



A BOARD MEMBER'S GUIDE TO THE MENTORING REQUIREMENT

IMPORTANT NEW DEVELOPMENTS

Note: This article is no longer descriptive of the State's required mentoring program as it is based on the provisions of an Administrative Code which were repealed in December 2003 by the State Board of Education and replaced by new requirements. The newly adopted regulations became effective on January 20, 2004. Highlights of *N.J.A.C. 6A:9-8.4*, the provisions of the new rules governing the state's required mentoring program, can be found on the "What's New" page of *The Negotiations Advisor Online*.

In spite of its recent adoption, additional changes to this new code are expected to occur relatively quickly as the State Board is scheduled to consider amendments in the early months of 2004. As the Commissioner of Education has stated that "there will be an ongoing need to review and refine this code to assure it meets the needs of our educators, schools and students," the new mentoring code is still a work-in-progress.

Accordingly, to assure an accurate discussion of the new requirements, revisions to this article will be delayed pending the State Board's review and anticipated modifications of these new rules. New developments in this area, including the completed revisions to this article, will continue to be posted on the "What's New" page of *The Advisor*.

Mentoring has been a well-accepted approach in assisting, supporting and preparing beginning teachers to meet the challenges of their classrooms and their profession. In April 2001, the State Board of Education emphasized its belief in the value of mentoring when it amended New Jersey's existing one-year mentoring program to establish a new state-funded two-year requirement. The new mentoring code, slated to begin on September 1, 2001, was designed to provide per-teacher funding to support a two-year mentoring experience for all novice teachers.¹ However, the possibility of initiating the two-year mentoring requirement in the 2001-2002 school year soon became questionable as the budget adopted by the legislature in June 2001 reduced the anticipated appropriation of \$14 million to \$8 million. In response to the realities of reduced funding, the mentoring program for 2001-2002 was adjusted to apply only to teachers in their first year of employment.

In late July, the Commissioner of Education informed local districts of the Department of Education's revisions. The Commissioner's memo also provided instructions and guidance for the local implementation of the mentoring program in the 2001-2002 school year. When 2002 budgetary constraints resulted in a freeze on state aid to local districts, the Commissioner's modifications were then extended into the 2002-2003 school year. This article is designed to help board members understand the framework of the revisions and to discuss a number of considerations that will help boards fulfill their role in implementing the revised mentoring requirement.

The Revised Mentoring Requirement

The details of the revised mentoring requirement, are summarized below. Clarification and additional information may emerge as a result of expected ongoing developments. For access to the most recent developments, please consult your legal and labor relations resources and visit the NJSBA web site at www.njsba.org.²

For First-Year Teachers

In accordance with the Commissioner of Education's revisions, the requirement to mentor first-year teachers will be marked by:

- **Mentoring of All First-Year Teachers:** As of September 2001, all novice teachers in the first year of employment, including special education teachers, will be mentored. This applies to all teachers who are new to the profession, whether they have been trained by a traditional teacher-training program or have entered the profession through the alternate route program.
- **Per-Teacher State Funding for First-Year Teachers Only:** State funding will be based on a per-teacher allocation to each district. The per-teacher amount will depend upon the amount of budgeted funds and the total number of new teachers throughout the state. For the 2001-2002 school year, school districts received \$1,000 for each alternate route teacher and \$550 for

¹ For a description of this requirement, please see Appendix A at the end of this article.

² To access information on mentoring, select the Mentoring entry under the Critical Issues section of the NJSBA website at www.njsba.org.

each traditionally trained teacher who were in their first year of employment.

- **Defined Use of State Funds:** State funds will be used to pay stipends to mentor teachers. No novice teacher will be assessed mentoring fees. Once stipends have been paid, districts may use any remaining state funds for mentoring activities described in the Code, such as training, release time or substitutes.

N.J.A.C. 6:11-14.8 (c) and (d) specify that state funds for the program: 1) are intended to supplement, and not supplant, other funds including local funds that are already devoted to mentoring; 2) “shall be used for one or more of the following: stipends for mentor teachers, the costs associated with released time, substitutes for mentor teachers and novice teachers and professional development/training activities related to the program.”

- **District Verification:** Each district will be provided a “Verification of Program Participants” form to complete in order to verify the total number of first-year teachers in each category noted above. Presumably, districts will receive per-teacher funding after this verification is provided to the Department.
- **Issuance of Standard Certification:** As in the past, novice teachers must complete the one-year mentoring program and receive a certification recommendation from the school principal before a standard certificate can be issued.

For Second-Year Teachers

The modified mentoring requirement includes the following components:

- **No State-Required Mentoring:** Mentoring of second-year teachers is not required by the state. However, local districts are encouraged to implement a second year of mentoring if local resources are available.
- **No State Funding:** The state will not provide funds to local districts for the mentoring of second-year teachers.
- **Local Districts’ Exemption From the Administrative Code Requirement:** Districts that had planned a second year of mentoring, but cannot implement this plan because of the absence of state funding, can use the “equivalency and waiver” process. This process can authorize boards to be exempt from substantive requirements of a specific rule for reasons that “are judged educationally, organizationally and fiscally sound.”
- **Applying for a Waiver Application:** The equivalency and waiver process is triggered by filing a waiver application with the County Superintendent. The Commissioner has sent every district a waiver application form. Partially filled out by the Department of Education, the application form states that the required mentoring of second-year teachers cannot be

implemented in the district because the state funds required to underwrite the cost of the program have been reduced to a level that only provides funding for first-year teachers.

Boards that wish to request a waiver need to complete the application provided by the Commissioner by filling in the district’s name, ID Code Number and the signature of the Chief School Administrator.

Expectations for the Future

Despite the revisions, a two-year mentoring program of all new teachers remains a requirement of the Administrative Code. Therefore, the revisions are intended to be a temporary adjustment that has been necessitated by the current unavailability of state funds. At this point in time, the full implementation of the code’s state-funded two-year mentoring program remains uncertain and is largely defined by expectations for the future.

The Commissioner’s Expectations The Commissioner’s recommendations for the implementation of a revised 2001-2002 mentoring plan expressed full support for the two-year mentoring program delineated in the Administrative Code and his intention to work to restore full funding for the program. The Commissioner’s expectations for the future include:

- **Restoration of Full Funding and Implementation of Required Two-Year Mentoring When State Funds Are Restored:** The suspension of a state-required and state-funded second year of mentoring is seen as a temporary adjustment necessitated by diminished funding. There seems to be expectations that the full two-year requirement will be restored when the state provides full funding for each teacher in the first and second year of employment. In the meantime, the Commissioner has recommended that districts begin their preparation to implement a second-year mentoring program that will comply with the Administrative Code’s provisions.
- **Planning the Development of a Local Mentoring Plan:** Under the two-year state-funded mentoring code, local districts are required to develop local mentoring plans that, after approved by the local board, will be submitted to county superintendents. The Commissioner has recommended that districts begin to develop their local plans and has suggested the inclusion of the following “items” in the initial development of these plans:
 1. Goals for the local mentoring program:
 - To enhance teacher knowledge of and strategies related to the Core Curriculum Content Standards in order to facilitate student achievement;
 - To identify exemplary teaching skills and educational practices necessary to acquire and maintain excellence in teaching; and
 - To assist novice teachers in the performance of their duties and adjustment to the challenges

of teaching.

2. An application process for selecting mentor teachers;
3. Criteria for the selection of mentor teachers;
4. Plans for comprehensive mentor training;
5. Responsibilities of the mentor teacher;
6. Considerations of collaborative arrangements with colleges and universities; and
7. The involvement of the local professional development committee in the process of plan development.³

The Commissioner has referred questions concerning the information contained in his memo to John Knapp, Office of Licensing and Credentials, at 609-292-2045.

Expectations of Additional Changes The Commissioner's memo provides a broad framework which defines districts' revised obligations. However, the memo also raises a number of questions that are likely to lead to additional clarification, information and new instructions. Therefore, it is expected that the new mentoring plan will be marked by many new developments in the current school year and in the future.

Additional changes New developments may further modify districts' implementation of their mentoring program. For example, if the number of new teachers throughout the state exceeds the state's expectations, the per-teacher state allocation is likely to be affected.

Additional changes in the future Full funding may become available in the near future. Under those circumstances, boards will be required to provide mentoring to all their second-year teachers. On the other hand, full funding may not be restored for a number of years. This possibility may lead to a number of additional modifications, ranging from the extension of a first-year mentoring program to a complete reassessment of the state's commitment to aim for a two-year training program.

Boards' Responses

Boards of education and school administrators must, as always, be ready to respond appropriately to the possibilities of a number of changes during this school year and beyond. However, in spite of these expectations, school management must also be prepared to begin the school year by meeting the current expectations for implementing the revised mentoring program.

Barring a total change in the Department of Education's direction, what local districts establish in 2001-2002 will become the foundation of an evolving and expanding program. Therefore, board members need to approach their responsibilities by considering both the short- and long-term implications of their first year of implementing

the first stage of this new mentoring program. While addressing immediate needs and concerns, it will also be advisable for boards to build in as much flexibility as possible to permit future adjustments that may become necessary. To meet their responsibilities, boards will need to be well-informed of the basic requirements and their assigned responsibilities to implement the revised mentoring plans on the local level.

Boards' Responsibilities in Implementing Mentoring

Mentoring is not a new concept, nor is it a new responsibility for New Jersey's boards of education. Since the mid-1980s, boards have been required to provide mentoring to their novice teachers. As such, all districts that have hired staff who did not have prior teaching experience have had various degrees of experience with mentoring. These experiences will form the basis of districts' implementation of the new mentoring requirement.

The primary responsibility for the day-to-day implementation of any mentoring program, including the revised state requirements for the 2001-2002 school year, belongs to districts' administrative staff. They are the ones who design building schedules that support novice and mentor teachers' responsibilities, all while providing adequate student instruction and supervision within the workload definitions of the teachers' negotiated agreement. They are responsible for the evaluation of novice teachers' performance and, upon completion of the year's mentoring, will ultimately recommend whether the novice teacher should receive a standard certificate.

