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SOUTHWEST VERMONT EDUCATION *
ASSOCIATION, VERMONT-NEA/NEA *
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and *
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SOUTHWEST VERMONT SUPERVISORY *
UNION *
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FACT FINDING REPORT AND RECOMMENDATIONS

BEFORE: John B. Cochran, Esq.

APPEARANCES:

For the Association: Norman P. Bartlett,
UniServ Director

For the School Boards: Steven F. Stitzel, Esq.

HEARING DETAILS:

Place of Hearing: Bennington, VT

Date of Hearing: February 9, 2011

INTRODUCTION

The Southwest Vermont Supervisory Union includes the Mt. Anthony Union High School District No. 28 and five elementary school districts: Bennington, North Bennington, Pownal,

Shaftsbury, and Woodford (Boards). The Southwestern, Vermont Education Association, Vermont-NEA/NEA (Association) is the exclusive collective bargaining representative for teachers, guidance counselors, librarians, and school nurses employed in the school districts within the Supervisory Union, except Woodford. The Southwest Vermont Supervisory Union has one of the largest student enrollments and faculties in the state, with 3,114 students and 345.4 members of the teaching staff.

The Boards and the Association were parties to a collective bargaining agreement that expired on June 30, 2010. The parties negotiated over the terms of a successor collective bargaining but have been unable to reach agreement. Therefore, after participating in mediation, they voluntarily agreed to proceed to fact finding before me. I conducted a hearing on February 9, 2011, and, after considering carefully the evidence and arguments presented by the parties, including economic conditions, comparisons of existing and proposed salary and benefit levels to those in comparable communities, and contract language in comparable communities. Based on those factors, I make the following recommendations concerning each of the issues that remain in dispute.

RECOMMENDATIONS ON ISSUES IN DISPUTE¹

¹ My recommendations are organized to correspond with the sections of the parties' 2007-10 agreement.

ISSUE NO. 1

ARTICLE 6
SWVEA PRIVILEGES

Association Proposal

The Association proposes to add language to Section 6.2 of the agreement to provide that Association representatives at Monument Elementary School and North Bennington Elementary School be recognized and that those representatives be assigned to no more than one half (1/2) the administrative or non-teaching duties regularly assigned to teachers in the respective school. In support of its proposal, the Association argues that, pursuant to Article 6.2, Association representatives at all schools in the Supervisory Union except Monument and North Bennington elementary schools are relieved of administrative or non-teaching duties. Because those two schools are smaller in size, however, the Union is proposing that Association representatives at those schools only be relieved of one-half (1/2) of their administrative responsibilities.

Boards Response

The Board opposes the Association's proposal on the ground that the proposed change is not needed. According to the Boards, there are only 9.1 teachers at Monument Elementary and 12.9 teachers at North Bennington Elementary, which does not justify releasing Association representatives from a percentage of their administrative or non-teaching duties.

Recommendation

I can certainly appreciate the Association's interest in having a building representative at each school that would be relieved of administrative, non-teaching duties. However, the Monument and North Bennington elementary schools are relatively small schools. The Monument school has half the number of teachers and significantly fewer students than the other elementary schools in the Supervisory Union. Similarly, the North Bennington elementary school is only a fraction of the size of the schools with Association representatives that are relieved of all administrative duties. Accordingly, the impact of relieving Association representatives of a portion of their administrative responsibilities at those two schools would have a far greater impact than it does in the larger schools.

Further, the Association has not offered any examples of particular problems at either school or shown that there have been a particularly large number of contract administration issues or grievances that would warrant relieving Association representatives of their administrative duties at those schools.

At this time, therefore, I do not recommend that the Association's proposal be adopted.

ISSUE NO. 2

ARTICLE 6
SWVEA PRIVILEGES

APPENDIX D
SWVEA DUES/AGENCY FEE AUTHORIZATION FORM

Association Proposal

The Association proposes that the parties include a new Section 6.9 in their agreement authorizing the Association to collect an agency fee from teachers who are non-members and a revised payroll deduction form in Appendix D to include deductions for agency fees:

6.9 In recognition of the Association's Duty, under Title 16, Chapter 57 to represent employees in matters of collective bargaining and grievance processing without regard to organizational affiliation or membership, the Board and the Association agree that, as a condition of employment, all members of the bargaining unit who are not members of the Association shall pay a fee which is equivalent to the Association's costs for the representation of the employees in the bargaining unit. Such service fee, however, shall not exceed eighty-five (85%) percent of the Association dues and assessments for that year. A teacher required to pay the agency fee may pay the fee directly to the Association in a lump sum, or he/she may authorize the Board to deduct the fee in substantially equal installments from the remainder of his/her paychecks for the current school year. All members of the bargaining unit shall be eligible for membership in the Association.

The Association contends that there are currently fifteen (15) school districts in southern Vermont that have agreed to include agency fee provisions in their teacher collective bargaining agreements and twenty-three school districts, including the Southwest Vermont Supervisory Union, that have agency fee language in their professional support staff agreements. Further, the Association emphasizes that including the proposed language in the parties' new agreement would not have any cost for the Board.

Boards Response

The Boards opposes the Association's proposal on the grounds that most unit members are already Association members and the Boards do not believe the proposed language needs to be included

in the parties' agreement.

Recommendation

I recommend that the parties include an agency fee provision in their agreement, although I will leave it to them to work out the specific language of that new section. As the Union point out, agency fee provisions in teacher contracts and educational support staff are becoming increasingly common in Vermont, particularly in the southern part of the state. They exist in many neighboring school districts and in the Boards' agreement with its support staff. Because there is already a mechanism in place for collecting Association dues, moreover, the cost of expanding it to provide for collecting an agency fee from any non-members would be negligible. Finally, although the Boards have raised a general opposition to agency fee language, it has not demonstrated that it would have any adverse or prejudicial impact on the Board or its ability to administer the parties' agreement.

ISSUE NO. 3

ARTICLE 8
TEACHER RIGHTS AND PRIVILEGES

ARTICLE 27
RIGHTS AND RESPONSIBILITIES

Boards Proposal

The Boards propose to amend Articles 8.4 and 27.1 to enable the Superintendent to issue an oral or written reprimand or a suspension of up to ten (10) days without that action being subject to the grievance/arbitration procedure in the parties' agreement.

Association Response

The Association objects to the Boards' proposal. It contends that every teacher contract in southern Vermont provides that written reprimands and suspensions of ten days or less are subject to the grievance/arbitration process. Further, it emphasizes that, because the average salary of teachers employed by the Boards is \$275 a day, a teacher could potentially lose \$2750 pay with no recourse, which is unreasonable.

