



NEGOTIATIONS OF CONTINUING EDUCATION ISSUES

New Jersey's requirement for continuing education, adopted by the State Board in May 1998, reflects a public policy goal that teachers throughout the State remain engaged in an ongoing systematic program of professional development to refine the knowledge and skills necessary to assist students achieve high academic standards. Although driven by students' needs and teachers' responsibilities, the continuing education requirement has a pervasive impact on local boards of education. First, *N.J.A.C. 6:11-13.1 et seq.* specifically charges boards with the responsibility of administering and implementing the continuing education program at the local level.¹ In addition to the responsibilities explicitly defined in its provisions, the Code also holds other unwritten, but nevertheless very real, obligations for local boards. Possibly the most significant of these unstated board responsibilities is the obligation to negotiate over terms and conditions of employment that may flow from the continuing education requirement.

It is expected that, at one time or another, all boards of education will be required to negotiate some issue that has emerged as a result of the new state policy. Boards will thus need to be prepared to face the particular bargaining situations that can arise from the continuing education requirement. This article will focus on a number of these factors, including: the impact of existing contracts; the extent of boards' negotiations obligation; effective board approaches to handle these negotiations; and an analysis of common union proposals that have been raised in a number of districts.

Continuing Education and Existing Contracts

For many years, virtually all teachers' contracts in New Jersey have contained provisions addressing continued education and professional development. Contracts may include a variety of provisions that affect a district's costs of employment, such as: tuition reimbursement for coursework; board payment of costs affiliated with attendance at workshops and seminars; and horizontal move-

ment on the guide. Contracts may also include different provisions that affect instructional time and teacher/student contact time, such as: paid days-off to attend conferences and workshops; early student dismissals to provide inservice time for teachers; and specified numbers of inservice days.

The provisions of many existing contracts were negotiated prior to the mandate that all teachers obtain 100 hours of continuing education every five years. Agreement to the clauses were thus based on circumstances that were generally triggered by teachers' individual and voluntary decisions to pursue additional education or training. Some clauses were meant to accommodate a limited number of instances where administrators required teachers take a formal course or to attend workshops or seminars. The impact of the provisions on the district's costs or on instructional time was thus restricted by teachers' own decisions and district practices.

However, the provisions of these existing contracts may automatically become applicable to circumstances that arise as a result of the implementation of the continuing education requirement, even though those situations were not contemplated by the parties at the time they agreed to the provision. Thus, for many districts, the implementation of the continuing education requirement can result in unanticipated and unexpected economic and administrative problems. Boards must therefore review their existing contracts to identify the potential problems, discussed below, that may result from the requirement that all their teachers participate in continuing education.²

Cost Impact

Many existing professional development clauses provide for board payment of particular costs incurred by teachers' professional development activities. Depending on the specific language of these provisions, the continuing education requirement may result in an automatic increase in both a board's immediate and long-term costs of employment. Thus, to assess the extent of the automatic fiscal impact of continuing education on their districts, boards must carefully review all the provisions that are

¹ For a full discussion of the provisions of the Code and of boards' administrative obligations, please see *The Negotiations Advisor* article "The Continuing Education Requirement and Boards of Education" in the Selected Topics section.

² For a full discussion of how to analyze current provisions and an identification of approaches that can protect a board's ability to manage its costs, please see the article "An Analysis of Professional Development Clauses" in the Selected Contract Clauses section of *The Negotiations Advisor*.

governing their local professional development.

Immediate Impact Existing contractual provisions may automatically trigger additional immediate costs for a board. For example, a contractual clause that provides reimbursement for registration and other expenses involved in attending workshops is likely to be seen as automatically applicable to attendance at workshops taken to fulfill the continuing education requirement. Similarly, contractual clauses providing for full board payment for coursework and workshops required by the administration are now likely to be read to apply to all teachers' continuing education activities which are, under the Code, required to be included in teachers' PIPs. These types of contractual provisions (as well as policies and past practices³) will hold an immediate and automatic increase in a district's costs that were not contemplated when the board calculated the original anticipated cost of the provision.

Conversely, other existing contract clauses may protect boards from automatic increases. Existing clauses that establish tighter, more specific conditions for reimbursement will hold far fewer, if any, automatic increases for the district. For example, a clause that clearly restricts reimbursement of tuition and expenses to graduate courses taken only in programs designed to lead to an advanced degree will continue to be applicable. These specific clauses will preclude reimbursement of other types of activities that may be pursued to meet the 100-hour requirement and will protect boards from automatic increases.

Similarly, existing provisions that establish caps on boards' expenditures will have differing impact. For example, caps that are based on the board's obligation to each individual teacher will result in a board's increased expenditures as more teachers will become eligible for the reimbursement. However, contracts that include a negotiated cap on boards' *total* professional development expenditures for the entire bargaining unit will continue to preclude increases in excess of that negotiated amount.

In addition, contractual provisions that provide stipends for committee work may add to a district's immediate and automatic costs. The wording of some of these contractual provisions may automatically apply to service on the Professional Development Committee. While the number of affected teachers may be small, the total number of hours spent on the work of the committee may be high and consequently district costs that are based on an uncapped hourly rate could also result in a surprisingly high and unexpected district expenditure. However, the tighter language of other districts' contracts, such as those that specifically reserves additional compensation for specifically designated committees will preclude automatic payment for new committees.

Long-Term Impact Contractual provisions and practices can also hold varying long-term cost implications. While these potential costs may not be realized for many years, they should not be dismissed or ignored by current boards.

The most common source of long-term expenditures result from provisions controlling teachers' horizontal movement on the salary guide.

Virtually all teachers' salary guides in New Jersey have a number of columns that provide additional compensation for teachers who achieve academic preparation above the Bachelor's degree. The number of columns may vary, with some contracts providing only two columns (BA and MA) and others providing far more (BA, BA+15, MA, MA+15, MA+30, and so on). Further, the amount of salary increases affiliated with movement across the guide (differentials) also differs among districts and within guides themselves, with some providing relatively small increases in salaries and others representing significant differences. In addition, criteria for horizontal movement varies from district to district. Some contracts require the completion of approved graduate courses for column movement while others credit all college coursework. Still other contracts convert hours of inservice and workshops into credit hours for the purposes of movement on the salary guide. Thus, districts' guide structure and eligibility provisions can hold built-in future increases in districts' salary costs.

As more teachers will be engaging in continuing education, all of the factors affecting movement on the guide can contribute to a district's salary costs. The amount of the increase will be directly related to the district's guide structure movement as a result of meeting their continuing education requirements. Clearly, districts whose contracts recognize inservice and workshops as well as formal coursework, are likely to experience higher built-in costs than those that restrict movement on the guide to graduate credits related to obtaining an advanced degree.

Impact on School Time

Existing contractual provisions frequently address the issue of time. Time spent in instructing students, as well as authorized leave time, are common contractual provisions. In addition, the length of teachers' workdays and work year are typically defined by negotiated agreements or past practice. Both types of contractual provisions may be affected by the requirement of the Continuing Education Code.

Instructional Time Most contracts contain negotiated limitations on instructional time and authorize reasons for teachers' excused, and paid, absences. Clauses that provide teachers with time-off during the school day to attend workshops and seminars are examples of contractual provisions that reduce the time that teachers spend on instruction.

The introduction of the continuing education requirement is likely to trigger additional decreases in instructional time that is attributable to these contractual clauses. For example, under continuing education, far more teachers are likely to use their professional days to attend work-

³ For a full discussion of past practice, please see *The Negotiations Advisor* article "The Meaning and Relevance of Past Practice" in the Selected Topics section.

A BOARD'S CHECKLIST FOR EFFECTIVE NEGOTIATIONS OF CONTINUING EDUCATION ISSUES

The Board has prepared its bargaining position based on...	<ul style="list-style-type: none"> • its analysis of the existing contract • its local goals and district needs
The Board has reviewed all proposals based on...	<ul style="list-style-type: none"> • its knowledge of the provision of the Continuing Education Code • the perspective of the Board's established bargaining goals
The Board has assured that all proposals...	<ul style="list-style-type: none"> • cap the District's Total Funding Obligation • avoid "Blank Checks" • avoid "Escalator Clauses" • guard against "Hidden Costs" • control Movement on the Columns of the Guide • retain a Focus on Board's Goals for Instructional Time • assure Sufficient Time in the workday/work year • provide Management With Flexibility • provide Strong Administrative Control
At the bargaining table the Board is ready to...	<ul style="list-style-type: none"> • use proven effective bargaining techniques • understand union tactics • appreciate the importance of first time negotiations • keep track of the total cost of settlement • be patient, committed and united

shops that can count towards the 100-hour requirement. In addition, each teacher may use more of their contractually available professional days than they used in the past. The combination of more teachers using the benefit and the use of more days in each year will automatically and naturally reduce the amount of instructional time in the district. It will also hold an additional cost of providing substitutes to cover the classes of teachers who are legitimately using their contractual benefits.

The amount of reduced instructional time will, of course, depend on the actual language of the negotiated benefit. Districts whose contracts provide for one day to attend professional conferences during the school year will have far less disruption than districts that provide three or more days.

The most troubling, and potentially most disruptive, loss of instructional time can result from current contractual provisions that do not provide strong administrative control and oversight of the use of professional days. The lack of a contractual requirement for prior administrative approval for the use of professional days may not have been a problem in the past when only a few teachers sought to attend workshops during a normally scheduled school day. However, since most, if not all, teachers will seek to fulfill their 100-hour requirement during their normal workday, these administratively uncontrollable absences could result in massive disruptions in one or more school days. Conversely, contractual provisions or past practices that contain administrative controls (such as: the administrator's prior approval or limitations on the number of teachers who can be out on professional leave on any one day) can automatically provide varying degrees of control on the loss of instructional time.

