

# PROFESSIONAL NEGOTIATIONS

## IN TENNESSEE'S PUBLIC SCHOOLS:

### REINFORCING AND REWARDING EXCELLENCE AND IDEALISM

**Knowing that a bargaining team made up of peers will represent teachers' interests and seek solutions to the problems they face can become a strong incentive for remaining in the profession.**

by Fred Booth

**The extent to which the negotiations process reinforces or frustrates teachers' idealism is largely dependent upon the degree to which their employers recognize the process as legitimate and worthwhile.**

**P**eople don't choose to become public school teachers in the hope of attaining great wealth or power. Rather, they are motivated by a belief that they can make a difference in children's lives and in the future of our democratic society. Unfortunately, they often find that their ideas for improving their chosen profession and the learning conditions of their students are not valued. For 25 years a mechanism for taking greater advantage of teachers' expertise in determining the programs and priorities in their schools has existed in Tennessee. That mechanism is professional negotiations between educators and school boards. The extent to which the negotiations process reinforces or frustrates teachers' idealism is largely dependent upon the degree to which their employers recognize the process as legitimate and worthwhile.

Before the Education Professional Negotiations Act (EPNA) was passed by the Tennessee General Assembly in 1978, five public school systems in Tennessee were already engaged in contract negotiations between local school boards and employee organizations. Local affiliates of the Tennessee Education Association (TEA) were representing professional employees in Cheatham County, Memphis, Metro Nashville, and Unicoi County. The local affiliate of the American Federation of Teachers (AFT) had gained recognition for bargaining in Carter County.

During the first round of recognition elections authorized by the EPNA, 67 more TEA

affiliates gained the right to represent professional employees in negotiations. One additional AFT affiliate gained recognition in Campbell County. Today, a total of 90 TEA affiliates are recognized for the purpose of negotiations with local school boards. The one remaining AFT affiliate representing professional employees is in Campbell County. Teachers in Carter County voted in 1986 to replace the AFT affiliate with the local affiliate of the TEA. Approximately 85 percent of the K-12 professional educators in Tennessee's public schools work in the 91 school systems where formal negotiations take place.

The EPNA provides the basic framework for employee organizations to gain the right to represent professional employees in negotiations. It also sets forth the requirements for good faith bargaining and lists eight items that both parties must negotiate: salaries or wages; grievance procedures; insurance; fringe benefits; working conditions; leave; student discipline procedures; and payroll deductions. The law also allows the parties to mutually agree to negotiate other items that are not included in this list of mandatory subjects.

While the negotiations process is taking place, school boards are prohibited from making unilateral changes in any of the mandatory subjects. Such changes require mutual agreement between the board and the employee organization. The law does not impose a partic-

*continued on page 20*





DYNAMIC GRAPHICS

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*continued from page 18*

ular methodology for the exchange of ideas, information, and proposals, and the form of communication that takes place at the bargaining table may vary from place to place throughout the state. Such variations, however, must remain within the realm of good faith efforts to reach an agreement. Neither party has the option of employing tactics that are designed to thwart the bargaining process. The style of bargaining used in a particular school system is always a result of the relationship that exists between the two parties at the bargaining table.

These bargaining relationships have varied across the state during the 25 years since the passage of the EPNA. Differences in economic resources, social and political realities, and the history of management practices in each school system have assured that the experience has not been exactly the same in any two locations. At any given time, however, local bargaining relationships can be placed within one of three broad categories, characterized by resistance, competition, or collaboration.

Where the relationship has been marked by resistance, local school boards and directors of

schools have expended a great deal of time and energy trying to assure that the bargaining process does not succeed and that the local bargaining agent ultimately loses its legal recognition. Legal challenges regarding the scope of bargaining as well as efforts to dissuade employees from maintaining their membership in the recognized organization have been common in these local settings. The recognized bargaining agents in these school systems have been forced to devote most of their time to simply protecting their right to negotiate under the protections provided by the law.

