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AACPS/TAAAC, Offer in Settlement, Corrected and Redated

M. David Vaughn <vaughnarbr@gmail.com>

Fri, Jul 29, 2022 at 7:16 PM

To: "Anderson, Kristy [MD]" <kanderson@mseanea.org>, "Rawles, Melisa D" <MRAWLES@aacps.org>, erica.snipes@maryland.gov

Counsel and Ms. Snipes:

I have been serving as mediator in the bargaining impasse between AACPS and TAAAC. The mediation did not result in settlement of all issues between the parties.

I previously transmitted to the Parties and the PSLRB an Offer in Settlement. There were a few typographical errors and suggestions by the Parties or further changes. I have made the corrections and considered the changes; my conclusions are reflected in the corrected and redated Offer, which is attached hereto, as are the MOUs referenced in the Offer and included herewith. Transmitted herewith please find, in pdf format, that corrected and redated Offer of Settlement

This will confirm the Board's acceptance of my Offer in Settlement and the Union's rejection of the Offer.

This constitutes my final transmittal to the Parties, which I am also transmitting to the PSLRB.

Thank you for the opportunity to serve. Please accept my best wishes for a workable resolution to the dispute.

David Vaughn
Mediator

3 attachments

 **22-047AACPSTAAAC.med4.pdf**
107K

 **MOU - Rate of Pay - COVID Recovery.pdf**
69K

 **MOU - Class Coverage Pay (1).pdf**
125K

IN MEDIATION

In the Matter of the Mediation Between:
ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

and

Bargaining Impasse
PSLRB Case I 2022-05

**TEACHERS ASSOCIATION OF ANNE ARUNDEL
COUNTY**

Before David Vaughn, Mediator

OFFER OF SETTLEMENT

corrected and redated

This Mediation proceeding takes place pursuant to Maryland Code Annotated, Education Article, Title 6, Subtitle 4, Section 6-408. The Anne Arundel County Public Schools ("AACPS" or the "Board"), as employer of AACPS certificated employees, and the Teachers Association of Anne Arundel County ("TAAAC" or the "Union") as exclusive bargaining representative for said employees, have engaged in collective bargaining, as required by law, for a new collective bargaining agreement ("CBA") to supersede a CBA which expired by its terms on June 30, 2022. The Board and Union are the "Parties" to the dispute.

The Parties had been unable to reach agreement on a new CBA to cover Fiscal Year 2023 (and beyond if a multi-year contract). As a result of that inability, the Union submitted a request to the Public Schools Labor Relations Board ("PSLRB") for a Determination of Impasse, which that Board issued. The Determination triggered the statutory dispute resolution process, including submission by the Parties to the PSLRB of their respective last and best offers and the obligation to select a Mediator and continue negotiations with mediation assistance.

The Parties selected me to mediate the dispute. They each executed mediation confidentiality agreements, submitted written pre-hearing statements and supporting documents, met separately with me on June 28 (Union) and July 11 (Board) and engaged in a long day of mediation on July 18, 2022. All meetings were conducted online. The Union was represented in the Mediation by MSEA General Counsel Kristy Anderson and the Board by Director of

Employee Relations Melisa Rawles, each Party supported by their respective teams. I thank the spokespersons and their teams for their professionalism and patience.

The Parties had made little progress during their earlier negotiations, and came to Mediation far apart on all significant issues. The issues were difficult and the concessions hard-fought. However, through joint and separate discussions at the bargaining table and away from it, the Parties were able to work through their differences and reached agreement on all but two, related issues. That said, in order to resolve the bargaining impasse, agreement was required on all issues. Following the end of the mediation session on July 18th, the Parties and I made several efforts to bridge the last gaps and reach agreement, but were unable to do so. Accordingly, I concluded the active mediation and, pursuant to the Statute, have prepared and hereby issue this written Offer of Settlement, which I am providing to both Parties and to PSLRB.

