

STATE OF MARYLAND
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF: *

CARROLL COUNTY EDUCATION *
ASSOCIATION *

Petitioner, *

v. *

PSLRB Case No. N 2013-01

BOARD OF EDUCATION OF *
CARROLL COUNTY *

Respondent *

* * * * *

DECISION AND ORDER ON REQUEST
TO RESOLVE DISPUTE AS TO NEGOTIABILITY

I. INTRODUCTION

On May 30, 2013, the Carroll County Education Association (“Association”) filed a “Request to Resolve a Dispute as to Negotiability” (“Form PSLRB-04”), with the Public School Labor Relations Board (“PSLRB”). Form PSLRB-04 reflects the authority granted to the PSLRB by Section 2-205(e)(4)(i) of the Education Article to “decide any controversy or dispute arising under Title 6, Subtitle 4 or Subtitle 5 of this Article.” This authority extends to disputes over the negotiability of specific topics:

If a public school employer and an employee organization dispute whether a proposed topic for negotiation is a mandatory, a permissive, or an illegal topic of bargaining, either party may submit a request for a decision in writing to the Board for final resolution of the dispute.

Education Article, Section 6-408(c)(5)(i).

Section 6-408(c)(5)(v) of the Education Article requires that the PSLRB “render a decision determining whether the topic of negotiation is mandatory, permissive, or illegal,” and “[i]ssue the written decision to the parties within 14 days after receiving the written briefs.”

On June 6, 2013, the Board of Education of Carroll County (“County Board”) filed a Motion to Dismiss the Association’s Request to Resolve a Dispute as to Negotiability or, in the Alternative, to Stay the Request.

II. FINDINGS OF FACT

The facts herein are largely not in dispute and may be summarized as follows. Pursuant to Section 6-405 of the Education Article, the Association is the exclusive representative for a bargaining unit consisting of approximately 2,276 certificated professional employees of the County Board. The County Board is a public school employer as defined in Section 6-401(f) of the Education Article.

At all times herein, the Association and the County Board have been parties to a Negotiated Agreement. The Agreement is in effect from July 1, 2012 through June 30, 2013, and provides in Article XIV (B) that:

New employees shall be given full credit for previous teaching experiences acquired while they were under contract in an accredited program.

Article XIV (B) has contained the same language since at least as early as 1973.¹

¹ See *Agreement between Carroll County Education The Association and Board of Education of Carroll County for the School Year 1973-1974* (“New employees shall be given full credit for previous teaching experiences acquired while they were under contract in an accredited program.”).

On or about January 3, 2013, the Association filed a grievance alleging that the County Board violated Article XIV (B) by placing a newly hired experienced teacher at Step 4 of the negotiated salary schedule rather than at Step 6. Among other things, the grievance seeks to have the teacher placed “on the correct step” of the salary schedule, and awarded “back pay for all pay periods up to the filing of this grievance for the current fiscal year, per Article XXIII (F).”

By letter dated February 27, 2013, the County Board’s Director of Human Resources issued a response to the grievance at Step 1 of the grievance procedure. He stated that the teacher’s “current salary is Teacher Pay Scale, Lane IV, Step 4,” that she “was given full credit for five (5) years of teaching experience out of county ...” and that she “is on the same step placement as all other CCPS teachers with commensurate experience.” For these reasons, the Director of Human Resources denied the grievance.

The Association thereafter appealed the grievance to Step 2 of the grievance procedure. The Association also notified the County Board on April 2, 2013 of its intention to convert the above grievance to a “class grievance” on behalf of other similarly situated teachers.

On April 9, 2013, the County Board’s Assistant Superintendent of Administration issued a Step 2 response to the class grievance. The Assistant Superintendent denied the grievance, stating in part:

If it is the position of the Association that the language of Article XIV.B. constitutes a directive to the Superintendent for the initial classification and salary placement of new employees, then the grievance is denied on the basis that language interpreted in such a manner is an illegal topic for negotiations and is, therefore, not subject to grievance.

The Assistant Superintendent further stated that the contractual language is simply “an assurance that employees are handled fairly and given ‘full credit’ based on the hiring practice.” The Association thereupon appealed the grievance to the County Board’s Superintendent.