Length of the Workday and Work Year In assessing the impact of continuing education, boards must also check the length of their negotiated workday and work year to see whether the requirements of the Code can easily be accommodated within the confines of their existing work time. The Continuing Education Code requires each district to adopt a local professional development plan, recommended by the local Professional Development Committee and approved by the County Professional Development Board as meeting the State's standards. These plans may include recommendations for an expansion in the number of inservice programs previously provided by the district. If approved by the board, this expanded inservice program could also trigger an automatic loss of instructional time. For example, many contracts contain provisions mandating an early student dismissal on days that inservice is scheduled. Under these contractual conditions, an expansion in the number of in-district training programs that are scheduled on a school day would automatically lead to an increase in the number of student half-days. The number of resulting early dismissals for students may not be acceptable to boards of education or their communities.

Other contracts specify that inservice days shall not be student contact days. Under these contractual provisions, students do not report to school on inservice days. An increase in the number of inservice days can thus automatically reduce the total number of instructional days in the school calendar. The interaction of this automatic reduction in student days with contractual provisions, or binding past practices, defining the length of the school year could result in an unacceptable reduction in the number of student days. Conversely, a contract that establishes a work year that can accommodate both a sufficient num-

ber of inservice days as well as student days will not present an incompatible and untenable result.

Board Responses

Boards must carefully analyze their existing contracts, binding past practices and policies to determine the impact of their established terms and conditions of employment on their continuing education obligations. The result of that analysis will become the basis for boards' preparation for negotiations of their next contracts.

To Clauses That Are Automatically Extended

Provisions and practices that can and will be automatically extended to cover the circumstances arising from teachers' compliance with their continuing education requirement must be identified and assessed. Boards must consider a number of factors, including: the acceptability of the extended benefit to the board; the cost and affordability of the extended benefit; and the impact of the extension on the educational program and the administration's ability to staff the schools.

Boards cannot unilaterally change terms and conditions of employment. However, any existing term and condition that is found to place the board in a vulnerable or unacceptable position can be changed through negotiations. Increasingly, thorough preparation, skillful bargaining and board resolve have resulted in boards' ability to achieve desired and necessary changes in many terms of employment. Changes that benefit the board, however, will not occur unless the board raises and advances its own proposals to change existing terms of employment in the next round of negotiations. Thus, boards that find that their existing contracts do not provide sufficient cost controls or administrative oversight will want to seek changes in their negotiated contracts to obtain contractual rights to contain the impact of continuing education.

To Clauses That Provide Protection Other boards may find that their existing provisions and past practices comply with their goals and are fully protective and supportive of the board's desired response to situations arising from the continuing education requirement. The goal of these boards will be to retain their existing contractual rights and, as such, these protective clauses should not be included in the board's negotiations proposals. If these are placed on the bargaining table, they become an open subject of negotiated changes and give the union an opportunity to erode boards' existing contractual rights.

Yet, these protective clauses and practices may nevertheless become part of districts' negotiations agenda. Unions will also have an interest in negotiating changes in current contractual provisions. Their predictable perspective will be to increase the board's commitment to provide time and money to support teachers' continuing education

obligation. Thus, clauses that the board finds protective and beneficial may very well be the same clauses that the union will be seeking to delete or to modify. Therefore, whether seeking to obtain or retain contractual rights, all boards will need to be prepared to face a potential negotiations obligation.

The Extent of Boards' Negotiations Obligation

At one time or another, the continuing education requirement is likely to implicate boards' obligation to negotiate over terms and conditions of employment. Boards will thus need to be prepared to understand the particular issues that may arise in negotiating over the impact of meeting the State's requirement. In addition to an in-depth understanding of their current contractual provisions, boards will also need to understand: the differences between the issues that should and should not be negotiated; the procedures for resolving negotiability disputes; and the process of bargaining.

Issues That Should Not Be Negotiated

At this time, boards must keep in mind that the scope of negotiations surrounding the particular issue of continuing education has not yet been interpreted by the Public Employment Relations Commission (PERC) or the courts. Until specific case law emerges, the negotiability of these issues must be guided by the body of existing and well-established labor relations principles. Boards will be well-served to contact their legal and labor relations resources to assure that they do not engage in bargaining over specific issues that should not be included in a negotiated agreement.

In general, the principles governing the scope of negotiations would indicate that, as a requirement of the Administrative Code, teachers' basic responsibilities to fulfill the State's minimum 100 hours of continuing education cannot be subject to negotiations. Other aspects, which involve educational policy and evaluations criteria, should also not be subjected to the bargaining process.⁴ In addition, issues will not be deemed to be negotiable if they are found to present significant interference with boards' rights to determine educational and governmental policy. Case law further establishes that issues that are not negotiable can also not be submitted to binding arbitration.⁵

Thus, the category of nonnegotiable issues is based on the fundamental understanding that subjecting these issues to the give-and-take of the bargaining process would interfere with and undermine public employers' authority to set policy and to manage public services. In other words, the nonnegotiable category protects the rights of public management. Boards of education must be careful that

⁴ For a general introduction to the complexities of negotiability, please turn to the article "Scope of Negotiations" in the Structure of Negotiations section of *The Negotiations Advisor*. For a specific discussion of the negotiability of various aspects of teacher evaluations, please see the article "Teacher Evaluations" in the Selected Topics section of *The Negotiations Advisor*.

⁵ See, for example, *Ridgefield Park Board of Education*, 78 N.J. 144 (1978).

they do not inadvertently engage in negotiations that would compromise their authority.

Based on existing case law, the following issues are likely to be found to be nonnegotiable:

Limits on Board Discretion to Approve Local Inservice Programs The Code specifically reserves boards' right to approve, or reject, the inservice programs recommended by the district's local committee. Boards cannot, and should not, agree to contractual language that would compromise this board authority. Examples of union proposals that would interfere with the board's specifically designated authority include: proposals establishing criteria for the board's approval of inservice; proposals that would require a board to offer sufficient inservice to meet all teachers' continuing education requirement; and proposals that would require the board to approve all programs recommended by the local committee.

Contents of PIPs Nothing in the Continuing Education Code affects or modifies PERC's decision that the development of PIPs is not negotiable.⁶ Boards should therefore not negotiate over proposals that seek: to reduce administrators' authority to finalize the contents of PIPs; to require binding arbitration of disputes arising over the contents of PIPs; or that assert that comments on achieving PIPs, or on increments withheld because of a failure to meet the objective of PIPs, should be reviewed through binding arbitration.

Establishment of Evaluation Criteria Under current law, neither the criteria nor standards for assessing employee performance, nor their application, are within the scope of negotiations.⁷ These issues should not appear in negotiated agreements nor can they legally be submitted to binding arbitration. Nothing in the Continuing Education Code would suggest that the Department intended to change this well-established aspect of case law. Boards should therefore not consider proposals: that require teachers' or union approval of the criteria used to evaluate teachers' progress towards fulfilling their continuing education requirement; that seek to place limits on supervisors' ability to comment on that progress; or that seek to submit those comments to binding arbitration.

Binding Arbitration of Evaluative Comments Proposals that seek binding arbitration of evaluative comments, including progress towards meeting the continuing education requirement, would conflict with existing case law which holds that evaluative judgments may not be legally subjected to binding arbitration.⁸ These proposals would also seem to present impermissible conflict with the Code's specific directives: that local monitoring of the continuing education requirement is an evaluative action; that administrators have the responsibility to evaluate teachers'

progress; and that the Department of Education has the jurisdiction to discipline a teacher who, at the end of the five-year period, has failed to satisfy the required 100 hours of continuing education.⁹ As such, disputes over any aspect of monitoring the continuing education requirement should be appropriately submitted to the Commissioner of Education, and not to a labor arbitrator.

Issues That Are Negotiable

Since the Code does not preempt negotiations of issues that affect terms and conditions of employment, these issues may need to be determined through bargaining. Boards should keep in mind, however, that the legal negotiability of an issue does not establish that agreement to these issues is required or that such agreement would be either beneficial or advisable for a board. Before agreeing to any issue that is legally negotiable, boards must carefully assess the implication of the agreement to their districts' operations.

Based on existing case law, it is expected that the following issues may be brought to the negotiating table and may be included in negotiated agreements:

Cost of Meeting the Requirement Proposals addressing who will pay for the costs of courses and training activities in which teachers enroll to meet the continuing education requirement are negotiable. Similarly, the extent of reimbursement is likely to arise at the bargaining table and these topics may include such issues as: whether none, all, or only some, coursework will be reimbursed; the amount of the reimbursement; and limitations or caps on districts' obligations to cover these costs. The issue of who will pay for inservice programs provided in the district would also appear to be subject to negotiations.

Cost of Additional Teacher Time Who will pay for the additional time required for teachers to meet their new obligation falls under the definition of negotiable terms and conditions of employment. Whether compensation should be given, whether compensation will take the form of a stipend for time beyond the normal workday or of release from time normally spent working in the district is also the subject of negotiations. Similarly, extra compensation for the additional time affiliated with service on the local committee is also a topic that could be raised and resolved in negotiations.

Eligibility for Reimbursement Unless specifically preempted by statute or regulations, the issue of employee eligibility for negotiated benefits is also a negotiable topic. Whether all, or only some, of the district's teachers will be eligible for reimbursement may become a bargaining issue. Different levels of reimbursement for different classifications of teachers may also be negotiated.

⁶ See, for example, *Upper Freehold Regional Board of Education*, PERC No. 82-105, 8 *NJPER* 13139.

