

# School board members on contract negotiating teams: help or hindrance?

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Do school board members, who must approve collective bargaining agreements, belong on the team of negotiators that hammer out agreements with unions?

It's a question on which there is no consensus in the New York State education community. But, generally, board members are not used as negotiators.

An exception is the Herricks school district on Long Island, where board members recently played integral roles as part of the negotiating team for a teachers contract that was settled in July.

Over the past several years, reduced state aid and the property tax cap led the district to make significant budget reductions, including 100 layoffs – 66 of whom were teachers – while raising class sizes from about 21 students to 30. Three years ago, most of the bargaining units in the district agreed to reopen their existing contracts and make concessions, but the teachers union did not.

"This created a great deal of community anger and frustration," said Herricks Superintendent John Bierwirth. "There were huge expectations on the part of the community about what would happen with this contract."

Against this backdrop, the school board decided to become directly involved in the negotiations for the new teacher contract.

"The decision to have board members on the negotiating team was born out of a desire to be involved in the negotiations first-hand so there would be nothing lost in translation," said Jim Gounaris, the school board's president. He and another board member, 24-year veteran Christine Turner, were part of a negotiating team that in-

cluded the school attorney, superintendent, assistant superintendent for business, and the assistant superintendent for curriculum and instruction.

"In the past, when the negotiating team included only the superintendent, school attorney and the business official, negotiators were seen merely as messengers," said Gounaris, a restaurant owner. "Having board members on the negotiating team lent an air of poignancy."

The new contract has a hard salary freeze for 97 percent of teachers in the first year, salary increases of 1 percent plus half the amount of scheduled step increases in years two and three, and a 1 percent increase along with a full step increase in year four. The contract also provides for a hard freeze on extra-curricular and co-curricular compensation for the term of the contract, a new, lower starting salary for those newly hired by the district, increased insurance contributions for active employees and retirees to 25 percent in the final year of the contract, and greater flexibility regarding staffing and managing the school calendar.

"The board was very pleased with what it accomplished in this contract," said Gounaris.

## Pros and cons

As well as it worked for Herricks, school attorneys have mixed opinions about having school board members on district collective bargaining teams. One skeptic is Herricks' own attorney, Lawrence Tenenbaum, a partner in the Jaspán Schlesinger law firm. Generally, there are three areas of concern, he said. First is the question of candor. Tenenbaum believes the presence of board members on the negotiating team means representatives of bargaining units may not be as candid during negotiations as they would be otherwise.

"It seems like they are trying to send a message rather than have a negotiation," he said. "And board members might not even recognize this is happening."

Second is the issue of communication.

"Board members – unless they are good poker players – may unwittingly give off verbal or visual cues, such as nodding, saying 'uh huh,' etc., that the union may misunderstand as an agreement with its position rather than simply an acknowledgement of what they said," Tenenbaum said.

Third, said Tenenbaum, when board members speak during negotiations, it may be misunderstood by the union bargaining team that the board member is conveying the board's official position rather than his or her own, which may not be the case.

Tenenbaum said he shared these concerns with the Herricks school board, for whom he was one of the lead negotiators.

"Ultimately it's the board's call," he said. "They are the client. If they want to have representation on the team, that is their prerogative, and I am comfortable proceeding that way."

More enthusiastic is Karl Kristoff, a partner with the Hodgson Russ law firm, who welcomes the presence of board members on the negotiating team.

"I think there are several advantages to having board members on teams," he said.

Kristoff said board members are in a unique position to articulate the views of the community, especially with regard to the economics of the deal. Board members on the negotiating team can also keep the rest of the board accurately briefed on the details of the discussions with first-hand knowledge.

However, Kristoff emphasized that the selection of the right board members is crucial. Ideally, they should have a high

level of credibility and respect both in the community and among union leaders. The individual should come to the table with an objective point of view and be perceived as such. Also important is a willingness to commit a significant amount of time, creativity and patience.

"Selecting the right board members sends a positive message," said Kristoff, who said he has never had a board reject a settlement, due in large part to the presence of board members. "But selecting the wrong members can start negotiations off on the wrong foot."

Another school attorney who likes having board members on the negotiating team is Kris Lanchantin of the Girvin and Ferlazzo law firm.

"Personally, I like to have board members on my negotiating teams," she said. "It brings credibility to the district's proposal. They often bring history, too. And, since money and other financial issues are usually the biggest items on the table, and those are 'board issues,' it gives the board first-hand knowledge of the discussion."

Time will tell whether the strategy of having board members on the negotiating team will have positive long-term implications, said Bierwirth, the Herricks superintendent.

"In difficult times, it can bring the voice of the community much more directly to the bargaining unit," he said. "But if the current cast of characters changes, it could present a whole new dynamic."

Gounaris, the Herricks board president, pointed out that having board members on the district negotiating team might not be right for all school districts, and a lot depends on the given situation.

"Given the circumstances in our district, it was the right answer at the right time," he said.

## Research briefs

### NSBA finds collaboration better than mayoral takeover in urban districts

A new report by the National School Boards Association's Center for Public Education finds varied and inconclusive results as to whether mayoral takeovers of school districts improve academics and student achievement.

In "Toward Collaboration, Not A Coup: What the research says about mayoral involvement in urban schools," the center found that collaboration between mayors and school boards is a better model for improving school governance and student achievement. For example, mayors can provide great benefits to public schools by enabling better integration and coordination of services for children and families.

The report recommends several steps for mayors and school boards to work collaboratively to improve student achievement, including:

- Formal and informal processes for coordination among the mayor's office, the school board and superintendent.
- Clearly defined areas of responsibility for the school board, mayor's office, and other agencies that are involved.
- Media coverage and community outreach to increase voter participation in school board elections.
- Professional development for school boards and other leadership teams.

To download the report, go to [www.centerforpubliceducation.org](http://www.centerforpubliceducation.org).

### NYC tenure reforms have decreased tenure approval rate

The teacher tenure approval rate has decreased dramatically in New York City since the city enacted tenure reforms beginning with the 2009-10 school year, according to a report by the Center for Analysis of Longitudinal Data in Education Research.

Prior to 2009-10 the receipt of tenure had become an expectation for nearly all teachers and frequently was based on little evidence of accomplishment, said the report. In 2007-08 and 2008-09, 94 percent of all eligible teachers were approved for tenure.

Beginning in 2009-10, the tenure review process was changed to include new student learning measures, including teacher value-added and in-class assessments aligned with state standards. The approval rate dropped to 89 percent in the first year and averaged 56 percent in the three subsequent years.

The decrease in the tenure approval rate was accompanied by an increase in the percentage of teachers who had their probationary periods extended to provide more opportunity to demonstrate the skills necessary for effective teaching. The percentage of teachers whose tenure decisions were extended averaged less than 4 percent prior to the policy, but 41 percent in 2010-11 through 2012-13. The percentage of teachers denied tenure increased marginally following the introduction of the program from an average of 2 percent pre-policy to 3 percent post-policy.

To learn more, go to <http://goo.gl/EJmXh>.

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