



**TALC Contract Negotiations
September 21, 2020
FY21 (2020-2021 school year)**

Agenda

- **Check-In**
- **Approval of Minutes**
- **MOU Ratification**
- **Proposed Article 9 Language**
- **Proposed Board Policies**
- **Article 12 (Leave)**
- **Check-Out**

Check-In

Time constraints: none

Elephants: none

Missing:

Carl Burnside
Ami Desamours
Jennifer Medlin
Christine Carberry (*attending virtually*)
Christina Sterrett (*attending virtually*)

Expectations:

Make progress*****
Complete the agenda***

Approval of Minutes: September 14, 2020

- Edit to page 3, bullet 9: remove the word "were"
- Minutes approved as amended

MOU Ratification

- TALC petitioned the Florida Public Employee Relations Commission (PERC) to request permission for an E-Ratification vote to approve the Emergency Covid-19 MOU; the request was approved



- Results from the E-Ratification vote are that 87% voted “yes” and 13% voted “no”; the MOU will go to the Board tomorrow, Tuesday, September 22, 2020 for Board approval

Proposed Article 9 Language

- Last week, the bargaining teams received proposed language for Article 9 (Disciplinary Procedures)
- TALC found some typographical errors and has some substance changes to the proposed language
- TALC will provide the District with a list of typos to be corrected
- The substance changes suggested by TALC are as follows:
 - Article 9.01(3) (Administrative Reassignment or Suspension): can we put a note that the suspension is with pay? This is alluded to but not spelled out
 - Article 9.01(4) (Right to Representation): the fourth line says that an employee can choose “a co-worker that is a member of the bargaining unit”
 - We would like to add “or a coworker who is a ‘non-association’ member”; the purpose of this addition is to make it clear that if a person is not a member of TALC they are bringing a non-TALC member
 - With that language added, it might be read to extend to members of the public
 - That is not the intent; the intent is that if TALC goes in to represent a non-member in their official capacity, TALC is “on the hook”
 - For example, if a non-member brings in the TALC building representative, as their friend, the friend is not representing them in their official capacity as a TALC building representative
 - If there is another way to get this across, TALC is okay with doing some wordsmithing with the language
 - Article 9.01(5) (Pre-Determination Hearing): add a line to reaffirm TALC’s right to attend a Pre-Determination Hearing
 - TALC had some discussion around the first line that says “employees will be given at least two days written notice”;



Professional Standards is good about giving extra time to prepare for a Pre-Determination Hearing when needed, however two days is a quick turnaround time. Does the District have any issue with changing this to 5 days?

- The District needs to circle back with Professional Standards before committing
- Article 9.01(8) (Use of Technology): TALC proposes adding “when disciplinary action is being considered, recommended action will be based on the totality of evidence rather than the video recordings in isolation”
- Article 9.02 (Outcome): “No cause” is a potential outcome of a Pre-D hearing; is it worth explaining what a “no cause” finding would be and putting that above number 1? The District finds no issue with this; the “Letter of Guidance” might fit under this umbrella as well
- Article 9.02 (Outcome): Second to last sentence, we have a question about the word “appeal”, where it says “not entitled to an appeal”
 - What about the appeal of a non-renewal, which has a different meaning contractually than an appeal or a grievance? The language in Article 5.01 that is being referred to is a “review of a recommendation for non-reappointment”; an appeal would be along the lines of a DOAH hearing or other administrative review
- TALC had discussion about Article 9.02(2) (Conference Summary) and Item Article 9.02(3) (Written Reprimand), we discussed adding a “verbal reprimand”
- Article 9.01(4) (Last Chance Agreement): At the end of the sentence “when appropriate a duration will be specified”. When is it appropriate?
 - The issue of adding a duration is something TALC and SPALC have advanced over the past few years
 - The issue was brought up and a comparison was made to offenses that are Board Policies for pre-employment screening
 - It was pointed out that there is inconsistency between the two, because some types of criminal arrests are considered “will not