⁷ See, for example, *Teaneck Board of Education*, 161 *N.J. Super.* 75, 1978.

⁸ See, for example, *Holland Township Board of Education*, PERC No. 87-43, 12 *NJPER* 17316, aff'd App. Div., 1987.

⁹ 30 *N.J.R.* 2080, Response 7.

Accommodating In-district Inservice Into the Negotiated Work Year Accommodations of the work year to include additional inservice days affects the negotiable issue of the length of teachers' work year in excess of the 180 days of mandated student instruction. Whether additional days should be added to the work year, or whether the number of existing workdays should be redefined to provide more time for inservice, may be decided at the bargaining table.

Horizontal Movement on the Guide A district's standards for horizontal movement on the guide is currently a negotiable topic. Thus, how continuing education counts, or does not count, for horizontal advancement on the guide is a topic that may be decided at the bargaining table.

Guide Structure The structure of the guide, including the number of columns and the differentials between the columns on the guide are established topics of negotiations. Proposals to include new columns, to eliminate existing columns, and to change the differentials between the columns may also be raised in negotiation.

Local Continuing Education Requirements The Code establishes a minimum state requirement which cannot be reduced through local negotiations. However, local bargaining can establish a local requirement that exceeds the State's minimum requirement. Thus, as a reflection of the board's goal, a local agreement could require an additional number of hours of continued education which would then be governed by locally negotiated conditions.

Negotiability Disputes

It is important to keep in mind that the above description of scope of negotiations surrounding the continuing education issue is based on case law that predates the adoption of the Continuing Education Code. Nothing in the Code suggests, in any way, an intent to modify the existing scope of negotiations. Nevertheless, the impact of the new code on the definition of scope remains undefined by either specific statutory language or case law. Therefore, it will not be surprising if boards and unions bring differing and conflicting interpretations of the extent of their negotiations obligation to the bargaining table.

Boards need to anticipate that their unions may raise proposals that have been identified in this article as being nonnegotiable. For example, a union could insist that binding arbitration be used to resolve all disputes over teachers' progress towards continuing education. However, from a board's perspective, and its understanding of the Code's history and its specific provisions, this proposal appears to be outside the scope of negotiations.

Board Responses Boards must keep in mind that disputes over negotiability do not need to be resolved at the bargaining table. Rather than engaging in philosophical debates that will bog down the progress of negotiations, boards would be best served by filing a scope petition with the Public Employment Relations Commission. PERC is the legally designated agency to resolve disputes over the scope of negotiations and it would be most advis-

able to defer to its expertise to resolve this difference in perspective instead of allowing the dispute to become a major stumbling block at the bargaining table. If faced with issues of disputed negotiability, boards should consult with their legal and labor relations resources to assess the latest development in this area and to discuss the procedures available to resolve this legitimate dispute. While PERC is processing the board's request for a negotiability ruling, the board can devote its energies and attention to negotiating the issues that can clearly be subjected to the negotiations process.

The Process of Negotiations

Any negotiable issue can be brought to the bargaining table by either the board or the association. Once raised in bargaining, both parties have the responsibility to negotiate in good faith over all mandatory topics of negotiations. However, the good-faith requirement does not involve the obligation to concede on any negotiable issues; it does not preclude either side from advancing and vigorously defending its respective position nor does it preclude hard bargaining. The same principle will apply in negotiations of continuing education issues. Both the union and the board will continue to have the responsibility to use the bargaining process to attempt to resolve their conflicting approaches towards the old negotiable issues that will be raised by the new requirement: time and money.

Local associations, as well as boards of education, may have an interest in negotiating changes in their districts' current approach to professional development. Not surprisingly, however, unions' interests are likely to be quite different than those of school management. While specific proposals are likely to vary from district to district, it can be generally expected that board proposals will seek to safeguard the administration's flexibility to deliver the district's educational program and to achieve control and predictability of costs. Conversely, union proposals are likely to reflect, at least initially, the conflicting goal of limiting individual teacher's responsibilities and increasing the board's commitment to fully fund the costs of continuing education within the confines of existing work time. Resolving conflicting perspectives over time and money has always been at the heart of the bargaining process. However, in the context of a relatively new issue that is still subject to ongoing developments, continuing education holds a number of uncertainties and conflicting interpretations that may complicate resolution of these issues and the process of negotiations.

Uncertainties and doubts lead to differing interpretations that may intensify conflicting perspectives. Lack of information may result in ill-advised agreements to an unfamiliar issue. Boards can minimize both the immediate and long-term difficulties that may complicate negotiations of continuing education by being well-informed as to their obligation under the Code and recognizing the importance of board goals in resolving the time and money issues raised by the new requirement.

Assessing Boards' Obligation "To Assist and Support"

The Code requires boards of education to "actively assist and support a teacher's efforts to meet the requirement."¹⁰ Unions may take this phrase out of context to argue vociferously that the Code requires boards to pay the full costs of continuing education and to provide release time during the existing school year for teachers to meet their new responsibilities. While boards cannot ignore their underlying obligation under the Code to "assist and support" teachers' efforts, they also cannot allow this phrase to be misread to diminish the specifically delineated rights of boards of education. Boards also cannot accept that the Code even implies a mandate that boards provide full, or even partial, board funding and release time for all continuing education activities. A full understanding of the provisions of the Code can help boards put the phrase in its proper perspective and to deflate the union's distorted rhetoric.

Boards' responsibility to "assist and support" involves a number of activities specified in the Code, such as providing: a process of PIP development that assists teachers to identify training that will be meaningful to the improvement of their skills; a process to monitor teachers' efforts through supervision and evaluation; and a local inservice program that is well-suited to the needs of the district and its teachers. Funding of the requirement is not a responsibility that is directly specified in the Code.

However, the Code does infer that boards may have a local responsibility towards funding courses and providing release time. The Code clearly states that "it shall be each active individual teacher's responsibility *in conjunction with district board of education policies* to take whatever steps are necessary in order to meet the requirement."¹¹ Boards' negotiated agreements are board policies. These policies, addressing terms and conditions of employment, may include a defined board obligation to provide funding and time for teachers' additional training. Thus, boards' obligation to provide release time or to pay for continuing education is strictly a matter that is controlled by local contractual agreements.

Boards' Responses Boards will therefore be prepared to know that they do not have a legal obligation to agree to fully, or partially, pay the expenses teachers incur in complying with the required 100 hours of continuing education or to provide release time. In negotiating the extent of their contractually defined financial support, boards must also keep in mind that their teachers are legally individually accountable to meet the 100-hour requirement. Thus, boards can determine their ability to incur the additional costs of continuing education in the same way in which they assess their ability to agree to any other contractual costs affiliated with employment. The tried and

true bargaining approaches of setting bargaining goals and parameters, costing proposals, linking all economic items together and keeping track of the total cost of a proposed settlement will be equally applicable in these negotiations as they are in bargaining over any economic issue.

The Importance of Board Goals

In all negotiations, a board's underlying philosophy and approach to managing its district are fundamental considerations in establishing bargaining goals and parameters. A board's ability and willingness to provide and fund a benefit are also strong expressions of its educational, budgetary, and operational goals.

Boards' decisions of how to approach the costs of continuing education will involve the same considerations. Budgetary constraints will be important in determining a board's ability to fund the new or extended benefit. Boards will need to consider how increased expenditures in this area will affect other budgetary allocations and how much they can afford to spend on continuing education. The short and long-term budgetary implications of any economic issue are the underlying reasons that boards always need to predict and control their contractual costs of employment.

Philosophical beliefs will also affect the formulation of boards' goals. Some boards may believe that teachers must assume the primary responsibility to meet the State's continuing education requirement. Some boards may have welcomed the State's professional development initiative and are ready to fully fund all activities that are endorsed by the State. Other boards may have strong objections to the types of activities that can count towards the 100-hour requirement and are not willing to allocate any resources to activities that do not comply with their district's local vision of appropriate staff development.

Similarly, boards' attitudes towards providing release time during the normally scheduled school day will be strongly influenced by their philosophical beliefs and their educational policy goals. Some boards will have firm beliefs that teachers are responsible to fulfill their 100 hours on their own time. Other boards will have strong objections to any arrangement that places teachers' responsibility to continuing education above their accountability to meet the students' instructional needs. Still other boards will find that they are sympathetic to the benefits of supporting staff development during teachers' existing work time.

Decisions to define a board's goals and positions on continuing education issues based on philosophical and budgetary considerations are perfectly logical and legitimate. The specifics of districts' goals will, of course, vary tremendously based on each local board's unique situation, but all boards must establish their local bargaining goals before they formulate their specific approaches to negoti-

¹⁰ N.J.A.C. 6:11-13.4 (b).

¹¹ N.J.A.C. 6:11-13.4 (a), emphasis added.

ating over the time and money issues raised by the continuing education requirement. Board goals will become boards' guidelines and reference points at all times during the negotiations process. Board goals will influence board proposals and counterproposals and shape the ultimately negotiated issues of time and money related to the continuing education requirement.

Negotiating Over Uncertain Costs and Time Issues

The major negotiable issues emerging from the new requirement are the very basic questions of money and time. The old and predictable issue of "who pays, how much and when" is likely to be complicated by the fact that continuing education is a relatively new issue that is still subject to ongoing development. Boards' ability to handle these uncertainties involve their readiness to: understand the uncertainties surrounding the issue of time spent on continuing education; appreciate the uncertainties of calculating the costs affiliated with the continuing education requirement; and develop appropriate and productive approaches to obtain or retain their desired instructional time and predictability and control of their costs.