By letter dated April 25, 2013, the Superintendent responded to the class grievance at Step 3 of the grievance procedure:

[I]t is clear that our dispute is over the negotiability of initial classification and salary placement. I concur with [the Assistant Superintendent’s] earlier decision that the interpretation of any contract language, such as the Association is asserting here, that directly infringes upon my statutory right granted in §6-201 of the Education Article, *Annotated Code of Maryland*, to classify positions and establish initial salary placement is illegal. It is not subject to negotiations or grievance and I am denying the grievance accordingly.

The Superintendent went on to explain that “the proper interpretation of Article XIV.B. is that new employees receive full credit for prior service that equates to the service granted to incumbent employees.”

On April 26, 2013, the County Board filed a Petition for Declaratory Relief (“Petition”) over this dispute with the Maryland State Board of Education (“MSBE”). In its Petition, the County Board asserts that the MSBE “has primary jurisdiction to determine whether the pending dispute concerning the assignment of newly hired teachers to the salary scale involves a non-negotiable subject that is statutorily vested in the County Board, the Superintendent, and his designees and, thus, is not subject to collective bargaining or the grievance and arbitration process.”

The County Board therefore requested the MSBE to enter a decision declaring that “the assignment, on the salary scale, of newly hired teachers with previous teaching experience in other jurisdictions is neither negotiable nor grievable as a matter of law but is, rather, vested within the sound statutory discretion of the Superintendent.”

On May 30, 2013, the Association filed its “Request to Resolve a Dispute as to Negotiability” (“Request”) with the PSLRB. On June 6, 2013, the County Board filed a response to the Association’s Request with the PSLRB in the form of a “Motion to Dismiss or, in the alternative, to Stay Request to Resolve Dispute as to Negotiability.”

III. POSITIONS OF THE PARTIES

With regard to the jurisdictional issue, the Association states that Sections 6-408(c)(5)(i) and 6-806 of the Education Article vest the PSLRB “with final authority” to issue decisions on matters involving negotiability and enforceability of contract language, and that “any question regarding the negotiability of salary and wages must properly be addressed by the PSLRB.” Because the Association has raised a “question regarding salary or wages” that falls within the scope of Title 6, Subtitle 4, of the Education Article, it contends that the PSLRB has jurisdiction to resolve the negotiability dispute.

As to the underlying dispute, the Association maintains that salaries and wages are mandatory subjects of bargaining under Section 6-408(c)(1) of the Education Article:

On request a public school employer or at least two of its designated representatives shall meet and negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on all matters that relate to *salaries, wages*, hours, and other working conditions, including procedures regarding employee transfers and assignments.

Md. Code Ann., Educ. § 6-408(c)(1) (emphasis added).

Because the “full credit for previous teaching experience” provision of Article XIV (B) involves “a clear question regarding salary or wages,” the Association contends that this dispute falls directly within the ambit of Section 6-408(c)(1) as a mandatory subject of bargaining.

The Association consequently takes issue with the Superintendent’s overly broad reading of Section 6-201 of the Education Article, pointing out that “any initial salary placement right the Superintendent may have under § 6-201, if any, must be exercised in accordance with the established Negotiated Agreement and the salary scales within that Agreement.” The Association further contends that the right to set salaries as set forth under Sections 6-201 and 4-103 “is not an exclusive right nor should it be read in isolation from any other sections contained within the Education Article.”

The Association cautions that if the PSLRB were to accept the County Board’s position that the Superintendent “has unbridled authority to make the initial salary placement,” “there would be no need for a salary scale at all.” According to the Association, this would result in a “total evisceration of the bargaining law as it relates to salary and wages.”

The County Board contends that the negotiability issue before us, i.e., assigning newly hired teachers with previous teaching experience to the salary scale, “is outside of the PSLRB’s jurisdiction since the underlying dispute concerns an interpretation of the County Board’s and Superintendent’s non-negotiable authority pursuant to Md. Code

Ann., Educ. § 4-103 and 6-201(b) and (f)” The County Board therefore requests the PSLRB to dismiss the Association’s Request.