- hire” offenses only for a set period of time, whereas a Last Chance Agreement (LCA) may not have a time limit
- There might be certain offenses that are more serious in nature and a set time period would not apply or it would extend for years
 - TALC requested data around Last Chance Agreements and we can share some of that information in a broader discussion around LCAs
- Article 9.01(2) (Conference Summary): In Article 9.02(3) it’s very clear that the reprimand is placed in the employee’s personnel file; conference summaries are typically placed in a school-based file and can graduate and become part of the personnel file
 - Is there a way to specify that they will remain in school-based files except in cases where they become part of future discipline?
 - If we spell it out and put it in the contract for everybody it will be better for everybody
 - Relative to written reprimands, nothing goes in a person’s personnel file without the Chief Human Resources Officer (CHRO) approving it; understanding how busy the CHRO is that should give you an idea of how few there really are each year
 - We purposefully didn’t include “verbal reprimand” in the originally proposed language; one reason is consistency and manageability; there was a Professional Standards case several years ago where someone had progressive discipline and in the school-based file there were several written verbal reprimands; they’re either verbal or they’re written, they can’t be both, so there are concerns about how this might be misapplied
 - TALC agrees with this assessment and can discuss further in TALC Labor/Management if necessary
 - Last Chance Agreement (LCA) data request:
 - These are broken down into Reasonable Suspicion/Employee Assistance Program (EAP) issues (typically involving intoxication or being under the influence at work), criminal arrests, and general misconduct



- In EAP situations, the person typically signs an LCA and agrees to seek treatment in lieu of more significant discipline
- For a criminal arrest, the person signs an LCA acknowledging they were arrested and that it reflects poorly upon them as a public employee
- In 2017, there were 10 total LCAs for TALC
 - 3 reasonable suspicion
 - 5 arrests
 - 2 workplace civility
- In 2018, there were 4 total LCAs for TALC
 - 2 reasonable suspicion
 - 2 arrests
- In 2019, there were 8 total LCAs for TALC
 - 2 reasonable suspicion
 - 6 arrests
- In 2020, there were 6 total LCAs for TALC
 - 1 reasonable suspicion
 - 4 arrests
 - 1 workplace civility
- These are relatively small numbers even compared to the 100 or so Professional Standards investigations each year
- Very few TALC employees ever experience significant discipline
- Going back to sunset dates for LCAs, we could look at standardized sunset dates for some of these categories of offenses
- Historically there was never any time limit but things evolved and there was a request to add sunset dates; we have enough data that this can perhaps be standardized for various categories of offenses, to be discussed in the TALC Labor/Management Committee
- Adding sunset dates as a standard practice would mimic the process used by the Florida Department of Education (FDOE) and; there are sunset dates and other non-disciplinary actions in cases that go before the Education Practices Commission (EPC)
- For those who are unaware, the EPC decides if discipline is appropriate for people in relation to certification and licensure issued by FDOE, whereas the District only has jurisdiction over employment



- An LCA is a settlement agreement, like what was referred to with EPC; the District is reluctant to lock everyone into what people can or cannot do with settlement agreement; the more open-ended, the more flexible the parties can be
- One other thing is that a lot of times, LCAs are offered if it's a first-time offense
- LCAs are typically offered so that the employee can seek treatment and, in a way, they encourage them to do so, as long as there are not aggravating factors
- For first-time offenders the LCA is not meant to be an added obstacle for someone who's already having a difficult time
- We've had a lot of discussion, asked for some changes. Are there any options we want to talk about? That's really it absent the next agenda item, but this may be the time to talk about it
- TALC struggles with the idea to reach any kind of consensus when there may be action by the Board that requires us to revisit what we've already discussed
- Is this in reference to the proposed board policies? Yes
- The only issue that might come up is the number of days that we have to complete an investigation, i.e. if we go from two to five days
- We're not aware of anything else that we've just covered that could be impacted by board policy
- To clarify, we are talking about the proposed Board Policy 1.28 that is going to the Board tomorrow; paragraph 4b around self-reporting is a concern
- TALC and the District agree that we may need to see what action the Board takes and come back to this if needed
- Board Policy 1.28 may have an impact on things we have to bargain anyway, so this doesn't prohibit us from starting our next discussion back here to finalize it
- The District is okay with the change to 5 days, with the understanding that if this is going to create a substantial change, we may need to change the timeline in the Board Policy later; our preference is that TALC members feel that they have enough time to digest all of the information available

OPTION



- Article 9 draft as amended with the 5 days of investigation completion timeline. To be amended depending on Board action.