Yet, within this framework, boards of education have the new specific and exclusive responsibility to make decisions that will affect the direction of their districts' mentoring program. These responsibilities include: determining whether the district can initiate a voluntary two-year mentoring program based on local funds only; planning for the future, including initiating the development of a district mentoring plan that will go into effect when the restoration of full funding permits reactivation of the state's required two-year mentoring program; and negotiating agreements addressing the terms and conditions of employment related to mentoring. Each of these responsibilities will require board attention, and specific and unique board approaches. However, boards' effectiveness in all these various activities will depend on reliance on administrators' valuable experience and expertise.

Ongoing Consultation With Administrators

Ongoing consultation with the district's administrative

³ These recommended preparation items are virtually identical to those contained in *N.J.A.C. 6:11-14.4 (a)*. There are, however, a number of differences as the "preparatory plan" does not include the considerations included in code such as: the use of state funds or the logistics for the implementation of the mentor plan.

staff will be essential in assisting boards to meet all aspects of their mentoring responsibilities. At all times, the educational needs of the students as well as the district's and individual school building's staffing needs will be the core and foundation of boards' decision-making. Accordingly, boards must make sure that they have an effective, yet practical, approach to receive the ongoing administrative advice and input that they will need to make informed decisions.

Questions that can only be answered by the administration include:

- **Mentoring Procedures and Practices** What are we doing now? How has this worked? What should be kept and what should be changed?
- **Number of Novice Teachers** How many new teachers do we have this year? What are our projections for next year and the year after? What is the total of first- and second-year teachers for this year? What will it be next year and the year after? Are the numbers fairly equal in each building, or are some buildings experiencing more new hires than others? Is this pattern likely to continue or to change?
- **Number of Mentors** How many mentors do we have? How many mentors will we need in the future? Have we had problems obtaining qualified mentors? Is this pattern district-wide, or are there specific building considerations? Do we expect difficulties in obtaining mentors? What should we do to address that issue?
- **Impact of Mentoring on Scheduling and Staffing** How have mentors' responsibilities within the school day been handled? Have mentors been released from typical teachers' duties? Has this reduced instructional time? Will we be able to continue an approach that has not been disruptive if the number of mentors increase? What can we do to eliminate problems that may exist and/or to prevent problems from occurring in the future?
- **Costs of the Mentoring Program** How much has the current mentoring program cost the district? What would be the anticipated costs of establishing and supporting a mentoring program for teachers in their second year of employment? Do we have the resources to locally fund this program? What would be our anticipated costs for next year and the year after that? What are the benefits to the district of locally supporting a second year of mentoring? Would the second-year program follow the same structure and procedures that currently exist for first-year teachers' mentoring?
- **The Superintendent's Recommendation** What is the superintendent's assessment of our current program? What are the components of an effective mentoring program? What should we do, and what

is feasible, for our immediate and future mentoring program?

The answers to these and other questions will provide boards with a clear understanding of their districts' current approach to mentoring and valuable insights into their districts' needs to maintain or to change their current programs. In other words, reliance on administrative expertise is a necessary foundation to boards' ability to meet their mentoring responsibilities in 2001-2002 and beyond.

Determining the Possibilities of a Locally Funded Second Year of Mentoring

The Commissioner's instructions for the implementation of the revised mentoring program required boards of education to determine whether their local resources permitted local funding of the desired mentoring of second-year teachers. Boards that could not implement this type of program in the absence of full state funding were instructed to initiate the equivalency and waiver process to seek a waiver from the code's requirement. Therefore, determining whether to seek an exemption from the code's required mentoring of second-year teachers became boards' first responsibility in implementing the revised mentoring plan.

It could appear that this first responsibility applied only to the implementation of mentoring plans in the 2001-2002 school year. However, in the absence of guaranteed future full state funding, boards may need to revisit their initial assessments of the feasibility of a locally funded second year of mentoring or their need to obtain a new or extended exemption from the code's requirement.

Budgetary Considerations This will mean that the issue of a second year of mentoring may need to be a consideration in boards' formulation of their future budgets. Districts will want to consider whether they are inclined to include a second-year mentoring program in their budgets. Boards that support continued guidance for second-year teachers will want to examine their ability to afford a locally funded second year of mentoring and the impact of this allocation on other aspects of the district's educational and operational program.

In addition to short-term considerations, boards will also need to examine the long-range implications of devoting local funds to mentoring second-year teachers. According to the mentoring code, state funds are to "supplement, and not supplant, any Federal, State or Local funds already devoted to planning and implementing a novice teacher mentor program."⁴ Therefore, some boards that decide to initiate a second year of mentoring totally supported by local resources may find that they are at a disadvantage when full state funding and the mandated two-year requirement are restored: they may be

⁴ N.J.A.C. 6:11-14.8 (c).

required to use state funds, without reducing their prior local allocations, and thus may be locked into maintaining an unnecessarily expensive mentoring program.

However, the potentially damaging impact of a locally funded second year of mentoring should not, in and of itself, dissuade boards from pursuing a locally desired approach to nurturing new staff members. First, local funding of a second-year mentoring program may not be disadvantageous to all boards. For example, boards that are expecting only a few second-year teachers during the next few budget years may find that their costs of providing support are relatively low and worthwhile.

Each board will need to consider its budget development based on its particular goals, its needs and its resources. These deliberations, marked by a full understanding of the issues involved, and their short- and long-range implications help a board to focus and plan its desired future direction for the development of its new staff.

Planning for the Future

The mentoring code confers upon local boards a number of responsibilities, including the responsibility of assuring that the district develops a local two-year mentoring plan that complies with defined state standards.⁵ The Commissioner's instructions for the implementation of a modified mentoring program for the 2001-2002 school year included a recommendation that boards use this school year as a "developmental year" and begin the development of the local plan required by the Administrative Code, so that they could be well-prepared for the future implementation of the fully state-funded two-year mentoring requirement.

Planning for the future is thus a board responsibility in the design of their revised mentoring plan. This board obligation will involve initial preparation of a local mentoring plan and the development of appropriate district policies.

Initiating the Development of a Local Mentoring Plan

When the state will provide sufficient funding to support the code's required mentoring plan is unknown. Nevertheless, initiating the development of a local mentoring plan that will need to be submitted for approval in the event full funding is restored can ultimately be beneficial for local boards. Having the time to carefully consider and plan a two-year program can help districts to develop a local approach that will comply with state standards and be well-suited to districts' local needs and resources. This approach is far preferable to a rushed process that is driven by looming mandated deadlines, rather than districts' needs. Boards will therefore be well-served to begin their planning process.

In addition, the development of a local plan designed to meet the state's requirement will not be a wasted

effort, even if full state funding is not realized for many years. The development of the plan can focus the district's management team on the general need to provide a supportive environment to teachers who are new to the profession. In light of the growing teacher shortage, attracting and retaining new staff will be a board goal in many districts. The importance of a supportive, nurturing, encouraging work environment is a well-accepted and recognized factor in increasing new teachers' motivation, achievement, and satisfaction with their chosen profession. Attention to the development of a local approach to provide this type of support in a variety of ways can always be helpful in fostering a positive school culture that meets the needs of new teachers.

Involving Local Professional Development Committees

The board's responsibility in the planning process is to assure that the district develops a local mentoring plan that complies with the state's standards. Boards will also have the responsibility of reviewing, approving or rejecting the local mentoring plan. However, in accordance with the code's provision, the actual development of the local mentoring plan is the responsibility of local Professional Development Committees. As part of their planning process, boards were instructed to begin to involve the local committees in the development of a mentoring plan. Boards can meet this responsibility by assuring that their local committees are well-informed and by providing their committees with relevant background district-specific information, including the district's current approach to mentoring and all board policies that address mentoring.

Updating and Developing District Policy on Mentoring

The formulation of board policies that set a district's goals and directions is a board's primary and exclusive responsibility. Boards should therefore make sure that their goals for the support and development of novice teachers are clearly expressed in their districts' policy manual.⁶ A board policy sets the district's direction. A policy on mentoring will thus include a board's goals and expectations for the initiation and support of novice teachers. As such, it will be a most helpful document that can assist the local Professional Development Committee meet its responsibility to develop a mentoring plan that can receive the board's approval. A well-considered board policy can also support a board's ultimate decision to reject a proposed local plan that does not meet the district's stated goals. Finally, from a broader perspective, a board policy becomes a strong statement of a board's educational goal to establish and maintain a school environment that provides support and assistance to new teachers in their first year of employment and beyond.

In addition to developing an educational policy on mentoring, boards also have the responsibility to develop

⁵ N.J.A.C. 6:11-14.3 and 14.5.

⁶ A Critical Policy addressing the two-year mentoring requirement is available on the NJSBA web site at www.njsba.org. To access the policy, click on the Critical Issues box on the NJSBA home page and scroll down to the Mentoring folder.

a policy to govern the terms and conditions of teachers affected by the mentoring program. Under New Jersey's labor law, these rules of employment require collective negotiations between the board and the union representing school employees.

Boards' Negotiations Obligation

The revised mentoring plan intensifies boards' negotiations obligation. While mentoring is not new to New Jersey's school districts, the mentoring program in place before the 2001-2002 school year did not create a great deal of negotiations attention. That mentoring plan was primarily defined through code provisions, including a specific requirement that novice teachers pay a defined stipend to their mentors, and generally left little room for local discretion. While a number of districts engaged in formal negotiations and agreed to written contractual provisions addressing issues such as mentors' work schedules, reimbursement of novice teachers' mentoring costs, and enriched mentors' stipends that exceeded that required by the state, most districts established their terms and conditions of mentoring through board policies or evolving practices.

However, under the new mentoring requirement, negotiations over mentoring issues will become a much more active and visible aspect of local districts' bargaining. The code specifically requires that "levels of compensation, released time and other terms and conditions of employment of novice teachers and mentor teachers.... shall be subject to negotiations between the local board of education and collective bargaining agent."⁷ Thus, the implementation of the state's new required mentoring program will result, at one time or another, in boards facing an increased number of mentoring proposals in their future rounds of bargaining.