In those situations where the bargaining relationship can best be described as competitive, school boards and directors have accepted the fact that they must negotiate in good faith and that the recognized organization will insist that they do so. However, the process is still primarily positional and sometimes adversarial. On any given topic the parties begin with opening positions that they are prepared to alter during the course of the bargaining process. Willingness to move toward the other party's position is demonstrated by counterproposals designed to communicate the degree of flexibility that may exist by the party making the offer.

The emphasis is on written words passed across the table with dialogue often limited to clarification of positions as they change. Agreements usually embody compromises by both parties.

When the recognized employee organizations find themselves dealing with resistance or competition, it is clear that the school board and director do not recognize the great potential of the bargaining process. Disputes often center upon the questions of whether certain subjects are mandatory and what constitutes good-faith bargaining. School boards and directors in these systems typically seek to restrict the issues that are negotiated and assert the corresponding position that the refusal to bargain on certain subjects is not bad faith or in violation of the law. Ironically the tactics used by school boards and directors to discredit the process in these locations simply reinforce the employees' belief that the collective bargaining process is essential to their professional lives as well as the interests of their students.

In the school systems where the employer does not value the bargaining process, educators often find themselves having to insist on their right to a direct voice in addressing the very issues for which they have been trained and for which they are held accountable. Unfortunately, in these situations school boards and directors give the impression that they value their authority more than they value the skills and knowledge of the professional workforce. The result is employees who feel unappreciated and a school system that misses the opportunity to benefit from employees' first-hand knowledge of the educational process.

The collaborative bargaining relationship occurs where school boards and directors have recognized that the bargaining process can be of great value as an orderly approach to solving problems and building consensus. In these locations, the parties often use a collaborative form of bargaining that focuses on shared interests and employs techniques designed to encourage meaningful conversations. Both parties are committed to addressing each other's concerns in a sincere effort to arrive at a solution that is of mutual benefit. More important, the process becomes a tool for maximizing the expertise of the professional educators whose work is the most important single component in an effective and successful school system. Rather than debate legalities or engage in efforts to discredit each other, teams representing the school board and educators focus on solving problems by considering all options.

Regardless of the bargaining relationship that may exist in a school system, the process is intended to address much more than the traditional concerns that employees have regarding

their salaries and fringe benefits. It also encompasses such issues as planning time, professional development, evaluation, mentoring programs for newer teachers, class size, extra-duty assignments, and safety provisions. Many aspects of implementation of the Elementary and Secondary Education Act ("No Child Left Behind") are also subject to bargaining. However, the quality of the agreements that are reached on any of these items is largely dependent upon the quality of the relationship.

After 25 years of teacher bargaining in Tennessee, it is very clear that the process can be one of the most effective tools for taking full advantage of the expertise and experience of educators in dealing with the complex issues that face public schools. It is also clear that educators working under the provisions of negotiated contracts are not likely to abandon the process and leave decisions about their professional lives to an elected school board. Where bargaining has become an accepted component in the employee/employer relationship, the results have been good for both parties and, more important, for the school system as a whole.

While low salaries and increasing health insurance costs certainly contribute to the teacher shortage in Tennessee, many educators who leave the profession also cite the lack of respect and appreciation for the job they do as the basis for their decision to leave. Knowing that a bargaining team made up of their peers will represent their interests and seek solutions to the problems they face every day can become a strong reinforcement for remaining in the teaching profession. Likewise, school boards can demonstrate their confidence in teachers by using the bargaining process to better understand the challenges of educating children and by implementing changes agreed to at the bargaining table.

A healthy relationship between the professional educators, the school board, and the administration of a school system is essential to maintaining public confidence in our schools. That confidence is essential to preserving and improving public education. In a time when some are trying to profit politically from the shortcomings of public schools, both real and contrived, every opportunity to unite the groups who believe in those schools should be grasped. An ideal mechanism for strengthening this unity is the collective bargaining process. Whether bargaining unites or divides will be determined by the willingness of all parties to recognize the process as an opportunity to achieve positive change. ■

*Fred Booth is the Tennessee Education Association Coordinator of Bargaining Services.*

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