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## *Section H: Negotiations*

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## **NEGOTIATIONS GOALS**

The Harding County School Board recognizes that education is a public trust; it therefore is dedicated to providing the best possible educational opportunities for the young people of this community. In negotiations, this objective may be best attained if there is a climate of mutual trust and understanding between the negotiating parties.

The Board believes that the best interests of public education will be served by establishing procedures that provide an orderly method for the Board and representatives of the staff to discuss matters of common concern.

It is further recognized that nothing in negotiations should compromise the Board's legal responsibilities, nor should any employee's statutory rights and privileges be impaired.

Adopted: May 11, 2015

## NEGOTIATIONS LEGAL STATUS

The Harding County School Board negotiates salary and other conditions of employment with employee groups under requirements and subject to limitations set forth in the state law.

Under the South Dakota Codified Laws, public employees—including members of the teaching profession—may join or refuse to join without prejudice any organization for professional or economic improvement. Representatives of the teachers and the Board will meet at reasonable times to negotiate with respect to rates of pay, wages, hours of employment, and other conditions of employment; to confer in good faith; and to attempt to negotiate an agreement.

Support personnel are given the right to organize and to join any employee organization and to bargain collectively through representatives of their own choosing. The Board has the duty to confer in good faith with respect to wages, hours, and other conditions of employment, and to attempt to negotiate an agreement.

These laws state further that anything therein "does not compel either party to agree to a proposal or require the making of a concession."

### **Legal References:**

SDCL 3-18-2 (Rights relating to labor organizations)

SDCL 3-18-3 (Exclusive representation by designated representatives)

SDCL 3-18-8 (Implementation of settlement)

Adopted: May 11, 2015

## SCOPE OF NEGOTIATIONS

In accordance with state law, the Harding County School Board will negotiate with officially recognized employee bargaining groups on the following items: wages, salary, and other conditions of employment. Other mutually agreed-upon terms and conditions of professional service may also be negotiated as determined by the Board.

**Legal References:**

SDCL 3-18-3 (Exclusive representation by designated representatives)

West Central Education Association v. West Central School District 49-4 and Board of Education, 2002 SD 162

Spearfish Education Association v. Spearfish School District #40-2 and Board of Education, 2010 SD 26

Adopted: April 24, 1984

Revised: May 11, 2015

## SCHOOL BOARD NEGOTIATING POWERS AND DUTIES

The Board has a duty to bargain in good faith with recognized staff units on wages and other conditions of employment. It also has the privilege to refuse to negotiate in certain areas.

The Board will not:

Interfere with, restrain, or coerce employees in the exercise of their right to organize.

Dominate, interfere or assist with the formation, existence, or administration of any employees' bargaining agent, or contribute to its financial support.

Discriminate in employment or tenure or in any condition of employment to encourage or discourage membership in any employee organization.

Discharge or otherwise discriminate with regard to any employee because he signed or filed any affidavit, petition, or complaint pursuant to the negotiations law.

Refuse to negotiate in good faith.

Fail or refuse to comply with any provision of state law relating to negotiations.

### Legal References:

SDCL 3-18-3.1 (Unfair practices of employers defined)

Adopted: May 11, 2015

## **BOARD NEGOTIATING AGENTS**

The Harding County School Board is ultimately responsible for negotiating with employee units. Prior to commencement of any negotiations, the Board--with the assistance of the Superintendent--will decide whether to appoint a labor lawyer, a professional negotiator, or a representative from within the school district to serve as the Board's chief negotiator. The balance of the Board's negotiating team will be selected by the Board with assistance from the Superintendent.

The fee or salary for a professional negotiator will be established by the Board at the time of appointment.

Negotiations will be conducted only as directed by the Board. No agreement will be effective until the Board has accepted it and officially designated its representatives to sign it.

Adopted: May 11, 2015

**BOARD NEGOTIATING AGENTS  
(Regulation)**

**APPOINTMENT OF A PROFESSIONAL NEGOTIATOR**

The negotiator's fees or salary will be established at the time of appointment.

The duties of the negotiator will be mutually agreed upon, and may include the following:

- A. Serve as chief spokesman in negotiations with recognized or certified bargaining units to arrive at a mutually satisfactory agreement on wages, hours, and working conditions of employees represented by the units, and at any fact finding proceedings related thereto.
- B. Direct accumulation of necessary data needed for negotiations, such as comparative information.
- C. Follow guidelines set forth by the Board as to acceptable agreements and will report on the progress of negotiations.
- D. Make recommendations to the Board as to acceptable agreements.
- E. Interpret the signed negotiated agreements to administrators.
- F. Serve as the official designee of the superintendent when the grievance procedure reaches the level of the superintendent.
- G. Plan, organize, direct, and represent the district in arbitrations involving agreements.

Adopted: May 11, 2015

## PRIVILEGES OF STAFF NEGOTIATING ORGANIZATIONS

In accordance with state law, recognized employee organizations or their agents will not:

- A. Restrain or coerce an employee in the exercise of the rights guaranteed to the employee by state law.
- B. Restrain or coerce an employer in the selection of his representative for the purpose of negotiating or the adjustment of a grievance.
- C. Cause or attempt to cause an employer to discriminate against an employee due to membership or non-membership in an employee organization, or to whom membership in such organization has been denied or terminated for some reason.
- D. Refuse to negotiate collectively in good faith with an employer.