Negotiations of Mentoring Issues

Boards of education can expect to face a number of negotiations issues that are related to their mentoring programs. When these issues arise in local districts, the types of issues that will emerge, and boards' responses will be major factors in these negotiations that will be shaped by local districts' particular circumstances. Nevertheless, in spite of each district's unique needs, all boards of education can benefit by understanding a number of key points that they must bring to the bargaining table to safeguard their districts' interests.

Boards' Key Points to Effective Negotiations

Boards' negotiations of mentoring issues must be marked by the same approaches that are used in effective negotiations of all other issues. This means that boards

must be thoroughly prepared to understand all aspects of the mentoring program. Boards must be familiar with the state's requirements and their responsibilities under the code. However, boards must also approach negotiations with an understanding of particular issues raised by the mentoring requirement, including the responsibilities of mentors, the purpose of mentors' stipends, the negotiable issues raised by a mentoring program and their implications to their districts' operations, as well as the uncertainties of state funding.

Understanding the Responsibilities of Mentors

Experienced teachers who serve as mentors to novice colleagues are important and valued contributors to a district's effective instructional program. The guidance mentors provide helps inexperienced teachers develop knowledge, skills and attitudes that build new teachers' ability to reach students and to be effective instructors. Mentors therefore play a significant role in districts' goals of providing a quality educational program for their students.

However, mentors' primary role in a district continues to be their responsibility to teach their students. Teacher mentors are, above all, teachers in the district.⁸ Boards should not agree to negotiated agreements that reduce or diminish the mentors' primary role of teaching students.

Mentors are expected to provide guidance and support to novice teachers in a variety of ways. First, mentors are required to visit the novice teacher's classroom to observe the teacher's interaction with students. In addition, mentors must meet with their assigned new teachers to provide guidance and suggestions to the novice teacher and to provide new teachers with an opportunity to express their concerns, frustrations and questions. These meetings are to take place without the presence of students. Boards should therefore not agree to unions' assumptions that all mentoring responsibilities must be met during the normal school day.

Understanding the Purpose of Mentors' Stipends

As teachers, mentors continue to be covered by the negotiated agreement's definition of "teachers." They are paid in accordance with the teachers' salary guides for the work hours and work year defined by a district's contract or past practice. Mentors' stipends, like the stipends provided for extracurricular activities and summer committee work, are designed to pay teachers for the additional work performed after the "normal" workday or work year. Therefore, boards should reject any proposal that seeks to provide additional compensation, beyond the stipend, for mentors' work time that extends their "after hours" work time.

Implications of Negotiable Mentoring Issues

Negotiated mentoring provisions can have a significant impact on a district's staffing levels and its ability to

⁷ N.J.A.C. 6:11-14.4 (b) and 14.8 (e).

⁸ N.J.A.C. 6:11-14.5 (a) 1. i. requires mentors to be tenured teachers in the district and actively teaching.

deliver its desired instructional program. At all stages of bargaining, boards must remain focused and keenly aware of both the short- and long-term implications of any potential agreement to mentoring on each school building's and the district's operations.

The Uncertainties of State Funding As demonstrated by the needed adjustments to the code's published requirements, the availability of state funding can have a significant impact on boards' obligations. Boards must be extremely careful that their negotiated agreements provide sufficient flexibility for districts to adjust their contractual obligations to changing levels of state funds.

These key points must serve as boards' reference points at every stage of the process of bargaining over mentoring issues. They will help boards to proceed effectively whenever the issue of mentoring becomes a topic of negotiations.

Negotiations During an Existing Contract

When the 2001-2002 mentoring requirement was adopted, most districts in New Jersey had contracts with their teachers' associations that would be in effect through June 2002 and beyond. Generally, terms and conditions of employment expressed through specific contract provisions, binding past practices⁹ or board policies remain in effect during the life of a negotiated agreement. Because of their past experiences with mentoring, most districts had existing terms and conditions of employment that could remain applicable to the 2001-2002 mentoring program. Districts could thus proceed to implement the new program in accordance with their existing practices. However, any desired changes in these terms and conditions of employment would require additional negotiations.

Districts whose contracts expire in June 2002 may raise mentoring proposals in their next round of negotiations which generally begin in December 2001. (See discussion, "Preparing to Negotiate a New Contract," later in this article.) However, districts whose contracts expire after 2002 may face possibilities of reopening their existing contracts for the purposes of negotiating new terms and conditions for mentoring. Before reopening negotiations, boards must consider their obligations to reopen the contract, their satisfaction with existing mentoring procedures, and the advisability of midcontract negotiations.

The Obligation to Reopen Negotiations Whether a board has an obligation to reopen negotiations will depend upon the particular circumstances of each district. Certain conditions may establish either a legal or contractual obligation to reopen negotiations.

The Legal Obligation In general, a legal obligation to reopen negotiations can arise under the following

circumstances. First, contracts must be reopened for negotiations upon a party's request if the Legislature creates a new topic of negotiations and does not insulate existing contracts from the obligation to negotiate over the new issue. Second, midcontract negotiations must occur before an employer can change existing rules of employment.

Whether the mentoring program triggers a legal obligation to reopen negotiations is not addressed in the mentoring code, and this issue is likely to be determined through litigation before the Public Employment Relations Commission (PERC). However, it would appear that *as long as boards are maintaining their past approaches to provide mentoring, the new requirement does not meet any of the conditions that create a legal obligation to reopen negotiations.*

The new mentoring requirement does not necessitate a change in terms and conditions of employment. The major change in the modified mentoring program is the source of funding mentors' stipends. In the past, novice teachers had the responsibility of paying mentors directly, or through deductions from their salaries, and local boards were charged with paying mentor teachers from the funds received from the novice teachers. Since 2001-2002, the board has been charged with paying mentors' stipends from funds received from the state. However, sources of funding are nonnegotiable budgetary issues and not negotiable terms and conditions of employment.

Therefore, as long as the terms and conditions of mentors' employment remain the same, the 2001 revisions would not seem to require that boards reopen negotiations over mentoring. However, districts that contemplate a change in their mentors' stipends or an increase in their mentors' work load may have a legal obligation to reopen negotiations. **Boards must also remember that the obligation to negotiate does not involve an obligation to concede to any issue.**

The Contractual Obligation Occasionally, negotiated agreements contain a negotiated commitment to reopen the contract for specifically designated issues or circumstances. For example, the parties may have expressly agreed to reopen negotiations if the increase in insurance premiums exceeded a specified amount. Therefore, boards will want to check the provisions of their contracts to see whether they have a contractual commitment to reopen negotiations for the purpose of negotiating over mentoring. If such an agreement exists, then both the board and the union have a contractual commitment to participate in midcontract negotiations.

In addition to specifically enumerated circumstances that require the reopening of negotiations, some contracts provide that the agreement may be modified if both parties agree to do so during the life of the contract. However, under these circumstances, neither party is required to agree to a request to a midcontract reopener,¹⁰ and boards

⁹ For a complete discussion of past practice, please see the article on the topic in the Selected Topics section of *The Negotiations Advisor*.

¹⁰ See *Middlesex Board of Education*, PERC No. 94-31, 19 *NJPER* 21257.

will want to carefully assess the wisdom of agreeing to a union proposal to reopen the existing contract to address mentoring issues.

The Advisability of Reopening Negotiations Opening an existing contract to renegotiate one issue is typically not beneficial to boards of education. However, as always, there are some exceptions to general rules that are based on specific circumstances. As such, a board's decision to reopen negotiations must be based on its needs to change its current approach to mentoring. Boards that are satisfied with their current mentors' stipends and their current procedures have little to gain from reopening their existing contracts. If faced with a union request to reopen negotiations, boards must expect that the union is likely to be seeking changes that will increase the level of mentors' stipends, limit mentors' work load, and restrict administrative discretion and flexibility. Boards will therefore want to determine their satisfaction with their existing practices as well as their willingness to entertain the changes that unions are likely to seek.

Some boards that find that they could improve their existing practices and achieve a beneficial change in some cumbersome mentoring practices may conclude that the union's request can be mutually beneficial. Other boards may find that it would be beneficial or necessary for the district to use some of the state's per-teacher allocation to fund mentoring expenditures other than mentors' stipends, such as training for mentors. Therefore, there are a number of circumstances that may indicate a need to reopen negotiations. However, even when a board determines that a change in existing conditions of mentoring is desirable, it also needs to consider the most appropriate time for the reopening of negotiations.

The Timing of a Reopener Boards must be careful to avoid premature midcontract negotiations. Since state funds must first be used to pay mentors' salaries, negotiations are likely to involve decisions of how to allocate the state's per-teacher funding. Therefore, *a board should not begin these negotiations before it has received official notice from the state of how much the district will actually receive and when those funds will be disbursed.* Boards must keep in mind that per-teacher state funding will be continuously changing, based on the budgeted allocation and the total number of new teachers throughout the state who will require mentoring. Not only will the per-teacher funding be subject to annual changes, but even announced projected figures for the coming school year will be subject to change as those figures are based on expected, but not actual, numbers of new teachers. Thus, it would be most prudent to delay negotiations of reopenings until boards have more information as to their actual state funding. (See discussion, "Assess District's Resources," in the next section of this article.) Further, boards should not engage in

reopening negotiations until they have taken all the preparatory steps discussed in the following section of this article.

Preparing to Negotiate a New Contract

Most changes in terms and conditions of employment are achieved in negotiations of a new agreement. The effectiveness of these negotiations is dependent upon thorough preparation that assists boards to identify their needs and to develop bargaining goals that will result in a negotiated agreement that is better suited to meet the district's interests.

The process of preparing to negotiate over mentoring issues will involve the same steps required of all effective preparation.¹¹ However, preparation to negotiate these issues will also require that boards become very familiar with, and sensitive to, the impact of negotiated terms and conditions of mentoring on the district's operations and educational program. In their preparation, boards will therefore need to take the following steps.