Recommendation

I do not recommend that the Boards' proposal be adopted. Although it is understandable that the Boards would like to avoid the time and expense of defending grievances over minor discipline, its proposal would effectively nullify just cause

protection for written reprimands or suspensions of ten days or less. Just cause is a basic and almost universal standard employers are required to satisfy before imposing discipline, and one that is contained in the contracts for all comparable school districts in southern Vermont. Therefore, absent evidence of a compelling need, I am unwilling recommend that the Superintendent be permitted to impose discipline up to the level of a ten-day suspension without any recourse to the grievance/arbitration process.

ISSUE NO. 4

ARTICLE 8 TEACHER RIGHTS AND PRIVILEGES

Current Contract Language

8.10 Teachers shall be notified of a student's IEP and Evaluation Planning Team meetings. If scheduling does not permit attendance at the meeting by a teacher, such teacher may substitute his/her comments in writing, for consideration.

Boards Proposal

8.10 Teachers shall be notified of a student's IEP and Evaluation Planning Team meetings and teachers must make every effort to attend. If scheduling does not permit attendance by a teacher, such teacher shall submit his/her comments, in writing for consideration.

The Boards stress that, under the No Child Left Behind Act, schools must make adequate yearly progress and they can face sanctions if yearly progress is not made with handicapped students. According to the Boards, several schools in the Southwest Supervisory Union have not made adequate yearly progress, particularly among handicapped students. Because the regular classroom teachers are part of a student's IEP team, it is critical that they attend IEP meetings. However, attendance at those meetings has been problematic. Therefore, Boards believes that including language in the agreement concerning attendance at those meetings will stress the importance of having teachers attend them.

Association's Response

The Association agrees with the concept that teachers should attend IEP meetings. However, it objects to including language in

the agreement mandating that all teachers attend IEP meetings.

Recommendation

There does not appear to be a real dispute about whether it is beneficial to have teachers attend IEP meetings. Rather, the focus of the dispute is whether there should be language in the agreement mandating that teachers make every effort to attend IEP meetings or submit written comments.

I am a bit concerned by the mandatory nature of the obligation proposed by the Boards. Also teachers certainly should make an effort to attend IEP meetings, the Boards' proposal as written may create additional problems. In particular, I am concerned with the requirement that teachers "make every effort" to attend IEP meetings. I can envision the possibility of future disputes about what constitutes "every effort" and what, if any sanctions they may face for not doing so. As an alternative, therefore, I recommend the parties consider language like "teachers are encouraged to make every effort to attend," which emphasizes the importance of attending IEP meetings, without subjecting teachers to possible sanctions if a principal does not perceive that they have satisfied a somewhat imprecise mandate.

On the other hand, I find it is perfectly reasonable for the Boards to require teachers who are unable to attend an IEP meeting to submit written comments, which will ensure that the IEP team has the benefit of the teachers' input.

ISSUE NO 5

ARTICLE 9
TEACHER PERSONNEL FILE

Current Contract Language

None

Boards Proposal

The Boards propose to add the following new language to Article 9:

"An employee shall provide the administration, for inclusion in an employee's personnel file, a copy of any written notification received from any governmental agency, (state or federal), alleging that the employee has engaged in any criminal conduct. Upon final disposition of the matter set forth in the notification, the employee shall provide the administration written documentation of such disposition for inclusion in the employee's personnel file, provided that, if prosecution of the offense is dropped or the employee is found innocent, all documentation of the offense shall be removed from the file."

The Boards assert that it is put in a difficult position if it does not find out about criminal citations in a timely manner. It points out that there has been a specific incident in the Southwest Supervisory Union that precipitated the proposal. In addition, there have been two similar incidents in Brattleboro.

Association Response

The Association's position is that, although it might be wise for a unit member to report criminal charges, it is not appropriate to include that kind of requirement in the parties' collective bargaining agreement. Further, it notes that it is not aware of similar language in any other teacher contracts in Vermont.

Recommendation

I certainly understand the Boards' concern about being blindsided by information from an outside source that one of its teachers is the subject of criminal charges. However, I recommend that the Boards' proposal not be adopted for several reasons. First, it is an overly broad proposal that includes any kind of off-duty conduct that results in criminal charges, regardless of whether the underlying conduct or the charges have any nexus to a teachers employment relationship with the Boards. For example, in many states, including New York, speeding citations are criminal in nature. Yet there is no reason why the Boards should have any interest in whether one of its teachers receives a speeding citation. Similarly, certain kinds of conduct are nominally considered criminal, yet would have no possible relevance to a teacher's role in the classroom. Second, I am aware of no collective bargaining agreements, except for those covering law enforcement officers, that require public employees to report criminal charges. Therefore, absent evidence that there is a widespread problem of criminal charges against teachers employed by the Boards that goes beyond a single incident, I cannot recommend the Boardss proposed language be included in the parties' agreement.

ISSUE NO. 6

ARTICLE 10 SICK LEAVE

ARTICLE 30 SALARIES

Boards Proposal

The Boards propose to amend Articles 10.3 and 30.4 to provide that salaries for unit members will be deposited directly in a financial institution designated by the employee.

Association Response

The Association agrees to the Board's proposal in principal.

ISSUE NO. 7

ARTICLE 16
HEALTH, DENTAL, LIFE, AND LONG-TERM DISABILITY INSURANCE

Boards Proposal

The Boards propose to increase the teachers' share of dental, life and long-term disability insurance from 10% to 20% and to increase their health insurance premium contribution from 15% to 20%. The Boards' position is that the new insurance premium contribution rates it is proposing are consistent with what administrators and other non-union employees of the Supervisory Union. Further, the Boards assert that the Commissioner of Education has issued a directive that the minimum insurance premium contribution should be 20%, and the contribution rate in comparable communities is moving in that direction.

Association Response

The Association's position is that the teachers' share of health insurance premium contributions should remain at their current levels. It argues that other school districts in the southern part of Vermont all have lower co-pays, averaging between 10% and 15%. Further, it emphasizes that there is a direct correlation between health insurance premiums and salaries. Therefore, because the average cost of the Board's health insurance proposal would be \$575 a year, it would erase the \$750 annual increases the Board is proposing.

Recommendation

It is a fact of life that health insurance premiums in both the public and private sectors are escalating, and employers are increasing looking to their employees to share in those increases by paying a larger percentage of the premiums. At the same time, however, it is necessary to consider the how much the teachers employed by the Supervisory Union are currently paying in relation to their counterparts in comparable schools districts and to other employees of the Supervisory Union.

Although teachers in the Windham Northeast and Windham

Central Supervisory Unions are currently paying 20% of the cost of their dental coverage, while those in many other districts, including Addison Northeast, Orleans Central, Blue Mountain, Colchester, are paying 0%. Therefore, the 10% contribution rate for dental and disability insurance by teachers in the Supervisory Union are consistent with the averages in other districts, and I do not recommend that they be changed at this time.

