

## **Appendix A**

### **NJSBA LABOR RELATIONS SERVICES**

#### **I. Introduction**

Seventy-five percent of a typical New Jersey school district's operating budget is devoted to employee compensation<sup>1</sup> and the lion's share of that expense directly flows from collective negotiations with unions representing school employees. Collective negotiations profoundly affects districts fiscally but also in its ability to provide a sound education program.

To assist districts in meeting the challenges brought about by labor negotiations and labor relations in general, NJSBA's Labor Relations staff offers a variety of essential services as part of the dues schools pay to NJSBA. A committed Labor Relations team provides board members, administrators and attorneys with the resources, training, publications, and advice necessary to develop a sound negotiations strategy, and respond to union activities (including grievances, unfair labor practice charges, and illegal strikes).

One way to capture the value of these services is to ascertain how much it would cost a district to obtain these services from an outside consultant. By way of the Personnel Administrators Association<sup>2</sup> Listserv hosted by the NJSBA Labor Relations Section, we asked New Jersey public school human resource professionals what they were currently paying for outside labor relations consulting services. We received nine responses. Eight of those districts employed labor relations professionals on an hourly basis. The hourly rates ranged from \$150 per hour to \$205 per hour. The most common hourly rate paid was \$165 per hour and the average was \$164.375.

Negotiations typically take place on a three-year cycle: preparing for bargaining, bargaining, inking the agreement and administering the contract. While the Labor Relations section provides support and assistance throughout the cycle, our direct service delivery focus is during the first year of that cycle - when the district is preparing to negotiate, is negotiating, and is ratifying the agreement. Evaluating the overall value of the service provided to our membership must be viewed through that three-year cycle lens.

#### **II. Dues-Based Labor Relations Services**

##### ***Contract Analyses***

NJSBA will analyze a district's negotiated labor agreements to identify provisions that are beneficial to the district, those that are ill-advised and those that may, in fact, be illegal because they concern non-negotiable issues. Each analysis produces a very detailed clause-by-clause

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<sup>1</sup> National Center of Education Statistics, for the 2010-2011 fiscal year, the latest year available, in New Jersey public schools salaries, exclusive of benefits, made up 75% of current operating expenditures. Current operating expenditures are defined as the day-to-day expenditures, excluding expenditures for school construction, property, equipment, debt services, and programs outside public elementary-secondary education. National Center for Education Statistics. Last accessed February 18, 2015 at <http://nces.ed.gov/ccd/elsi/>.

<sup>2</sup> Personnel Administrators Association is a professional association of New Jersey public school human resource professionals that is administered by the NJSBA Labor Relations section. It provides resources, information and an opportunity to network with other public school human resource professionals across the State. Through presentations and discussions at its four annual meetings and special mailings, members are kept up-to-date on school personnel administration matters, case law development, pending and new legislation, and settlement trends.

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narrative explanation of the contract. Additionally, a member of the labor relations team meets in-person with board members to explain our analysis, lay out what to expect during the upcoming negotiations and explain the current bargaining environment.

Between July 1, 2013 and June 30, 2014, the Labor Relations Section analyzed at least 102 contracts for boards of education that were entering the bargaining process. The value of this service was \$201,195 (12 hours per analysis, \$164.375 per hour). The average benefit per contract analyzed would be, at a minimum, \$1,972.

In addition to the more easily quantifiable benefits of a contract analyses, the potential benefits are enormous. For instance, in many districts we identify provisions in the teachers' contract that are not negotiable. Once identified as non-negotiable, these provisions can be excised from the contract. This results in more administrative flexibility. Likewise, we often identify contract language that has detrimental effects on the delivery of educational services. These have included child care leave provisions that do not have enough administrative discretion in terms of when staff members can return from leave and preparation time contract language that does not provide enough specificity to assure this time is being used to benefit students. Again, it is hard to quantify these, but the potential benefits are long-reaching and considerable.

### ***Preparing for Bargaining***

In addition to contract analyses, the NJSBA Labor Relations Section also provides an in-district "Preparing for Bargaining" training session. This session lasts approximately two hours and covers the bargaining process, the role of the full Board, the role of the negotiations team, the importance of administration expertise, and the steps the board needs to take in order to get ready for bargaining. In the relevant time period, we presented this training approximately 57 times. The value of this service was \$76,323. The value per district is \$1,339 (based on eight hours for preparation and delivery of this in-person training).

