUIRE

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| PASCO ASSOCIATION OF EDUCATORS,<br><br>Association,<br><br>vs.<br><br>PASCO SCHOOL DISTRICT No. 1,<br><br>Employer. | ARBITRATOR'S DISCUSSION AND AWARD<br><br>Grievance: Contract Interpretation, CBA Article III Section 2 (F (1)) and Article IX Section 2 (14) and August 14, 2024, Grievance Settlement Agreement |

The Pasco Association of Educators (PAE) and the Pasco School District No. 1 (PSD) disagree about the logistics of assigning teaching staff to meet the IEP requirements of students with disabilities resulting in the Grievance at hand. The Grievance alleged a violation of several Articles of the Collective Bargaining Agreement (CBA) and portions of a prior Grievance Settlement Agreement regarding staffing and workload concerns.

A hearing on this matter was held June 5 & 6, and September 25, 2025, in the Pasco Association of Educators Offices located at 500 North 20th Avenue, Pasco, Washington. PSD was represented by F. Chase Bonwell and Lorraine Wilson, Attorneys at Law, of Porter Foster Rorick LLP. PAE was represented by Steve Lindholm, Southeast UniServ Director and Jeremy Pitts, North Central UniServ Director of Washington Education Association.

This is a contract dispute. There are no issues of substantive or procedural arbitrability. The parties did not stipulate to the issue before the Arbitrator, but they agreed the Arbitrator would frame the issue. The parties further agreed that the burden of proof is on PAE to show, by a preponderance of the evidence, that PSD violated several specified sections of the CBA and/or a Grievance Settlement Agreement. PSD and PAE had the opportunity to present evidence, to call and cross-examine witnesses, and to argue their case. The evidence presented at the hearing and the arguments of the parties filed in post-hearing arguments/briefs have been carefully considered.

## ISSUE

At the Arbitration PAE withdrew several issues. PAE also did not present evidence to support all issues stated in the Grievance at hand. The Arbitrator relied on the issue statements proposed in the parties' post hearing arguments/briefs to define the issue.

PSD proposed the following issue statement:

> Has the Association met its burden of proof in establishing violations of the collective bargaining agreement, the August 14, 2022 grievance settlement agreement, the October 9, 2024 agreement on overload compensation for co-teaching staff, or the November 3, 2022 package grievance settlement agreement as [it] regards the specific allegations in its April 3, 2024 version of the amended grievance?
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> If so, what are the appropriate remedies?

PAE proposed the issue in four statements:

> Did the District violate the 2024 **Joint 4 Joint Exhibit** Co-Teaching MOU [Grievance Settlement Agreement] and **Joint Exhibit 1** Article IX, Working Conditions, Section 2 and Article III Employment Contracts, Section 2 Contracts, Workday and Payment (1) Secondary Planning when it assigned some staff to an A/B Schedule? If so, what is the appropriate remedy?
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> Did the District violate the 2024 **Joint Exhibit 4** Co-Teaching MOU [Grievance Settlement Agreement]and **Joint Exhibit 1** Article IX, Working Conditions, Section 7 Special Education when it assigned special education and general education staff to multiple inclusion class periods? If so, what is the appropriate remedy?
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> Did the District violate **Joint Exhibit 4** Co-Teaching MOU [Grievance Settlement Agreement] and **Joint Exhibit 1** Article IX, Working Conditions, Section 7, Special Education, when it imposed inclusion classes (collaborative, pushin, pullout) prior to bargaining? If so, what is an appropriate remedy?
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> Did the District violate **Joint Exhibit 4** Co-Teaching MOU [Grievance Settlement Agreement] when it directed staff where to place the special education students verbally and via the Special Education Continuum of Services Matrix? If so, what is the appropriate remedy?

The issue framed by the Arbitrator is:

> Did the Pasco School District violate Article III Section 2 (F (1)), or Article IX Section 2 (14) of the Collective Bargaining Agreement, or the Grievance Settlement Agreement dated August 14, 2024, when the Pasco School District assigned staff to what were labeled an A/B schedule; assigned staff to multiple inclusion class periods and imposed inclusion classes that were Push-in and Pull-out; or when the Pasco School District placed special education students on a Special Education Continuum of Services Matrix? If so, what is the remedy?