Similarly, the insurance premium contributions teachers in the Supervisory Union are paying for the VEHI dual option plan is not out of line with the average premium contribution rates in the districts cited by the Board. Nevertheless, because all other employees in the Supervisory Union are paying 20% toward the cost of their health insurance, it would not be unreasonable for the Boards to increase the teacher contribution rates in small increments during the life of the agreement, particularly in light of the salary increases I have recommended below, which will offset any modest, incremental increases in health insurance premiums over the life of a new contract.

ISSUE NO. 8

ARTICLE 19 **SEVERANCE/RETIREMENT/DEATH BENEFIT**

Boards Proposal

The Boards propose to amend Sections 19.1 and 19.2 of the parties' agreement to change the deadline by which teachers must notify the Superintendent they intend to retire to be eligible to cash in sick leave upon retirement. The Boards propose to move the current deadline of February 15 to January 6. According to the Boards, the budget cycle normally ends prior to the current February 15 deadline. Therefore, receiving notice in early January would facilitate the budget process for the following school year.

Association Response

Although the Association does not have a serious objection to the change in dates, it believes there should be an exception for teachers whose circumstances change after the January 6 deadline.

Recommendation

The new deadline for retirement notification appears to be a reasonable one that is directly related to the Boards' annual budget cycle and would permit it to plan accordingly for the cost of teachers cashing out their sick leave when they retire. Although the Association contends there should be an exception for teachers who cannot meet the deadline because of changed circumstances, that kind of open-ended exception does not appear

warranted. Both sides acknowledged that when a teacher has missed the current February 15 deadline for extenuating reasons, the parties have agreed to waive the deadline, and there is no basis for believing that they would not apply the same reasonable approach merely because the deadline is moved up by several weeks.

ISSUE NO. 9²

ARTICLE 21
PROFESSIONAL DEVELOPMENT REIMBURSEMENT

ARTICLE 30
SALARIES

Boards Proposal

The Boards propose to make changes in Articles 21.2 and 30.1 that would: 1) phase out the reimbursement for bachelor's level courses beyond the BA; 2) condition reimbursement for post bachelor degree credits on the successful completion of the course with a grade of B or better; and 3) phase out column movement for certain teachers and to freeze certain teachers on their steps consistent with the salary schedule being proposed by the Boards. The Boards are concerned that they only be required to pay for courses that are worth the investment and benefit the Supervisory Union. Therefore, because they do not believe that more than 30 credits of bachelor's level courses beyond the BA is a benefit to the Supervisory Union, a teacher should move into a master's program to continue to advance. Similarly, the Boards posit that teachers should be expected to obtain a B or better in a course as a condition for reimbursement, to ensure that the Supervisory Union obtains the full benefit of its investment.

Association Response

The Association objects to the Boards' proposal for several reasons. First, it contends that the proposal to phase out reimbursement for bachelor level courses in economically motivated and would have an adverse impact on the 136 teachers in the Supervisory Union who do not already have a master's degree. In the Association's view, if the Boards' true motive is to encourage teachers to obtain a master's degree or a PhD, the way to accomplish goal is to increase tuition reimbursement for courses taken toward those degrees, not to penalize teachers who are taking bachelor's level courses that benefit the Boards. Second, the Association asserts that, to qualify for reimbursement, the Superintendent must approve the course and determine what

² See, also, Issue No. 23, below.

constitutes successful completion. The Superintendent has interpreted successful completion to constitute a B-, and the Board has not offered any ground from deviating from the standard set by the Superintendent.

Recommendation

At the outset, I want to observe that, in my experience, it is unusual for teacher contracts to provide for column movement if teachers take more than 30 post bachelor's degree courses at the bachelor's level. Further, the Boards have a legitimate interest in ensuring that it is getting the most benefit from the money it is investing in professional development for its teachers. Although the Boards' proposal limits teachers to thirty (30) post bachelor's degree credits at the bachelor's level for purposes of reimbursement and column movement, it does not prohibit them from advancing to a higher column. Rather, it provides an incentive for them to strive for more advanced course work to move into the next column. Therefore, with the understanding that all teachers who have a BA and at least 30 bachelor level credits remain grandfathered in their current column, I recommend that no more than 30 bachelor's level credits will count toward column movement. Rather, teachers should take higher-level courses with the goal of obtaining a master's degree to continue their column movement.

However, I do not recommend that portion of the Boards' proposal that would make reimbursement contingent on a grade of B or better. Currently, the Superintendent has discretion to determine what constitutes successful completion of a course and has interpreted "successful completion" to be a grade of B- or better. Because there is no information before me to indicate that there is a problem with the current definition of "successful completion," or how the Superintendent has interpreted and applied it, I have no basis for recommending a change at this time.

ISSUE No. 10

ARTICLE 21 PROFESSIONAL DEVELOPMENT REIMBURSEMENT

ARTICLE 30 SALARIES

Boards Proposal

The Boards proposes to amend Articles 21 and 30 to add language to encourage teachers to obtain certification from the National Board for Professional Teaching Standards.

Association Response

The Association agrees to the Board's proposal in principal.

ISSUE NO. 11

ARTICLE 24
MOUNT ANTHONY - EXTACURRICULAR ACTIVITIES

Boards Proposal

The Boards propose to add the following language to Section 24.1 of the parties' agreement that would require Mr. Carmel teachers hired for co-curricular activities, including athletic coaches, to obtain permission before being excused from faculty meetings:

"A teacher accepting an assignment under this section may only be excused from attending faculty meetings or leaving meetings prior to their completion with the express authorization of the building administrator."

Association Response

The Association opposes the Boards' proposal. In the Association's view a co-curricular activity is part of the regular curriculum and teachers who are hired for those activities may not have control over their availability for a faculty meeting. For example, an athletic team may be scheduled for an event that would require a coach to travel with the team the same time as a faculty meeting is scheduled.

Recommendation

The Boards has a legitimate interest in having faculty attend faculty meetings. However, when they hires teachers for co-curricular activities, they does so knowing that there will inevitable conflicts with scheduled events that are outside of the teachers' control. Similarly, there will be times when an athletic coach or other co-curricular director must attend practices, rehearsals, or prepare for a public event. Therefore, the Boards' proposal would put teachers assigned to co-curricular activities to seek permission to miss part of a faculty meeting

for reasons that are beyond their control. I find a better approach would be to have teachers notify the building administrator in advance that they have a conflict between a co-curricular obligation and a scheduled faculty meeting. That way, the administrator would be able to work with the teachers to help avoid or minimize the conflict and ensure that the teachers were apprised of the content of the meeting.

ISSUE NO 12

ARTICLE 26 REDUCTION IN FORCE

Boards Proposal

The Boards propose to amend sections 26.2 and 26.7 of the agreement to permit it to lay off and recall teachers based on position. Therefore, if the Boards eliminate a position, the least senior employee who holds a comparable position will be laid off. Similarly, teachers will be recalled based on seniority within comparable positions.

Association Response

The Association opposes the Boards' proposal on the ground that the current contract language provides job security and predictability for more senior teachers that would be lost under the Boards' proposal.

