

DISTRICT ISSUE #2—ARTICLE 3—BOARD AND FEDERATION CONSULTATION

The expired CBA contains in Article 3 the provision which has brought about the present contract dispute. As will be addressed further in the Tabs following this proposal, the Article 3 language in the expired CBA is an unprecedented encroachment on the managerial rights reserved to the District by law. More to the point, though, the application of Article 3 to the District's operations has generated a high volume of grievances from the Federation related to matters which involve the exercise of common managerial discretion in any other local school district.

The Article 3 language as shown in several expired District CBAs prior to the present one is attached at Tab B-1. A summation of grievances and arbitrations in recent years which characterize this gridlock is included at Tab B-2.

This language is truly anomalous, and no other local public school district is saddled with this degree of limitations on its managerial rights. Excerpts of other Federation units' CBAs are included at Tab C-1, and excerpts from other regional CBAs is included at Tab C-2, with the Fact-Finder and Mr. Michalski also receiving full copies of these CBAs.

The language in Article 3 states, in straightforward fashion, that the District is unable to take any action contrary to any policy or practice governing working conditions of employees or "affecting" working conditions. The effect of this language is that nearly any change the District may seek to make or consider is subject to the Federation's approval or rejection, regardless of whether the proposed change is good for students.

To remedy this stalemate, for the successor CBA the District proposes to revise the language in Article 3 of the expired CBA as shown in redline and strike-through below, with this proposal paired and tied directly to the District's economic proposal:

ARTICLE 3 Evaluations and Job Performance ~~Board and Federation Consultation~~

~~A. The Board and its representatives shall take no action violative of, or inconsistent with, any provision of this Agreement or any policy or practice governing working conditions of employees existing on the date of execution of this Agreement. The Board further agrees that it and its representatives will not, during the life of this contract and renewals thereof, take any action affecting working conditions of any bargaining unit member without prior negotiation and agreement with the Federation.~~

~~B. Notwithstanding Paragraph A. herein above, the Board and its representatives shall have the right to exercise discretion with regard to the following matters:~~

A. Job Descriptions – The District has discretion to create bargaining unit job descriptions ~~after good faith consultation with Federation representatives.~~ The formation of the job description shall not be arbitrary or capricious, but shall be a good faith

reflection of the responsibilities of the position. ~~Nothing in this subparagraph will preclude the Federation from opposing any improper diversion of bargaining unit work.~~

~~a. Involuntary Transfers – The District shall be permitted to accomplish involuntary transfers as provided in Article 23, Paragraph 8, as set forth herein.~~

B. Evaluation and Job Performance – Bargaining unit employees will be observed and rated using a form adopted by the District after good faith consultation with Federation representatives. The rating will be either “satisfactory” or “unsatisfactory.” The District will not exercise its responsibility in an arbitrary or capricious manner. The District will evaluate bargaining unit employees at least annually.

c. All prior Memorandum of Understandings and Arbitration Awards interpreting the former version of Article 3 and any other written or oral agreements pertaining to the former version of Article 3 shall no longer be valid or binding on the parties as the parties have elected to amend Article 3 as of the date of this Collective Bargaining Agreement.