## THE COLLECTIVE BARGAINING AGREEMENT

Article IX Section 2 (14) Special Education Instructional Support

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d) If a teacher is assigned an inclusion period as part of their daily schedule, that inclusion period/time will be scheduled in advance and not be without a minimum of five (5) days' notice.

e) Inclusion

(1) The District and Association recognize that every student is a general education student first; students will be educated in the general education environment to the maximum extent appropriate. Students who qualify for Special Education services are entitled to Specially Designed Instruction (SDI), related services, and appropriate educational accommodations and modifications as determined by the results of a special education evaluation and the student's Individualized Education Program (IEP) team.

Each student has a right to a free and Appropriate Public Education (FAPE) in their least Restrictive Environment (LRE)/educational placement setting. Both the district and the Association recognize the Least Restrictive Environment is where the individual student can be successful as determined by the IEP team.

(2) For students to receive special education and related services, the IEP shall indicate the services to be provided: location, time and frequency, and who is responsible for said services.

The district and Association support inclusive practices for all students with disabilities, as determined by each student's IEP team. The education of students with disabilities in the general education setting requires collaboration and communication between general and special education staff.

(3) Co-teaching

(a) Participation in Co-teaching Inclusion Model will be voluntary as previously agreed.

(b) The Co-teaching Inclusion Model utilized shall be similar to an "exploratory assignment" as contained in the CBA, unless otherwise modified via this agreement; it shall not suspend or alter current parameters/practices of the collective bargaining agreement without first being bargained. The assignment will be for the current year in which the employee volunteers. Notice to volunteer must be in writing. The need for mid-year changes will be dealt with on a case-by-case basis and agreed upon by the parties prior to the change.

(c) Co-teaching Inclusion model will include one general education teacher, one special education teacher, classified support staff as outlined in the CBA and as required by individual IEPs. Student IEPs will reflect appropriate placement in the Co-teaching Inclusion classroom as identified/outlined by the entire IEP team: Psychologist, administrator, special education and general education teachers, parents, and related staff services.

(i) Common Preparation Period: Co-teachers will have daily shared planning time. It is understood planning time is individually controlled, and this shared time does not waive the individual's right to plan as an individual.

(The Grievance Settlement Agreement that was also allegedly violated includes the language of the CBA set forth above in Article IX Section 2 (14 (3) Co-teaching.)

## FACTS

PSD and PAE have a long-standing collective bargaining relationship. PAE is the exclusive representative of the bargaining unit for certificated PSD employees including special education and general education teachers. PSD is a public school district in Franklin County, Washington. The district is comprised of seventeen elementary schools, and seven secondary schools that include four middle schools and three high schools.

PSD serves students with disabilities who require specially designed instruction and/or support services to be successful in their education. A team of educators, specialists, administrators and the students' parents design an Individualized Education Program (IEP) for students with a disability. PSD and PAE recognize ". . .that every student is a general education student first; students will be educated in the general education environment to the maximum extent

appropriate." (CBA Article IX Section 2 (14 e (1)) Lines 4157-4159) Based on the IEP of each student with disabilities there are many possibilities for their individual programs. These possibilities vary from the least restrictive environment of assignment in a regular education classroom with individual support to assignment in a special education classroom with individual support. Many variations of teaching assignments are utilized to accomplish the requirements of the individual IEPs. The dispute between the parties arises from the logistics of the scheduling of educators to meet the special education requirements of student IEPs.

## DISCUSSION

The goal of contract interpretation is to determine and carry out the mutual intent and agreement of the parties. The intent of the parties is determined from the language of the agreement as expressed in the CBA, the subject matter and objective of the agreement, bargaining history, past practice, and the reasonableness of the interpretations of the parties to the agreement. The Arbitrator in a contract dispute must determine and implement the probable mutual intent of the parties as expressed in the CBA.