The Uncertainty and Unpredictability of Costs

Boards' effective negotiations have always been marked by the goal of obtaining predictability and control of their contractual costs. This goal has required careful calculations of the costs of all proposals and potential agreements. However, boards' ability to calculate the actual costs of funding continuing education activities during any one contract year can be complicated by a number of factors, including the uncertainties of immediate costs and the possibility of unknown long-term implications. Boards must be familiar with these pervasive uncertainties to be able to respond effectively and meet their goals of controlling and predicting the costs of employment.

Uncertainties of Immediate Costs It is not surprising that under the new and still evolving continuing education requirement, the immediate costs of meeting the requirement are uncertain. It must also be expected that the cost of state-approved continuing education activities and trainers will not be well-established during the first few years following implementation. Then, each teacher's costs will vary from year to year depending on: the number of activities that will be pursued in any one year and the specific cost of each hour of training. In addition, it will also be difficult to predict the costs of funding the district's local professional development. The design and extent of this plan, and the approved trainers that may be involved, will change from year to year, based on changing district and teachers' needs.

The difficulties of attaching a fixed or even approximate price tag to the costs of continuing education will be magnified by boards' inability to rely on their district's past experience to set a general framework of cost expectations. The State's mandate for the participation of all teachers and the variety of expanded activities that can satisfy the requirement, invalidates guidelines set by a district's historical costs since those were based on limited and generally voluntary teacher participation in continuing their education.

The continuing education requirement also holds the possibility of numerous "hidden costs." For example, providing substitutes for teachers who attend workshops during the school day is an unstated, but related, cost of the 100-hour requirement. In addition, the almost universal procedure of providing advancement on the guide, based on the attainment of additional educational credits, may hold the most significant "hidden cost" of the continuing education requirement.

Unknown Long-Term Implications Boards must be aware of the potential, but not readily apparent, expenses of horizontal movement on the guide. While the cost of new columns and the cost of changed standards for horizontal advancement on existing columns of the guide are typically included in the calculation of a negotiated salary increase, movement to existing columns is generally not part of the settlement. Thus, at the time a salary increase is negotiated, boards may not be aware of, or be able to project, the cost of the horizontal movement that will occur during the life of the agreement. Nevertheless, this is a cost that the board will incur. As more teachers move to advanced columns and earn greater salaries, these increases will also inflate the district's salary base and result in higher dollar increases in future rounds of bargaining.

The "hidden costs" of guide structure have always been a consideration in calculating the costs of professional development. However, under the continuing education mandate, the increase in the number of teachers who may become eligible for automatic salary increases can exacerbate the damaging impact of these unexpected costs.

Responding to Cost Uncertainties

The ability to control and anticipate the costs of a benefit, and the total cost of employment, is a crucial element in boards' negotiations of any issue. Many boards of education have already achieved significant cost control of traditional professional development provisions, such as tuition reimbursement. Other districts' review of their current agreement has resulted in the identification of needed additional cost controls. Yet, in the face of the uncertain costs of continuing education, boards may find it extremely difficult or almost impossible to apply their traditionally careful and precise cost calculations to proposals and potential agreements to continuing education.

Nevertheless, boards cannot allow these complications to become a deterrent to their efforts to control and predict their costs of providing benefits to their teachers' bargaining units.¹² Rather, boards must further develop their method of costing proposals to achieve predictability and control of costs that may remain vague and uncertain. Including the following elements in all proposals, counter-proposals and contract provisions can help boards to retain, or obtain, effective control of the costs of continuing education.

Capping the District's Total Funding Obligation The best way to protect a district from unexpectedly high costs in any contractual benefit is to establish a dollar cap on the board's obligation to the entire bargaining unit's use of the benefit. For example, a total cap on a district's tuition reimbursement plan for all teachers protects a board from additional costs that can be affiliated with teachers' higher use of the benefit or increases in tuition rates.

However, boards must keep in mind that the costs of continuing education will not be limited to tuition reimbursement for formal coursework. The costs of continuing education will also involve costs of workshops, seminars, and other state-approved continuing education activities. Thus, established caps on each provision that addresses costs related to continuing education provides excellent cost controls, as long as a board keeps track of its total costs of funding all of these provisions. A helpful approach to keeping track of the total costs of each component of continuing education is to include all clauses that address any aspect of the program in the same contractual article.

Another, and easier means of controlling the total costs of funding continuing education, is to set a "wrap around" cap on the total costs of funding the entire bargaining unit's continuing education responsibilities. This approach eliminates the need to keep track of the sum of all capped elements and also permits more flexibility in the allocation of funds within the individual elements. Again, having all components of the benefit in the same article provides greater ease in monitoring the administration of the benefit.

Caps are extremely useful in providing boards with both short and long-term protection against increased costs. Frequently, boards tend to minimize the benefits of caps that appear unlikely to become effective during the life of the contract under negotiations. Although the benefits of these caps may not be immediate, they nevertheless ensure long-term cost controls and their importance and value to future boards should not be dismissed. Further, boards can negotiate other forms of cost protection that supplement a cap's futuristic protection and provide cost controls during the life of the contract. Approaches that are most useful in supple-

menting caps are discussed below.

Avoiding "Blank Checks" Contractual provisions that unconditionally commit a board to cover costs essentially result in requiring the board to write a blank check to the bargaining unit. Conversely, provisions that establish conditions or criteria for board expenditures provide the board with the ability to control the types of costs it will incur. Conditions or eligibility for payment may not provide a board with an absolute dollar limitation on its expenditures. However, carefully considered prerequisites can reduce the occasions for payment and assure that a board is paying for activities that it can philosophically support. As such, conditions for payment add an element of cost control.

Possible conditions that control boards' expenditures for continuing education include, but are not limited to: requiring prior administrative approval of the activity in order to receive payment; restricting board payment to certain categories of continued education activities; limiting the number of hours of continuing education that the board will pay for each teacher; and limiting the dollar amount that the board will allocate for each teacher's continuing education.

Avoiding "Escalator Clauses" Related to "blank checks," escalator clauses are those that build-in automatic increases for costs that may be outside the board's control, without the benefit of additional negotiations. For example, tuition reimbursement that is based on "the state college rate" commits a board to pay the full increase in tuition rates. Similarly, basing teachers' additional hourly compensation on their per diem rate results in an automatic escalator clause. By way of contrast, tuition reimbursement clauses and additional compensation clauses that are based on a flat dollar rate do not lead to automatic increases. Under this type of language, any increase in the board's obligation to tuition reimbursement or to an hourly compensation rate must be the subject of further negotiations.

Contracts that establish clearly defined dollar rates of compensation prevent automatic increases or "escalator clauses" and are clearly more advantageous to boards. Rather than guaranteeing automatic increases, this type of clause requires additional negotiations where the burden of seeking future increases falls on the union. Further, escalator clauses must be avoided for a number of reasons. First, they create and perpetuate the perception of a continuous entitlement to annual increases in the benefit. They also reduce boards' bargaining leverage, their ability to accurately calculate the cost of future settlements and create additional hidden costs of employment.

Guarding Against "Hidden Costs" Boards must be fully aware of the potential, but not readily apparent, costs contained in implementing continuing education. For ex-

¹² Boards also need to carefully evaluate their decisions to live with obstructive provisions until additional cost and time certainties are established. The negative impact of living with lack of administrative and financial controls for a number of undefined years may be most damaging to the district. In addition, boards must be careful of agreements to reopen negotiations during the life of a contract for the single issue of continuing education. Single issue reopeners can create a lot of problems for boards of education. Before proposing or agreeing to this type of arrangement, boards should consult their labor relations resources, including the NJSBA Labor Relations Department.

ample, if the local district's Professional Development Committee meets during the school day, the cost of substitutes who will be needed to cover the classes of the teachers who serve on the committee results in a "hidden cost." While the number of teachers serving on the committee is limited, the number of hours that will need to be devoted to the committee's work may well exceed all expectations and may result in a significantly high cost of substitutes.

Boards will want to be aware of the possibilities of all hidden costs and establish conditions that limit their exposure to uncontrolled expenditures. For example, a limitation on the number of hours that committee members can meet during the school day can result in a cap on the cost of substitutes. In addition, close attention to the structure of the salary guide can be most helpful in limiting the hidden costs of horizontal movement on columns of the guide.

Controlling Movement on the Columns of the Guide

Contracts that contain clearly defined limitations on conditions for movement on the columns of the salary guide provide a great deal of cost controls for a board. Contracts that restrict guide movement to limited conditions offer boards greater ability to predict staff eligibility for movement and to control their costs of employment. There is no legal requirement that all professional development activities, or those that are paid for by the board, must count towards movement on the guide. Thus, conditions for eligibility for new column placement is a separate and distinct negotiable topic. Examples of limitations on guide movement include, but are not limited to, conditions that involve: the attainment of a graduate degree; graduate credits attained in the pursuit of an advanced degree; or to credits that have obtained the administration's prior approval as creditable for guide movement. Other controls of movement on columns of the guide involve a guide structure that contains few columns that are restricted to a limited number of advanced degrees.

Boards must also be alert to provisions that increase the opportunities for staff movement on the guide. For example, provisions that convert hours spent in workshops, seminars or inservice into credits for movement on the guide could lead to an extremely high and unexpected future "hidden cost" of employment. If a board philosophically supports this approach, it must calculate the result of any formula that will be applied to assure that the costs remain acceptable. All of these approaches help a board to maintain a degree of control and predictability of the largely hidden and future cost of guide movement.

