

STATE OF MARYLAND
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF:	*	
PRINCE GEORGE’S COUNTY	*	
EDUCATORS’ ASSOCIATION	*	
Charging Party,	*	
v.	*	PSLRB Case SV 2017-06
BOARD OF EDUCATION OF PRINCE	*	
GEORGE’S COUNTY,	*	
Charged Party.	*	
* * * * * * * * * * * * *		

DECISION AND ORDER

I. Introduction and Procedural Background

On May 25, 2017, the Prince George’s County Educators’ Association (“PGCEA”) filed a CHARGE OF VIOLATION OF TITLE 6, SUBTITLE 4 OR SUBTITLE 5, OF EDUCATION ARTICLE (Form PSLRB-05) with the Public School Labor Relations Board (“PSLRB”). Form PSLRB-05 reflects the authority granted to the PSLRB by the Education Article of the Annotated Code of Maryland to “decide any controversy or dispute arising under Title 6, Subtitle 4 or 5 of this Article.” Md. Code Ann., Educ. § 2-205(e)(4)(i).

In its Charge, the PGCEA asserts that the Board of Education of Prince George’s County¹ (“Board of Education”) violated Section 6-408(a) of the Education Article by refusing to negotiate with the PGCEA regarding employee salaries, and attempting to unilaterally set salaries through the budget adoption process of the County Council. The PGCEA contends that “[s]uch blatant refusal to engage in negotiations on salaries constitutes a *de facto* refusal to bargain.”

On July 13, 2017, the Board of Education filed an Answer to Charge on Behalf of the Board of Education of Prince George’s County (“Answer”). In its Answer, the Board of Education denies that it has violated Section 6-408(a). The Board of Education contends that it has not refused to negotiate regarding employee salaries, nor has it attempted to unilaterally set salaries outside of the negotiations process.

¹ Although the Charge was filed against the Board of Education, the Board of Education is acting as the agent for the Prince George’s County Public Schools (“PGCPS”).

On July 24, 2017, the PGCEA filed a Motion for Summary Decision.

On August 8, 2017, the Board of Education filed a Motion to Strike the PGCEA's Motion for Summary Decision.

II. Findings of Fact

On February 23, 2017, the Board of Education adopted a proposed education budget for Fiscal Year 2018. The proposed budget included a \$53 million reserve for employee compensation, including specifically increased compensation for National Board Certified Teachers. On March 1, 2017, the Board of Education submitted its adopted budget to the Prince George's County Council ("County Council").

On March 8, 2017, the PGCEA and the Board of Education agreed to enter into negotiations for a successor collective negotiations agreement. At a negotiations session held on April 26, 2017, the PGCEA submitted a compensation proposal to the Board of Education. The Board of Education did not make a counter proposal during that meeting, and stated that it would not engage in negotiations regarding employee compensation until the County Council approved a Fiscal Year 2018 budget for the PGCPs.

On May 3, 2017, the PGCEA and the Board of Education held another negotiations session. The Board of Education did not present a compensation proposal, and reiterated its position that it would not engage in negotiations regarding employee compensation until the County Council approved the Fiscal Year 2018 budget for the PGCPs.

Throughout May 2017, the County Council held hearings and public work sessions on the Board of Education's proposed education budget. During one of the public work sessions, held on May 8, 2017, Kevin Maxwell, Chief Executive Officer of the Board of Education, submitted revisions to the proposed education budget that the Board of Education submitted to the County Council on March 1, 2017. These revisions included, *inter alia*, the removal of the increased compensation for National Board Certified Teachers, and a proposal for a 2018 2% COLA for employees represented by the PGCEA.

On July 12, 2017, the Board of Education made a counter proposal regarding employee compensation.² As indicated below, this counter proposal was made after the County Council had approved the education budget for the PGCPs. It is, therefore, irrelevant to the issue presented in this case.

As explained above, the PGCEA and the Board of Education filed documents with the PSLRB on July 13, July 24, and August 8, 2017. We note that the parties did not in any of those filings inform the PSLRB of any action taken by the County Council with regard to the 2018 education budget for the PGCPs. We find the parties' silence in this regard troubling, inasmuch as the public record indicates that on May 25, 2017 -- the same date that the PGCEA filed its initial Charge -- the County Council approved the education budget for the PGCPs. This action

² As of the date of this Decision, it is our understanding that agreement has not been reached regarding a successor negotiations contract.

does not moot the question of whether the Board of Education violated Section 6-408(a) by refusing to negotiate with the PGCEA regarding employee compensation prior to such approval. It does, however, bear upon the nature of the remedy that the PSLRB may order if it finds that there was such a violation.

