



LABOR RELATIONS FOR SCHOOL BOARD MEMBERS: TOO IMPORTANT TO IGNORE

Why Does Labor Relations Matter?

Two facts are essential to understanding why labor relations is extremely critical to your district:

- (1) Every school district in the state of New Jersey has teachers represented by a labor union; and
- (2) Approximately 80 percent of the typical school district's operating budget (and in many cases, more) is devoted to employee compensation.

Thus, your collective bargaining agreements significantly affect your district's ability to provide a sound education program. Labor relations can be a formidable undertaking, especially in the highly charged and financially restrictive environment under which boards of education currently operate.

What law governs the relationship between the school board and the union?

The New Jersey Employer-Employee Relations Act (*N.J.S.A. 34:13A-1, et seq.*) is the law that regulates the relationship between the board and its labor unions. This law is commonly referred to as the "PERC Law." The PERC Law is administered by the Public Employment Relations Commission. The commission is a neutral state agency with a role to ensure both the public employers and unions comply with the law.

What does the PERC Law require?

The basic requirement of the PERC Law is joint decision making of most of the terms and conditions of employment. (What constitutes a term and condition of employment is defined by law.) This means that the parties must mutually agree to any changes before they become effective.

What are the board's obligations under the PERC Law?

The board has two fundamental obligations under the PERC Law:

- (1) Respect the rights of the employee and the union. For instance:
 - Employees can join a union
 - Employees can negotiate collectively & file grievances
 - Employees can participate in lawful union activities
 - Employees choose their own representatives
 - The union is the exclusive bargaining representative and the board cannot bypass it and deal directly with the employee about terms and conditions of employment
- (2) Honor the duty to "bargain in good faith." That means:
 - The board and union meet as equals
 - The board discusses changes in terms and conditions of employment prior to implementing them
 - Setting the agreement in writing and abiding by the terms

Is there more to labor relations than just negotiating a new contract?

Yes, much more. Simply put, the relationship between the board and its unions must be considered at all times. Even after the contract is settled, the school board must administer and adhere to the specific terms of the contract. The administration of the contract can result in disputes between the parties, which can affect the finances of the board.

How is a new labor contract arrived at?

Arriving at a new contract starts with face-to-face negotiations, and can include impasse procedures, which may need to be utilized to reach an agreement. Keep in mind that any new contract requires mutual agreement from both sides. This means that no third party can require or order the board to accept a labor proposal it does not voluntarily agree to. The Board has the right to say yes or no to any proposal, and it can continue to do so as long as it can articulate a legitimate reason. It is not "bad faith" bargaining to say no to a union proposal. (Conversely, the union is also permitted to say no.)

What are the impasse procedures?

When face-to-face negotiations fail, either party can invoke the impasse procedures, which include mediation, fact-finding, and super conciliation. The goal of the impasse procedures is to have the parties voluntarily agree. At no point can the mediator, fact-finder or super conciliator order the board into any settlement. There is no settlement until both the board and union agree.

The impasse procedure steps:

- (1) **Mediation** A PERC-appointed mediator attempts to broker an agreement;
- (2) **Fact-finding** A PERC appointee hears arguments from both sides and issues a report with a recommended settlement; and
- (3) **Super Conciliation** Another PERC appointee, who can order intensive, round-the-clock mediation. Ultimately, the Super Conciliator can issue another recommended settlement.

What is an unfair labor practice?

An action committed by either party which violates the provisions of the PERC Law. (Some examples include: refusing to bargain in good faith; unilaterally changing the terms and conditions of employment; and retaliating against an employee for involvement or noninvolvement in union activities.) Either party can initiate a claim of an unfair labor practice.

How can NJSBA assist boards and their members in the labor relations context?

To assist your district in meeting the challenges of labor relations, NJSBA's Legal and Labor Relations department staff offers a variety of essential services ranging from data requests to salary guide wellness checks and contract wellness checks. The committed team of NJSBA professionals provides the resources, training and information necessary to develop a sound negotiations strategy and respond to union activities.