**Issue #1, Inclusion:** Inclusion is assigning students with disabilities to a general education classroom for part or all of a school day. The goal is to integrate the student with disabilities as much as possible into the general education classroom. While in the general education classroom the student with disabilities is assigned individual support to assist success in their education. There are several possible classroom models for Inclusion. One of those models is Co-teaching. Co-teaching is the assignment of two teachers (a general education and a special education teacher) to a general education classroom which includes students with and without disabilities. Article IX Section 2 (14 e) Lines 4155 4200) of the CBA defines Co-teaching. This new CBA language regarding the Co-teaching Inclusion Model was negotiated into the 2024-2027 CBA.

PSD also utilizes two other Models of Inclusion which are Pull-out and Push-in. In the Push-in (also referred to as collaborative) structure a special education teacher or paraeducator assists a student with disabilities in their assigned general education classroom to meet the student IEP goals. In the Pull-out structure a student with disabilities is assigned mostly to a general education classroom and is taken out of the classroom for specific periods to work with a special education teacher or paraeducator to meet the student IEP goals. Push-in and Pull-out Models of Inclusion are not mentioned in the past or current CBA or the Grievance Settlement Agreement.

PAE argued that Co-teaching is the only model for Inclusion the parties have bargained, therefore PSD violated the CBA and the Grievance Settlement Agreement when they imposed Push-in or Pull-out Inclusion Models. PAE further argued that utilizing Push-in and Pull-out Inclusion Models results in assigning staff to multiple Inclusion periods in a day which violates Article IX Section 2 (14 d) Lines 4151-4153) of the CBA.

PSD argued that if Co-teaching were the only Inclusion Model available, it would limit PSD to two options: place a student with disabilities in a Co-teaching general education classroom all day every day or a special education classroom all day every day. PSD further argued this would prohibit them from meeting the requirements of the individual student IEPs or the requirements of Federal Law. PSD further argued they do now and have traditionally utilized the Pull-out and Push-in Models of Inclusion to meet the requirements of student IEPs.

The record shows that PSD has traditionally utilized Push-in and Pull-out Models of Inclusion to meet the requirements of Federal Law and individual student IEPs. PAE relied on the new 2024-2027 CBA language that the Co-teaching Inclusion Model ". . . shall not suspend or alter current parameters/practices of the collective bargaining agreement without first being bargained" and argued that PSD must bargain to utilize Push-in and Pull-out Inclusion Models. (CBA Article IX Section 2 (14 e 3) Lines 4183-4190))

The Arbitrator does not read the language of the CBA as limiting Inclusion to the Co-teaching Model or that it requires PSD to bargain before utilizing additional Inclusion Models such as Pull-out or Push-in. The record shows that PSD was careful to negotiate language that would not limit them to the Co-teaching Model but rather would add Co-teaching to the Push-in and Pull-out Inclusion Models that they utilized. The record shows PAE did not request to bargain regarding PSD's use of Push-in and Pull-out Inclusion Models. Instead, PAE filed the Grievance at hand. PSD offered to address PAE's concerns about utilizing the Push-in and Pull-out Models of Inclusion when they answered the Grievance at hand. Specifically, PSD proposed: "The Association and district bargaining teams will engage in a limited opener to establish workload language for inclusion models other than co-teaching." PAE did not accept the proposed resolution.

In addition, the Arbitrator does not find that the language in the CBA limits the assignment of inclusion periods to one in a day. PAE argued the CBA and the Grievance Settlement Agreement limit inclusion periods to one in a day: "If a teacher is assigned an inclusion period as part of their

daily schedule, that inclusion period/time will be scheduled in advance and not be without a minimum of five (5) days' notice." (CBA Article IX Section 2 (14 d) Lines 4151-4153)) The language addresses how an inclusion period will be assigned. It does not limit the assignment of inclusion periods to one in a day.

**Issue #2, Assignment of staff to what were labeled an A/B Schedule**: The assignment of A/B Schedules was grieved in 2022 and resulted in a settlement of the Grievances that addressed this issue. The record shows that in 2022-2023 related arts teachers such as the middle school band teacher were assigned an A/B Schedule. They taught a full load of students on half of the days of the week and on the other half of the days in the week they taught an additional full load of students. This resulted in the related arts teachers being responsible for twice the number of students that were the maximum students allowed by the CBA. The Grievance was settled, and A/B Schedules were eliminated.