Assess District Needs Mentoring is deeply connected to the district's educational and staffing needs. Not only does the number of novice and mentor teachers reflect districts' instructional needs, but the structure of mentors' workdays can also have an impact on instructional programs. Therefore, boards must begin their preparation process with an assessment of the short- and long-term instructional needs of their districts, the impact on staffing levels and the need to hire new teachers, as well as the relationship of mentors' responsibilities to their ability to provide instructional time. Understanding these factors will be important in negotiating adjustments to mentors' daily schedule. If boards have, or expect, an increase in the number of new teachers, their past approaches to scheduling mentors' responsibilities may no longer be appropriate or feasible. Discussions with district administrators, discussed earlier, will be invaluable and necessary in developing a board's goals and positions on the issue of mentors' work time.

Assess Current Obligations Most districts' current practices or contract provisions establish mentoring conditions. All of these "rules of employment" associated with the past one-year mentoring program will continue to apply until new terms are negotiated. Thus, boards must understand the terms of their current contracts, policies or past practices to determine whether these approaches remain relevant and appropriate in light of their current and anticipated district needs. Understanding existing terms is essential to the identification of necessary changes and boards' bargaining goals.

Assess District's Resources The availability of district resources is important in all negotiations. While the state has required mentoring of first-year teachers since the early 1990s, this is the first time that the state is providing

¹¹ For a full discussion of preparation, please see the article "Preparing for Bargaining" in the Bargaining Skills section of *The Negotiations Advisor*.

local districts with funding for the costs of that program and directing the use of these funds. Therefore, state funds could be a significant portion of the resources available for boards' negotiations of mentoring issues. However, the amount of state aid that districts can expect to receive for their mentoring program will be in a constant state of flux.

For example, the Commissioner's instructions for the 2001-2002 mentoring program "projected" funds of \$1,000 for each alternate route teacher and \$550 for each traditionally trained teacher. Those amounts were based on projections and not actual resources and could therefore change if the total number of new teachers in the state differed from the Department of Education's assumptions. Furthermore, the state aid received in this current school year may not be indicative of future resources. It is expected that per-teacher allocations will change every year based on the following factors: the state's budgetary allocations; the number of new teachers; and whether those teachers are entering the profession through the alternate route or traditional teacher training programs. Boards must consider and remain focused on these funding uncertainties in negotiating mentoring issues. (See discussion "Board Considerations in Negotiating Specific Mentoring Issues," later in this article.)

Boards must also keep in mind that their resources to support a mentoring program cannot be limited to funds received from the state. According to the Administrative Code, state aid is intended to supplement, and not replace or supplant, local funds previously designated for mentoring programs. Therefore, boards must identify their current allocation of local funds that they may be required to maintain in the future.

Develop Bargaining Goals Based on their identification of district needs, an understanding of their current obligations and available resources, boards can then develop their bargaining goals for mentoring. These goals will identify whether changes in current practices are necessary, the nature and extent of the change, as well as the local costs that a board is willing or able to commit to the mentoring program. These goals will also identify what types of mentoring conditions are needed and acceptable to the district as well as those that would present unacceptable intrusions and interference. In other words, these bargaining goals will guide and direct boards' bargaining positions on mentoring issues and become the basis for board proposals and board responses to union proposals.

Draft Board Proposals Boards that wish to change existing terms and conditions of their mentoring program will need to raise their own bargaining proposals seeking the desired modifications. These proposals must be carefully drafted to address both short-term and long-term district needs and to assure that proposed solutions do not, in any way, create immediate or future problems

for the administration of each school building and of the district. The importance of administrative input and review in formulating these board proposals cannot be overemphasized. In addition, board proposals should be drafted to seek changes in the current approach and should not raise issues that work well for the board or provide good flexibility for the administration. Finally, these proposals should not address any issue that can be decided unilaterally by the board or that is otherwise inappropriate for negotiations.

What to Negotiate

Boards are expected to negotiate over the terms and conditions of employing novice and mentor teachers. Therefore, not all issues that are related to a mentoring program must be, or should be, the subject of negotiations. As in all negotiations, it is important to understand the issues that cannot be negotiated and those that require negotiations.

At this time, the scope of negotiations surrounding the particular issue of mentoring has not yet been interpreted by the Public Employment Relations Commission (PERC) or the courts. Until specific case law emerges, the negotiability of this issue must be guided by the body of existing and well-established labor relations principles. The following discussion is based upon the application of existing case law and the specific provisions of the mentoring code.

Issues That Are Not Negotiable The following issues would appear to not be negotiable:

- **Criteria for employment and assignments:** These issues are typically seen as nonnegotiable. The mentoring code appears to support this general principle, as it specifically sets minimum criteria for the selection of mentors¹² and assigns the responsibility of setting criteria for mentors' selection to Local Professional Development Committees (LPDC).¹³ Boards should therefore not entertain any union proposal which attempts to set criteria for the selection of mentors.
- **Determination of qualifications:** The decisions as to which applicants are qualified for employment or assignment are managerial functions that are not negotiable. Therefore, boards should not negotiate over proposals that implicate the qualifications or selection of mentors. (However, see discussion on "Issues That Are Negotiable" for procedures for selection when all applicants are equally qualified.)
- **Design of the mentoring plan:** Typically, educational and training programs are not negotiable. This general rule would seem to also be applicable to mentoring issues, as the code specifically assigns this responsibility to the LPDC, subject to the board's approval.
- **Training for mentors:** The decision as to which

¹² N.J.A.C. 6:11-14.5 (a).

¹³ N.J.A.C. 6:11-14.4.

employees should receive training is typically not negotiable. Under mentoring, training for mentors is a clear requirement of the code,¹⁴ as such union proposals cannot address this requirement. However, the issue of additional compensation for this requirement would be seen as a severable and negotiable issue. (See discussion of severable issues under the following discussion of “Issues That Are Negotiable.”)

- **Mentors’ responsibilities:** Job duties and job descriptions are typically not negotiable; however, additional compensation for assignments that increase work load is a severable and negotiable issue. The Administrative Code establishes minimum responsibilities to mentors and this issue is also a minimum component of the local mentoring plan that is the jurisdiction of the LPDC.
- **Staffing and employment decisions:** The number and type of employees that are needed by an employer are not negotiable. Thus, union proposals requiring that the board hire substitutes to cover the classes of mentors would not be appropriate. In addition, the mentoring plan raises new staffing level questions that may lead to new case-law developments and negotiability rulings. For example, will a limitation on the number of new teachers that can be assigned to any one mentor be seen as a nonnegotiable issue of staff assignments or will it be deemed to be a negotiable workload issue? Check with your resources, including the online Negotiations Advisor Update at www.njsba.org, which is available to school districts and subscribers to the publication.
- **Pensionability of stipends:** The issue of types of compensation that can be included in the calculation of employees’ pension is not negotiable. This is a matter that must be determined by the Division of Pensions, and not through local negotiations.

Boards should not entertain union proposals, nor raise their own proposals, that address any of these issues. However, to make sure that the proposal is not negotiable, boards are advised to contact their legal and labor relations resources.

Issues That Are Negotiable The following issues would appear to be negotiable:

- **Mentors’ stipends:** Forms of compensation that are not set by statutes or regulations are negotiable issues. Since the amount of mentors’ stipends is not clearly specified in the code, these stipends are a negotiable topic.
- **Additional compensation for mentors’ additional time or work:** While assignments are not negotiable, compensation (in addition to the stipends) for extra assignments that increase work load or work time are severable issues that are negotiable. Therefore,

proposals for the additional time mentors spend in training, meetings, etc. would be negotiable.

- **Compensation for class coverage:** Another negotiable form of compensation are stipends for other teachers who cover the classes of novice and mentor teachers.
- **Number of instructional hours:** Student contact time and number of instructional hours are negotiable topics.
- **Release time and other adjustments in work schedules:** These are also typically negotiable.
- **Procedures:** Procedures are generally negotiable. Thus, procedures for posting and applying for mentoring positions would appear to be negotiable. Similarly, procedures for selecting mentors among equally qualified applicants are negotiable, as long as the board retains the right to determine which employees are equally qualified.

The mentoring program thus raises a number of negotiable issues concerning compensation and hours of work. However, boards must keep in mind that simply because an issue is negotiable does not mean that agreement is wise or advisable. While boards have an obligation to engage in good faith negotiations over these negotiable issues, this obligation does not in any way require boards to concede to any issue that is inadvisable for the district. When the parties are unable to reach a mutually acceptable agreement to change an existing term and condition of employment, even after the assistance of a mediator and a factfinder, then the *status quo*, or the terms of the old contract, continue to control and are carried over into the new agreement.

Resolving Disputes Over Negotiability Disputes over the negotiability of any issue do not need to be resolved at the bargaining table. If the parties cannot agree that a topic is not appropriate for negotiations, a petition for a scope determination can be filed with the Public Employment Relations Commission (PERC). PERC is the legally designated agency to resolve disputes over the scope of negotiations. It is far wiser to rely on PERC’s expertise in resolving these issues rather than allowing the dispute to become a major stumbling block at the bargaining table. If faced with a negotiability dispute, boards should consult with their legal and labor relations resources to assess the latest developments in this area and to discuss the procedures for petitioning PERC.

Board Considerations in Negotiating Specific Mentoring Issues

Given the topics that can be negotiated, the major issues under negotiations will deal with work time and compensation. It can be expected that both parties will

¹⁴ N.J.A.C. 6:11-14.5 (a) viii and 2.

approach these issues from differing perspectives. Boards' work time concerns will be to assure that mentoring responsibilities do not interfere with teachers' primary responsibility to be available to meet students' instructional and supervisory needs. Conversely, unions can be expected to raise proposals to assure that mentors' responsibilities can be performed during the normal school day and do not extend the negotiated work time of their members.

In terms of economic issues, boards will be most concerned about controlling their costs in light of the uncertainties of state funding. Conversely, unions can be expected to seek guarantees of continued increased compensation for their members who serve as mentors.

In these negotiations, it will be **imperative for boards to consult closely with all building administrators** to assure that all agreements concerning work time do not, in any way, have a short- or long-term negative impact on the district's educational program or the administration's flexibility to respond appropriately to the needs of the students. Boards will also want to keep a sharp focus on the short- and long-term implications of any mentoring issues that hold economic implications.