Summary As the continuing education requirement is a relatively new issue, the costs of funding teachers' new responsibilities are unpredictable. Further, even when costs become better defined, predictability will be difficult as changing teacher and district needs, as well as code requirements themselves, may result in many changes that will affect the reliability of calculations. Nevertheless,

boards can develop effective techniques to handle the uncertainties of the total continuing education bill. First, boards must assure that any proposed board funding of the requirement is in accordance with their district's goals. Boards then have at their disposal a number of approaches and strategies that can help them to negotiate productive contractual provisions that can offer boards strong and meaningful control and predictability of their costs.

The Uncertain Impact on Instructional Time

Work time is a well-established negotiable term and condition of employment that has traditionally reflected the different perspectives of the parties. Typically, unions have sought less time while boards have sought increased time commitments from their staff. For a number of years, boards have used effective bargaining techniques that have resulted in changes in specified amounts of increased student instructional time. However, the requirement for teachers' continuing education may hold a concurrent, unforeseen and undefined reduction in students' instructional time. The potential for reduced instructional time may threaten boards' past gains in achieving more time and boards' goals for their educational and instructional program. Yet, how much instructional time, if any, will be lost in any district as a result of the continuing education requirement remains difficult to predict.

The Continuing Education Code establishes the number of hours that teachers must take every five years. However, within that broad time frame, the Code does not specify when and how that must occur. Further, the time uncertainties are increased by the variety of activities that can satisfy the 100-hour requirement. Teachers may take out-of-district training as well as in-district training. Each approach, and the combination of the two, holds a different impact on instructional time.

Out-of-District Training First, time lost because of out-of-district training is highly dependent upon a board's goal. Boards that are adamantly opposed to providing release time during the workday and do not have a contractual agreement or a past practice granting leave for attendance at workshops may not lose any instructional time because of this category. In those districts, teachers will need to pursue their out-of-district training on their own time and it is almost a certainty that these local unions will be strongly committed in the next round of negotiations to obtain changes to provide release time during the work year.¹³

However, regardless of the board's contradictory goals, many districts have existing contractual provisions or practices that permit some type of release time for professional development. In these districts, the loss of instructional time will exceed the amount of time that teachers actually spend on their continuing education: attendance at an

¹³ Unions are also likely to seek additional compensation for attending workshops outside the normal work time.

out-of-district workshop requires travel time and a three-hour workshop for one teacher may result in the loss of an entire day's instructional time. The number of teachers who will use release time, and the amount of time they will need, is not only difficult to predict but will also change from year to year. Yet, the loss of instructional time related to out-of-district activities may become a significant problem that cannot be ignored by boards in their upcoming negotiations.

In-District Training All districts have included in-district, or inservice, training programs in teachers' work year for many years. Days devoted to inservice have always meant that instruction was not provided on these teachers' work time. Under continuing education, districts' inservice programs may be extended by their approved local professional development plans required by the Code. An expanded inservice program may increase the amount of time that districts spend in non-student contact time and thus further reduce the amount of instructional time that can be scheduled within a negotiated teachers' work year. The potential for the loss of instructional time due to in-district training can thus have an impact on all boards of education. Yet, the amount of that time remains undefined and uncertain.

N.J.A.C. 6:11-13.2 (d) specifies that completion of each actual hour of inservice training shall satisfy one hour of state-required continuing education. However, the actual number of hours spent in an inservice program will depend on a number of factors, including the topic selected to meet a particular district need, the particular trainer, and the design of the inservice program. It may therefore be difficult for both the board to predict the number of hours or days that will need to be devoted to inservice during all the years covered by a negotiated contract. In any one year, a district may find that the inservice program that is desired to meet the needs of the district and its teachers involves more time than is available in its work year and would require an unacceptable reduction in the number of student days.

Therefore, boards will need to be particularly alert to the impact of continuing education on students' instructional time. More than ever, they will need to carefully assess the ability of their negotiated workday and work year to accommodate both the teachers' and the students' needs. Boards will also need to explore means of assuring that their students receive the appropriate amount of instructional time that is necessary to meet the district's educational goals.

Responding to Time Uncertainties

All boards must be alert to the impact of continuing education on their districts' instructional time. That impact, which will vary from district to district and from year to year, may be difficult to quantify. Yet, all boards must be aware of their district's goals and adopt approaches that will permit them to protect their instructional program. Including the following elements in all proposals, counter-

proposals and contract provisions can help boards to retain, or obtain, effective control of their instructional time.

Retaining a Focus on Boards' Goals for Instructional Time The new focus on continuing education cannot, and should not, lead to diminished attention to boards' goals for their educational and instructional programs. While each district's unique circumstances will lead to differences in specific goals, all boards share the mutual commitment and responsibility to provide their students with a quality educational program. Boards must keep their instructional goals in mind and agree only to time proposals that concur with their goals. All proposals, counterproposals and potential agreements will need to be examined in light of the board's bargaining goals and of the district's need to safeguard the continuity, quality and quantity of their students' educational programs.

Assuring Sufficient Time Given the Code's requirement for inservice, all districts must review their negotiated work year to assure that their contracts provide sufficient work time to accommodate inservice programs without damaging their instructional program. This could mean the need to seek a negotiated extension of the length of teachers' work year. In addition, boards will also need to assess the amount of daily instructional time and guard against conditions that would lead to unacceptable opportunities for lost instructional time, such as: commitments that PIP objectives must be fulfilled during the normal workday and work year; an increase in the number of student half-days or in the number of professional days.

Providing Management With Flexibility Contracts that provide school management with the flexibility to respond to changing circumstances are always beneficial to boards of education. This flexibility becomes particularly important in negotiating work time provisions under the new and still evolving continuing education requirement. Negotiated flexibility in the workday and work year of teachers may, frequently, be more valuable than a fixed and limited, but ultimately insufficient, increase in time.

Unfortunately, however, most existing contracts contain fixed definitions of how workdays will be used, such as clear restrictions on the number of days that can be devoted to student and non-student contact days. These contractual definitions eliminate the administration's flexibility to reschedule existing workdays. Boards will be extremely well-served by seeking a reversal of this approach to provide as much flexibility as possible within any given negotiated work schedule.

For example, boards can seek contractual changes that authorize the administration to modify or deviate from the specific restrictions of the negotiated work year and workday to accommodate the district's changing needs. For example, boards can seek blanket authorization for the administration to make all or some of the following changes in the work year: substitute scheduled inservice time with instructional time; substitute instructional days that exceed the required 180 days with inservice days; reduce the number of days reserved for end-of-the-year administrative

responsibilities to use that time for student or teacher instruction; increase the length of the negotiated work year by a specified and limited amount to provide teachers with the opportunity to attain hours that can count towards their continuing education requirement.

Additional flexibility during the workday can also be achieved if school management obtains discretion to: exchange a number of faculty meetings for an extended workday that will be devoted to inservice; eliminate or reduce the number of scheduled teachers' half-days to provide additional inservice or student instruction; or extend the length of a number of workdays to provide in-district training that can count towards teachers' continuing education requirement.

Providing Strong Administrative Control The Code provides administrative control of continuing education activities through the nonnegotiable issue of developing effective PIPs for each teacher. However, additional control over the administration of continuing education may be negotiated. For example, a change in how release time is granted would require negotiations.

Boards can provide administrative control over release time through a variety of approaches, including but not limited to: a requirement that teachers obtain administrative approval before they can be released from their normal duties to attend a workshop; restrictions on the number of occasions that release time will be granted to any one teacher; limitations on the number of teachers who can be released in any one day or week; specified days on which release time will not be granted; and a combination of all of the above restrictions.

Summary The issue of the impact of continuing education on districts' instructional program is a major issue in negotiations of the new requirement. How much instructional time may be lost will vary from district to district, based on different conditions and boards' willingness to agree to release time for teachers to pursue out-of-district activities. The requirement for a state-approved inservice program may, however, impact on all districts' instructional time. While the amount of time remains uncertain, boards can use a variety of techniques that can help them to negotiate productive contractual provisions that can protect their districts' instructional program.

Summary

Although negotiations over continuing education issues will be marked by a number of uncertainties, boards have a number of approaches at their disposal that can help them to meet their bargaining goals of guarding their instructional programs at controllable cost. These approaches establish helpful administrative control but do not in any way limit the number of hours that a teacher can accumulate towards their required 100 hours of continuing education. These administrative controls simply limit a

district's responsibility to pay for all continuing education activities and to provide release time at all times to all teachers to attend to their continuing education responsibilities.

In Conclusion: Tips for Effective Bargaining

While continuing education introduces new wrinkles to the old negotiable issues of time and money, these issues can best be handled by the old, tried and true bargaining techniques that have been the hallmark of all effective negotiations.¹⁴ This includes the ability to assess the short and long-term implications of contractual clauses and bargaining proposals. It includes the need for thorough preparation, slow and incremental movement, for grouping and packaging economic items, and for patience and resolve. However, in light of the new uncertainties raised by continuing education a few bargaining approaches and techniques are particularly important to keep in mind. These include: thorough preparation to assess the union's positions; the importance of first time negotiations; keeping track of the total cost of the settlement; and the need for board unity and resolve.

Thorough Preparation to Assess the Union's Positions

Boards need to anticipate that their unions will be exceedingly well-prepared to face negotiations of continuing education. It can be expected that they will have a strong commitment to guarantee that their members' work time is not extended by their new responsibility to obtain 100 hours of continuing education every five years. As such, union proposals will very likely seek opportunities for release time during their normal workday and work year to obtain their creditable hours. Unions will also be seeking guarantees that their members do not bear additional costs to fulfill their requirements. As such, they will be seeking full and unlimited board payment of all costs affiliated with the requirement. Boards will need to be prepared to understand the short and long-term implications of union issues that are brought to the bargaining table. (A clause by clause analysis of the most common union proposals received by boards of education can be found in the Appendix to this article.)