Recommendation

The testimony at the hearing reflect that there is some confusion and inconsistency about how reductions in force are currently implemented. For example, at the elementary schools, the teacher with the least seniority is laid off. At the high school, however, the least senior person in the department is laid off, even though those different practices are not clearly reflected in the parties' agreement. It certainly makes sense for the parties to include language in their agreement that clarifies the process. However, I am not convinced that the language proposed by the Boards would accomplish that purpose because it leaves open the question about what constitutes a "comparable position." Accordingly, although I agree with the Board that the parties should include some clarifying language in their agreement that, at a minimum, tracks the current practice(s), I do not believe that the language proposed by the Boards will accomplish that purpose.

ISSUE NO. 13

ARTICLE 26 REDUCTION IN FORCE

Boards Proposal

The Boards propose to revise Section 26.10 of the parties' agreement to provide that seniority and benefits to not transfer automatically when laid-off teachers move between the Southwest Supervisory Union and the Regional Technical School Supervisory Union. According to the Boards, the Southwest Vermont Regional Technical School District is no longer part of the Southwest Vermont Supervisory Union. Therefore, the two now-independent supervisory unions should not be required when hiring a laid-off teacher from the other. Further, it points out that it may disadvantage a teacher who wants to move between supervisory unions if the cost of transferring their benefits were too great.

Association Response

The Association objects and proposes that the current language in Article 26 be retained. It argues that there is no requirement that a supervisory union hire a teacher laid off by the other supervisory union. Therefore, because each supervisory union retains the discretion over hiring, they can avoid having to honor seniority and benefits simply by not hiring the teacher.

Recommendation

Because it appears that both supervisory unions will continue to be parties to the new agreement, I see no reason why the two supervisory unions cannot agree to permit laid-off teachers to take their seniority and benefits with them when they transfer from one of the supervisory unions to the other. The Boards have not demonstrated that there are new or unique concerns that did not exist when the Technical School was part of the Southwest Vermont Supervisory Union. Further, the Boards' proposal appears to be at odds with Section 28.2 of the agreement, which allows teachers to transfer between Districts, with no loss of seniority or benefits. Finally, as the Association points out, there is no obligation that either supervisory union hires a laid-off teacher from the other if there is a concern about the cost associated with grandfathered seniority and benefits. Therefore, I do not recommend that the Board's proposal be adopted.

ISSUE NO 14

ARTICLE 26
REDUCTION IN FORCE

Current Contract Language

None

Boards Proposal

The Boards are proposing that the following language be added to Article 26:

"26.12 The Board may, following thirty (30) days written notice to the Association and meeting with the Association if the Association so requests, reduce the hours of any employee. A reduction in the hours of work allocated to a position of not less than .5 FTE shall not constitute "elimination of a position subject to Sections 26.2 and 26.3. However, if a position for which hours are to be reduced is one of two or more comparable positions, the Board shall reduce the hours of the employee having the least seniority (length of service)."

Association Response

The Association objects to the Boards' proposal, arguing that reducing a position to half time is a layoff, which should trigger bumping rights if a full-time position becomes available.

Recommendation

The Boards' proposal raises a particularly thorny issue. On the one hand, the Boards should have the discretion to determine its staffing needs and to make accommodations as necessary, depending on enrollment, subject matter needs, and other factors. On the other, the logical extension of the Boards' proposal is that it could reduce the positions of every senior member of the bargaining unit to half-time positions, without triggering the bumping rights in the parties' agreement. Therefore, although the Board's have the right to reduce any position below full time, I find that any reduction of .5 or more is essentially a reduction in the size of the Boards' work force that is sufficient to trigger bumping rights.

ISSUE NO 15

ARTICLE 27 RIGHTS AND RESPONSIBILITIES

Boards Proposal

The Boards propose to amend Sections 27.4, 27.5, 27.6, and 27.7 to differentiate how the non-renewal provisions of the agreement will apply to probationary and non-probationary teachers. Specifically, it seeks to change the timelines for notifying probationary teachers that they will not be renewed for the following school year. According to the Board, the current deadlines do not provide enough time for it to evaluate probationary teachers hired in January before notifying them that they will not be renewed.

Association Response

The Association does not object to the proposed change in Section 27.4 to distinguish between probationary and non-probationary teachers. However, it raises a concern the new deadlines for notifying probationary teachers of non-renewal will not give non-renewed probationary teachers adequate time to seek alternative employment.

Recommendation

The current language in provides that all teachers shall receive non-renewal notices by March 15, and the Boards' proposal would extend that deadline to April 15, or sixty (60) days prior to the expiration of a teacher's two year probationary period. For those teachers hired in June, the Boards' proposal would mean that they would not know about their non-renewal until a month later than they do now. Although it does shorten the amount of time those teachers will have to seek other employment, it does permit an opportunity for them to be evaluated before receiving a non-renewal notice, and I do not find the one-month delay being proposed by the Board to be unreasonable. However, I am concerned that, under the Boards' proposal as written, teachers hired in January could be notified in October that they will not be renewed even though the Boards are not required to evaluate them until after that time. Therefore, I recommend that the Boards' proposal be modified to ensure that probationary teachers will not receive non-renewal notices in October.

ISSUE NO 16

ARTICLE 28
ASSIGNMENTS, VACANCIES AND PROMOTIONS

Boards Proposal

The Boards propose to change the language of Article 28.1 to allow the Superintendent to change a teacher's assignment at any time during the school year; whereas the current language limits the Superintendent's ability to change assignments after the first day of classes. The Boards argue that there may be changes in enrollment after the beginning of the school year that it is unable to address currently because it cannot change assignments after classes have begun. Further, it points out that there will be no prejudice to a teacher because the agreement provides an assignment change cannot be arbitrary. Similarly, the agreement requires the Board to provide a teacher, whose assignment is changed, with assistance, including five days with pay to prepare for the new assignment.

Association Response

The Association is opposed to language that would permit the Superintendent to change teaching assignments after the first day of school. It contends that changes in grade levels and other differences would have a serious impact on teachers and their continuity with students.

Recommendation

There is no question that there will be unforeseen events that happen after the first day of school that can only be addressed by re-assigning teachers. As the Boards points out, there can be unanticipated enrollment shifts. Similarly, a librarian retired this year after the beginning of the year, creating a void that needed to be filled by a re-assignment. As the Superintendent stated at the hearing, however, because she has a good relationship with the Association, the parties have always been able to work things out when there was a need to change an assignment after the beginning of school. For example, after the librarian retired this year, the Superintendent was able to work with the Association to re-assign a teacher with dual certification. Therefore, it appears that the parties have generally been able to address the issue collaboratively, without the need for the Superintendent to have unilateral authority to make re-assignments after the beginning of the school year.

