

SOUTH DAKOTA BOARD OF REGENTS

Full Board

AGENDA ITEM: 18

DATE: June 10-11, 2015

SUBJECT: Collective Bargaining

Negotiators representing the Council of Higher Education and the Board have concluded bargaining for amendments to the Special Schools Bargaining Agreement. Attached are the provisions that were altered as a result of these negotiations, together with a list of items that were subject to tentative agreements but that did not require changes to the text of the bargaining agreement itself.

The Council of Higher Education has informed the Board negotiating team that its membership has ratified the agreement. Upon ratification by the Board, the term will extend from July 1, 2015 through June 30, 2018.

The Special Schools Agreement is a mature agreement, a number of its provisions having been in place in substantially their present form since the first comprehensive agreement was signed on May 21, 1981. The tentative agreements now recommended to the Board reflect this underlying fact.

The most significant change to emerge from this round of bargaining involves the elimination from the bargaining agreement of provisions that tied a portion of annual raises to market conditions. Though quite sensible in theory, this approach proved to be unworkable in practice. The special schools simply could not obtain market data that was broken down in ways that permitted a fair comparison between its staff and counterparts with similar education and experience, either at special schools located in other states or at school districts. Current data are not always available, and to the extent available they are published in summary form, i.e., the average salary at an institutional or district. Trying to obtain a breakdown of averages in order to compare special school teachers to peers having similar experience and education would require considerable work by other institutions or schools.

Other tentative agreements include:

(Continued)

RECOMMENDED ACTION OF THE EXECUTIVE DIRECTOR

Ratify the tentative agreements amending Special Schools Bargaining Agreement, as shown in the attachment in this item, which, inter alia, extend the ratified agreement from July 1, 2015 through June 30, 2018, and authorize the execution of the ratified agreement.

- Extending the three year deadlines for acquisition of visual impairment teaching endorsement or documented ASL proficiency where a teacher had been recruited from outside South Dakota or in extenuating circumstances beyond the control of the unit member;
- Creating an alternative mechanism to allow SDSA outreach consultants to document efforts to acquire ASL proficiency and to establish incentives to persist in improving their command of ASL and mechanisms to assist them in doing so. (With the demise of the Augustana College ASL program, no postsecondary institution in South Dakota offers such curricula.)
- Change the percentage of increase monies allocated to distribution based upon service and distribution based on ongoing professional development – currently the percentages are allocated 10% to service and 20% to ongoing professional development; these percentages will now become 20% to service and 10% to ongoing professional development
- Clarify that unit member payments for fringe benefits and COHE dues will be prorated over a full twelve-month payout schedule irrespective of the length of the base contract; and
- Revise § 20.5, relating to printing and distribution of the agreement, to eliminate the necessity for printed copies of the agreement; henceforth, the agreement will be published solely through the web and to facilitate timely revision of documents that are subject to institution-level negotiations, including, in particular, procedures and documents employed for purposes of annual evaluations.
- That placement of personnel within the bargaining unit is determined by the teaching functions performed by the individual and the percent of time assigned to such functions, not by academic credentials.
- The special schools will allow outreach consultants the choice of having an institution-provided cell phone with a basic voice plan or to continue the \$15 per month stipend. The special schools presently provide both iPad devices with data plans that support text communications to outreach consultants and reimbursement for private cell phone use at the rate of \$15 per month. The Board or the special schools will provide training to assist unit members in utilizing the text and face time communications capabilities of the iPads.

BOARD OF REGENTS PROPOSALS FOR AMENDMENTS TO ITS BARGAINING AGREEMENT WITH THE COUNCIL OF HIGHER EDUCATION: SPECIAL SCHOOLS JUNE 10-11, 2015

Tentative Agreements:

8.4 CONTINUING CONTRACTS

~~Effective with contracts issued for the 2012-2013 academic year, faculty~~ Faculty members employed at the School for the Blind and Visually Impaired who are in or beyond their third full year of employment who have attained their state endorsement in visual impairment (or as appropriate for their assignment in Orientation and Mobility, Low Vision, or Speech/Language Pathology) will be automatically reappointed for the following year, unless notice of intention not to renew the contract is received on or before the third Monday of March of any year.

~~Effective with contracts issued for the 2012-2013 academic year, any faculty~~ Faculty unit members employed at the School for the Deaf who are in or beyond the third full year of employment and ~~at three year intervals thereafter,~~ who can ~~provide evidence of intermediate level~~ demonstrate proficiency ~~an intermediate level~~ of American Sign Language as documented through a nationally recognized American Sign Language proficiency measure or satisfactory completion of at least two credit bearing courses in American Sign Language offered by an accredited postsecondary institution, ~~or through an equivalent~~ have completed at least two rigorous instructional program approved by the Superintendent, ~~demonstrate proficiency in American Sign Language at a level appropriate to their principal teaching assignment~~ will be automatically reappointed for the following year, unless notice of intention not to renew the contract is received on or before the third Monday of March of any year.

