

By Kathleen R. Vogt Senior Associate Director, Labor Relations

Negotiations and the New Continuing Education Requirements

In May 1998, the state Board of Education adopted a continuing education plan for teachers which will affect all school districts in this state. While the continuing education obligation does not become effective until January 2000, school boards will likely be facing negotiations issues related to these obligations well before that time. In fact, some boards that were in negotiations in the spring of 1998 were already receiving union proposals concerning the continuing education requirement prior to the actual adoption of the new code.

Thus, boards need to examine their current negotiated agreements, policies and practices covering teaching staff members to determine whether existing provisions will be affected by the new requirements. Each board should determine whether to make bargaining proposals to modify current contract language, and each board must be prepared to respond to union proposals which pertain to these requirements. But first, boards must understand their obligations under this new plan.

Overview of Continuing Education Obligations Under the newly adopted code (*N.J.A.C. 6:11-13.1, et seq.*), all active teaching staff members whose positions require possession of instructional or educational service licenses will be required to complete 100 clock hours of state-approved professional development every five years. The requirement may be satisfied through a combination of various state-approved experiences, such as district inservice programs or formal courses and conferences sponsored by

colleges, professional associations, or other entities approved by the commissioner of education.

Local school districts are responsible for developing each teacher's continuing education plan as part of the evaluation process. The content of each teacher's continuing education must be delineated in the Professional Improvement Plan. District administration must monitor teachers' compliance with their continuing education requirements. When an individual teacher fails to make annual progress toward the requirement or fails to satisfy the 100-hour requirement within the five-year period, the district's administration must take appropriate remedial action through "progressive supervision," and all instances of non-compliance with the 100-hour requirement must be reported to the state Department of Education.

Professional development boards or committees will be established at the state, county and local level. At the state level, the professional standards board will recommend criteria and standards for continuing education programs. The county professional development boards will be responsible for approving local districts' inservice professional development programs. The local professional development committees will assess district inservice needs and professional development opportunities and plan and implement professional development programs, subject to the local board's approval. The local committee will be comprised of four teachers who will be elected by their union and two adminis-

trative staff members appointed by the chief school administrator.

Impact on Existing Labor Agreements

While the continuing education plan is a new requirement under state code, it may affect provisions that were negotiated into teachers' contracts long before adoption of the code. Boards must analyze their negotiated agreements, policies and practices to assess administrative, operational, and fiscal obligations that may arise as a result of the new requirements. Based on individual boards' assessments, proposals to modify existing language may need to be developed and presented to the union in the next round of bargaining. Some potential problem areas include:

- *Tuition Reimbursement and Professional Development* Contractual provisions governing tuition reimbursement and professional development expenses vary widely from district to district. Some provisions have very tight controls, while others are more open-ended. In general, it can be expected that districts' tuition reimbursement costs will increase as teachers take courses to fulfill their continuing education goals. If a tuition reimbursement clause is not limited to graduate course work, but instead covers undergraduate work as well as workshops and seminars, then there is a strong potential for a dramatic increase in these costs. Fortunately, many boards have a contractual dollar cap limiting their financial liability for tuition reimbursement and professional devel-

opment. Boards that do not have tight administrative and fiscal controls on their tuition reimbursement provisions should evaluate whether bargaining proposals to modify existing provisions should be developed to protect the district from unanticipated costs.

- *Horizontal Movement on the Salary Guide* Virtually all teachers' negotiated agreements in this state have a number of columns on the guide that provide additional compensation for teachers with academic preparation above the bachelor's level (e.g., bachelor's degree plus 30 credits, master's degree, master's degree plus 30 credits, etc.). The number of columns on the guide and the amount of additional money (differentials) associated with placement on advanced columns varies from district to district and will affect costs. In addition, the criteria for horizontal movement also varies from contract to contract. In some districts, only graduate work qualifies for advanced column placement. In other districts, all college course work may apply. And in some districts, inservice training is credited toward horizontal movement.

When the new code becomes effective in January 2000, more teachers will be engaging in continuing education (college course work and/or inservice training). As a result, depending on the number of columns, the size of the column differentials, and the criteria for horizontal advancement, districts' salary guide costs will likely increase. Again, boards should review their current contract language, salary guide, and practices to determine the potential cost impact and the need for contract or salary guide modifications (e.g., more restrictive criteria, fewer columns, smaller differentials, etc.).

- *Committee Work* Although the local district professional development committee is a new committee that

will need to be formed pursuant to code, existing contract provisions and practices may already address general terms and conditions of employment for teachers who serve on committees. Such provisions and practices may be seen to extend to members of the new professional development committee. For example, there may be stipends or extra pay for teachers performing committee work. There may be release time during the in-school day for committee members, which could result in additional costs for substitutes. Boards will need to determine if any current contractual obligations would automatically be extended by the new code and whether modifications are needed.