Alternatively, in light of the fact that it has already filed a Petition for Declaratory Relief with the MSBE on the “same underlying dispute,” and that a pending issue on “similar jurisdictional grounds” has been appealed into court, the County Board requests that the PSLRB enter an order staying proceedings “until such time as Maryland’s appellate courts determine whether such disputes are properly within the statutory jurisdiction of the State Board or the PSLRB.”

The County Board explains that its position on the jurisdictional issue is based on the Court of Appeals decision in *Board of Education of Dorchester v. Hubbard*, 305 Md. 774 (1986), and the MSBE’s recent ruling in *In Re: Petition for Declaratory Ruling*, MSBE Op. No. 12-28 (2012), *aff’d* Cir. Ct. Howard Co. (February 20, 2013), *appeal pending sub nom. Howard County Education The Association – ESP, Inc. v. Board of Education of Howard County*, Case No. 9 (Ct. of Spec. App. 2013).

According to the County Board, these decisions support the proposition that the MSBE, rather than the PSLRB, “has jurisdiction to interpret the true intent and meaning” of the provisions in Section 6-201 and 4-103 of the Education Article. The County Board therefore contends that the MSBE “has the primary jurisdiction to determine whether the pending dispute concerning the assignment of newly hired teachers to a particular step on the negotiated salary scale involves a non-negotiable subject that it statutorily vested in the County Board ... and, thus, is not subject to collective bargaining or the grievance and arbitration process.”

As to the underlying negotiability dispute, the County Board asserts that “[t]he non-negotiable appointment authority statutorily vested in Maryland superintendents and county boards is well established by numerous decisions spanning the decades.” In support of this position, the County Board cites the MSBE’s decision in *Montgomery County Education The Association v. Board of Education of Montgomery County*, 1 Op. MSBE 35 36 (1970) which concluded that “the right of appointment, which must necessarily include the right of classifying all jobs in its domain, rests in the complete control of the county boards of education.” The County Board also cites the MSBE’s ruling in *Baltimore Teachers Union v. Baltimore City Board of School Commissioners*, MSBE Op. No. 03-34, at 4 (2003), which rejected the Union’s argument that the Board of School Commissioners was required to negotiate a change in classification of academic coaches, finding instead that reclassification decisions are not subject to negotiation.

The County Board additionally cites the Maryland Court of Appeals decision in *Montgomery County Education Assoc. v. Board of Education of Montgomery County*, 311 Md. 303 (1987), which concluded that:

Reclassification is a continuous process, which sometimes requires administrators to move employees from one classification to another while a collective bargaining agreement is in effect. This movement may result in an increase or a reduction of the affected employee’s salary.

311 Md. At 321.

The County Board therefore contends “that the pending dispute over the negotiability of the initial salary placement of newly appointed experienced teachers is no more negotiable than the appointment and classification decisions cited above.”

IV. ANALYSIS

A. Jurisdictional Issue

Because a jurisdictional issue has been raised, it is useful at the outset to revisit the legislature's statutory pronouncements on the PSLRB's authority over labor relations issues and negotiability disputes involving public school employers and employee organizations.

The legislature passed the Fairness in Negotiations Act ("Act") in 2010.² In doing so, the legislature determined that the PSLRB should exercise plenary jurisdiction over all public school labor relations and negotiations matters. At the same time, the legislature revoked the authority of the MSBE and State Superintendent to exercise jurisdiction over these matters.

In this regard, the Act provides that the "Public School Labor Relations Board shall decide any controversy or dispute arising under Title 6, Subtitle 4 or Subtitle 5" of the Education Article. Title 6, Subtitle 4 expressly includes disputes over the negotiability of bargaining topics:

If a public school employer and an employee organization dispute whether a proposed topic for negotiation is a mandatory, a permissive, or an illegal topic of bargaining, either party may submit a request for a decision in writing to the Board for final resolution of the dispute.

Md. Code Ann., Educ. § 6-408(c)(5)(i).