The Offer of Settlement consists of five classes of provisions as described, each and all of which I hereby recommend in settlement of all matters raised:

First, the new Agreement should include all of the provisions of the CBA which expired on June 30, 2022 the renegotiations of which were not proposed by either Party. Those provisions would carry forward into the new Agreement, without change;

Second, the new Agreement should include all provisions of the expired Agreement which were proposed to be changed during negotiations but for which proposed changes were withdrawn during the negotiations in favor of language carried forward from the expired agreement, including but not limited to those subjects listed in Section II, below;

Third, the new Agreement should include all provisions of the expired agreement which were proposed to be changed during negotiations and which were agreed to during the negotiations or in

mediation. Those provisions agreed prior to Mediation have been identified by the Parties and are not separately listed. Those agreed in Mediation are included in Section I (along with the unresolved issues) and are separately described below, based on the final offers in Mediation. The terms of such provisions should be adopted in the new Agreement as set forth below;

Fourth, in addition to terms included within the new Agreement, the settlement should include as two separate Memoranda of Understanding ("MOU"s) described in Section I, Items 2 and 3, with language from the last versions of each MOU circulated during mediation;

Fifth and finally, the two, interrelated issues on which the Parties were unable to reach agreement are described and discussed below. I recommend settlement of those issues on the terms and for the reasons set forth below.

Discussion of Unresolved Issues

The Parties were not in agreement at the end of mediation on two provisions. They are Items 6 and 7 in the list of contract provisions addressed in mediation and listed in Section I, below.

The first issue unresolved between the Parties is planning time, which teachers and the Union on their behalf consider extremely important for effective teaching and working conditions. The expired agreement provides for 210 minutes of planning time per week. The Union asserts that teachers, in fact, receive 240 minutes per week on an extra-contractual basis but with the support of school-level administration and sought to increase the contractual weekly planning time to 240 minutes. The Board does not dispute the importance of planning time, and proposed to keep contractually-protected planning time at the current level of 210 minutes per week. It denies that all teachers receive 240 minutes of planning time per week.

I have no reason to question the veracity of either Party's assertions as to the amount of planning time actually provided to teachers. But mediation is not a fact-finding process, let alone a process to draw factual conclusions who is correct and who is incorrect on a particular point. My sense is that many, but not all, teachers do receive 240 minutes of planning time per week; whatever the amount, only 210 minutes are contractually recognized.

The counterpoint to the planning time debate is management's proposal to be able to assign teachers "non-teaching" duties (including lunch, recess and bus coverage) for 120 minutes per week. Supervision of students during those activities is necessary. The Board proposal would increase the time presently allowed so that the Administration can assign coverage for lunch and recess (the duration of which was recently expanded to 30 minutes). The Board's assertion is that other, non-teaching staff are insufficient in number to provide necessary coverage. It is not disputed that there are an unusual and unfortunate number of vacancies system-wide which make coverage of non-teaching activities by non-teachers more difficult to provide.

Making teachers available for non-teaching duties comes at a cost: there are only so many minutes in the school work week, so time to provide lunch, recess and bus coverage (as well as any other coverage) would likely come from non-contractual teacher planning time. The Board's proposal would not alter the contractually-recognized 210 minutes per week of individual planning time during the student day, but would almost certainly cut into the 240 planning minutes per week claimed by the Union (but disputed by the Board). Administrators who have worked to provide this additional half hour weekly of planning may well seek to continue to do so, but that will be more difficult if teachers are pulled off to handle non-teaching duties.

There are other, smaller notes on unresolved issues as part of the Offer: *first*, the Board's version of a proposal (originally

advanced by the Union) for a work group with respect to planning time included in its discussions both individual and collaborative planning time. The latter is an important part of the Blueprint, and should be handled as part of the roll-out of the Blueprint and with the benefit of guidance from MSDE and the Blueprint Implementation Board. I have omitted collaborative planning from the provision recommended. The Union's version included a task for the work group to "maximize" planning time. I have softened the group's mandate to "increase". Second, the settlement recommended includes two MOUs (items 1 and 3 below) agreed between the Parties. The two MOUs are attached hereto. It is my intention that the language of the MOUs be the latest versions circulated in mediation. If for any reason there is a difference between the versions, the later-circulated version governs.

The above discussion notwithstanding, the negotiations created a workable and balanced package. The agreed provisions form a sound base from which to work. The limited reopener will provide a way to rebalance the terms should that be necessary.

Recommendations, Section I.

The Agreement should include provisions with new language as follows:

1. Continue class coverage pay MOU through FY23 - See attached MOU (will reconcile Article 15B - *Substitute Teachers* and Article 15D - *Class Coverage proposals*).
2. Article 3Y - Extension of MOU for \$10 differential related to learning loss programs and exclusive use of ESSER funds expires August 31, 2024, or when the grant funding is exhausted, expires, or if the costs are otherwise deemed to be ineligible, whichever comes first.
3. MOU (attached) to pay a total not to exceed \$1,500 Leads grant stipend (prorated by FTE) to special

educators and related service providers over a two-year period beginning in FY23 through FY24.