Nevertheless, there may well be times when the parties will be unable to agree on a re-assignment, which could result in the Boards failing to meet the needs and requirements of its students. Therefore, I recommend that the parties adopt a compromise along the following lines: When the Superintendent believes there is a need to change a teachers assignment after the first day of

school, the Superintendent shall notify the Association, and the parties will make a good faith effort to work out a resolution. If they are unable to do so within a certain time period, however, the Superintendent may change the teacher's assignment for the rest of the school year. I believe that this approach adequately balances the Boards' interest in having the flexibility to respond to unanticipated events with the Association's concern about giving the Superintendent the ability to re-assign teachers unilaterally after the school year has begun.

ISSUE NO. 17

ARTICLE 28 ASSIGNMENTS, VACANCIES, AND PROMOTIONS

Boards Proposal

The Boards proposes to amend Section 28.2 to eliminate the reference to voluntary transfers between districts in the Supervisory Union and to substitute it with language permitting teachers who move from one district within the Supervisory Union and are employed by another district to retain their salary, benefits, and seniority in the new district.

Association Response

The Association's position is that the concept of voluntary transfers should be retained. It is also concerned that teachers who have left one district not be able to transfer their salary, seniority, and benefits if there is a significant gap in employment between the two districts.

Recommendation

Because each district is technically a separate employer, when teachers move from one district to another within the Supervisory Union they are leaving the employ of one and being rehired by the other. However, the Association raises an understandable concern. Under the Boards' proposal as drafted, a teacher can resign from a position in one district and retain their seniority and benefits when hired by a new district, regardless of the length of the hiatus between leaving one district and being employed by the other. Therefore, although I recommend the clarifying language proposed by the Boards be adopted, it should be modified to impose reasonable time limits for them to be able to take their salary, benefits, and seniority to the new district.

ISSUE NO. 18

ARTICLE 29
HOURS AND DUTIES

Boards Proposal

The Boards propose to amend Section 29.1 of the parties' agreement to increase the length of the regular teacher work day from 7.5 hours a day, with a duty free lunch to 8 hours a day, with a duty free lunch. This is one of several proposals by the Boards designed to create additional, shared time for teachers to collaborate. The Boards emphasize that there are schools within the Supervisory Union that have been identified as needing improvement, and a state-imposed survey has shown that those schools should increase teacher collaboration time to help improve teacher professionalism and student performance. According to the Board, studies have shown that when teachers met with each other and there is a common assessment across grade levels, student achievement has improved.

Further, the Boards contend that attempts to encourage teachers to volunteer to participate in common planning time after regular school hours have not been successful. For example, the Boards obtained a grant to compensate teachers for meeting after school at an hourly rate of \$32, but few teachers volunteered to participate in those meetings. Therefore, it believes that the length of the workday in Article 29.1 must be extended to ensure that the necessary common planning time will occur.

Finally, the Boards assert that the salaries teachers in the Supervisory Union are receiving are equivalent to salaries for comparable private sector positions. However, employees in the private sector generally work as many as 500 hours more than the teachers covered by the agreement. Therefore, it is not unreasonable to expand the current teacher workday by thirty (30) minutes to facilitate common planning time.

Association Response

The Association is opposed to the Boards' proposal to increase the length of the teachers' workday, without additional compensation. It argues that teachers are not able to complete all of their work in the current 7.5 hour workday and routinely complete their grading and class preparation after the regular work day. Therefore, it is inequitable and unrealistic to expect them to work additional time with no additional compensation. Finally, the Association emphasizes that, because teachers report to work at some schools at 8:00 and the start of the school day for students is 8:25, there is already time available that could be used for collaborative time.

Recommendation

The parties' positions on this issue mirror the debate that is occurring between school boards and teacher union throughout New England. On the one hand, school boards are under increased pressure and various state and federal mandates to improve student performance. Studies have shown that one of the most effective tools for achieving those improvements is to have more common planning time among teachers. The inevitable challenge is how to find that additional common planning time within the confines of the teachers' existing workday, which has led many school boards to propose a longer workday for teachers.

On the other hand, teachers have a concern about expanding the length of their workday without additional compensation. It is a rare teacher that does not already work more time than they are contractually required to work to complete lesson plans, grade papers, prepare report cards, and write college recommendations.

Extending the length of the teachers' workday by 30 minutes is not inherently unreasonable. However, in light of the additional hours teachers routinely spend on school related work outside of their normal workday, to require them to work a longer day each day, without any additional compensation is hard to justify. Therefore, I cannot recommend that the Boards' proposal to extend the workday to 8 hours, without providing any additional compensation.

Nevertheless, there are alternative options I would encourage the parties to explore. First, the parties should carefully examine whether there is any additional time that can be squeezed out of the current workday for common planning time. As the Principal of the Bennington Elementary School testified, there is a twenty-five minute period each morning between the time teachers report to their classrooms and the time students arrive. Therefore, it appears that, at least at some schools, there is time that could be used to accomplish the Boards' objectives, with some creative dialogue between the parties. Second, mandating common planning time a few days a week outside of the normal school day, contingent on funding may be an option. There was evidence that the Boards have received a grant to compensate teachers for after school common planning time, but teachers were unwilling to volunteer. Therefore, contract language that would require teachers to attend common planning meetings after their 7.5 hour work day if the Boards are able to obtain or provide funding for compensating teachers for working those additional hours may well be a way for the Boards to achieve its goal of increasing collaborate time among teachers.

ISSUE NO. 19

ARTICLE 29 **HOURS AND DUTIES**

Association Proposal

The Association proposes to amend Section 29.6 of the parties' agreement to change how the nine (9) in-service days will be allocated. Currently, the 9 days are allocated as follows: (2) reserved for classroom preparation and closing at the teachers' discretion, (1) at the end of the first semester as a teacher workday, (4) Supervisory Union in-service days, and (2) building in-service days. The Association proposes that the 9 in-service days be re-allocated as follows: (2) reserved for classroom preparation and closing at the teachers' discretion; (3) days, one at the end of each marking period to be used by K-8 teachers to complete report cards and other record keeping and (3) days for 9-12 teachers, one of which will be a teacher workday at the end of the first semester; (2) Supervisory Union in-service days; and (2) building in-service days. According to the Association, taking two of the four Supervisory Union in-service days and placing them at the end of the marking periods to be used at the teacher's discretion would enable teachers to better handle the workload during those times.

Boards Response

The Boards opposes the Association's proposal on the ground that it would lose the ability to use two of the in-service days to provide necessary training regarding topics like learning communities and bullying.

Recommendation

I can appreciate the Association's interest in giving teachers more discretion over the timing and content of additional in-service days to enable them to handle some of their administrative responsibilities. As the Boards points out, however, the days the Association wishes to re-designate are now used to provide necessary training and to help promote the professional development of the teachers throughout the Supervisory Union. Therefore, I am not convinced that there is a compelling need to divert two of the Supervisory Union in-service days to teacher-directed days at this time, and I do not recommend the Association's proposal.