Accordingly, when a party requests the PSLRB to issue a "final resolution" on a negotiability dispute, Md. Code Ann., Educ. § 6-408(c)(5)(i), the legislature has directed

² Senate Bill 590/Chapter 324 and House Bill 243/Chapter 325 (2010 Session).

that the PSLRB shall “render a decision determining whether the topic of negotiation is mandatory, permissive, or illegal,” Md. Code Ann., Educ. § 6-408(c)(5)(v)(2), and issue its “written decision to the parties within 14 days after receiving the written briefs.” Md. Code Ann., Educ. § 6-408(c)(5)(v)(3). The legislature has further determined that a “decision of the Public School Labor Relations Board is final.” Md. Code Ann., Educ. § 2-205(e)(4)(ii).

The legislature also established constraints within which the PSLRB must exercise its authority to render decisions on negotiability disputes. For example, Section 6-408(c)(3) provides that “[a] public school employer may not negotiate the school calendar, the maximum number of students assigned to a class, or any matter that is precluded by applicable statutory law.”

In addition, the legislature created an analytical construct to facilitate the PSLRB’s resolution of negotiability disputes. It provides that “the Board shall develop a balancing test to determine whether the impact of the matter on the school system as a whole outweighs the direct impact on the teachers or employees.” Md. Code Ann., Educ. § 6-408(c)(5)(vi)(2).³

The legislature’s intention to make PSLRB responsible for these matters—and to repeal the MSBE’s and State Superintendent’s authority over them—is not only made

³ The legislature further underscored the PSLRB’s assumption of jurisdiction by stating that the PSLRB is not bound by prior decisions of the MSBE. Md. Code Ann., Educ. § 6-807(d) (“[a] prior order, action, or opinion issued by the [MSBE] before the enactment of this section may be considered as precedent in matters arising after the enactment of this section, but it is not binding on the Board.”).

clear by the statutory provisions outlined above, it is confirmed by the pronouncement's surrounding passage of the Act.

Thus, for example, the Maryland General Assembly's Legislative Policy Committee explained:

The State Board of Education will no longer decide public school labor relations disputes, and the authority of the State Superintendent of Schools to declare labor impasses is repealed. The bills also establish a new mediation process for resolving disputes and establish a new process for the Public School Labor Relations Board (PSLRB) to decide the negotiability of topics. Establishing a Public School Labor Relations Board (PSLRB) to administer and enforce the labor relations laws for local boards of education and their employees. The authority of the State Board of Education to decide public school labor relations disputes and the authority of the State Superintendent of Schools to declare labor impasses are repealed.

Maryland General Assembly, Legislative Policy Committee: Interim Organizational Materials (June 2010) (emphasis added).

The Fiscal and Policy Note issued by the Department of Legislative Services likewise reflects the repeal of MSBE's authority:

This bill establishes a Public School Labor Relations Board (PSLRB) to administer and enforce the labor relations laws for local boards of education and their employees. The authority of the State Board of Education to decide public school labor relations disputes and the authority of the State Superintendent of Schools to declare labor impasses are repealed.

Department of Legislative Services, Maryland General Assembly, Senate Bill 590 Fiscal and Policy Note (2010 Session) (emphasis added).

The Legislative Handbook Series published by the Department of Legislative Services also reflects the legislature's intent to revoke the MSBE's authority and make the PSLRB responsible for public school labor disputes:

Chapters 324 and 325 of 2010 established a Public School Labor Relations Board to administer and enforce the labor relations laws for local boards of education and their employees. The law authorized the Public School Labor Relations Board to arbitrate impasses that cannot be resolved through mediation and makes any arbitration agreement reached binding on the parties. *Under the Acts, the State Board of Education no longer has the power to decide public school labor relations disputes.*

Maryland State Personnel, Pensions, and Procurement, Legislative Handbook Series, (Volume V 2010) (emphasis added).

Against this backdrop, the County Board’s assertion that the PSLRB does not have jurisdiction over negotiability disputes is difficult to comprehend. While conceding that this case involves a “dispute over the negotiability” of a collective bargaining provision, and asserting that the Association is applying that provision in an “illegal” manner, the County Board nonetheless suggests that this is a matter over which the MSBE has retained jurisdiction.