4. Article 3 (Counter) - *Salary and Other Compensation* - For FY23, a one (1) step increase for eligible employees and 4% COLA; continue the pre-existing \$1,000 NBC stipends for counselors and \$2000 psychologists through FY24 subject to the expansion of Blueprint eligibility requirements to include counselors and psychologists for NBC pay.
5. Article 9C - *Reimbursement for College Credit* - Workgroup to review the program, including credits per year to be reimbursed and the rate.
6. Article 11C - *Planning Time* - Current language. A jointly formed workgroup to study schedules for individual planning time on all levels with a view toward increasing planning time beyond the 210 minute contractual provision. TAAAC shall select a member to serve as its co-chair; and the Board shall select a member to serve as its co-chair. All workgroup reports, research, proposals or recommendations shall be presented to both negotiating teams before FY25 negotiations or October 2023, whichever occurs first. The workgroup's first meeting shall commence on or before September 30, 2022.
7. Article 14A - *Duties Not Contributing to Teaching* - non-professional duties will not exceed 120 minutes per week.
8. Article 23B - *Rehired Retired Teachers* - Eliminate earnings cap and apply existing contract language for new hires.
9. Article 24 - *Duration of the Agreement* - Enter into a 2-year agreement with compensation/healthcare, review and evaluate the extension of the class coverage MOU, Blueprint requirements through FY24, and one (1) reopener per party.

- 9A. As part of the duration provision, the Agreement will include the following language to reflect the commitment of the Parties:

AACPS is committed to structured collaboration with TAAAC, the exclusive bargaining representative, relating to the implementation of the Blueprint requirements. As part of this agreement, TAAAC representatives will be included on Blueprint committees including but not limited to early childhood education, career ladder development, and college and career readiness pathways.

Recommendations, Section II.

The following proposals considered in Mediation should revert to the contract language from the recently-expired CBA:

1. Article 2D - *Procedures for Suspension of Unit I Member* - discontinue pay for employees while on appeal.
2. Article 3F - *Experience Credit*
3. Article 16 B(4) - *Department Chairperson* - Eliminate vote.
4. Article 3K - *Department Chair pay*

*8 elementary school counselor positions will not be included in NBC teacher stipends as they do not meet the Blueprint requirements.

Conclusion

The County's Public Schools and its administrators and the System's teachers and their exclusive bargaining representatives have been hit with a variety of external and internal economic and operational constraints over the last fourteen or so years. While the Parties have done well in many respects - case in point: the recent restoration of steps missed during the great recession -

these pressures have damaged the relationship between the administration and teachers and the Union. That relationship is as close to permanent as happens in life. It needs to be rebuilt.

The Parties have other, looming challenges - implementation of the Blueprint, the continuation of COVID (or the next pandemic) and its impact, economic uncertainty from inflation or recession (maybe both) - for which working together will be crucial to survival, let alone success.

The Union has new leadership; a new Superintendent is coming on board. These negotiations can result in a workable base on which to build going forward. The Blueprint requires a partnership, the terms of which are better agreed than compelled; the language at the end of the Duration provision sets the stage for such a partnership.

I recommend settlement on the terms stated.

Issued in my capacity as Mediator this 29th day of July, 2022.



M. David Vaughn
Arbitrator

**Memorandum of Understanding between the Teachers Association of Anne Arundel County and
the Board of Education of Anne Arundel County**

This memorandum memorializes an understanding between the Teachers Association of Anne Arundel County (TAAAC) and the Board of Education of Anne Arundel County (Board) to increase the extra-instructional programs stipend pay by \$10.00/hour for eligible duties related to the COVID-19 pandemic recovery programs. The following modifications shall be made to the FY23 Negotiated Agreement.

Article 3 – Salary and Other Compensation

In order to address the direct effects of the COVID-19 pandemic on student learning loss, and aid in increasing student enrollment and engagement levels in summer educational recovery programs, the Board and TAAAC agree to temporarily increase the Unit I rate of stipend pay for direct COVID-19 qualified summer instructional work, including planning and professional development directly related to COVID-19 summer instructional programs, from \$30/hour to \$40/hour. The \$40/hour stipend rate will exclusively be paid to employees who conduct direct COVID-19 qualified instruction (both core, enrichment, and non-core academic areas), Special Education recovery activities, and COVID-19 related mental and social/emotional counseling and supports with students and families during the summer of 2021, summer of 2022, summer of 2023, and summer of 2024 (August 31, 2024) or when the grant funding is exhausted, expires, or if the costs are otherwise deemed to be ineligible, whichever comes first.