III. Positions of the Parties

The PGCEA asserts that “[t]he CEO’s actions to unilaterally revise and reduce the... [Board of Education’s] budget and to refuse to bring forward a salary proposal during negotiations with [the] PGCEA violates §6-408(a) of the Education Article... requiring the parties to ‘(1) Confer in good faith, at all reasonable times; (2) Honor and administer existing agreements; (3) Make every reasonable effort to conclude negotiations with a final written agreement in a timely manner; and (4) Reduce to writing the matters agreed on as a result of the negotiations.’” The PGCEA further contends that “[t]he CEO is bypassing the bargaining representative and unilaterally setting salaries through its budget adoption process with the County Council,” and that “[s]uch blatant refusal to engage in negotiations on salaries constitutes a *de facto* refusal to bargain.”

In response, the Board of Education asserts that “[t]here has been no refusal to bring forward a salary proposal... [and] [t]here has been no refusal to bargain in good faith.” The Board of Education contends that “[t]he CEO has made no attempts to set salaries outside of bargaining,” and that “the CEO lacks the authority to impact the budget during the budget process in a way that the union suggests.”

IV. Analysis

Section 6-408(a) of the Education Article provides in relevant part that “[w]hen a public school employer and an employee organization negotiate under this section, the public school employer and the employee organization shall: (1) Confer in good faith, at all reasonable times....” Furthermore, Section 6-408(c)(1) states that “[o]n 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.” (Emphasis added.) Read together, these Sections obligate a public employer, upon request by the exclusive negotiating agent, to negotiate on all matters that relate to “salaries... [and] wages.”

The Board of Education does not deny that it is subject to the foregoing obligation. The Board of Education contends, however, that it could in effect defer complying with this obligation until the County Council had approved the Fiscal Year 2018 education budget for the PGCPs.

We find this contention to be wholly without merit. First and foremost, because it is directly contrary to the express and unambiguous language of Section 6-408(a) (as explicated by Section 6-408(c)(1)).

Nor can it be argued that the Board of Education's position is an implicit exception imposed on public school systems by Section 6-408(a). To the contrary, in Section 6-408.1 of the statute, the Legislature made it clear that the parties could, and in all likelihood would, negotiate over "salaries... [and] wages" before the fiscal authority approved the school system's budget. Thus, Section 6-408.1 states that "[i]f a fiscal authority does not approve enough funds to implement the negotiated agreement, the public school employer shall renegotiate the funds allocated for these purposes by the fiscal authority with the employee organization before the public school employer makes a final determination in accordance with a timetable and procedure established by the Board."

Finally, the position taken by the Board of Education is contrary to the logic of collective negotiations. The obligation to "confer in good faith" assumes that the proposed budget that a public school system submits to the fiscal authority will request an appropriation necessary to implement the collective negotiations agreement, and that both the employee organization and the public school employer will make a joint effort to persuade the fiscal authority to appropriate such funds.

The Board of Education's refusal to negotiate with the PGCEA concerning employee compensation pending approval of the PGCP's proposed budget by the County Council despite repeated requests by the PGCEA to do so, is a violation of the PGCP's obligation to "confer in good faith, at all reasonable times" with the PGCEA under Section 6-408(a) regarding the "salaries... [and] wages" of the employees represented by the PGCEA.

V. CONCLUSION

The PSLRB hereby finds that the Board of Education violated Section 6-408(a) of the Education Article by refusing to negotiate in good faith with the PGCEA over the "salary... [and] wages" of employees represented by the PGCEA.

VI. ORDER³

IT IS HEREBY ORDERED:

- (1) That the Board of Education engage in good faith negotiations with the PGCEA (including invocation of the statutory impasse procedures) concerning all mandatory subjects of negotiations, including specifically "salaries... [and] wages";
- (2) That the Board of Education delay its budget setting and reconciliation process, and refrain from making any decisions concerning the allocation of funds appropriated to it by the County Council until good faith negotiations have been completed with the PGCEA;

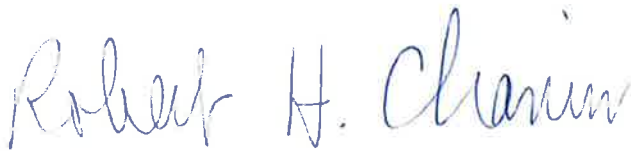
³ The PSLRB calls attention to the recent amendment to Section 6-806(a) of the Education Article, effective as of July 1, 2017, that states in relevant part that "[u]nless a court has issued a stay, a party subject to an order of the Board shall comply with the order without the need for judicial enforcement."

- (3) That the parties explore all available means to obtain funds necessary to negotiate in good faith with the PGCEA, and to fulfill the financial obligations resulting from such negotiations, including, if appropriate, the request for a supplemental appropriation from the County Council; and
- (4) That this Order remain in effect with regard to any negotiations between the parties that may be scheduled to deal with employee compensation for 2019.

BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD



Elizabeth M. Morgan, Chair



Robert H. Chanin, Member



Ronald S. Boozer, Member



Donald W. Harmon, Member



John A. Hayden, III, Member

Annapolis, MD

November 17, 2017

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).