

Regionalization and Labor Relations

It will be interesting

By Curt Wary

In these fiscally challenging times, school districts have given renewed attention to both the possibilities and pitfalls of entering into some form of regional relationship with other districts. In assessing the pros and cons, school boards must consider a whole range of issues involving educational programming, staffing, real, potential or imagined dollar savings, tax implications, and much more. Many of these issues are covered, in depth, elsewhere in this magazine. Since school boards are dealing with a unionized work force, labor relations will heavily influence any decisions involving regionalization. An assessment of the labor relations implications must begin with what is required under the law.

Legal Requirements There are currently two major 1995 statutory requirements in education law involving regionalization that impact labor relations:

- Under *N.J.S.A. 18A:6-31.4*, whenever a regional district is formed, the terms and conditions of employment from the former constituent district with the largest number of teaching staff members applies until a successor agreement is negotiated with the majority representative of the new school district.
- Under *N.J.S.A. 18A:6-31.5*, whenever a regional district is formed, all statutory and contractual rights to tenure, seniority, accumulated sick leave, leave of absence and pension of all affected employees shall be recognized and preserved by the new school district.

In addition, *N.J.S.A. 18A:13-42* preserves the tenure and pension rights of high school and junior high school teachers transferred to a regional district and *N.J.S.A. 18A:13-49* transfers the tenure, pension and accumulated leave rights of principals, teachers and employees moving to a regional district. Both of these statutes date back to the late 1960s.

Most recently, under *N.J.A.C. 6A:23A-2.5* of the Accountability Regulations, the executive county superintendent is empowered, in conjunction with an advisory committee, to study the consolidation of districts and submit a plan to the commissioner of education. Part of this plan includes an analysis of administrative staffing, collective bargaining agreements and compensation guides of the constituent districts, with recommendations and guidance for the proposed regional. More specifically, the plan will provide a report on details of the constituent guides and a "recommended framework for negotiation of a new collective bargaining agreement in the proposed regional school district." Once the plan has been approved by the commissioner, the executive county superintendent requires each board of education from the constituent districts to submit the regionalization plan to the voters for approval (*N.J.S.A. 18A:7-8*).

The implications of these statutory and regulatory requirements are significant in terms of negotiations, staffing and costs. Of course, all such implications are interrelated. It should be further noted that the new broad role of the executive county superintendent and the commissioner are not yet fully understood in the context of regionalization and labor relations.

Staff Composition The tenure and seniority requirements in education law have fiscal, educational and operational implications for a proposed regional school district. As all affected employees of the existing constituent school districts retain their legal protections, the resultant work force of the regional district may be greatly influenced by these protections. For example, any affected tenured employees will be able to exercise "bumping" rights into the new regional district over less senior or non-tenured employees. Thus, depending upon the number of available positions and staffing requirements at the new regional district, the resultant work force will be based, to a large extent, on seniority determinations rather than

qualitative assessments. For employees in the constituent districts who are non-tenured, or are in job classifications that are not tenure-eligible, qualified staff may not be able to migrate to the new regional district.

If seniority entitlements result in a regional district having a more senior work force, this may present both financial and labor relations complications. For example, a new regional district could incur a greater overall salary cost, as a result of more advanced placement of senior staff on the salary guide, and possible entitlement to longevity payments. Boards may also find that a senior staff is more resistant to changes in terms and conditions of employment, such as managed health care plans, professional development requirements, salary guide restructuring, and limitations on payment for unused sick leave.

School districts exploring regionalization will need to carefully consider the likely composition of the new regional work force and what it may mean to both short- and long-term economic and educational goals.

Bargaining Unit Composition/Resultant Union Once the new regional work force is assembled, a new collective bargaining unit or units will need to be determined. If the work force of the new regional district largely mirrors the work force in the previous constituent district with the largest number of teachers, the bargaining unit configuration, union organization and union leadership are likely to remain in place. For example, a previous “wall-to-wall” unit (in which all employees are covered by a single contract) would continue with the same unit configuration, organization and leadership.

If the regionalization/consolidation effort includes the migration of a significant number of employees from other constituent districts, the new workforce may produce an entirely different labor relationship. In that circumstance, teachers may select a different union or union leadership. Support staff employees in the new regional could organize into separate bargaining units with their own individual unions and union leadership. Further complications may involve the inclusion of employee classifications that may not have been organized in their previous constituent districts now being included with organized employees. Would the department of education play a role in making these determinations for the new regional district? If so, would these state determinations trump existing labor law rights and requirements? The answers to these questions are not yet known.

The Controlling Contract Under the law, the existing collective bargaining agreement that covers the largest number of teaching staff members will control until its expiration and until a new agreement is negotiated. This existing agreement represents the status quo as the school board of the new regional district and the majority representative of the new bargaining unit enter negotiations. Any changes to the existing status quo will need to be bargained. These negotiations may be more difficult and protracted as the union seeks to accommodate the concerns of a new unit of staff members who have different needs, priorities, or even pre-existing levels of benefits.

From management’s standpoint, the need for significant contractual modifications to the *status quo* may be essential. An existing agreement covering the largest number of teachers may include language that is more extensive, restrictive and expensive than prior existing agreements in the smaller constituent school districts. For example, the controlling agreement may provide for more generous health benefits, leave benefits, tuition reimbursement, and salaries. The controlling agreement may include more restrictive and intrusive language on the workday (e.g., preparation time, student-contact time, duty-free time), work year, and employment procedures (e.g., assignments, transfers, promotions, evaluations). Maintaining inefficient controlling contract language may be cost prohibitive.

Placement of the new workforce on the controlling contract’s salary guide will present some interesting challenges. As previously mentioned, there will be the financial implications of a more senior workforce. Beyond that, determining salary guide placement of employees who migrate from the smaller constituent districts could lead to confusion, disputes, and greater costs. Clearly, no tenured staff member can be reduced in salary; but there will be issues of whether to “red-line” staff, place them at the same step as on

their previous guide, move them to the step closest to their existing salary, “freeze” them until a new salary guide is negotiated, or any number of other possible permutations.

Once again, it is not clear what role will be played by the executive county superintendent and the commissioner in reconciling the constituent salary guides and in providing a framework for the negotiations of a new collective bargaining agreement.

Current Negotiations Considerations For districts that are contemplating regionalization or consolidation, one immediate assessment should be the impact of possible future action on existing, or upcoming, negotiations with their current unions. Unions facing the prospect of future regionalization may present negotiations proposals to protect, enhance or position their membership in the event regionalization does, in fact, occur. While the decision to regionalize is outside the scope of bargaining, the impact on terms and conditions of employment may be brought to the bargaining table. Thus, a union anticipating regionalization may bring proposals to the bargaining table on issues such as notification procedures, severance pay, seniority provisions for employees who do not have statutory protection. A board facing these union proposals must, as always, carefully consider the impact on the district’s current and future bargaining goals.

Careful Assessment Ultimately, in assessing the viability of a regional configuration, all of these labor relations and legal considerations must be weighed along with all of the other important educational and fiscal issues. Needless to say, this examination will be a lengthy and exhaustive process and the district’s administrative, fiscal, legal and labor relations resources must be fully engaged.

At this point in time, it would appear that the present laws, at least as they impact labor relations, may serve as an impediment, rather than an inducement, to regionalization. Further, the role that the executive county superintendent and the Commissioner will play in resolving labor relations issues is not yet clear. While the current economic and political climate demand that boards consider all options in providing a quality educational program within constrictive and diminishing means, the uncertainties, barriers and disadvantages of regionalization must be part of every district’s assessment.

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