It will be helpful for boards to develop their positions on these issues, to anticipate the unions' perspective on the same topics, and to plan approaches and responses that can best protect their districts' interests. To help boards prepare to face negotiations of mentoring issues, NJSBA's clause-by-clause analysis of the NJEA Sample Agreement on Mentoring is included as Appendix B of this article.¹⁵ In addition, the points discussed below can alert boards to the considerations that are necessary in negotiating over terms of their mentoring programs. **Please keep in mind that the examples provided below do not reflect NJSBA recommended language, but are offered as points of explanations and consideration.** Each district will need to develop its own approach based on its particular needs and circumstances in dealing with mentoring issues, such as the ones discussed below.

Release From the Defined Contractual Workday

Unions may raise a number of proposals that seek to establish new and unique workday conditions for mentor teachers. This type of proposal can include:

- *limitations on the number of instructional periods* for mentor teachers. If a contract requires that teachers not be assigned more than five teaching periods per day, boards can expect unions to seek to reduce mentors' instructional load to three or four periods each day;
- *additional prep periods* Unions may also seek to guarantee additional prep time for mentors to prepare

to meet their mentoring responsibilities. Within a workday of a defined length, this essentially has the same effect as reducing mentors' teaching or supervisory responsibilities;

- *limitations on subject preparations* Limiting the number of different sections that can be assigned to a mentor teacher may also be a union approach to limiting mentors' work load; and
- *daily guarantees of the adjustments in schedules.*

Board Considerations of Adjusted Schedules Boards will need to determine the implications of adjusted teaching schedules to each building and to each area of the curriculum. A reduced instructional load can have a significant impact on the district's curriculum and its staffing needs. For example, a union proposal that states that "Mentors shall not be assigned to more than four instructional periods per day" would be applicable to all mentors, regardless of their teaching assignments or district needs. Thus, if a physics teacher is assigned to mentor a novice colleague, the district may not be able to continue to deliver its desired physics program without hiring another full-time or part-time physics teacher. Similarly, limitations on the number of subject preparations can reduce the different sections that can be assigned to a teacher and complicate the district's ability to provide its full curriculum, advanced or remedial classes, without employing another staff member.

After consultation with its administrators, a board may determine that a reduction in instructional time is completely unacceptable, but that a reduction in the number of supervisory periods can be relatively easy to accommodate with the remaining staff, within the existing negotiated provisions, and without negative cost implications. Other districts may find that an across-the-board guarantee of release from all supervisory duties is impractical and unworkable for some, or all, of the district's school buildings. Boards' responses will thus need to be deeply related to the particular circumstances of their districts.

Boards will also need to consider the future impact of such provisions. While the current number of mentors could permit some accommodations to the union's proposals, these contractual commitments would become difficult or impossible to administer if there is an increase in the number of mentors during the life of the contract. In light of anticipated changes in the number of mentors, these future complications are sufficient to reject the union's proposals. Contractual provisions, such as:

Mentors' schedules will be determined by the school principal based on the principal's assessment of the needs of the mentor and novice teachers, and the requirements of the district's educational program

¹⁵ The entire new NJEA Sample Agreement and NJSBA's clause-by-clause analysis is available to school districts and subscribers to *The Negotiations Advisor* on the online at www.njsba.org.

clearly address boards' interests in protecting their districts' ability and flexibility to respond to districts' changing needs.

Boards that know their number of mentors for the coming school year and are assured that a contractually guaranteed reduction in instructional load would not create problems in the first year of the contract can consider this type of compromise language:

In the 2002-2003 school year mentors' instructional schedules will not exceed _____ periods per week. In subsequent years, mentors' schedules will be determined by the school principal based on the principal's assessment of the needs of the mentor and novice teachers, and the requirements of the district's educational program.

This type of provision provides an immediate guarantee, under known and predictable conditions, but also permits the administration to initiate future changes that are necessitated by a district's changing needs.

Anticipating Unions' Reactions Boards must realize, however, that unions are very likely (at least during the earlier stages of negotiations) to vigorously oppose these and other "management friendly" examples presented in this article. Yet, boards cannot lose sight of their needs and goals because of their unions' resistance and objections. Boards must keep in mind that their agreement to unions' proposed adjustments in mentors' work schedules will, in most districts, result in newly negotiated language. Once included in a negotiated agreement, these conditions will be extremely difficult to change in future negotiations and may lead to future litigation. Thus, boards must proceed most prudently and approach work schedule changes very conservatively and carefully. Newly negotiated language must be sufficiently flexible to easily accommodate anticipated or possible changes in a district's curricular or staffing needs. Considerations of future implications become most important in these situations, and boards should not agree to provisions that could come back to haunt them when districts' conditions change. It is far more advisable for boards to retain acceptable existing practices than to agree to changes that could ultimately damage their districts' interests.

Board Considerations of Daily Guarantees Boards can expect that initial union proposals addressing adjusted work schedules will likely be framed in terms of daily guarantees of an adjusted schedule. While this is the easiest way to frame the issue, boards should not interpret this approach (or any other initial union proposal) as an expression of a true union need. Boards must also understand the responsibilities of mentors.

Mentors' responsibilities require mentors to interact with novice teachers in the new teachers' classrooms. As such, mentors' schedules may need to be adjusted to require mentors to use some of their prep periods to visit novice teachers' classrooms, or mentor teachers may need to be relieved of some instructional or supervisory duties.

However, boards must be aware that these visitations are not required on a daily basis. Further, the number of visitations will change during the novice teachers' first year of teaching, and fewer and shorter visitations after the first few months of employment are typical. In addition, some novice teachers may need more visitations than others. Thus, daily guarantees to all mentors is completely unrelated to the actual responsibilities of the mentoring program.

In considering adjustments of their districts' normal teaching schedules, boards must consider and relate those changes to their mentors' actual responsibilities. Consultation with all district administrators may quickly indicate the difficulties or impossibilities of designing a uniform daily mentor schedule that is related to all mentors' actual current and future responsibilities. It would be far more advisable for boards to obtain contractual language such as:

Mentor teachers' schedules may be adjusted by the building principal to provide sufficient time for mentors to meet their responsibilities of visiting novice teachers' classrooms.

This type of language permits building principals to provide release time to mentors only for the purposes of meeting their responsibilities to interact with novice teachers during classroom visitations. Similarly, principals should have the discretion to release novice teachers when there is a need for the new teacher to visit the classroom of an experienced colleague.

Boards must also keep in mind that not all mentors' interactions with novice teachers must occur during student contact time. In fact, mentors and novice teachers must also meet, without students, to discuss instructional strategies or any concerns of the mentor or the novice teachers. Contractual provisions that assure that mentoring presents minimal intrusion into the school's instructional program, include this type of contractual language:

Mentor and novice teachers' meetings that do not require the presence of students shall be scheduled after the contractual workday. These meetings shall not conflict with general faculty, building or departmental staff meetings.

or

Mentor and novice teachers' meetings that do not require the presence of students shall not be scheduled during the school day. These meetings may be held before or after the arrival of students.

Alternatively, if coordinating the scheduling of mentor and novice teachers' prep and/or lunchtime is administratively feasible, the required interaction that does not involve the presence of students can be scheduled during the teachers' scheduled prep or lunchtime.

These approaches to scheduling mentoring meetings reduce intrusions into the district's educational program and are protective of the board's interests. Yet, boards

must be prepared to respond to unions' strong opposition to lengthen the work time of mentor teachers or to intrude into their normally "duty free" time. However, boards can point out that mentors are paid their full salaries for a full day's work and that their stipends are intended to compensate them for the additional work and additional time as mentors.

Mentors' Stipends and State Aid

The amount of the mentors' stipends can be expected to be the major compensation issue raised in these negotiations. According to the Commissioner, the state's per-teacher funding is to be used to pay mentors' stipends and any state moneys that are not used for that purpose can be allocated to fund other mentoring related activities, such as training and substitutes. Not surprisingly, boards and unions are likely to approach this issue from different perspectives. Unions are likely to expect that the per-teacher state funding will be the minimum level of mentors' stipends and may even initially propose a stipend that exceeds the amount of state funding. Boards, on the other hand, may not want mentors' stipends that match the state's allocation so that they can use some of those resources to help support mentors' training, substitute coverage and other expenses related to mentoring.

Board Considerations Before defining their positions on the use of state funds, boards must keep in mind that state funds are intended to supplement, and not replace or reduce, current local allocations to support a mentoring program. Thus, boards that have sufficient local funds to pay for training and substitute coverage during mentors' release time may have little or no objections to using the full amount of the per-teacher state aid to pay for mentors' stipends. On the other hand, boards that have not allocated sufficient local dollars to support all the requirements of the new mentoring program and cannot divert additional local dollars to their mentoring programs may have a real need to use state funds to supplement their local resources. These boards will have strong, and possibly irreconcilable, objections to using state funds for the singular purpose of paying stipends.

Linking all economic items together, a generally useful and effective bargaining approach in all negotiations, will continue to be helpful in resolving disputes over the costs of mentoring. Including these costs in the entire economic package may provide a board with the additional leverage necessary to control and contain its costs of funding the total settlement.

In addition, it will be helpful for boards to deal with the entire issue of mentoring as a "package." All terms and conditions of mentoring are related and can be linked to each other. For example, the amount of time that a mentor is released from typical teacher's duties, such as instructional time and noninstructional assignments, is likely to result in the board's obligation to pay other teachers to cover the mentor's assignment. (See discussion on "Class Coverage," later in this section.) Boards may

also be unable to provide additional compensation for mentors' required attendance at after-work hours meetings and training sessions. The relationship of all these costs may convince the union to reexamine its position on the amount of mentors' stipends.

Mentors' Stipends in Multi-Year Contracts

Frequently, teachers' negotiated stipends remain the same throughout the duration of a multi-year contract. This common approach will not be advisable in negotiating mentors' stipends. As discussed earlier in this article, the state's per-teacher funding is not only uncertain and unpredictable, but it will also be marked by annual changes based on the amount allocated in the state budget and the number of novice teachers throughout the state. Therefore, boards must be alert to a union proposal, such as: "Mentors' stipends shall be \$550." This type of proposal uses the state funds received in the 2001-2002 school year to define the amount of the stipend for the duration of the contract.