The School for the Deaf will administer the Sign Language Proficiency Interview (SLPI) every three years to encourage continuous improvement of American Sign Language skills. This report will be used by the faculty unit member to create a personal goal that will show measurable progress. New faculty unit members will be required to take the SLPI within the first 12 months of employment to establish a baseline of skills, unless they have a SLPI rating within the previous three years.

The School for the Deaf provides basic American Sign Language training programs to new employees, and faculty unit members may participate in these programs. The School for the Deaf will also make reasonable efforts to sponsor college credit bearing American Sign Language courses when faculty unit member interest justifies making such arrangements.

The Board may approve extension of the three year periods of time allowed for completion of endorsements or acquisition of American Sign Language Proficiency required under this section by one year. Good cause for granting such an extension will include, without limitation,

1. On the occasion of the birth or adoption of that faculty member's child or adoptive or placement of a foster child with that faculty member; or
2. When the faculty member is a major caregiver for an immediate family member who has an extended serious illness, injury, or debilitating condition; or

3. When the faculty member has an extended serious illness, injury, or debilitating condition;
4. When a new faculty member comes from out-of-state and is required to complete the SD requirements to be issued a SD teaching certificate; or
5. When extenuating circumstances beyond the control of the new faculty member impede timely completion of required coursework or training, and the new faculty member is making good effort to complete the courses.

The request for extension must be made in writing to the superintendent within one year of the events giving rise to the claim.

A faculty member may use this provision no more than two times.

For purposes of this policy, "immediate family" includes a spouse, a common law spouse, or any other adult with whom the faculty unit member lives and commingles assets, unemancipated natural, adopted or foster children, parents or persons over whose affairs the faculty unit member exercises the responsibilities of guardian.

Faculty unit members who are in or beyond their third year of employment at the institution will have fifteen (15) working days from the date of notification of nonrenewal in which to schedule a meeting with the superintendent. Prior to the meeting, the superintendent will make available to the faculty unit member for review the faculty unit member's personnel file, advise the faculty unit member in writing of the reasons on which the intention not to renew is based, and afford the faculty unit member an opportunity for an informal conference in a confidential setting of the reasons. The faculty unit member may bring a representative of the member's choosing to the conference. Within five (5) working days of the conference, the superintendent will notify the faculty unit member as to whether the superintendent will rescind the notice of intention to nonrenew or recommend to the Board that the faculty unit member be nonrenewed. Evaluations and plans to correct deficiencies will be conducted in accordance with Article XI, Evaluation.

If the faculty unit member believes the reasons given for nonrenewal are not true or believes procedural rights have been violated, the faculty unit member may seek review of the superintendent's decision within ten (10) working days by submitting a written appeal to the Board. Any such review will be processed in accordance with Article VII, Contract Disputes, Part A, beginning at Step 3.

17.1 DISTRIBUTION OF SALARY POLICY APPROPRIATIONS

Allocation priorities are applicable to all sums appropriated to support salary increases for continuing faculty unit members for all successive fiscal years, plus such additional monies as the Board in its sole discretion may elect to provide.

The Board has an abiding commitment to assist South Dakota children with hearing or vision loss by assuring their access to teaching and learning environments provided directly or supported through outreach services provided by the South Dakota School for the Deaf and the South Dakota School for the Blind and Visually Impaired. To achieve such objectives, the Board has adopted measures to provide faculty unit members with financial incentives and rewards to achieve high levels of performance and professional preparation. Hence, salary increases will be distributed on the following bases:

1. Before any other distribution is considered, each institution will allocate any sums needed to assure that internal salary structure comports with governing law. Allocations will be based upon funds made available to the Special Schools.

2. Of the remaining dollars available, 20-30% will be allocated to faculty unit members at each school based on a market comparison. Should 20-30% not be needed to raise salaries to average market, the remainder of the funds would be added to the performance pool. The comparison to market levels will be based upon the individual's prior year's base salary and without considering any certification supplement. Where an individual has earned a Master's degree, the twelve percent (12%) increase provided for in subsection 3, above, will be added to the base salary before making any comparison. The comparisons will be conducted annually by a joint BOR/COHE salary committee at each school as follows:

An annual market comparison will be conducted using the SASD survey document and comparing the average salary of the five (5) highest paid school districts in South Dakota with the average salary for each of the special schools. No distinction will be made for degree or years of service.

a. The market mechanism must adhere to the following conditions:

- i. All faculty unit members will be eligible for a market increase, except for such individuals for whom a constructive plan, designated as such under § 11.3(5), has been written for the subsequent fiscal year.
- ii. The salary base used for the market allocation will be the base from the previous fiscal year, except that base will be adjusted upward for individuals who have been identified as possible victims of impermissible bias.

iii. The market allocation should be determined at each institution by the following:

A. Each special school will compare their average salary with the average of the highest 5 school districts in the SASD survey.

Should the average of a special school be higher than the SASD average no market money will be distributed for that school. Should the average of a special school be lower than the SASD average, market money will be distributed in the following manner.

B. Subtract each faculty unit member's salary from the SASD average salary.
Sum the total of all faculty unit members.

1. If this total is positive then total only the faculty unit member's salaries that are below the SASD average. Divide the individual faculty unit member's salary by the total of the salaries that are below the average to arrive at a percentage for each faculty member.