PAE argued that Special Education Teachers at McLoughlin Middle School (MMS) were being assigned to A/B schedules which were in violation of the 2022 Grievance Settlement. PAE further argued the A/B schedules assigned teaching periods beyond those in some teacher's base contracts in violation of Article III Section 2 (F (1)) of the CBA.

PSD argued that A/B schedules were not assigned to Special Education Teachers. PSD further argued that some Schedules were labeled A/B for identification purposes but were not structured to be Co-teaching assignments that alternated days, doubled any teacher's workload nor was it binding and the A/B schedules assigned allowed Special Education Teachers to work with students at their discretion within the requirement of IEPs.

The record shows schedules for some Special Education Teachers at MMS were assigned what were labeled an A/B Schedule. This label did not identify an A/B Schedule that was a teaching assignment with alternating days or student workloads. The A/B schedules assigned did not increase workloads beyond those provided for in the CBA or add additional teaching periods beyond individual base teaching contracts.

PSD proposed to resolve the confusion that inconsistent definitions for terms and inconsistent terms for programs can cause in answer to the Grievance at hand:

> "The District will implement consistent names and definitions for special education programs at each building. We understand that

> buildings choosing to apply different names to their programs causes confusion and misunderstanding. We believe requiring this consistency would help the Association and the district with implementation and identification of any issues."

PAE did not accept this proposed settlement offer. However, it appears from the record that PSD has attempted to create common terminology for programs for PSD.

**Issue #3, Placement of Students on the Special Education Continuum of Services Matrix:** PAE argued that PSD did not always place students with disabilities according to their IEPs. PAE further argued that a Matrix of Services for special education students created in May 2025 predetermined where students would be placed without consideration of student IEPs. PAE then argued the Matrix had been unilaterally substantially changed by PSD after it was created.

PSD argued that the Matrix of Services was not created to predetermine placement of special education students or override their IEPs. PSD further argued that the Matrix was created with PAE in response to concerns raised by PAE in labor/management meetings that each of the 29 PSD schools were using different terms to describe many of the service models for students with disabilities.

The primary goal of the Matrix was to provide uniform terminology for special education programs throughout PSD to help IEP Teams transition students from elementary school to middle school and from middle school to high school. Although PSD did make some changes to the Matrix after it was created, the Arbitrator does not find that they were substantial, created new programs or that they violated the requirement to place students with disabilities consistent with their IEPs.

PAE also argued that administrators at Ochoa Middle School in the fall of 2024 were directing where special education students should be placed without consideration of student IEPs and unilaterally altering student IEPs. The record shows PSD investigated these allegations and they were resolved.

## CONCLUSION

The Pasco Association of Educators did not prove by a preponderance of the evidence that the Pasco School District violated Article III Section 2 (F (1)), or Article IX Section 2 (14) of the Collective Bargaining Agreement, or the Grievance Settlement Agreement dated August 14, 2024, when the Pasco School District assigned staff to what were labeled an A/B schedule; assigned staff

to multiple inclusion class periods and imposed inclusion classes that were Push-in and Pull-out; or when the Pasco School District placed special education students on a Special Education Continuum of Services Matrix.

The fact that the Arbitrator finds PSD did not violate the CBA or the Grievance Settlement Agreement as alleged does not diminish the fact that this new CBA language is not optimal language to administer, which makes PAE's concerns understandable.

The Arbitrator applauds PSD's actions to address concerns raised in this Grievance and their proposed offer to have the PSD and PAE bargaining teams engage in a limited opener to establish workload language for inclusion models other than Co-teaching. The Arbitrator further encourages the parties to engage in the proposed negotiations.

## AWARD

The Pasco School District did not violate Article III Section 2 (F (1)), or Article IX Section 2 (14) of the Collective Bargaining Agreement, or the Grievance Settlement Agreement dated August 14, 2024, when the Pasco School District assigned staff to what were labeled an A/B schedule; assigned staff to multiple inclusion class periods and imposed inclusion classes that were Push-in and Pull-out; or when the Pasco School District placed special education students on a Special Education Continuum of Services Matrix.

The Grievance is DENIED.

Respectfully Submitted, this first day of December 2025.

/S/ *Audrey B. Eide, Esquire*
Audrey B. Eide, Esquire
Arbitrator & Mediator