Board Considerations The type of union proposal mentioned above commits boards to honor that provision, even if state aid is reduced significantly during the life of the agreement. Boards would then be required to allocate local funds to meet their contractual obligations, thus diverting a possibly significant and unexpected amount of local funds to support mentors' stipends. Boards would also be committed to pay that amount to all mentors if the state requirement was discontinued because of lack of funding. The cost of the contractual commitment could thus preclude a board from implementing a desired locally-funded mentoring program. It is therefore most inadvisable for boards to agree to a multi-year stipend that is based on the state funds received in the 2001-2002 school year.

Therefore, establishing stipends based on a flat dollar rate, applicable in all years of the contract, could hold negative future implications for boards. Rather, boards should consider approaches that link their mentors' stipends to the availability and continuity of state funding. This can be achieved in a number of ways. For example, boards can propose this type of language:

Mentors' stipends for a state-required and state-funded program shall be _____% of the state's per-teacher funding of the mentoring program.

This approach serves a number of purposes. First, it permits an annual adjustment of the stipend, based on the actual per-teacher aid received from the state. Second, it continuously reserves a proportion of state funding for the district's costs of providing other types of mentoring activities during all years covered by the negotiated agreement. Finally, the designation of the stipend as applicable only to state-funded and state-required mentoring would limit a board's exposure in the event that the state further modifies its mentoring program by eliminating all state funding. It would also permit boards that have a local

goal to create a distinction between the state-required approach to mentoring and different local programs that provide new teachers with peer support and guidance.

Mentors' After-Work Hours Responsibilities

The code's requirement for mentors' training prior to the beginning of their assignment and continuously ongoing training is likely to result in mentors' responsibilities that involve time after the workday or the work year. Boards must therefore be prepared that unions will seek extra compensation, in addition to the negotiated stipends, for the mentors' extra work hours. These union proposals could include an hourly rate for attendance and travel as well as board payment for all costs related to fulfilling these mentor responsibilities.

Board Considerations Boards must recognize that the number of after-work hours that will be required is unknown. Therefore, an agreement to pay mentors an additional rate for each hour of attendance and travel could result in the writing of a blank check that could become significant if the district has a large number of mentors. Boards must also remember that this training is a state requirement for mentors and that the code also requires teachers to agree to complete a comprehensive mentor training program.¹⁶ Therefore, it is perfectly reasonable and logical to expect that the mentor's stipend is intended to cover this additional time.

While rejecting additional pay for time spent in training, some boards may be willing to consider agreements to reimburse mentors for the costs of attending out-of-district training. These boards must be careful that they are not writing a blank check. Language that limits the board's reimbursement obligation to certain verifiable expenditures and places a "cap" on those expenditures is always advisable.

Class Coverage

Mentor teachers' release time may, in some districts, require coverage of assignments that would otherwise have been performed by the mentor teacher. This coverage may be provided by per diem substitutes or by other teachers. In some districts, the degree of release time may even result in the need to hire another part-time or full-time teacher. Depending on a number of factors, including the amount of release time and the number of mentors, this district expenditure could range from a minimal to a significant expenditure that is directly related to the mentoring program.

Board Considerations No matter how insignificant this expenditure appears to be, boards must include the cost of class coverage in calculating the costs of their mentoring programs. This inclusion is important for a number of reasons. First, in negotiating over the allocation of state funding, it can become important in persuading the union of the relationship of all parts of the mentoring

program. Further, if significant local funds are used to provide class coverage in the early years of the state-funded programs, the code's requirement that state funds can only supplement local mentoring expenditures may force boards to continue to include that amount in their mentoring programs in later years. This would result in an artificially high district allocation for mentoring and in boards' inability to restore these funds for use in other areas of the budget.

Boards can control the costs of class coverage by negotiating provisions that require all teachers to provide a certain amount of coverage without additional compensation. Assignments that exceed that number would then be compensated. However, boards should avoid provisions such as: "Teachers who are assigned to cover mentor teachers' classes shall be compensated at their regular hourly pay." Compensation that is based on the teachers' hourly rate always results in an "escalator clause" which provides an automatic annual increase in the rate, based on teachers' increased salaries.

However, language such as:

Teachers who are assigned to cover mentor teachers' classes shall be compensated at the rate of \$ ____ per class

sets a defined amount for all teachers and is not subject to automatic increases. Changes in the rate will need to be negotiated and the union will have the future burden of persuading the board of the need for the change.

In addition, "compensation" can be provided through a variety of different approaches which may not require an outlay of funds, such as relieving the teacher from certain contractual responsibilities that are not necessary to the educational program or to student needs.

Examples of these types of provisions are clauses that state:

A teacher who is assigned to cover more than ____ classes of a mentor teacher in any one week may upon the principal's approval leave the building at the same time students are dismissed on one Friday.

or

A teacher who is assigned to cover more than ____ classes of a mentor teacher in any one month shall be released from one cycle of the rotational schedule of bus duty assignments.

However, before considering these "noneconomic" forms of compensation, boards must assure that *the arrangement does not disrupt the district's operations*, does not create an administrative burden and does not interfere with students' needs. Further, a board proposal to rely on this type of compensation can reduce the board's ability to argue that state aid cannot be used fully to fund mentors' stipends. However, this approach may be a productive

¹⁶ N.J.A.C. 6:11-14.5 (a) 1. viii. and 2.

“fall back” position, in the event the union adamantly refuses to agree to mentors’ stipends that are less than the funds provided by the state.

Including Mentors’ Stipends in Teachers’ Base Salaries

Unions may also seek an agreement to include mentors’ stipends into the teachers’ base salaries. Whether the amount of mentoring stipends will be recognized as a legitimate inclusion into the base salary for the purposes of calculating pension benefits is not a matter of negotiations, but will depend upon determinations of the Division of Pensions. However, a local definition of a base salary for the purposes of defining contractual benefits, other than pension benefits, is a negotiable topic.¹⁷

Board Considerations These proposals to include mentors’ stipends into a salary base have a number of significant implications for both the union and the board. From the union’s perspective, these proposals are desirable as they will, of course, increase mentors’ salaries. In addition, since school law prohibits the reduction of tenured teachers’ compensation, the increased salary will continue even in years that the teacher is not serving as a mentor. Therefore, these increases will be reflected in every year of the teacher’s employment and, ultimately, increase the teacher’s pension benefits.

From a board’s perspective, however, the inclusion of mentoring stipends into teachers’ base salaries holds many significant negative implications for boards of education. First, this inclusion results in the continued payment of mentors’ stipends even when the teacher is no longer serving as a mentor. Second, in the long run, these arrangements could lead to many teachers receiving off-guide salaries, and possibly contradict a board’s belief that all salaries should be reflected on the guide. Further, subsequent mentoring assignments will lead to additional stipends that will also be used to further increase the teacher’s base salary. Over the course of a teacher’s career, these increases in salaries can result in significantly higher salaries for teachers who have served as mentors. These increased salaries will mean additional annual costs to districts that have negotiated hourly rates for certain extra work or per diem reimbursement for payment for unused sick leave. In addition, increased salaries will continue to be reflected in calculating a district’s salary base for the purposes of future negotiations. Based on each district’s circumstances, the impact on local boards could range from insignificant to sizable future increased costs. Boards cannot ignore the long-term implications of these types of union proposals and should not agree to these types of proposals.

Summary

In negotiating over the issues raised by mentoring,

boards of education must be exceedingly alert to the impact of the program on the district’s educational and operational program. Boards that find that their existing mentors’ terms and conditions of employment create difficulties for the district will want to draft appropriate board proposals to seek changes that will benefit the district. On the other hand, boards that are satisfied with their existing practices will not introduce board proposals, but may face union-proposed changes.

In negotiating over unions’ desired changes involving mentors’ work time, boards must assure that the changes would not in any way intrude into the districts’ instructional program or reduce the administration’s flexibility in scheduling and assigning staff. Boards must also anticipate the long-term impact of any proposed change. It will be far more advisable to retain acceptable existing work-time conditions than to accept contractual language that would ultimately damage administrative discretion and the districts’ interests. In negotiating over economic issues, boards analyze the short- and long-range implications of every proposal based on the uncertainties of state funding.

Effective Bargaining Techniques

As in the negotiations of all issues, boards must be fully prepared to approach mentoring with effective bargaining techniques that will support their ability to reach their goals. These bargaining techniques, discussed at length in the “Bargaining Skills” section of *The Negotiations Advisor* and in NJSBA’s publication *Collective Negotiations*,¹⁸ include:

- **Rely on proven bargaining techniques** such as: communicate the board’s interests frequently and rely on trade-offs and packaging to increase the union’s need to recognize the board’s needs.
- **Be prepared and well-informed:** do your own research. Don’t rely on the union’s interpretations of the issue.
- **Don’t be intimidated by union rhetoric:** unions will engage in long, repetitive discourses of the importance of their issues and their inability to modify their strongly held positions. These are frequently designed to mislead and intimidate boards into concessions that may be desirable for the union, but not necessary to a settlement.
- **Don’t assume the union is wedded to its initial proposal:** initial proposals, on both sides of the table, are designed to leave room for movement and compromise. Boards should not assume that these positions indicate unions’ inability to modify, or drop, their overstated position.
- **Be ready to say “no”** to any union proposal that would reduce the administration’s discretion or flexibility.

¹⁷ *City of Newark*, PERC No. 2000-29, 25 *NJPER* 30195.

¹⁸ *Collective Negotiations*, Vol. 5 of NJSBA’s School Board Library Series, 2001 edition.

- **Remember importance of first-time negotiations:** it is most difficult to reduce a contractual benefit. It is therefore most advisable for boards to be extremely aware of both short- and long-term implications and to agree only to include feasible but modest contractual guarantees of new terms of employment.
- **Keep track of the total cost of the program and the total cost of settlement:** to know and control the total cost of agreement, keep all economic items together.
- **Be patient, committed and united:** be prepared to consider possible different approaches to meeting your needs, but don't abandon your bargaining goals. Boards' patience, commitment and unity are key ingredients to their ability to achieve their bargaining goals.