Boards must also be prepared to understand the tactics that unions will bring to the bargaining table to increase their chances of obtaining their desired changes. The following guidelines can help boards respond to predictable union tactics.

Don't Rely on Union Interpretations of the Code's Requirements Unions may assume that the board is uninformed about the provisions of the Code. They can, therefore, be expected to present with great assurance

¹⁴ For a thorough discussion of bargaining techniques, please see the Bargaining Skills section of *The Negotiations Advisor*.

their interpretation of the Code. However, these “statements of facts” will be marked by their own perspectives and desires. Boards must be well-prepared with their own understanding of the Code to be ready to counteract any misrepresentation the union may be advancing. Letting the union know that the board is well-informed and well-prepared for these negotiations will deflate the union’s attempt to have the board buy into the union’s inaccurate characterization of the Code’s requirements.

Don’t Be Intimidated by the Union’s Rhetoric As always, the union is likely to present its positions firmly, loudly and frequently. It is likely to present arguments of fairness and equity. It is likely to overstate the importance of these issues to the bargaining unit and to the ultimate settlement. Boards must listen to their unions’ arguments, but boards cannot allow even the most eloquent union speeches to overshadow the board’s own goals for continuing education. Boards should take opportunities at the bargaining table to express the board’s own goals and needs.

Don’t Assume That the Union Is Wedded to Its Initial Proposal Too frequently, boards readily accept their unions’ frequent assertion that their proposals are an essential prerequisite to a settlement. In fact, unions are very aware of the need for slow and incremental movement from an initial proposal and, in due time, will start to seek a negotiated compromise. Keep in mind that their persistent repetition of their need for their proposal, as written, is intended to wear the board down and to test the board’s resolve. In short, this is a deliberate union tactic designed to mislead a board to concede more than is actually necessary to obtain a settlement on the issue.

Be Ready to Say No Boards must not be too quick to accept either the union’s initial posture or even some reluctant but small movement away from its position. If the board’s goal remains largely unmet by the union’s new position, the board must be ready to reject the union’s position or concession as insufficient. If what the union is proposing is completely contrary to the board’s goals, then a board must be prepared to reject any agreement to that particular issue. This “tried and true” bargaining technique is particularly important in negotiating a new issue.

The Importance of First Time Negotiations

Negotiating new provisions always requires careful attention. Once parties’ rights and obligations are formalized in contract language, it is not easy to obtain necessary negotiated changes. If a board inadvertently or unknowingly agreed to unwise first time commitments that complicate the district’s operation, it may be most difficult and extremely expensive to regain meaningful discretion for the administration or to establish cost controls in the future. Therefore, boards must be thoroughly aware of their goals and the short and long-term implications of proposals and counterproposals. They also must be famil-

iar with the contractual elements that are necessary to maintain, and to obtain, protection of their operational and financial needs. Boards must also remain committed to engage in negotiations that will result in contract language that will be most suited to protect their interests.

Obtaining good administrative control in first time agreements may be eased if the issue also provides a new benefit for the bargaining unit. Unions will be far more receptive to agree to boards’ stated needs if they become convinced that meeting those needs is the only way they can obtain the new benefit for their members. Similarly, unions are more likely to ultimately agree to far less than they initially proposed just to “get a foot in the door.”

This does not mean that unions will quickly or eagerly reduce their demands and easily concede to the boards’ points. It does mean that, *if* the new benefit is important to the membership and *if and when* the union becomes convinced of the board’s resolve, they will reluctantly agree when the time is right. Boards then need to be patient and not too eager to accept counterproposals that still do not provide sufficient protection for the board. The best advice to boards under these circumstances is: know what you need, be patient, and don’t settle too soon.

Keeping Track of the Total Cost of Settlement

Keeping track of the total cost of the settlement is always good and sound advice. It is particularly true when negotiations involve the issues of time and money. In these negotiations, unions are fond of saying that “time is money.” That usually means that they may be willing to give some of the time the board is seeking as long as the board is willing to pay for it, above and beyond the increase in salary the union would accept without the additional time. Boards must be prepared to reject that old argument that, unfortunately, marked many past rounds of negotiations. More recently, however, boards have gotten to be far more sophisticated negotiators and now are more typically prepared to replace the union’s outdated rhetoric with a bargaining approach that links increased time to any increase in salaries.

With this approach, boards present all their proposals on salary increases as inclusive of their ability to obtain the time they are seeking. Boards are prepared to constantly remind the union that any salary increase is contingent upon the time sought by the board.

In addition, an important aspect of keeping track of the total settlement requires that boards also be prepared to continuously refocus the union on the board’s bottom line. Boards that have the facts, and the patience and commitment, can continuously remind the union that a dollar spent on continuing education reduces the amount that is available to fund other increases, including the bargaining unit’s salary increases. Again, this message may not be easily or quickly accepted by the union. However, repetition and evidence of the board’s resolve to link all economic issues to the bottom line of the settlement will eventually be heard and reluctantly recognized by the union.

Preparation, Patience, Commitment and Unity

Negotiations takes time and skills. Boards that have taken the time to know their goals, their bargaining needs, the implications of proposed language, and approaches that can safeguard their interests are well-prepared to face negotiations over continuing education issues. Boards that are ready to withstand unions' stubborn attempts to test

boards' resolve in a frequently slow and torturous process can develop the patience that is necessary to all negotiations. Finally, boards that have the full commitment of their members, and the ability to maintain their unity, can be most successful in reaching negotiated conditions that will allow them to obtain, or retain, the ability to administer the continuing education requirement while protecting management's flexibility and ability to predict and control the total cost of employment.

APPENDIX

ANALYSIS OF UNION PROPOSALS ON CONTINUING EDUCATION

An important issue that boards need to clarify in analyzing a union proposal is whether the proposal is intended to replace existing articles or provisions on professional development (such as tuition reimbursement) or is it intended to supplement existing provisions. The answer can have a significant impact on a district's costs and obligations: as a supplement, boards would continue to incur the obligations in existing contract clauses on this issue that have not been put on the table. Since many areas of a contract can be af-

ected by continuing education (such as: clauses in the Temporary Leaves and Salary articles; the structure of the salary guide, etc.), boards must read any proposal (including board proposals and counterproposals) on continuing education in the context of their entire contract. For a full discussion of the general principles involved in analyzing other aspects of the contract, please see the article "An Analysis of Professional Development Clauses" in the Selected Contract Clauses section of *The Negotiations Advisor*.

EXAMPLE 1

This proposal, with some variations, has appeared most frequently as the local union's proposal on continuing education. It is attributed to the NJEA and has been referred to as the "NJEA's Sample Agreement."

PROFESSIONAL DEVELOPMENT AND EDUCATIONAL IMPROVEMENT

A. Purpose

In our rapidly changing society, teachers must constantly review curricular content, teaching methods and materials, educational philosophy and goals, social change, and other topics related to education. The Board recognizes that it shares with its professional staff the responsibility for the upgrading and updating of teacher performance and methodology. The Board and the Association support the principle of continuing training of teachers and the improvement of instruction. The parties further agree that each teacher should fulfill the obligation for professional improvement in ways that best serve her/his own problems, functions, interests, and needs.

The Board agrees to implement the following commencing with the 1999-2000 school year.

B. Professional Development Committee

1. Role of the Committee

The Committee shall be empowered to work in conjunction with the district superintendent, with input from parents, community members and local business leaders to assess in-service needs and professional development opportunities and to plan and implement professional development programs in accordance with the standards established by the state Professional Teaching Standards Board and by the Commissioner of Education at the board's recommendation. The Committee shall present its plan to the County Professional Development Committee for its review and recommendation.

In the event revision is needed, the Committee shall have the sole responsibility for revising and resubmitting the plan.

A. This is a goal statement that is neither necessary nor suitable to a negotiated agreement. Boards will want to carefully review the contained statements to determine whether they comply with board goals. For example, the first sentence appears to link continuing education to research, but not to improved classroom instruction. Nevertheless, even if there is board support for these statements, including them in the contract can be used against the board as an arbitrator can then rely on these clauses to resolve a dispute that could arise under this provision.

However, boards *should not* agree to the last sentence: teachers must fulfill their obligations not to serve their own problems or needs, but to become more effective teachers to meet the students' needs.

B. 1. The role of the Committee is fully described in *N.J.A.C. 6:11-13.3(d)*. It is unnecessary and unwise to attempt to restate its role in a negotiated agreement. A contractual restatement is open to misstatements (as this one demonstrates, see below) and, if included in the express terms of a negotiated contract may become reviewable by a labor arbitrator.

Note: The second paragraph totally misstates and misrepresents the Code's provision. The Code specifically reserves the right of final approval, or disapproval, for the board of education. The last sentence usurps the board's role by endowing the Committee with the sole responsibility of revising the plan. In fact, a board that rejects a proposed plan can and should provide reasons for its rejection and therefore the board is instrumental in developing revisions to a new plan.

2. Composition of the Committee

The Committee will be comprised of four classroom teachers elected by the district's instructional and educational services staff through their majority representative and two administrative staff appointed by the superintendent of schools. They shall elect a chairperson from among themselves. Committee members shall serve three-year terms. Initial terms shall be staggered.

-OR-

The superintendent shall appoint two (2) members and the Association shall elect four (4) members to the Committee. The six members of the Committee shall elect a chairperson from among themselves. Said individuals shall serve three (3) year terms. Initial terms shall be staggered.