2. If this total is negative no market dollars will be distributed.

C. Multiply the percentage in B. 1. above by the dollars available for market to arrive at the dollars for each individual faculty member

3. ~~70-80 % of remaining~~ Remaining monies will be allocated on the basis of faculty unit member performance.
- a. All faculty unit members will be eligible for a performance increase, except for such individuals for whom a prescriptive plan has been written for the subsequent fiscal year.
 - b. Seventy percent of the funds for performance and IEP development and management will be awarded for classroom instruction. Ratings will be based upon the annual performance evaluation conducted by assigned supervisor according to institutional practice.
 - c. ~~Ten~~ Twenty percent will be awarded for service to the school community. Faculty unit members will provide documentation of activities they wish to have considered. Activities may include such thing as:
 - i. examples of innovative units of instruction or classroom practices, or technology integration,
 - ii. achievement toward meeting institutional priorities/goals identified by the school team for school improvement,
 - iii. contributions to overall school environment through personal effort or contribution to a school project, committee that has a significant positive impact on students and or school,
 - iv. volunteer activity-a significant unpaid contribution of time and effort to a single activity or an outstanding pattern of voluntary activity.
 - d. Twenty ~~Ten~~ percent will be distributed based on professional growth and development.
 - e. Within each performance category the total available funds will be prorated among faculty unit members based upon performance ratings. Each rating will be assigned a numerical point value on the following scale:
 - i. Unit members who failed to meet expectations (Rating of 0 points, ineligible for performance increase)
 - ii. Unit members who met expectations (Rating of 1 point).
 - iii. Unit members who performed above expectations (Rating of 2 points)
 - f. For each separate category, the points assigned to all faculty unit members will then be added together. The total dollars available for distribution in each category will be divided by that sum. This will yield a dollar value per point. This amount will then be multiplied by the points assigned to each faculty member in that category to produce a performance increase for that area of professional responsibility.
 - g. Information submitted will be reviewed and rated by the immediate supervisor on the same three-point scale noted above.
 - h. Teacher evaluations and supporting information from the immediate supervisor will be submitted to the superintendent, who will have the final responsibility for salary distribution.

43. Individual faculty unit members will be notified at the time of the issuance of their new contracts of the means used to determine their salary increases. The notification will specify the dollar amounts distributed through the market mechanism, any amounts distributed in recognition of their performance, service to the school community, professional growth and development, and any amounts distributed to correct possible discrimination. Faculty unit members will also be notified of the average salary that was employed in calculating the market raise.

5. Each institution will provide a compilation of the data disclosed to the faculty unit members to the president of the local COHE unit as soon as the Board has approved salary recommendations

64. The Standards and Procedures used to determine faculty unit member performance ratings are found in Appendix T.

20.5 **PRINTING AND DISTRIBUTION PUBLICATION OF AGREEMENT**

The Board and COHE will cooperate in preparing and printing this agreement and its appendices for publication via the Board's website. The Board will prepare the master copy for printing publication. The galley proof for the printing of this agreement text will be approved by the parties. The costs of production will be shared equally by both parties based upon agreement as to the price and number of copies to be printed. The Board will be responsible for arranging for the printing of this agreement. COHE agrees to pay the Board for its share of the printing costs within thirty (30) days of the date billed.

The Board at the time of any new hire will be responsible for providing to the new faculty unit member a copy of this agreement from the above number of copies.

23.1 **EFFECT AND DURATION**

This agreement will take effect when signed and ratified by both parties. It will remain in full force and effect through the 30th day of June, 2015 2018, except to the extent that modification is required in order to respond to changes in statute or regulation or to binding court decisions. Notwithstanding this limitation, the parties may reopen talks concerning §17.1 in the event that the Board fails to provide funds to supplement salary policy for a fiscal year.

On or before the first day of March, 2015 2018, either party may notify the other that it wishes to renew or modify this agreement. In this event, the parties will meet no later than the 15th day of March, 2015 2018, to negotiate with respect to a successor agreement.

If a successor agreement has not been ratified by the 30th day of June, 2015 2018, the parties may mutually agree to extend the force and effect of this agreement.

ADDITIONAL TENTATIVE AGREEMENTS ON MATTERS NOT REQUIRING CONTRACT LANGUAGE:

1. The parties have agreed that unit member payments for fringe benefits and COHE dues will be prorated over a full twelve-month payout schedule irrespective of the length of the base contract.
2. That the website presentation of the special schools agreement will separate appendices from the master agreement in order to permit timely revision of documents that are subject to institution-level negotiations, including, in particular, procedures and documents employed for purposes of annual evaluations.
3. That placement of personnel within the bargaining unit is determined by the teaching functions

performed by the individual and the percent of time assigned to such functions, not by academic credentials.

4. The special schools will allow outreach consultants the choice of having an institution-provided cell phone with a basic voice plan or to continue the \$15 per month stipend. The special schools presently provide both iPad devices with data plans that support text communications to outreach consultants and reimbursement for private cell phone use at the rate of \$15 per month.

The Board or the special schools will provide training to assist unit members in utilizing the text and face time communications capabilities of the iPads.