### **Legal References:**

SDCL 3-18-3.2 (Unfair practices of employee organizations defined)  
SDCL 3-18-3.3 (Rules on unfair practices)

Adopted: May 11, 2015



## NEGOTIATIONS PROCEDURES

Following the granting of recognition to an organization to represent an employee unit, the Harding County School Board, through its designated representatives, will meet with the representatives of the organization to negotiate and attempt to reach agreement on matters pertaining to salaries, terms and conditions of employment, and processing of alleged grievances.

### INITIATION OF NEGOTIATIONS

The school board will make an effort to begin negotiations well in advance of contract issuance. A request to begin negotiations will be made by the HCEA at a school board meeting.

### TIME AND PLACE OF NEGOTIATIONS

Negotiations meetings will be scheduled at times which will interfere least with school schedules and the educational program. They will be conducted at times and places mutually agreeable to the negotiators named by each party. At the first meeting, the date and location of the subsequent meeting will be scheduled, and so on. Meeting schedules will be realistic.

### CONDUCT OF NEGOTIATIONS

Individual Board members cannot negotiate privately with representatives of any employee unit. Each negotiating team will be limited to a specific number of individuals determined jointly by the Board and the negotiating organization.

During negotiations, the representatives of the Board and the organizations will present relevant data, exchange points-of-view, and make proposals and counterproposals. Upon the request of either party, the other will make available for inspection its records and data pertinent to the subject of negotiations.

Formal negotiations meetings between the parties will be conducted in closed session, unless an open session is agreed upon by both parties.

It is the responsibility of each negotiations team to keep its own records of the proceedings. No electronic recording devices will be allowed by the Board.

If one party calls for a caucus, that party will move to another location for its caucus. Each party will determine which representatives may be present at its caucus.

### REACHING AGREEMENT

All tentative agreements will be written and initialed by spokespersons of the respective negotiating teams. Agreements will be tentative until approved by the employee organization and adopted by the Board.

### Legal References:

SDCL 3-18 (Public employees' unions)

Adopted: May 11, 2015

**PRELIMINARY NEGOTIATED AGREEMENT DISPOSITION**

If a tentative settlement is reached between an employee organization and the Harding County School Board, the designated representatives of both parties will recommend ratification by their respective groups. If either the Board or the employee organization memberships fail to ratify the tentative agreement, negotiations will be continued for a specified period of time in an effort to work out differences locally, prior to declaring impasse and commencing conciliation or fact-finding procedures.

**Legal References:**

SDCL 3-18-7 (Tentative settlement)

Adopted: May 11, 2015

## IMPASSE PROCEDURES

In the event the Harding County School Board and the employee negotiation teams are unable to reach agreement, and an impasse exists, the conciliation and fact-finding procedures outlined in state law may be requested by either party. The notice of an impasse must be in writing.

If neither party requests intervention by the Department of Labor and Regulation within 10 calendar days after impasse is reached, the Board will assume negotiations are completed and will institute the provisions of the Board's last offer.

Within five days of receipt of a fact-finders report, both parties will meet to discuss the report.

In case of failure to reach agreement after full use of conciliation and mediation, the Harding County School Board will be responsible to make such decisions necessary for the operation of the school system.

### **Legal References:**

SDCL 3-18-8.1 (Intervention by dept. on failure to reach agreement)

SDCL 60-10-1 (Conciliation of labor dispute)

SDCL 60-10-2 (Unsuccessful efforts to conciliate)

Adopted: May 11, 2015

## EMPLOYEE CONTRACT OBLIGATIONS

By state law, it is illegal for any employee of the Harding County School District to engage in a strike, withhold services, be absent without leave or authorization, or decline to perform all of their duties and responsibilities.

So that the educational programs of the district will function without interruption, the Harding County School Board will ensure that employee contracts that are in force with the district are fulfilled. If necessary, legal recourse will be taken by the Board to fulfill its obligations and responsibilities to the citizens of the district.

Any employee who conducts themselves in a manner that is disruptive to the educational programs of the district and/or violates the provisions of their contract with the district subjects themselves willfully to the legal recourses available to the Board.

It is the responsibility of every administrator to ensure that the obligations and responsibilities of the Board are fulfilled as the Board directs.

### **Legal References:**

SDCL 3-18-9 (Strike Defined)

SDCL 3-18-10 (Strikes prohibited)

SDCL 3-18-11 (Consent to strikes by supervisors prohibited)

SDCL 3-18-14 (Injunctive relief in case of strike)

SDCL 3-18-15 (Right of communication of grievance not limited)

SDCL 3-18-15.1 (Grievance procedures to be established)

SDCL 3-18-15.2 (Appeal to department)

SDCL 3-18-15.3 (Grievance procedure adopted in absence of dept. action)

SDCL 3-18-15.4 (Change in policies not prohibited)

SDCL 3-18-16 (Proceedings to establish nonparticipation in strike)

SDCL 3-18-17 (Review by trial de novo of decision establishing violation)

Adopted: May 11, 2015