3. Conduct of Committee Business

(a) The Committee will be given a working budget and secretarial assistance sufficient to complete its mission. Each unit member serving on the Committee will receive _____ (hours/periods) of release time and/or per hour payment equal to the individual's hourly rate. Said rate to be calculated using the following formula: 1/200th of the individual's annual salary divided by the number of hours in the workday. Workday is defined as time between required sign in and sign out.

(b) The Professional Development Committee shall establish its own rules and procedures. The Committee will develop the appropriate forms needed to conduct its business and meet its responsibilities to the district and individuals. Said forms will include but not be limited to application forms, payment requests and maintenance of individual training hours.

B.2. The composition of the Committee is also addressed in the Code cited above. The Code also suggests that the conduct of the Committee shall be in accordance with rules developed by the PTSB. The reference to the selection of the chairperson may therefore be ultimately addressed through guidelines.

Also note that both options listed here conflict with the Code's requirement that, to assure continuity, initial members' terms shall be staggered with half of the members serving two years and the other half serving three years. The Code also specifies that subsequent terms shall be for two years and that members can be reappointed up to three times.

B.3. As cited above, the Code suggests that the PTSB will issue recommendations for the conduct of the Committee. A contractual commitment may therefore be unnecessary and unwise.

B.3.a. Although a board may be inclined to provide the Committee with a working budget and a secretary, these issues are outside the scope of negotiations. Budgetary allocations are not negotiable (*Rutgers*, PERC No. 76-13, 2 *NJPER* 13) and neither are staff assignments or the deployment of staff (*Ridgefield Park Board of Education*, 78 *NJPER* 144, 1978).

The rest of a. that addresses issues of compensation for service on the Committee is negotiable, but a board's agreement is of questionable wisdom for a number of reasons. First, at this time, it is unclear how much time the local committee will need to carry out its continuing education responsibilities, and any other tasks that are delegated to the Committee by the Department of Education. Therefore, boards must be very careful that they are not writing blank checks to the Committee. Secondly, the proposal appears to provide a choice of compensation that is far from clear. For example, does the choice of compensation rest with the teachers? Or is release time the procedure that will be used if the Committee meets during the school day or can teachers seek "compensatory release" time for those meetings that are scheduled outside the school day? (Note that the Committee's responsibilities under the Code requires input from the community and thus after-school meetings are very likely to occur.) Further, section a. appears to establish a cap on the number of hours of release time; it is unclear if the "and/or" would obligate the board to pay an additional stipend after the defined release time is exhausted. In addition, no cap is placed on the dollar amount. Should you agree to this type of language, you are most unadvisably signing a blank check.

Finally, many boards have found that paying hourly rates for committee work is not only unjustified and possibly expensive but can also become an administrative headache as each teacher is eligible for a different rate. Further, a per diem rate is an automatic escalator clause that increases, without further negotiations, whenever the teacher's salary increases. Boards that are inclined to agree to payment for this committee's work should thus give serious consideration to a flat rate of compensation. Further, and of most importance given the uncertain nature of the amount of time the committee will need, any agreement to compensation must include a negotiated limit, or "cap," on the board's fiscal obligation. It would also be advisable to clarify whether the compensation cap is applicable to every year of the contract or is totally inclusive for the life of the negotiated agreement.

B.3.b. As noted above, the PTSB may issue recommendations for the Committee's conduct. The PTSB has also developed forms for local committees' use in submitting information to the County Board. It may therefore be unwise and premature to reach a negotiated agreement authorizing the Committee to develop its own forms. Further, and of greater importance, is the last sentence's definition

of the Committee's use of forms. At this point in time, there is no indication that the committees' authority will include any of the issues this committee is planning to address. The review of application forms and payment requests appear to be within the administration's role and not within the jurisdiction of the Committee. Agreement to this last sentence would appear to be extremely unwise.

C. Programs

1. Pay and expenses for training

The Board agrees to pay the full cost of tuition and other reasonable expenses incurred in connection with any workshops, seminars, conferences, in-service training sessions, or other such sessions which a teacher attends as a part of his/her continuing education plan and/or is required and/or requested to attend by the administration. Said expenses shall include, but are not limited to registration fees, transportation, material and lodging.

C.1. Pay and expenses for continuing education is negotiable. As proposed, however, this section holds many potential problems for the board. It is, in fact, a blank check which can be predicted to result in significant and totally unacceptable expenditures for a board. First, there obviously is no cap on the board's financial obligation to the unit as a whole or to each individual teacher. Secondly, payment is not limited to continuing education activities, but is applicable to any workshop (does it also apply to formal courses and thus supplement the possible restrictions of your tuition reimbursement article?) that the teacher may attend. Further, the kind of expenses that are "included, but not limited" by the third sentence is incredibly broad and could apply to all sorts of expenses, no matter how frivolous (such as first-class air travel and hotel accommodations) that are incurred by the teacher. **Not only should these expenses be capped, but they should also require prior approval of the administration.**

Further, it is unwise for a board to agree to any expense that does not comply with the board's goals. Boards may want to check their existing policies for possibly existing reimbursement procedures and exclusions to reimbursable expenses, such as: required receipts; caps on meal reimbursement; no coverage of liquor costs or costs incurred by a companion; etc. Boards that are inclined to agree to reimbursement for expenses may want to assure that their contractual agreement is consistent with their policy limitations.

Also, watch the word "reasonable" in the first sentence. What appears reasonable is obviously subject to many different interpretations and is open to many disputes. Unless specifically excluded from a negotiated arbitration procedure, the word will ultimately be defined by an arbitrator. It would be far wiser for a board considering agreement to any type of reimbursement to reject the word "reasonable" and replace it with "approved in advance by the administration." (Boards that have carefully worded and considered policies on reimbursement could also seek to delete the word "reasonable" and require that reimbursement be in accordance with board policy.)

2. In-service workshops, conferences, programs

(a) In any given year, the Board will provide in-service professional development experiences that will assist the teacher in attaining the required 100 hours of continuing education. The district experiences will be sufficient to meet the employee's annual progress requirement.

C.2.a. This section is of questionable legality. It essentially requires the board to provide sufficient inservice, in any one year, that would satisfy *all* teachers' continuing education activities for that year. This would appear to present significant interference with, and intrusion into, the board's right under the continuing education and the PERC law to set criteria for acceptable training programs. As such, this section would appear to not be negotiable.

Regardless of its negotiability, agreement to the second sentence in particular would be extremely unwise. This sentence would require a district to provide a program for any teacher whose PIP for the year contained a particular area of improvement that was not covered by the district's planned inservice program. The potential horrors of this "worst case scenario" are self-evident.

(b) In-service programs shall be conducted during the in-school teacher workday and work year if teacher attendance is required.

C.2.b. Is this acceptable to the board? Is there enough time in the existing teachers' workday or work year to accommodate additional inservice without damaging students' instructional time? To assure that training that occurs during the teachers' negotiated work time does not reduce or dilute the district's instructional time, boards may want to consider counterproposals to: lengthen the work year; to lengthen a number of workdays to provide inservice after school; and to assure administrative flexibility to deviate from any negotiated work schedule to provide sufficient instructional and inservice time.

(c) All district in-service programs shall be eligible for continuing education credit.

C.2.c. Agreement to this section would appear to dilute the intent of continuing education requirement. Some in-

district inservice may not be related to improving teachers' knowledge or application of instructional methodology or skills. As such, these sessions should not count towards continuing education credits. Further, it would also seem unwise to agree to include state-mandated training programs that are not related to improving instructional skills to be credited towards the 100 hours. (If this credit is required by the Commissioner, then the credit will be required and does not need to be included in a negotiated agreement. Check with your resources for the latest development in this area.)

3. Attendance at other programs

(a) All programs conducted by the district outside the in-school teacher workday, work year or during the summer shall be voluntary and compensated at the rate set forth in ARTICLE _____, Section _____ and/or quality for advancement on the salary guide as set forth in ARTICLE _____, Section _____.

← C.3.a. This is a confusing provision that would appear to not apply to continuing education credit. Since continuing education activities must be included in PIPs, attending identified in-district training, during or after the workday or work year, is required of the teacher. How, then, could attendance to fulfill the requirement be seen to be "voluntary"? Should a district already offer (or choose to initiate) a summer academy program, the language of this section would appear to preclude credit towards the 100 hours for this type of "voluntary" attendance.

The compensation language is negotiable. The "and/or" language should be clarified: do teachers get both? do teachers choose one and lose the other option? The board will need to assess the acceptability of the proposed approach. They will also need to check the provisions of the cited articles and, particularly with the eligibility for advancement on the guide, check both the short and long-term financial implications of this type of agreement. Further, boards will need to be alert to the union's proposed guides: are new columns added to the guides? what will be the impact of immediately placing staff who already have attained the additional credits required by the new columns? what will be the future impact of faster staff movement across the guide?

(b) Teachers will have the right to apply to attend Professional Development activities other than those approved by the State or County Standards Boards as part of the local professional development program. No denial of such a request shall be arbitrary or capricious.

← C.3.b. Again, this provision could not apply to continuing education credit as those activities must meet state standards. The intent of this section must be clarified. Do other sections of the contract cover similar situations and if so, why is this provision necessary? What kind of activities are contemplated as falling into this category?

The provision could be intended to assure that teachers are not limited in their selection of additional professional activities. This provision could also be consistent with board goals. However, under any circumstances, boards must assure that they do not become responsible for the payment of these costs, unless the activities: are related to the students' or the district's needs; receive prior administrative approval; and the teacher submits proof of successful completion. **As in all areas of expenditures, boards should also seek to cap their obligation.**

In this particular area which supplements the board's obligation to "assist and support" continuing education activities, boards must be particularly careful that the costs of funding these activities which are not state approved does not reduce their financial ability to meet their continuing education obligation. Be careful, therefore, of the "arbitrary and capricious" language in the last sentence which will, ultimately, be defined by an arbitrator. If a board is inclined to agree to a form of section 3.b., it may be advisable to include language in addition to a cap that states that approval will be based on the administrator's judgment of the activities' value to the district and its students and the availability of funds.

