



Renne Sloan Holtzman Sakai
Public Law Group™

350 Sansome Street, Suite 300
San Francisco, CA 94104
t: 415.678.3800
f: 415.678.3838

JEFF SLOAN
415-867-5097
jsloan@rshslaw.com

To: Chris Hanzo
Executive Director, AFT

From: Jeff Sloan

Date: March 5, 2015

Re: Approach to Negotiations

This memo responds to various aspects of the Union's proposal regarding the process the parties will follow in the pre-negotiation and negotiation phases of their successor collective bargaining agreement negotiations.

Background

As you know, the parties have not completed the sunshining process. The Union's proposal was introduced at the February Board meeting. Drafting of the District's proposal was delayed on account of a key vacancy in management staff (Mickey Branca, Dean of Employee Relations). The District's proposal will be sunshined on March __, with public comment and Board adoption occurring in April. As you are aware, bargaining cannot commence until the sunshining process is complete.

To facilitate a quick entry into bargaining after sunshining, the parties have discussed the prospect of conducting preliminary meetings to deal with certain procedural issues (presumably including ground rules) and to discuss – but not bargain over – mutually agreed-upon items. An initial pre-negotiations meeting was set for Wednesday, March 4; however, we met with the Union on Monday, March 2 to discuss threshold matters. At that meeting, the Union indicated that negotiations should be open to any and all faculty members, “in order to provide as much transparency and information as possible to the faculty.” The Union also suggested a comprehensive agenda for pre-negotiations meetings through March on a variety of subjects, including issues that in the District's view are outside the scope of bargaining. Finally, the Union provided a list of ten bargaining team members, indicating that four of them would need to be released from class in order to attend negotiations on Wednesday afternoons. The Collective Bargaining Agreement (Article 7.H.2) provides that each side shall have three team members unless the parties agree otherwise in writing.

We cancelled the initial pre-negotiations meeting set for March 4 in order to enable the District to consider the Union's intended approach.



Chris Hanzo
March 5, 2015
Page 2

Discussion

Our approach to these negotiations differentiates between the “pre-negotiations” phase and the negotiations phase that will commence after sunshining is completed. Please consider the following to be a “package” response to the Union’s proposed approach.

First, in the pre-negotiations phase, we are willing to consent to the presence of bargaining unit members. We are agreeable to hear Union presentations on agreed-upon issues that the parties mutually agree to be within the scope of negotiations, based on a schedule mutually developed between the parties. We will be there to listen intently, not to engage in give-and-take of any sort; and our responses if any will be so limited.

Second, in the negotiations phase, bargaining needs to be between the bargaining teams, rather than being “open” as sought by the Union. We understand the Union’s interest in having the negotiations process be “transparent”; however, negotiations are a private process sheltered from open meeting requirements (see Gov. Code § 3549.1). In our view – and consistent with basic tenets of negotiations – confining negotiations to the actual members of the parties’ bargaining teams best promotes an atmosphere of frank dialogue, efficiency and give-and-take. Adequate “transparency” about negotiations can be achieved through the Union’s regular advisements to its members about developments in negotiations, as the Union has done consistently for decades. On the other hand, open bargaining, as sought by the Union, would likely cause substantial delays in negotiations (as evidenced by the delays that occurred in our final post-impasse meetings in 2014), would reduce the prospects for frank, informal dialogue, and would potentially make negotiations subject to open meeting law requirements.

As you are aware, neither party can insist to impasse on this sort of ground rule; instead, it requires mutual agreement. Consequently, we respectfully decline to agree to the Union’s proposal to open up negotiations to bargaining unit members.

Finally, we understand the Union wants to expand the number of “released” bargaining team members to four. Please provide your reasons for this proposal so that we can fully consider it.

Conclusion

If points 1 and 2 above are agreeable, we should meet on March 11 to identify the issues on which the parties can mutually agree to be aired in our meetings. We suggest that the parties also discuss the issue of general ground rules for negotiations at that time. Upon mutual agreement, the parties can continue their pre-negotiations meetings on Wednesday March 18. Finally, as indicated above, please explain the basis of your proposal expand the number of released bargaining team members to four.

Chris Hanzo
March 5, 2015
Page 3

Thanks very much for your consideration of the above.