Conclusion

The modified mentoring requirement for the 2001-2002 school year holds a number of responsibilities for local boards of education. These include the responsibility of deciding whether a district should seek a waiver from *N.J.A.C. 6:11-14.1 et seq.*, which establishes a state-required, state-funded two-year

mentoring program or whether the district can provide a locally-funded second year of mentoring to its novice teachers. In addition, the modified program's requirement that boards begin a process to establish a future local mentoring plan highlights the importance of boards' development of appropriate district policies that can be submitted to guide the work of the district's Professional Development Committee. Finally, the implementation of the 2001-2002 mentoring program has triggered an intensified negotiations obligation for all boards of education.

In facing negotiations of mentoring issues, boards will need to remain keenly aware of the particular characteristics of the mentoring program, such as the potential impact of mentors' responsibilities on students' instructional time and the uncertainties of state funding. The short- and long-term implications of these aspects of mentoring must be given careful board consideration at all stages of bargaining. A focus on these key aspects of mentoring and the use of proven, effective bargaining techniques can help boards to develop terms and conditions of mentoring that will assure that mentoring can become a meaningful part of staff development that supports the district's primary goal of providing its students with an effective educational program.

APPENDIX A

A BOARD MEMBER'S GUIDE TO THE 2001-2002 MENTORING REQUIREMENT

Mentoring Regulations

N.J.A.C. 6:11-14.1 et seq.

As adopted April 4, 2001, with amendments to 6:11-14.8(d).

SUBCHAPTER 14. REQUIREMENTS FOR MENTORING NOVICE TEACHERS

6:11-14.1 General provisions

- (a) The purpose of this subchapter is to govern the implementation of a required two-year mentoring program for novice teachers.
- (b) These rules apply to district boards of education whose staff hold positions that require the possession of instructional certificates. These rules, with the exception of N.J.A.C. 6:11-14.8, also apply to approved nonpublic schools that participate in the Provisional Teacher Program.
- (c) Definitions of words and terms used in this subchapter are set forth at N.J.A.C. 6:11-5.6.

6:11-14.2 Novice teacher responsibilities

These rules affect all novice teachers employed as of September 2001 whose positions require possession of instructional certificates in accordance with N.J.S.A. 18A:26-2 and N.J.A.C. 6:11-3.1(a). The requirements of these rules shall take effect beginning September 1, 2001.

6:11-14.3 District board of education mentoring responsibilities

- (a) A district board of education shall ensure that rigorous, two-year mentoring is provided to novice teachers by developing a local mentor plan in which experienced teachers give confidential support and guidance to novice teachers.
- (b) A district board of education shall ensure that the local mentor plan includes face to face contact between the mentor teacher and the novice teacher.
- (c) A district board of education shall ensure the development of a local mentor plan by the local Professional Development Committee.
- (d) The district board of education shall annually report the implementation of the local mentor plan in its Quality Assurance Annual Report (QAAR) pursuant to N.J.A.C. 6:8-2.1.

6:11-14.4 Development of a local mentor plan

- (a) The local Professional Development Committee as defined in N.J.A.C. 6:11-13.3 (d) in each district board of education shall develop a local mentor plan to include the following:
 1. Goals which include the following:
 - i. To enhance teacher knowledge of and strategies related to the Core Curriculum Content Standards in order to facilitate student achievement;
 - ii. To identify exemplary teaching skills and educa-

tional practices necessary to acquire and maintain excellence in teaching; and

- iii. To assist novice teachers in the performance of their duties and adjustment to the challenges of teaching.

2. An application process for selecting mentor teachers;
3. Criteria for mentor teacher selection;
4. Provisions for comprehensive mentor training;
5. Identification of mentor teacher responsibilities;
6. Logistics for mentor plan implementation;
7. Consideration of collaborative arrangements with colleges and universities; and
8. Use of state funds.

- (b) Terms and conditions of employment shall be subject to negotiations between representatives of the district board of education and the collective bargaining agent.

- (c) The local Professional Development Committee shall submit the local mentor plan to the district board of education for approval prior to submission by the district board of education to the county superintendent.

6:11-14.5 District board of education plan implementation responsibilities

- (a) A district board of education, in implementing the local plan, shall ensure that:
 1. The eligibility of teachers applying to serve as mentor teachers is based on criteria which include the following:
 - i. The teacher is tenured in the district and actively teaching; or, in the event that such a teacher is unavailable, a certified teacher with at least three years of experience who is actively teaching may be selected;
 - ii. The teacher is committed to the goals of the local mentor plan including respect for the confidential nature of the mentor teacher/novice teacher relationship;
 - iii. The teacher has demonstrated exemplary command of content area knowledge and of pedagogy;
 - iv. The teacher is experienced and certified in the subject area in which the novice teacher is teaching, where possible; and where not possible, in a closely aligned subject area;
 - v. The teacher is knowledgeable about the social/workplace norms of the district board of education and the community the district board of education serves;
 - vi. The teacher is knowledgeable about the resources and opportunities in the district board of education and able to act as a referral source to the novice teacher;
 - vii. The teacher provides three letters of recommendation from those who are familiar with the mentor teacher applicant's work; and
 - viii. The teacher agrees to complete a comprehensive mentor training program.

2. Mentor teachers receive appropriate training prior to beginning mentoring assignments and on-going training in current mentoring practice is continued.

6:11-14.6 Evaluation of the local mentor plan

- (a) Effective April 1, 2002, and continuing annually, the district board of education shall submit a report on the effectiveness of the local mentor plan to the Department of Education.
 1. The district board of education shall collect data from novice teachers, mentor teachers and others using a form developed by the department.
 - i. The data shall include:
 - (1) Program impact on job satisfaction;
 - (2) Adequacy of time and training; and
 - (3) Recommended program changes and additions.

6:11-14.7 Program accountability

- (a) A district board of education shall ensure that the local mentor plan is consistent with N.J.A.C. 6:11-14.3 through 14.5.
- (b) The Department of Education shall monitor district implementation of the local mentor plan to ensure its compliance with N.J.A.C. 6:11-14.3 through 14.6.

6:11-14.8 Use of State funds

- (a) District boards of education in public school districts only shall be responsible for budgeting appropriately any State funds appropriated for the novice teacher mentoring program.
- (b) The Department of Education shall appropriate State funds based on the number of novice teachers employed each year in a given public district board of education.
- (c) District boards of education in public school districts only shall ensure that State funds appropriated for this program shall supplement, and not supplant, any Federal, State or Local funds already devoted to planning and implementing a novice teacher mentor program.
- (d) District boards of education, in public schools only, shall ensure that state funds shall be used for one or more of the following: stipends for mentor teachers, the costs associated with released time, substitutes for mentor teachers and novice teachers and professional development/training activities related to the program.

- (e) District boards of education in public schools only shall review the levels of compensation, released time and other terms and conditions of employment of novice teachers and mentor teachers. These shall be subject to negotiations between the local board of education and collective bargaining agent.

6:11-5.6 Definitions

The following words and terms, when used in subchapters 5 and N.J.A.C. 6:11-14, shall have the following meanings unless the context clearly indicates otherwise.

“Alternate route” means a non-traditional teacher preparation program.

“District board of education” means all district boards of education and charter schools whose staff hold positions that require the possession of instructional certificates.

“Full-time teaching” means the equivalent of 900 clock hours of teaching per year for purposes of N.J.A.C. 6:11-14 only.

“Local Professional Development Committee” means the committee established by the district board of education pursuant to N.J.A.C. 6:11-13.3(d) to plan and implement local district professional development programs.

“Mentor teacher” means a certified, experienced teacher who is assigned to provide support and guidance to a novice teacher.

“Nonpublic School” means an elementary or secondary school within the State, other than a public school, pursuant to N.J.S.A. 18A:46A-2.

“Novice teacher” means any full-time or part-time teacher who has not completed two years of teaching under a standard State teaching certificate.

“Provisional Teacher Program” means the school-based training and evaluation program provided to all novice teachers during their first year of teaching in New Jersey.

“Provisional teaching year” means the amount of full-time teaching under provisional certification required of a first year teacher before he or she can be approved for standard teacher certification.

“Traditional Route” means an approved collegiate teacher preparation program.

APPENDIX B

A BOARD MEMBER'S GUIDE TO THE MENTORING REQUIREMENT

ARTICLE XX: MENTOR AND PROVISIONAL TEACHERS

NJEA SAMPLE AGREEMENT

The New Jersey State Board of Education will approve new mentoring regulations effective Sept. 2001. Local bargaining teams should review said regulations in preparation for bargaining.

Teachers

1. Mentors' daily workload shall be *...negotiated number...teaching and student supervision periods per day, but shall not exceed ...negotiated number... hours per day.*

Mentors

2. All vacancies for mentoring positions shall be posted as early as the district is aware of its needs. The postings shall include the qualifications for the position.

NJSBA ANALYSIS

This is a new provision in the NJEA Sample Agreement, designed to address the mentoring program, as defined by N.J.A.C. 6:11-14.1 et seq. This Code, adopted by the State Board in April 2001, provides per teacher state funding for a two-year mentoring program and was interpreted by the Commissioner to obligate boards to pay mentors' stipends. (For a full discussion of the provisions of the new Code, please see The Negotiations Advisor article on mentoring.) Boards must keep in mind that any agreement on mentoring that does not specifically link the negotiated provision to state funding or to the Code's requirements, but simply addresses mentoring conditions, could commit the Board to maintain the language of the contract even under changing conditions where the state's funding is reduced or eliminated.

Agreements to mentoring conditions will likely introduce new contractual provisions in most existing teachers' contracts. Boards must remember that it is far easier to draft good new contract language that addresses boards' needs and interests than it is to change previously negotiated provisions that have proven to intrude upon the flexibility and authority of school management. Therefore, it is essential that boards be exceedingly alert to their districts' needs and to the short and long-term implications of any potential agreement addressing the terms of employment of mentoring.