It cannot be gainsaid that the MSBE previously had authority to rule on negotiability disputes. But this was prior to the legislature’s enactment of the Fairness in Negotiations Act. Nor can it be disputed that the MSBE exercised this authority in a number of cases in making determinations as to whether such provisions constituted a “mandatory,” “permissive,” or “illegal” topic of bargaining, and whether disputes over such issues were subject to arbitration.⁴ Again, however, this was prior to passage of the Act.

⁴ See, e.g., *Baltimore Teachers Union v. Baltimore City Board of School Commissioners*, MSBE Op. No. 03-34 (2003) (MSBE ruling that decision to change status of academic coach position from an eleven-month to a ten-month position “is an illegal subject of collective bargaining and therefore not subject to arbitration under the Negotiated Agreement.”); *Allegany County Teachers Association v. Board of Education of Allegany County*, MSBE

All of this undermines the County Board’s argument that the MSBE should assert jurisdiction in the present dispute. The court case cited by the County Board for this proposition, *Board of Educ. of Dorchester County v. Hubbard*, 305 Md. 774, 785 (Md. 1986), was decided prior to the legislature’s enactment of the Fairness in Negotiations Act which gave the PSLRB jurisdiction to resolve disputes as to negotiability, and is therefore inapposite.

We also reject the County Board’s assertion that a different result is dictated by the MSBE’s recent ruling in *In Re: Petition for Declaratory Ruling*, MSBE Op. No. 12-28 (2012), *aff’d* Cir. Ct. Howard Co. (February 20, 2013). Though the question of whether the PSLRB or the MSBE has authority to determine in the first instance whether a topic is “precluded [from negotiations] by applicable statutory law,” Md. Code Ann., Educ. § 6-408(c)(3), remains to be determined by the Court of Special Appeals, we find it noteworthy that the MSBE’s own ruling expressly acknowledges that the PSLRB has jurisdiction over negotiability disputes:

[T]he legislature created the PSLRB and specifically defined its authority to decide whether a “proposed topic for negotiation is a mandatory, a permissive, or an illegal topic of bargaining” Id. §6-510(c)(5). To resolve these matters, the PSLRB is directed to “develop a balancing test to determine whether the impact of the matter on the school system as a whole outweighs the direct impact on the employees.” Id.

* * *

Those changes to the statute limit [the MSBE’s] jurisdiction over collective bargaining matters. We agree with the local board that we retain

Op. No. 05-27 (negotiated provision requiring certain factors to be considered in assignment and transfer decisions “is an illegal subject of bargaining,” and “therefore not subject to arbitration.”).

jurisdiction to explain the true intent and meaning of all other sections of the Education Article.

In short, there is no dispute about the fact that the Fairness in Negotiations Act gives the PSLRB the authority to determine whether a topic is “a mandatory, a permissive, or an illegal topic of bargaining,” Md. Code Ann., Educ. § 6-408(c)(5)(i). To properly exercise that statutory authority, the PSLRB necessarily must decide whether negotiation of the topic at issue “is precluded [from negotiation] by applicable statutory law” within the meaning of Section 6-408(c)(3).

To be sure, the legislature reserved to the MSBE the authority to interpret the “true intent and meaning” of statutory law “within its jurisdiction.” Md. Code Ann., Educ. § 2-205(e)(1)(i). This includes, among other things, the nature of the powers granted to superintendents and school boards by Section 4-103. In carrying out its responsibility to determine whether a subject is an illegal topic of bargaining, the PSLRB may – and indeed should – take into account the position of the MSBE as to how Section 4-103 impacts the question of negotiability. But the PSLRB is by no means bound to accept that position. To the contrary, the PSLRB has authority in the first instance to make its own independent determination of whether a topic is “precluded [from negotiation] by applicable statutory law” within the meaning of Section 6-408(c)(3). If the PSLRB and the MSBE disagree in this regard, the disagreement can be resolved in a court challenge to the PSLRB’s decision. *See In Re: Petition for Declaratory Ruling*, MSBE Op. No. 12-28 (2012), *aff’d* Cir. Ct. Howard Co. (February 20, 2013). The fact that there may be potential for such a disagreement between the PSLRB and MSBE certainly has no

bearing on the PSLRB's obligation to fulfill its statutory responsibility of determining whether a topic is "a mandatory, a permissive, or an illegal topic of bargaining."

