MERC Update
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Let's Explore
Recent MERC Decisions on:
• Prohibited Subjects of Bargaining
• Union Dues and Service Fees
• Health Care
• Privatization

Prohibited Subjects of Bargaining
How prohibited is prohibited?

How prohibited is prohibited?

(1) Collective bargaining between a public school employer and a bargaining representative of its employees shall not include any of the following subjects:

Ionia Public Schools & Ionia Education Association, MEA/NEA

What happened in Ionia

Discussing v. Bargaining v. Including it in a CBA

Real CBA Language in Action

PERA says:

The provisions of the CBA language in action shall be binding on all parties.
Real CBA Language in Action

SECTION 2.6: DISCIPLINE OF TEACHERS

A. Any complaint made against a teacher by a parent, student, or other person will be called to the attention of the teacher within two school days, absent extraordinary circumstances, in which case it shall be done as soon as possible. If the Administration does not feel that the complaint is serious or if there are no grounds for the complaint, such issues will not be communicated to the teacher. No such complaint will be included in the teacher's personnel file unless and until the teacher has been informed of the complaint and the identity of the complainant is made known to the teacher (subject to the requirements of law or appropriate investigative or judicial bodies).

Union Dues, Fees, and PERA

Subsection 9 of PERA:
(1) No person shall by fines, deductions, or otherwise threaten or attempt to compel any public employee to do any of the following:
(a) Associate or remain a member of a labor organization or bargaining representative or otherwise affiliate with or financially support a labor organization or bargaining representative.

Subsection 10(c): Employer shall not . . .
(a) Discriminate or report to the Senate, term, or other condition of employment to encourage or discourage membership in a labor organization.
Union Dues and Fees - Taylor

- Taylor School District & Taylor Federation of Teachers & Rhatigan, Metz, and Stefke
- What happened in Taylor?
- What ALJ Julia Stern ruled

Union Dues and Fees - Taylor

- MERC says it is ok for different parts of contract to have different expiration dates
- a ten-year duration for the union security agreement is “excessive and unreasonable.”
- Taylor’s security agreement violates subsections 9 & 10 of PERA

Problematic CBA Language

ARTICLE 4. ASSOCIATION SECURITY AND PAYABLE OBLIGATIONS

Section 4(a). Each bargaining unit member shall, as a condition of employment, pay or before fifty (50) days from the date of commencement of such or the effective date of this agreement, whichever is later, to the Association or pay a service fee to the Association, pursuant to the Association’s policy regarding obligations to political ideological expenditures” and the administrative procedures adopted pursuant to the policy. The service fee paid in excess of the amount of Association dues collected from Association members. The bargaining unit member may seek remission of deduction for such fee. In the event that the bargaining-unit member shall
Problematic CBA Language

Just Kidding?

If any law, directive or condition of the State of Michigan or any of its departments establishes the redirection or withholding of state funds on the ability of the District to qualify for state funds due to the inclusion of this Section A, this Section A shall be complied with and void and will not apply to any persons employed by the district and represented by this bargaining unit.

Consequences for RTW Violations

- $500 fine
- Lawsuits and legal fees - $$$$$
- Does it make strategic sense?
- Doesn’t make many friends in the current legislature

MERC on Health Care Costs

- Publicly Funded Health Insurance Contribution Act of 2011
- Garden City Public Schools & Garden City Education Association
Health Care – Garden City

- What happened in Garden City?
- Cost sharing is a permissive subject of bargaining, not a mandatory subject
- But once a board binds itself in a contract, it is bound until the expiration of the CBA

Health Care – Mandatory After All?

- What happened in Shelby Township (PA 152) and City of Flint (PA 54) cases?
- Obligation to provide unions with chance to bargain over effects of PA 54
- May have duty to bargain how contributions are calculated
- What about while in fact finding?

Bidding Out Noninstructional Services

PERA Says
Bidding Out Noninstructional Services

- What is an equal opportunity?
- Union’s bid must conform to RFP, just like any other bidder.
- Structure of RFP need not cater to union

Bidding Out Noninstructional Services

- What about school psychologist services?
- MERC says no duty to bargain
- School code gives local districts option to have ISD deliver special education services

Legal questions when you get back home?

- Call us at 517-327-5900
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