Note: The importance of the preceding NJSBA commentary has been underscored by the legislature's elimination of mentoring funds from the 2002-2003 State Budget. As we go to print, the Department of Education has not yet issued its direction for districts' implementation of mentoring in the absence of state funds. Please check NJSBA's web site at www.njsba.org for the latest developments in this area. This analyses of the NJEA contractual Article on mentoring will also be subject to change, based upon the Department's directive. The updated analysis will be included in the OnLine Negotiations Advisor Update, available to school districts and subscribers.

Teachers

1. Although less than clear, this clause appears to be intended to set limits on mentors' student contact time. Any contractual agreement to a modified daily schedule for mentor teachers must reflect the staffing resources and needs of each building as well as the district's goals. Note that the Sample Agreement appears to propose a daily modification of teachers' general workday schedule. Mentors' responsibilities may actually require release time on far fewer days. Further, even if at this point in time, your mentors need this amount of time on a daily basis, this agreement would be too inflexible. Mentors' needs may change in future years of the contract, but as long as this daily guarantee is in your contract, you would be committed to providing the time even if it was not needed to meet mentoring responsibility. Mentors' adjusted schedules should reflect the actual responsibilities of a mentor in any year of the contract and provide sufficient flexibility to be modified each year to reflect current needs.

Before agreeing to any modifications in the workday of teachers who will serve as mentors, boards must discuss the issue with their administrative staff and, since what may be feasible in one building may create havoc in another, boards must assure that they obtain the input of all building principals.

Mentors

2. Posting procedures are negotiable. Requiring that the posting include qualifications for a position is typical contract language and a good personnel practice. However, normally negotiable procedural issues may not be applicable to mentoring under the provisions of N.J.A.C. 6:11-14.1 et seq. The code requires that the local mentoring plan developed by districts' Professional Development Committees for the approval of local boards include an "application process for selecting mentor teachers." It would

ARTICLE XX: MENTOR AND PROVISIONAL TEACHERS

NJEA SAMPLE AGREEMENT

NJSBA ANALYSIS

3. No employee shall be assigned to serve as a mentor if there are qualified volunteers available. If an employee is involuntarily assigned to a mentoring position, said employee shall not be involuntarily assigned again until all other qualified employees have been assigned.

4. No teacher shall serve as a mentor unless employed by the Board at least ...*negotiated period of years*...

5. No teacher shall serve as a mentor to more than ...*negotiated number*... provisional/alternate route teachers simultaneously.

6. The Board shall provide training for all teachers who serve as mentors before the start of their assignments. Whenever possible, such training shall be scheduled during the regular workday. If training is scheduled for hours outside the regular workday, the teacher shall be compensated at the teacher's regular per diem rate. The district shall pay all costs connected with said training, including travel to any out-of-district training site, meals, lodging, and miscellaneous fees.

therefore seem that the procedures recommended by these committees could preclude negotiations over this issue.

In addition, this Sample clause could be interpreted to obligate the administration to post mentoring positions, whenever the administration becomes aware that a novice teacher will be expected to begin employment with the district. This could result in a piece-meal approach which could place an unnecessary burden on your administrators at times which typically involve the hiring of new staff. Boards should consult with their administrative staff to assure that posting procedures are practical and realistic.

3. Procedures for the assignment of equally qualified employees are normally negotiable. However, as noted in section (2) above, these procedures may be preempted by the application process developed by local Professional Development Committees.
 Further, even if this procedure is not preempted, it would be most inadvisable for boards to agree to it. It does not preserve the board's right to select the most qualified teacher to serve as mentors and could reduce the number of available mentors. As such the clause would interfere with implementation of educational policy and staffing decisions, and could lead to litigation before PERC over the issue of negotiability and arbitrability.

4. This involves the criteria for the selection of mentors, and not terms and conditions of mentor teachers, and would probably be found to be nonnegotiable. In addition, *N.J.A.C. 6:11-14.4 iii.3* assigns the responsibility of defining the criteria for selecting mentor teachers to the local Professional Development Committee, subject to the board's final approval. The code also requires that mentors be tenured teachers in the district. These directives could also be seen as preempting negotiations of this issue.

5. The mentoring code does not require a limitation on the number of novice teachers that can be assigned to one mentor, as such, the Code does not preempt negotiations of this issue. However, the negotiability of this clause may be questionable and will depend upon subsequent PERC rulings. If seen as an issue that predominantly implicates a board's right to assign and deploy its staff, then it is likely that it will be found to be nonnegotiable. Yet, if PERC finds that this is primarily an issue of work load, then it may be found to be a mandatory topic of negotiations. Under any circumstances, the compensation for mentoring more than one novice teacher is more likely than not to be found to be mandatorily negotiable.
 Even assuming that this is deemed to be a negotiable topic, boards should not agree to this provision. If included in a negotiated contract, this provision could create unnecessary limitations on the administration's flexibility and potential problems for boards. It would, for example, limit the number of mentors available if and when the district experiences an unusually high number of new hires who all require mentoring. The necessities of a mentor's responsibilities and a district's scheduling practices should serve as a natural limitation on the number of novice teachers who can, at any one time, be assigned to one mentor. As such, inflexible contract language is highly inadvisable.

6. Training for mentors is required by *N.J.A.C. 6:11-14.5 (a) 2*. Further, the code's list of minimum required criteria for the selection of mentor teachers, includes the teacher's agreement to complete a comprehensive training program. (*N.J.A.C. 6:11-14.5 (a)1.viii.*) The code does not specify when the training will occur, but according to *City of Newark*, PERC No. 86-52, 11 *NJPER* 16242, the decision of when training will occur is a nonnegotiable responsibility of the employer. Additional compensation for the training is, however, negotiable. Boards should keep in mind that mentors receive additional compensation for their role and that training is a required aspect of their function and responsibilities.

In addition, note that the last sentence commits the board to pay for all sorts of uncontrolled expenses. Boards who are inclined to reimburse mentors for expenses incurred as a result of the required training should consider limitations, including "caps" on their financial obligations.

ARTICLE XX: MENTOR AND PROVISIONAL TEACHERS

NJEA SAMPLE AGREEMENT	NJSBA ANALYSIS
<p>7. In addition to preparation time stipulated in this Agreement, staff members who perform mentoring duties shall be provided ...<i>negotiated number</i>... daily joint planning sessions with their assigned provisional/alternate route teacher.</p> <p>8. Mentors shall receive ...<i>negotiated amount</i>... per academic school year and/or fraction thereof. Said payment shall be pensionable.</p> <p>9. In addition to preparation time provided in this Agreement, teachers serving as mentors shall have a daily period of not less than ...<i>negotiated amount of time</i>... to perform duties associated with mentoring.</p>	<p>7. This clause addresses mentors' responsibilities, another issue which the code reserves for the Local Committee, subject to the approval of the board. Daily joint planning sessions may not be part of the local mentoring plan. In addition, this clause can present serious difficulties for administrators' ability to schedule teachers' daily assignments. Boards should not begin discussing this proposal with the union until they have consulted with their administrators and have obtained a full understanding of each building's staffing resources and scheduling needs.</p> <p>8. Stipends for mentor teachers is mandatorily negotiable. According to the provisions of the code, state funds provided for the mentoring program must be used by boards for the costs affiliated with the mentoring program. Further, the Commissioner of Education has clarified that novice teachers cannot be assessed mentoring fees and that boards must use state funds to pay stipends of mentor teachers. State funds that remain can then be used for other mentoring activities such as training, release time, and substitutes for both novice and mentor teachers. The code further requires negotiations over the terms and conditions of the employment of novice and mentor teachers.</p> <p>Therefore, the first sentence is negotiable. However, before a board agrees to a specifically defined stipend, it must consider that state funds will vary from year to year, based on the state's budget and the number of new teachers anticipated in any one year. It would therefore be wise for boards to link their stipends to the amount that the state funds per teacher in a specific year. Otherwise, the district will find that it is obligated to use local funds to meet its contractual obligation. (For a full discussion of this topic, please see the article on mentoring in the Selected Topics Affecting Negotiations section in <i>The Negotiations Advisor</i>.)</p> <p>Also note that the first sentence appears to provide the same stipend for all mentors, whether they serve for a full academic year or simply a "fraction thereof." Boards may find that prorating stipends to the actual length of the assignment would be a far more logical approach.</p> <p><i>However</i>, the second sentence is <i>not</i> negotiable. As it addresses pension benefits, the decision as to whether the stipends are "pensionable" belongs to the Division of Pensions and not to the bargaining table.</p> <p>9. As in section (7), this clause implicates teachers' schedules and boards must consult with their administrators to fully understand the districts' needs in this area. While some mentor responsibilities must occur during the workday, others can easily be performed after school hours. (For more information on mentors' responsibilities, please see the article on mentoring in the Selected Topics Affecting Negotiations section in <i>The Negotiations Advisor</i>.)</p>
<p>Provisional/Alternate Route Teachers</p> <p>10. Provisional/Alternate Route teachers shall be provided ...<i>negotiated number</i>... period(s) per day to meet with their mentors.</p> <p>11. All fees connected with the mentoring program and all licensing costs shall be paid by the Board.</p>	<p>Provisional/Alternate Route Teachers</p> <p>10. This clause can also hold significant scheduling implications. Meeting with mentors can frequently be accomplished after school. Again, boards must discuss this proposal with their administrators to fully appreciate the immediate and future impact of this clause.</p> <p>11. As noted in section (8), a board has the responsibility to pay mentors' stipends. A board can also use state funds to supplement locally allocated moneys for the mentoring program to pay for release time and substitutes for novice teachers. Whether a board can use state funds to pay for other fees incurred by novice teachers is unclear. Regardless of the source of funding, the term "all fees" in this section is far too broad for a board to incur a self-imposed obligation which would result in the writing of a "blank check." Further, boards do not have a legal obligation to pay for licensing costs. While this may be a negotiable issue, boards should not agree to this provision until they have carefully assessed the economic, practical and philosophical implications of this proposal.</p>