4. Summer program for professional development

The Board agrees to appropriate _____ (\$_____) dollars for a Summer Program for Professional Development to afford teachers the opportunity to participate in activities that they propose and that contribute to the professional development of the participating teachers. Participation in these activities shall be voluntary. Participants shall be compensated according to the rate set forth in ARTICLE _____, Section _____ and/or quality for advancement on the salary guide as set forth in ARTICLE _____, Section _____.

← C.4. The formulation of the budget, and allocation of budgetary funds, are not negotiable. *Rutgers*, PERC No. 76-13, 2 *NJPER* 13. Whether a board philosophically supports this type of program, which is totally based on teacher-defined goals and activities, will be a local decision based on the board's needs and goals. Boards will also need to decide if they are willing and able to fund the program as well as to pay teachers for the time spent on this type of program and then to provide increases in salaries based on movement on columns of the guide. Note that as written, the board would be writing a blank check to cover these

costs. Also note that the interaction of this article with other existing contract provisions is also a type of escalator clause: any future increases negotiated in the cited articles would automatically increase the costs of this provision. Further, be aware that the eligibility for advancement on the salary guide is a hidden cost that cannot be ignored.

D. Innovative Grants

In order to encourage educational creativity and sharing and to expand educational opportunities for students, the Board agrees to appropriate _____dollars to establish a grant program.

1. Grant will be made available to teachers for a development of innovative educational initiatives that enhance the educational program of the district and to provide professional development and growth opportunities for district staff.

2. A grant committee consisting of ___individuals will be established. The committee will represent various grade levels, (elementary, middle and high school). The committee will be responsible for establishing the guidelines, application and operational procedures governing the grant program. The application shall include the number of Continuing Education Credit hours to be earned toward the 100-hour requirement.

3. Individual grants shall not exceed _____ (\$ _____) dollars.

E. Trainers Credit

Any teacher who provides in or out-of-district training experiences for colleagues and/or community members shall receive hour for hour credit toward their 100-hour obligation.

F. Record Keeping

The district will maintain a record of the number of continuing education for each teacher and provide each teacher with an accounting of his/her accumulated hours each September. Any discrepancies between the district and teacher's records should be noted within 30 days of the board records.

← D.1. This section needs clarification. What is meant by "development of educational initiatives"? Changes in curriculum and in textbooks or other instructional materials would require board approval and the writer(s) of the grant could only provide recommendations. If the purpose of providing "professional development and growth opportunities for district staff" is to develop new inservice for the district that would be eligible for continuing education credit, then it would appear that this function is already being met by the local Professional Development Committee. (Note that a similar article has existed in the NJEA Sample Agreement for many years before the adoption of the Continuing Education Code and has rarely, if ever, been accepted by boards.) If the grants are meant to supplement the work of the local committee, then to count towards continuing education credit any program recommended by the grant would need to be approved by the County Board.

← D.2. Who will be responsible for naming the committee members? The union should not be given a free hand in appointing the members as this then becomes a representative of the union and not teachers. Should the committee also represent administrators and board members?
The second sentence completely ignores the board's legitimate interest and role in the operation of the committee. At the very least, even with board representatives, the board should be able to review and approve or disapprove both the committee's procedures and the nature of the grants.

Finally, the last sentence is also inappropriate. A definition of what counts towards continuing education is, and will continue to be, a function of the PTSB. (See *The Negotiations Advisor* article "The Continuing Education Requirement and Boards of Education.") Further, in accordance with *N.J.A.C. 6:11-13.2 (b) 2*, each teacher's continuing education plan must be included in the teacher's PIP. This proposal completely sidesteps this requirement.

← D.3. Who retains the right to approve each grant? This responsibility should not be left to the proposed committee as it appropriately belongs to the superintendent and/or the board. Without administrative oversight, management will not be able to assure the quality of the grants. Also, although the proposal caps the amount of individual grants, it does not cap the number of grants that will be granted each year. Will the total amount be defined by the board's budgeted (but not negotiated) allocations for this program? How will the grants be awarded? (The board should have the right to grant, or deny, requests for grants. Note, however, that like criteria for sabbaticals, these criteria are an exception to the general rule and may need to be negotiated. See, for example, *Willingboro Board of Education*, PERC No. 80-46, 5 *NJPER* 10240.)

← E. What counts towards continuing education credits, and under what conditions, is an issue that is in the process of being defined by the PTSB for the Commissioner's approval. Until the guidelines are fully developed, it would be foolish to agree to language that could ultimately conflict with nonnegotiable Commissioner's guidelines.

← F. Code requires districts to maintain a record of teachers' accrued hours. Presumably, the providing notice to teachers of their recorded progress and the resolution of discrepancies are procedures that are negotiable. However, before agreeing to any date and time lines, boards should consult with their administrative staff to assure the feasibility of considered time frames.

EXAMPLE 2

In addition to the most common proposal presented above, boards have also received proposals analyzed below:

ARTICLE XIII

Professional Leave

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| A. For the purpose of completing the 100 hours of professional development required as of January 2000, all requests for professional leave to attend state-approved professional development activities shall not be denied. Professional leave for the purpose of attending activities other than state-approved activities shall be at the discretion of the Superintendent, denials shall not be grievable. | ← | A. Boards should not agree to the first sentence. It totally precludes administrative oversight of attendance and could result in a large number of staff-scheduled absences on the same day. Under a "worst possible scenario" all teachers in one grade, or even in one school, could be absent on a scheduled school day to attend to their professional development. It is very likely that PERC and ultimately the courts would find this type of proposal to be nonenforceable as it impermissibly interferes with a board's ability to ensure student safety and supervision. Nevertheless, the inclusion of this sentence in a negotiated agreement would lead to expensive and protracted litigation. Just say no.
The second sentence appropriately retains the right of school management. |
| B. All professional development training and workshops provided by the district shall meet the requirements and guidelines established by the State Professional Development Standards Board. | ← | B. Agreement to this section would be extremely unwise. To comply, boards would need to submit all of their inservice to the County Professional Development Board and would need to assure that attendance at all district inservice/workshops be included in teachers' PIPs. This creates an unnecessary administrative burden. Further, not all training and workshops provided by the district are necessarily related to improving classroom instruction (see analysis of C.2.c. above). In addition, this proposal is of questionable legality as this is not mandated by law or regulations, but presents significant interference with an employer's right to design training programs. (See <i>Burlington County College</i> , PERC No. 90-13, 15 <i>NJPER</i> 20213. Note, that the design of state-approved training programs does not fall into the <i>Burlington</i> nonnegotiable ruling as it is mandated by the Administrative Code.) |
| C. Should a staff member volunteer to provide such training, preparation and delivery shall be compensated at a rate of \$100 per hour. | ← | C. The issue of compensation is negotiable. However, this section could not be read to preclude the board from requesting or assigning a teacher to present a workshop for staff. The compensation for the additional assignment would be negotiable. |
| D. Members of the District Professional Development Committee shall receive released time to attend committee meetings. All meetings shall be scheduled by the Committee. | ← | D. Boards should not agree to this section which will result in an uncontrolled amount of release time. Since it is impossible to predict how much time will be spent on the local committee, a board agreement to this clause could result in a profound negative impact on students in the four teachers' classes. Agreement to the last sentence would be unwise as it ignores the needs of the district. Under this language, the administration could not require that teachers be available on specific days that their presence in the classroom is particularly important or necessary (e.g., the first day of school). |

EXAMPLE 3

39-1 Professional Development:

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| The district agrees to provide a minimum of 18 hours per year of qualified continuing education professional development activities during the regular workday.
No individual will be required to spend a great deal of his/her own time or money on additional professional development work.
Additional hours of qualified continuing education professional development can be achieved in many ways including but not limited to ...[local education association]workshops, ...[county education associa- | ← | Is there enough time in the existing workday/work year to provide the proposal's guaranteed minimum hours of continuing education without damaging the students' instructional program?
The second paragraph is very vague and is likely to result in an arbitrator's ultimate decision as what "a great deal" of time and money means. Nevertheless, this approach recognizes that teachers have to assume responsibility for their continuing education requirement. This can |
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tion] workshops, NJEA sponsored activities, e.g., Convention and professional society workshops.

be provided, and vagueness avoided, by a definite formula which defines both the board and the teacher's obligation: for example, the board would pay up to a certain percentage of the costs of a teacher's annual accrual of continuing education and/or guarantee a defined amount of release time as long as that time-off has received the approval of the administration.

As to the third paragraph: what can count towards the State's continuing education requirement is defined in the Code and through the PTSB's recommendations that are approved by the Commissioner of Education. Contractual provisions cannot add local standards that would in any way contradict the State's standards and guidelines. Should a district agree to require additional hours of continuing education that supplements the 100 hours required by the State, then the district could negotiate its own standards for the accrual of local credits.

Boards are advised to read any union proposal carefully and to consider the union's position in light of the provisions of the Code and the short-term and long-term implications of the proposal to all aspects of the district's operations. The suggestions in this article and in The Negotiations Advisor article "An Analysis of Professional Development Clauses" can be helpful to boards' analysis of these union proposals. In addition, the NJSBA Labor Relations Department can provide assistance and advice in analyzing and negotiating these, and other union, proposals.