### ***Superintendent Contract Analyses***

For the last several years, the NJSBA labor relations staff has presented training to boards in negotiating new chief school administrators' contracts. The in-person training covers the Superintendent Tenure Law, the new Superintendent salary caps; the statutory time lines for establishing a new contract, renewing a contract or terminating a contract; analysis of the Association of School Administrator's Model Contract; as well as a suggested process for negotiating a contract. Through the data analyst, we also provide districts with comparative salary data to use during negotiations and the Executive County Superintendent approval process.

In the 2013-2014 year we provided this service to five districts. The value of this service was \$6,575. The value per district is \$1,315.

### ***Salary Guide Services***

Salary guides are the district's compensation program and, thus, are integral to the Board's ability to attract and retain staff and to foster staff development. Structurally unsound salary guides can have significant and long term detrimental effects on the bargaining process, the financial condition of the district, and its educational program.

Although a few law firms offer salary guide assistance as part of their overall labor relations services, we are unaware of any private firms that specialize in these services. NJSBA's Labor Relations Section is widely recognized as the salary guide experts in New Jersey.

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Dues based salary guide services include an analysis of the district's expiring salary guide and an analysis of the first proposal the union makes for salary guides. These analyses are detailed. They consist of the narrative explanation and a series of excel spreadsheets that contextualize the findings.

In 2013-2014, the Labor Relations Section provided, conservatively, 528.85 hours of dues based salary guide services to 94 Boards. The value of this service is \$86,930.

### ***Phone Consultation***

The NJSBA labor relations staff is available every workday to provide expert advice to board members and school administrators. This advice spans the broad field of labor and employee relations and includes advice on grievance-arbitration (including disciplinary actions), unfair practice charges, unionization drives (especially in Charter Schools lately), compensation administration, leave administration, negotiability determinations and contract interpretation.

According to Personify, the Labor Relations Section fielded 264 phone consultations (not including data inquiries considered below) in the last calendar year. The value of these phone consultations if provided by a private consulting firm would be \$21,698 (.50 hours per contact multiplied by \$164.375 per hour).

School board attorneys representing public schools frequently consult with NJSBA labor relations staff on relevant issues, reducing the school board attorneys' own research time and thereby reducing the fees they would pass on to the school boards. NJSBA labor relations staff may discuss the interpretation and implications of PERC rulings and statutory developments and assists in research that may or may not be related to litigation. While it is difficult to place a dollar figure on the value of this service to boards of education, the assistance rendered to board attorneys serves to reduce the legal time the attorneys would otherwise spend in representing the board.

### ***Collective Negotiations Data Services***

Methodologically-sound, comparative data is essential to collective negotiations and grievance handling. In preparing for bargaining, boards gather and analyze the data in a dispassionate manner. At this stage, districts seek to get an accurate picture of where his/her district stands in relation to others. The data will help the board identify its own bargaining goals, establish realistic parameters and anticipate union proposals. After a board has reviewed and analyzed this information, it is in a much stronger position to effectively utilize the data to conduct further, more focused, research and fully prepare for the bargaining process. During bargaining, the data may be used to counter assertions of the union, verify the data supplied by the union, and rebut union positions. At impasse, well-constructed comparative arguments, based on precise distinctions, can be effective in diminishing the credibility of the union's bargaining positions and enhancing the board's position.

The Labor Relations Section has an extensive database of teacher settlement data including settlement rates, salary guides, insurance provisions and temporary leaves. This is invaluable information for districts that are preparing for bargaining, are engaged in at-the-table bargaining, or are involved in the impasse process. The benefit of a continually-updated, quality database is that the negotiating team can counter union comparability arguments and fashion management-friendly ones. It is essential to effective bargaining. Our data is the gold standard, utilized and extremely well respected by neutral third parties and the union community.

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Every board member has access to this information. This type of service is offered by other state school boards associations, but is often subsumed in other fee based services. There are two state organizations that offer directly comparable services. The Oregon School Boards Association offers access to its negotiations data base for \$125 annually. Michigan's fee schedule ranges from \$695 to \$1,595 annually. Assuming that the typical Michigan district pays \$1,145, the average of the two states would be \$635.