ISSUE No. 20

ARTICLE 29
HOURS AND DUTIES

Boards Proposal

The Boards propose to remove the reference to flex time from Section 29.19 of the agreement to reflect a prior agreement between the parties.

Association Response

The Association agrees with the Boards' proposal

ISSUE NO. 21

ARTICLE 29 **HOURS AND DUTIES**

Association Proposal

The Association proposes to amend Article 29.26 to provide that the first thirty (30) minutes of each elementary school teachers' workday will be unassigned preparation time and that each teacher will receive a minimum of forty-five (45) additional preparation time during the students' school day each day. Further, it proposes deleting Article 29.27.

In support of its proposal, the Association asserts that when the parties negotiated their most recent contract, it agreed to increase the school day from 7 hours to 7.5 hours, with the understanding that the additional time would not be instructional time. However, even though elementary school teachers are not teaching the first twenty-five (25) minutes of each day, they are still in the classroom monitoring students who arrive prior to the start of classes. Therefore, that time at the beginning of the school day is not productive preparation time.

According to the Association, the only preparation time teachers now have is when a special subject matter teacher is teaching their classes. Because teachers must often use that time to meet with parents during those periods, they are often left with no preparation time during the school day

Boards Proposal

The Boards propose changes to the current language of Sections 29.26 and 29.27 of the parties' agreement: 1) amending Section 29.26 to delete the language providing compensation to compensate elementary school teachers who are required to forego their preparation time for administrative meetings or staffing issues; and 2) deleting the reference in Section 29.27 to the amount of vacation time available to elementary school teachers in the 2000 and 2001 school year and changing the language regarding a joint task force to explore ways to increase preparation time

from mandatory to permissive.

The Boards' position is that its goal is to increase the amount of time teachers spend with students in an instructional setting, and the Association's proposal is antithetical to that objective. By carving out 75 minutes from the teachers' workday each day, the students would be deprived of the opportunity to interact and build relationships with students.

Recommendation

The parties have competing interests concerning how teachers use their time: The Boards have an interest in increasing the amount of time teachers spend interacting with students and in common planning time; teachers are concerned about the erosion of the planning time they have available when special subject matter teachers are in their classrooms. The challenge is to find time during the 7.5-hour workday to accommodate both interests.

Based on the information before me, I am unable to recommend that the proposals of either the Boards or the Association be included in the parties' next agreement. First, there was testimony that what happens before the students arrive varies from school to school. Second, the Association has suggested in its response to the prior issue that the time before the instructional day begins could be used for common planning time, which is at odds with this proposal to make that time additional preparation time. Third, it is not readily apparent how much preparation time is actually being lost to other student-related demands. Therefore, because this is an issue that is not easily resolved based on the information available to me, I recommend that, at this time, the language in Section 29.26 remain without the changes proposed by either party.

Nevertheless, this is an important issue that cannot be ignored for the duration of the parties' next collective bargaining agreement. Therefore, I recommend that the parties include language in the agreement providing that they will continue to negotiate in good faith about possible ways to maximize teacher preparation time and increase common planning time at the elementary schools, without sacrificing instructional time for students.

ISSUE NO. 22

ARTICLE 29 HOURS AND DUTIES

Boards Proposal

The Boards are proposing extensive changes in Sections 29.29 and 29.30, which set out the parameters for the teachers' workday at the middle school and high school, respectively.

Specifically, the Boards propose to allocate teachers' time each day as follows: 45 minutes a day for teacher preparation time, 30 minutes a day for general supervision of students in the cafeteria, hallways, etc, and 300 minutes of student contact time, which includes direct instruction, advisories, tutorials, and guided study. The Boards would retain the discretion to assign teachers school-related work or to attend school related meetings during the remainder of their day. Finally, the Boards' proposal would change how the per diem rate for AP teachers in the first year of their assignment is calculated by using the base pay at B.A. level 1 of the salary schedule to calculate their per diem rather than their actual salary.

In support of its proposal, the Boards assert that, under the current contract, teachers at the middle school have 138 minutes a day and at the high school 180 minutes a day that are unassigned and the Boards do not know what teachers are doing during that time. Therefore, it's proposal is designed to give it more discretion to direct the work of teachers during that unassigned time to ensure that it is being used to the best advantage of the students.

Association Response

The Association is strongly opposed to the Boards' proposal on several grounds. First, it contends that the proposal would increase teacher instructional time from 240 minutes a day to 300 minutes a day, or 25%. Second, it would require teachers to cover other classes without compensation. Third, it reduces the stipend for AP teachers by 30%.

Recommendation

There are three principal components to the Boards' proposal: 1) it reallocates how teachers at the middle and high schools must use their assigned time; and 2) it gives the Boards discretion to determine how teachers at those schools use the remainder of their time during the school day; and 3) it would decrease the AP stipend. Therefore, it is necessary to consider each of these components separately.

Allocation of Time During the Workday

Under the parties' most recent agreement, teachers at the middle school have 48 minutes of preparation time, 240 minutes of instructional time, and 72 minutes of duty time (advisory and administrative duties, including bus and cafeteria duty, teams meetings, academic labs, and building supervision) each day. Under the Boards' proposal, they would have 45 minutes of preparation time, 300 minutes of student contact time (direct

instruction, advisories, and tutorials), and 30 minutes of duty time (general supervision in the hallways, cafeteria, and bus loading areas). At first, this appears to be a significant change, but when one considers the new definitions of "student contact time" and "duty time" the Boards are proposing, the differences are not as great as they first appear.

Under the Boards' proposal, designated preparation time at the middle school remains essentially constant, decreasing only by three minutes, from 48 to 45. Although the Association claims the proposal increases instructional time by 25%, that is not the case. Rather, the proposal incorporates instructional time into a new category of "student contact time." In addition, "student contact time" now includes advisories, which were formerly part of the teachers' duty time, and the amount of duty time is reduced accordingly. Accordingly, the net result is that the combined total of student contact and duty time under the prior agreement and the Boards' proposal has increased by only 18 minutes at the middle school, which is not significant.

The impact of the Boards' proposal on the teachers at the high school is more difficult to determine. Although high school teachers currently have a lunch preparation/planning period each day, they will have a 45 minute preparation period under the Board's proposal, which should be at least as much as they currently have. There is also an increase of ten minutes in duty time. The biggest potential change is in instructional time. Currently, the high school teachers have 250 minutes of instructional time, but under the Boards' proposal they will have 300 minutes of "student contact" time. If the Board's proposal contemplates that teachers can be assigned direct instruction for the full 300 minutes of their "student contact" time, it will result in a 20% increase in instructional time, which is an unreasonable expectation on the part of the Board.