Stipend rates for the management of summer programs and related service activities will also increase by \$10/hour respectively, depending on the level of supervision or related services. Additional hours worked for activities not directly related to COVID-19 summer instruction, such as Professional Development, Team Meetings, Textbook Adoptions, and Assessment and Curriculum Writing will remain at the previously established contractual rate of pay.

Furthermore, to continue to address the effects of the COVID-19 pandemic on student learning losses, Unit I employees who provide tutoring, supplemental instruction, mental and social/emotional counseling, and/ or Special Education Recovery services for PreK-Grade 12 as well as Birth to 21 Special Education Services to students and families outside the regular duty day explicitly funded with Elementary and Secondary School Emergency Relief Grant Programs (ESSER II and ESSER III) and other similar permissible Federal and State grants shall be paid a stipend rate of \$40/hour for these services. This change in rate of pay will extend through the August 31, 2024, or when the grant funding is exhausted, expires, or if the costs are otherwise deemed as ineligible, whichever comes first. All other extra-curricular activities and additional hours worked shall remain at the previously established contractual rate of pay.

The terms and conditions of this memorandum were agreed to by the undersigned representatives of the parties on July 18, 2022.

For the Board:

For TAAAC:

Melisa D. Rawles, Esq., Chief Negotiator

Kristy Anderson, Chief Negotiator

Angie Kennedy-Auth, Negotiator

Russell C. Leone, Negotiator

**Memorandum of Understanding Between the Teachers Association of Anne Arundel County
and the Board of Education of Anne Arundel County**

This memorandum memorializes an understanding between the Teachers Association of Anne Arundel County (TAAAC) and the Board of Education of Anne Arundel County (Board) to provide additional compensation for Unit I employees. As a result of ongoing challenges related to COVID-19, AACPS employees continue to have increased duties and responsibilities to ensure quality instruction and appropriate supports are provided to students. To address teacher workload, the Board and TAAAC agree to temporarily implement the following effective July 1, 2022, funded with Elementary and Secondary School Emergency Relief Grant Programs* (ESSER II and ESSER III) and other similar permissible Federal and State grants during the 2022-2023 school year, expiring on June 30, 2023.

1. Substitutes shall normally be provided for all teachers absent from their regular teaching assignment and consistent with the current Negotiated Agreement:
 - a. Only after reasonable but unsuccessful efforts to obtain a substitute, the following will occur:
 - In the event a Unit I employee is required to “cover” a class during their planning period, the employee will be paid \$50.00.
 - A non-teaching or central office-based Unit I employee is required to “cover” a class during the workday, the employee will be paid \$50.00.
 - When an uncovered vacancy for the teacher of record causes a class of students to be divided among other teachers, the receiving teacher will be paid \$50.00.
 - In the event a cultural arts/encore teacher receives students from an additional class or previously divided class(es), they will be paid \$50.00 per day. A related service provider is on leave or there a vacancy and the provider’s students are split amongst other providers, then the receiving providers will be paid \$50.00 per day.
 - If a caseload/class is divided for another special educator’s extended absence or there is a vacancy, then the receiving special educator will be paid \$50.00 per day.
 - If a special educator covers for another teacher who is absent (example: a biology teacher) then the special educator receives \$50.00 for covering the class. If the special educator covers for a teacher all day (elementary) the special educator receives \$50.00 for the AM session and \$50.00 for the PM session (total \$100 for the day).
 - If a Unit I staff member who was scheduled to perform assessments takes leave, then the Unit I staff member who performs the assessments on that day shall receive \$50.00 per day.
 - If a Unit I staff member covers for an absent TA to ensure there is adequate coverage in the classroom the Unit I staff member shall receive \$50.00 for the AM session and \$50.00 for the PM session (total \$100 for the day).

For the Board:

For TAAAC:

Melisa D. Rawles, Esq., Chief Negotiator

Kristy Anderson, Chief Negotiator

Angie Kennedy-Auth, Negotiator

Russell C. Leone, President