Additionally, the NJSBA Labor Relations Data Analyst is available every workday to provide expert data interpretation and compilation to school boards and administrators. According to Personify, the Association's membership database, she fielded 152 phone inquiries in the last calendar year. Each inquiry and subsequent compilation of data averages 45 minutes. The value of these phone consultations is \$10,930 (based on .75 hours per contact multiplied by \$95 per hour, the typical non-attorney charge for bargaining assistance).

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### ***Summary of Dues Based Labor Relations Services***

<b>Dues Based Service</b>	<b>Level of Services</b>	<b>Hours per Contact</b>	<b>Hourly rate charged by outside entities</b>	<b>Dollar Equivalent of Service</b>	<b>Value to Each District</b>
<i>Contract Analyses</i>	102	12	164.375	\$201,195	\$1,972
<i>Preparing for Bargaining</i>	57 districts	8	164.375	\$76,323	\$1,339
<i>Superintendent Contract</i>	5 districts	8	164.375	\$6,575	\$1,315
<i>Salary Guide Services</i>	529 hours	5.627	164.375	\$86,930	\$924.93
<i>Phone Consults*</i>	278 contacts	0.50	164.375	\$21,698	\$37.47
<i>Data Services**</i>	152 contacts	0.75	95	\$10,830	\$18.70
<i>Database for Negotiations</i>				367,665	635
<b>Totals</b>				<b>\$771,216</b>	<b>\$6,242</b>

\* For phone consultation and data services, the value to each district is the total divided by 579 (the number of districts collectively negotiating).

\*\* For the database, the total is the value to each district multiplied by the number of districts engaged in collective negotiations.

### **III. Fee-Based Labor Relations Services**

The Labor Relations Section offers a wide array of fee-based services to our members and associate members. Some of these services are offered at what could be considered below market rates. For that reason, a brief explanation of those services is included.

#### **Fee-Based Salary Guide Service**

As noted earlier, dues based salary guide services include an analysis of the district's expiring salary guide and an analysis of the first proposal that the union makes for salary guides. If there are additional union counterproposals to analyze or if the district wants NJSBA to develop salary guides there is a below market hourly charge of \$120 per hour. If the district retains NJSBA to sit at the table and negotiate their salary guides, there is an hourly charge of \$135 per hour.

In 2013-2014, Labor Relations billed districts \$43,414 for 349.75 hours of salary guide services. Using the \$164.375 professional service rate, the value of these services is \$57,490. The difference of \$14,076 is value delivered to the districts.

#### **Personnel Administrators Association**

Personnel Administrators Association is an association of New Jersey public school human resource professionals. It is administered by the NJSBA Labor Relations Section. It provides resources, information and an opportunity to network with other public school human resource professionals across the State. Through presentations and discussions at regularly scheduled meetings and through special mailings, members are kept up to date on school personnel administration matters, case law development, pending and new legislation, and settlement trends. It is unclear whether the annual dues of \$325 fully capture the full value of this association to our membership.

#### **Negotiations Advisor**

Negotiations Advisor is a comprehensive guide to effective negotiations preparation and contract administration. It contains over 70 concise, insightful articles on all aspects of the bargaining process, from the organization of bargaining units to impasse procedures, as well as the NJSBA's clause-by-clause analysis of the NJEA and PSA Sample Agreement. *The Negotiations Advisor* also contains information on personnel issues that arise in school districts, such as discipline, continuing education and mentoring. The current subscription fee for this service is \$100 per year.

#### **PERC Index**

The PERC Index is designed to provide the field practitioner with a useful guide to, and summary of, PERC decisions on scope of negotiations determinations and unfair practice complaints. The online service features keyword search capability, enabling the practitioner to locate case summaries quickly and easily. Access to the PERC index is \$120 per year and is marketed primarily to school attorneys and labor relations professionals.

While there are no directly comparable services to compare the last two fee based services listed, the Oregon School Boards Association offers some guidance. As explained above, Oregon charges \$125 to each district for access to its collective negotiations data. If the district "buys-up," it can have access to a database that provides labor contracts, contract language, arbitration decisions, salary schedules and a negotiations notebook. The buy-up is \$400.