In sum, I find that, upon close examination, the overall re-allocation of designated teacher time at the middle school is not a significant change in the current allocation and should not impose any increased workload on the middle school teachers. Therefore, I recommend that the parties adopt that proposed change for the middle school. However, I cannot recommend the proposed re-allocation of time for the high school unless the Boards can provide the Association with some assurance that the proposed "student contact" time will not significantly increase the amount time teachers must spend on direct instruction each day.

Boards' Discretion Over Undesignated Time During the Workday

As the Boards point out, there are currently 138 minutes of undesignated time for teacher-directed activities at the middle school and 180 minutes of undesignated time at the high school. In the Board's view, it should have unilateral control over how this time is used. According to the Association, however, teachers are already using this time productively for school-

related activities. The Boards make a compelling argument that it should have the ability to determine whether that undesignated time is being utilized most effectively to benefit the students at the middle and high schools. The problem, however, is that neither party has shown exactly how that time is being used at the respective schools. It may well be used for the exact purposes the Boards would like to see it used. For example, the Superintendent acknowledged that all of the high school teachers have come forward to work on building in advisory time as required by NEASC/PSA. Further, the only concrete example the Boards have given for how it wants to direct that time is to increase time for teacher collaboration. It seems to me, therefore, that before the Boards should have the unilateral discretion to direct all undesignated time at the middle or high school there needs to be a common understanding about how that time is now being spent and how the Boards believe it should be spent. At that point, the parties will be in a better position to negotiate about whether that undesignated time should be used for a particular purpose. For those reasons, I am unable to recommend that the portion of the Boards' proposal that would give it absolute discretion to assign teachers to school-related work not be adopted at this time.

Stipends for AP Teachers

The Boards have proposed to change the method for calculating stipends for teachers teaching AP course during their first year, a decrease of approximately 30%. Based on the information before me, I do not believe that the Boards' proposed reduction in the stipend is justified at this time.

ISSUE NO. 23

ARTICLE 30 SALARIES APPENDIX A-1, A-2, and A-3

Boards' Proposal

The Board's salary proposal would significantly alter how teachers who work in the Supervisory Union are compensated. It has proposed salary schedules that include increases in base salary between \$700 and \$750 each year of a three-year contract. However, teachers would be frozen on their current steps for the duration of the agreement. In the Boards' view, the step increases in the current agreement, which range between 2% and 5%, exceed the rate of inflation and are out of step with the current economic climate.

Next, the Boards' proposal would decrease the minimum starting salary for new teachers by \$750 each year of a new contract. The Boards point out that, because it is not unusual to

have 100 applicants for each opening, it is not necessary to have entry salaries at their current levels. Further, because many applicants are experienced teachers, the impact would be minimal.

Finally, the Board proposes to alter the current steps in two principal ways. First, it proposes to shorten the BA, BA+15, and BA+30 columns, which would effectively freeze 75 current teachers. Second, it proposed to eliminate the B+45, B+60, and B+75 columns from the salary schedule.

Association Proposal

Not surprisingly, the Association objects to virtually every aspect of the Boards' salary proposal. In support of its position, it points out that teachers who work in the Supervisory Union receive mediocre salaries in comparison with their counterparts in other districts in southern Vermont. Further, it points out that the beginning salary for teachers in the Supervisory Union is already \$1,600 less than the average starting salary in southern Vermont. Therefore, the Union has advanced a multi-pronged proposal: eliminate step 3 to raise the beginning salary to a fair and competitive rate in relation to comparable communities; add step 19 to the salary schedule, continue regular step increases for all teachers, and implement a 4% across-the-board increase each year of the agreement. Further, the Union strongly opposes the Board's proposal to eliminate any steps for teachers on the BA, BA+15 and BA+30 columns because it would deprive 75 teachers of any step movement.

Recommendation

I begin with the parties' respective proposals to alter the existing salary schedule. The Boards are proposing to eliminate several steps in the BA, BA+15 and BA+30 columns, and the Association proposes to eliminate step 3 and add step 19. However, I am reluctant to recommend altering the existing steps based on the information before me. Although the Association does point out that starting salaries for teachers hired in the Supervisory Union are lower than those of comparable districts, there appears to be no shortage of applicants for those positions. In addition, the Association's proposal to add step 19 to provide step movement for the 127 teachers currently on step 18 raises the perennial dilemma of where the top of the salary schedule should be. Finally, the Boards' proposal to eliminate several steps in the BA, BA+15, and BA+30 columns would permanently freeze 75 teachers or 20% of the bargaining unit on their current steps.

Based on the existing step structure, therefore, I must determine how to balance the two competing salary proposals: one that relies heavily on traditional step increases, plus and across the board salary increase, and the other that would ignore steps in favor of a flat dollar increase for all teachers. I begin with the fact that there is a wide disparity in the total cost of the

parties' respective salary proposals. For the 2010-11 school year, the Boards estimate the total cost of their proposal to be 1.42%, whereas the total cost of the salary and across the board proposals of the Association would be 5.8%. Considering the facts that teacher salaries in the Supervisory Union are about average for the southern part of the state and the inflation rate for 2010 was 1.6%, the Association's 5.8% proposal appears overly generous in the current economic climate. On the other hand, the Boards' proposal would not permit teachers to keep pace with inflation. Therefore, I find that a more reasonable salary increase would 2.8%, and I recommend that that amount be split between traditional step increases, which would coat 1.8% and an across-the board salary increase of 1.0% for all members of the bargaining unit, which would enable all unit members to realize some salary increase.

I find that the same approach should be followed in the second two years of the agreement, and, based on the limited financial data available to me concerning those years, believe that step movement and an across-the-board increase in the range of 1% is justified in the second and third year of a new agreement. I can appreciate that the Boards wish to freeze teachers on their current steps for three years to bring teacher salaries more in line with what they believe are reasonable in light of current economic realities. However, I find that a combination of step increases and a modest salary increase can accomplish its goal of keeping salaries at reasonable levels, while permitting teachers to keep pace with inflation and their counterparts in other districts.

ISSUE NO. 24

ARTICLE 30 SALARIES

Board Proposal

The Board proposed to add language to Section 30.2 that would give it discretion to grant up to five (5) years of experience for newly hired teachers hired to fill a position in a "teacher shortage area" as identified by the Vermont Department of Education. Further, the Boards' proposal would permit the Boards to consider a teacher's non-teaching work experience in a position requiring a bachelor's degree and work involving regular use of skills or knowledge related to the teacher shortage area. According to the Boards, it had difficulty recruiting at least one teacher who had prior experience as a math teacher based on the

existing salary schedule.

Association Response

The Association objects to the Boards' proposal on the ground that it is unfair to give higher salaries to recruits in particular fields who must work side-by-side with currently employed teachers who earn less money solely because of the subject they teach. Rather, it believes that the Boards should agree to a higher salary schedule that will treat all newly recruited teachers the same.