For all of these reasons, we find that the legislature has plainly manifested its intent to make the PSLRB responsible for resolving negotiability disputes such as the one now before us. Accordingly, we deny the County Board's Motion to Dismiss this action for lack of jurisdiction. We also deny the County Board's Motion to Stay issuance of the PSLRB's decision and its request for oral argument.

B. Negotiability Issue

Moving to the underlying negotiability issue, we first consider whether Article XIV (B) is an illegal topic because it is "precluded by applicable statutory law," within the meaning of Section 6-408(c)(3) of the Education Article. We find that there is no statutory law precluding negotiation over "full credit for previous teaching experiences" as provided for in Article XIV (B) of the Negotiated Agreement. Nor is this provision otherwise prohibited from consideration in accordance with Section 6-408(c)(3) of the Education Article. We further find that the cases cited by the County Board for the proposition that classification and reclassification determinations are non-negotiable are inapposite as we find that the Association is not seeking to challenge the County Board's authority to classify (or reclassify) positions. *See, e.g., Baltimore Teachers Union v. Baltimore City Board of School Commissioners*, MSBE Op. No. 03-34, at 4 (2003) (finding that reclassification decisions are not subject to negotiation and therefore rejecting the Union's argument that the Board of School Commissioners was required to

negotiate a change in classification of academic coaches); *Montgomery County Education Assoc. v. Board of Education of Montgomery County*, 311 Md. 303 (1987) (finding that reclassification “is the process of reassessing a classified employee’s duties and responsibilities in order to assign a new classification or status to the employee’s position.”).

We next move to the legislature’s instruction that the PSLRB “develop a balancing test to determine whether the impact of the matter on the school system as a whole outweighs the direct impact on the teachers or employees.” Md. Code Ann., Educ. § 6-408(c)(5)(vi)(2). In doing so, we note that the Association interprets the “full credit for previous teaching experiences” provision as entitling such employees to “one step for each year of credit upon commencing employment with [the County Board].” Thus, each step on the negotiated salary scale corresponds to a different salary rate.

We therefore find that the ability to negotiate salary credit for previous teaching experience obviously has a direct impact on salaries and wages. It allows those employees with more experience to negotiate for higher salaries. Conversely, a determination that the “full credit for previous teaching experiences” was non-negotiable would directly impact employees by depriving them of the ability to negotiate higher salaries corresponding to their greater experience.

There is no doubt that the obligation to bargain over credit for previous teaching experience also impacts the County Board.⁵ For example, such a finding would require

⁵ It should be noted that nothing in the law would compel a school board to agree to any such proposal made by an employee organization. Instead, the obligation is simply to negotiate “in good faith.”

the County Board to negotiate on a topic that could certainly have a fiscal impact on the school system. But fiscal impact alone cannot be a determining factor in this analysis as any negotiation over salaries and wages will affect a local school board's finances. Nor has the County Board persuasively explained why the impact "on the school system as whole" of negotiating over salary credit for previous teaching experience outweighs the direct impact on the teachers as described above.⁶

For all of these reasons, we find that the direct impact on teachers of negotiating salary credit for previous teaching experience outweighs the impact of this matter on the County Board as a whole. We therefore conclude that Article XIV (B) of the Negotiated Agreement deals with a mandatory subject of negotiation as it is a matter that "relate[s] to salaries, [and] wages," and that "the impact of the matter on the school system as a whole does [not] outweigh the direct impact on the teachers."⁷

Our finding that credit for previous teaching experiences is a mandatory subject of bargaining is also consistent with the MSBE's ruling in *Somerset County Board of Education v. Teachers Association of Somerset County*, MSBE Op. No. 09-13 (2009). In that case, the MSBE ruled that "signing bonuses" for newly appointed teachers are "wages" and therefore "a mandatory topic of bargaining and an arbitrable matter under the collective bargaining agreement" The MSBE's ruling that signing bonuses for

⁶ The County Board has simply stated that "[t]he hiring, assignment, and initial placement on the negotiated salary scale ... is a matter of imperative educational policy that is integral to fulfilling the County Board's obligation to '[m]aintain throughout its county a reasonably uniform system of public schools that is designed to provide quality education and equal educational opportunity for all children.'" Md. Code Ann., Educ. § 4-108(2).