Anticipating Union Proposals The state teachers union has developed bargaining proposals related to the continuing education requirements. The specific proposals may vary from district to district, but in general, boards can anticipate proposals on the following issues:

- *Fully Paid Training and Expenses* Boards can anticipate that unions will propose language requiring that the board pay the full cost of teachers' participation in continuing education programs, including college courses, workshops, seminars conferences and inservice training sessions. Payments may include tuition, registration fees, transportation, meals, materials, lodging, etc. Unions may also seek the removal of existing contractual restrictions, such as dollar caps on tuition reimbursement and prior approval of the superintendent.
- *Inservice Workshops and Programs* Union proposals may include a requirement that the board offer professional development programs that are sufficient to meet each employee's annual progress toward attaining the 100 hours of continuing education.

- *Release Time* Proposals may also seek to have all inservice programs conducted during the in-school teacher workday if teacher attendance is required. Moreover, proposals will likely seek compensation for any professional development activities that occur outside the regular work year or workday. Some proposals may endeavor to make attendance at inservice activities outside the regular workday voluntary only.
- *Salary Guide Adjustments* Union proposals may seek to broaden the criteria for horizontal movement to advanced columns on the guide. For example, if a district's contract or practice provides placement on advanced columns for graduate course work only, proposals may seek to allow credit for other types, or all types, of professional development activities that are required under the continuing education plan. This may be of particular interest to unions since horizontal movement on the guide results in higher salaries for teachers, but such salary cost increases are generally not charged to the cost of the negotiated settlement. In addition, unions may be proposing that the salary guide contain additional columns and larger column differentials, both of which could have a large cost impact in years to come.
- *Committee Work* Unions will also be seeking compensation and release time for teachers serving on the professional development boards and committees. Proposals may request release time or an hourly rate for time spent performing committee work. In some cases, union proposals may also seek a flat stipend for teachers serving on the committees. In addition, proposals may attempt to define the role of the committee, which may be broader than the role required by the state regulation and may intrude on management's decision-

making powers.

- *Innovative Grants* Some proposals may attempt to require that the board appropriate a certain amount of money to establish a grant program so that individual teachers may participate in designing and implementing innovative teaching techniques and educational ideas. In one proposal, the union sought to give the professional development committee the authority to approve or disapprove applications for such grants, without final approval by the administration or the board.
- *Other Proposals* There may be many other proposals. For example, some unions may propose an appeal mechanism to resolve disputes which arise from the continuing education requirements. Or, there may be a request for procedures pertaining to the development of continuing education requirements and the monitoring of teachers' compliance with those requirements.

Board's Responses At this point in time, the continuing education plan is still evolving, and much is unknown about the effect of the new requirements on the district's operations and finances. Boards should proceed very cautiously, analyzing the union's proposals thoroughly for the long-term implications, both economic and non-economic. A cost analysis of the proposals should be undertaken. The administrative implications and the effect on the educational program must also be examined. For example, release time for teachers to attend workshops and programs or to serve on a committee involves not only the cost of a substitute, but also involves loss of educational continuity in the classroom. In addition, boards should ensure that each proposal only involves negotiable issues. In some instances, union proposals may be intruding on nonnegotiable managerial prerogatives (e.g., the ability to evaluate teachers and ensure compli-

ance with PIPs). As always, boards should refuse to negotiate over such matters.

Boards would be well-advised to remember that the code states that the 100 hours of continuing education "shall be each active individual teacher's responsibility in conjunction with district board of education policies." (*N.J.A.C. 6:11-13.4*) While the code also requires that boards "actively assist and support a teacher's efforts to meet the requirement," the primary responsibility rests with the teacher.

Thus, some boards may choose to indicate an expectation that teachers will fulfill some or all of this responsibility on their own time, not during the school day at the expense of the students and the educational system. In addition, there is no legal requirement that boards assume any of the costs associated with the continuing education requirement. An old adage that applies in many negotiations situations and is equally applicable is: *The obligation to negotiate in good faith does not involve an obligation to concede.*

Boards are under no obligation to agree to a union proposal that will be economically unwise or detrimental to the school district operations. Boards have the responsibility to look at the long range implications and to negotiate to protect their district's interests.

As boards prepare to implement and administer the obligations set forth in the state's continuing education plan, they should be sure to consult with their labor relations resources, such as their on-staff labor relations experts, the board attorney, or their professional negotiator. In addition, boards may call the NJSBA Labor Relations Department for a review of contract language, analysis of board and union proposals, and negotiations advice. **SL**

IMPORTANT NOTE:

An in-depth discussion of this topic will be included in this year's update to your Negotiations Advisor binder. Updates will be

mailed to district superintendents this month. Keep an eye out for your district's copy.