Recommendation

It is understandable that the Boards would like the ability to recruit teachers in subjects where there is a shortage of qualified applicants at a higher salary than the entry-level salary; however, it has given only one example of difficulty recruiting a math teacher. Further, it has proposed decreasing the salary for new teachers, which seems to be at odds with its proposal to have a recruitment rate for certain subject areas. Most problematic, however, is that the Boards' proposal would create a system in which teachers with the same level of experience could be working in adjoining classrooms and performing the same work, only one would be paid a higher salary based solely on the subject matter he or she teaches. Therefore, the salaries of two newly hired teachers could vary by more than \$4,000, based on their subject areas, and this disparity would continue throughout their tenure teaching in the Supervisory Union.

In my view, the better approach in those rare cases where the Board has had difficulty recruiting teachers because of a teacher shortage in the subject matter, would be to enable the Boards to offer a reasonable signing bonus to teachers. This approach would give the Boards the flexibility hire for hard-to-fill positions without creating a permanent salary disparity between two equally qualified teachers.

ISSUE No. 25

ARTICLE 30 SALARIES

Boards Proposal

The Boards propose to amend Section 30.3 to provide that teachers hired from business or industry by the Technical School will be granted at least one year of teaching experience on the salary schedule for every two years of relevant experience, provided that at least five years of credited experience be within

the prior twelve (12) years. According to the Boards, their proposal is intended to ensure that the private sector experience they are crediting reflects current business and industry practices.

Association Response

The Association raises concerns with two aspects of the Boards' proposal. First, the use of the term "at least" would give the Boards discretion to treat newly hired teachers differently by crediting them with different amounts of teaching experience. Further, it believes that, because the current contract language gives the Boards the discretion to determine what constitutes relevant experience, the time limits proposed by the Board are unnecessary.

Recommendation

I agree with the Association that term "at least" in the Boards' proposal gives it overly broad discretion to determine how much experience credit to give each applicant. Therefore, I recommend that the existing, predictable formula regarding the amount of credit that should be granted continue.

However, I find that the Board's' proposal to limit experience credit to work performed in the prior twelve years is both reasonable and warranted. It is difficult to imagine any field today that is not experiencing rapid changes as the result of advances in technology and other innovations. Accordingly, teachers being given teaching credit for work in private industry should be able to demonstrate that they have timely, relevant experience that reflects those changes.

ISSUE NO. 26

ARTICLE 30 **SALARIES**

Association Proposal

The Association proposes to revise Section 30.9 regarding compensation errors.

Boards Position

The Boards agrees with the Association's proposal in principle and will propose specific language changes to the proposal based on input from its Business Office.

ISSUE NO. 27

ARTICLE 32
LONG TERM SUBSTITUTE TEACHER

Boards Proposal

The Boards propose to add language to Articles 31 and 32 to implement a prior grievance settlement. Specifically, the changes proposed by the Boards would treat teachers hired after the school year begins under short-term grants that must be fully expended before the end of the school year would be treated as a long-term substitute. However, if the short-term grant funded teacher has worked for at least 60% of the school year and is re-hired, that short-term grant funded teacher would be awarded experience credit pursuant to Section 30.1.

Association

The Association's position is that the changes proposed by the Boards are not necessary because the existing contract language can accommodate grant-funded teachers who are hired and laid off.

Recommendation

I recommend that the Boards' proposal be adopted, with a clarification. It applies to a narrow class of teachers hired after the beginning of the school with unanticipated grant money, with the understanding that they are being hired only for the duration of the school year. Therefore, like long-term substitutes, they are limited-term employees hired for a finite period with no expectation of continued employment past the end of the school year. However, I believe the language proposed by the Board should be modified to make clear the source of the grant money and that the teachers are being funded with one-time grants that are not subject to being renewed, in which case, there might well be an expectation of continued employment.

ISSUE NO. 28

ARTICLE 33
DURATION AND RECOGNITION

Association Proposal

The Association proposes a three (3) year agreement.

Boards Position

The Boards agrees to a three-year agreement in principle.

ISSUE NO. 29

APPENDIX B
SOUTHWEST VERMONT SUPERVISORY UNION
EXTRA PAY SCHEDULE

Association Proposal

The Association proposes to re-write Appendix B to clarify that teachers hired during the summer or school recesses or to teach adult evening education courses would be paid at their per diem rate of pay, which would be consistent with what they are paid pursuant to Section 29.8 for working additional days. Further, the Association is proposing that the per diem rate be based on the average teacher salary of \$36.87 an hour.

Boards Position

The Boards object to the changes proposed by the Association on two principal grounds: 1) the proposal, as written, would alter the Boards' ability to require teachers to perform services outside of their normal teaching schedule; and 2) there is no basis for increasing the hourly rate.

Recommendation

Although the Boards contend the Association's proposal changes summer and adult evening education teaching assignments from required to voluntary assignments, the current contract language provides that teachers do not need to accept those assignments. Therefore, I do not find the Association's proposal is as far reaching as the Board characterizes it.

However, I do not believe that the language changes proposed by the Association achieve its stated purpose of making the pay rate under Section 29.8 and Appendix D consistent. The Association's proposal makes no reference to per diem rates, but rather increases the hourly rate for summer and adult evening teaching duties from \$32.75 to \$36.87, a 12.5% increase. However, absent a concrete justification for that kind of increase at this time, I am unable to recommend the Association's proposed change.

ISSUE NO. 30

APPENDIX C
EXTRA CURRICULAR SALARY SCHEDULE

Association Proposal

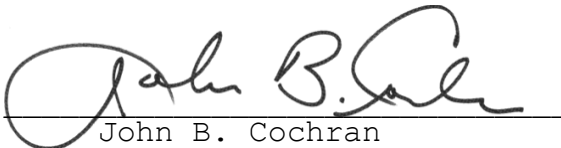
Finally, the Association proposes to amend the extra curricular salary schedule in Appendix C to provide compensation for elementary school teachers who are coordinating various extra curricular events, like band, chorus, and field and track meets. According to the Association, it is not proposing to create new programs at any of the elementary schools. Rather, it wants teachers who have been and are running those programs to be compensated for their work.

Boards' Position

The Boards recognizes that elementary school teachers are currently volunteering their time for various extra curricular activities, and it does not necessary object to the Association's proposal. However, before agreeing to compensate any teachers under Appendix C, it needs to first identify and approve existing extracurricular programs.

Recommendation

In theory, I recommend that elementary school teachers who are responsible for recognized extra curricular programs should be compensated for their work on those programs. Before that can be done, however, it is necessary for the parties to sit down to identify what extra curricular activities exist at the elementary schools currently exist, whether the Board wants them to continue as Board-sanctioned activities, and how those activities should be categorized for purposes of the salary schedule in Appendix C. Therefore, I recommend that, because both parties have more homework to do on this issue, they agree to keep it open for further negotiations after they have executed a successor agreement.



John B. Cochran

April 18, 2011
Newton, MA