⁷ This finding is without regard to the merits of the Association's grievance. This issue is for consideration by the arbitrator in the first instance.

newly appointed teachers is a mandatory topic of bargaining therefore undermines the County Board's claim in this case that salary credit for newly appointed experienced teachers is non-negotiable.

V. CONCLUSIONS OF LAW


We conclude that the PSLRB has jurisdiction to resolve the negotiability dispute presented by the Association's Request to Resolve a Dispute as to Negotiability, and therefore reject the County Board's Motion to Dismiss the Association's Request. We also reject the alternative Motion to Stay issuance of the PSLRB's decision and request for oral argument.

As to the underlying negotiability issue, we conclude that the "full credit for previous teaching experiences" provision in Article XIV (B) of the Negotiated Agreement deals with a mandatory subject of negotiation: it is a matter that "relate[s] to salaries, [and] wages"; "the impact of the matter on the school system as a whole does [not] outweigh the direct impact on the teachers"; and it is not a "matter that is precluded by applicable statutory law" from negotiations.

BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD

A handwritten signature in blue ink, appearing to read 'Seymour Strongin', is written over a horizontal line.

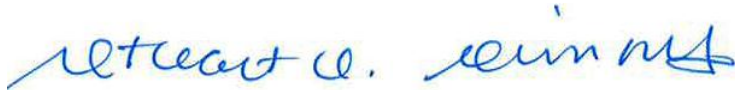
Seymour Strongin, Chairman



Robert H. Chanin, Member



Charles I. Ecker, Member



Stuart O. Simms, Member

Glen Burnie, MD

June 27, 2013

APPEAL RIGHTS

Any party aggrieved by this action of the PSLRB may seek judicial review in accordance with Title 10, Subtitle 2 of the State Government Article, Annotated Code of Maryland, Sec. 10-222 (Administrative Procedure Act—Contested Cases), and Maryland Rules CIR CT Rule 7-201 *et seq.* (Judicial Review of Administrative Agency Decisions).

MEMBER KOPP, DISSENTING

I do not agree with the conclusion reached by the majority that “full credit for previous teaching experience” deals with a mandatory subject of negotiation. I reach the opposite conclusion, that this is an illegal subject of negotiation. Section 6-408(c)(3) of the Education Article provides that “[a] public school employer may not negotiate the school calendar, the maximum number of students assigned to a class, or any matter that is precluded by applicable law.” I believe that Section 4-103 of the Education Article is just such applicable law. Section 4-103 provides:

- a) On the written recommendation of the county superintendent and subject to the provisions of this article, each county board shall:
 - (1) Appoint all principals, teachers, and other certificated and noncertificated personnel; and
 - (2) Set their salaries.

Thus, the responsibility for setting the salary of a newly appointed teacher (in this case) rests with the county board upon recommendation of the superintendent. The salary schedule, or salary range, for collective groups or classifications of employees is clearly a mandatory subject of bargaining. Here we are addressing the placement of a new employee on the negotiated salary schedule or within the negotiated salary range for a particular class of employees. That responsibility is reserved for the board and superintendent in statute as stated above. While the setting of an individual employee’s salary is constrained to any negotiated salary schedule or salary range applying to the classification of employees to which the individual belongs, that specific salary assignment is the responsibility of the board and superintendent by law. Thus, that responsibility cannot be negotiated away, in accordance with Section 6-408(c)(3). The

conclusion that placement on the salary schedule is a mandatory subject of bargaining would make Section 4-103(a)(2) of the above cited statute meaningless. I believe that it is a reserved responsibility and is thus not negotiable nor arbitrable.

I am in full agreement with the discussion and conclusions of the majority with regard to the issue of jurisdiction in this case.

A handwritten signature in cursive script that reads "Donald P. Kopp". The signature is written in black ink and is positioned above a horizontal line.

Donald P. Kopp, Member

June 27, 2013

Glen Burnie, MD