Proposed Board Policies

- We touched on this already, is there any further discussion on this? Nothing further

Article 12 (Leave) - Story

- Donna Mutzenard, facilitator, reviewed the snapshot from March 9, 2020
- To begin with “story”, I encourage you all to read Article 12 (Leave); it is the longest and most difficult to read article in the contract, because it is the most closely aligned to Florida Statute
- There are about 7 different sections of Florida Statute that are referenced in some form, which adds to the difficulty in the readability; perhaps the most telling example of this, which is known to anyone who reads Florida Statute is that many things are written in the negative; in other words, it tells you what you shouldn't do instead of telling you what you should do
- Our goal is to walk away with something that people can pick up and read and understand; something that outlines the expectations for those who are involved in requesting and responding to leave requests
- The proposed language we're working on is a rough outline right now; it's focused on what the employee would like to see, what the immediate supervisor would like to see, and what Human Resources and Payroll would like to see (e.g. extended leave requests)
- Does the proposed language have article headings that reflect what's in PeopleSoft now or will PeopleSoft mimic the proposed language?
- What's in the contract, on PeopleSoft, in Florida Statute, and on leave request forms at schools is all different, but more or less aligns; there are discrepancies in terms of how things are phrased
- The goal is to come up with a common language so that we're all calling the same thing by the same name
- Most people don't enter their own leave requests into PeopleSoft
- Donna mentioned Bereavement leave when she was reviewing the Snapshot; TALC gathered languages from different districts, is there data to compare it to?



- Gathering data on bereavement leave may be difficult, because there's not a category for bereavement leave in PeopleSoft currently
- Is it correct that with leave you have to pre-populate the pot of money? What would the cost be per year for leave? This may be a year for us to focus on data collection and working towards the way we would like things to be in the future
- People have often asked why only 5 personal days can be used; we understand this may be in Florida Statute
- Regarding sharing of leave; who is eligible, how much are they allowed to share, is that governed by Florida Statute or something we as the District put into place?
- Do we need an option around data collection for bereavement for this year?
- Money set aside for leave is in the employee's salary; we don't set it aside separately, it's included in the cost of the position for the year
- We do set aside funds for terminal leave; when employees leave the District whatever their accumulated leave balance is, is paid out, if they're eligible
- Is the funding of guest teachers' money the District has to budget? Yes
- There are people in the TALC bargaining unit who get sick leave and vacation; there are people in the bargaining unit who work 196 days, they get 10 days (10 sick days, 5 of which can be used for personal leave)
- There are people who work more days than that and maybe they should get an extra sick or personal day, because they work more days in a year
- Going back to bereavement, the District is not clear on TALC's request. Is it for additional days or an increase in personal leave days that can be charged to sick leave? What is TALC asking for?
- Typically, bereavement leave is a separate type of leave that doesn't carry over from year to year and is not charged to the employee; it is usually based on where the funeral is (distance the employee has to travel); all of this would have to be spelled out, including whose death employees could use it for, kind of like sick leave sharing is limited to family or household member
- The District would like to see what TALC has found from other districts
- The manageability piece of this for a district this size could be problematic
- As a potential option, could we look at in addition to the sick leave days that are already earned, bereavement days to be added on top of that number?



- Yes, but not every employee would be eligible to use them every year and there would be a verification process, which would impact manageability
- The last two years, and likely this next year, part of the paring down of the budget to find money for raises has been done by not filling positions here at the district office
- As it is now, the HR staff and Payroll staff are very limited, and it sounds like someone is going to need to verify and validate all of this information, which would be a full-time position; manageability is a huge concern for the District
- We spent hours and hours in MOU discussions about leave; there should be a footnote in the contract referencing the MOU that we worked on; some things available due to COVID might take precedence over what we're currently using
- COVID has opened our eyes to how non-user-friendly the leave process is
- We also need to keep maternity leave in the back of mind; this is a very hard process for some of our members to understand; how long do they get, the differences in types of leave, etc.?
- The process for a Board approved leave is laid out well in the MOU
- Fitness for Duty Certification is under the Family Medical Leave Act (FMLA) language in the contract; sometimes this is used in Professional Standards for Americans with Disabilities Act (ADA) accommodations
- Maybe there is a better place for Fitness for Duty language than just in Article 12 (Leave)
- If Professional Standards calls an employee and lets them know they need to do a Fitness for Duty screening, it's strange that we refer to Article 12 (Leave)
- Fitness for Duty screening is used to make sure that someone can safely perform the essential functions of their job; if that person has a medical condition or some sort of health issue it helps identify it, it's not disciplinary in nature
- If someone needs an accommodation, leave, or medical attention, our concern is that they receive it and continue to perform their assigned duties; we do not want to discipline them for performance issues beyond their control
- If you read the Fitness for Duty certification language, it refers specifically to FMLA; the language needs to be tweaked so it doesn't look like it's only used in FMLA situations



- If a teacher completes the entire year, how many sick days do they get? It's not spelled out and it would be nice if teachers knew how much time they have
- It's 10 days if you work 196-days and work every month; you get 4 days in advance at the start of the school year, and accrue one day per month
- Personal Leave is charged to your sick leave balance; it's not separate, it's that sick leave can be used for personal reasons
- The reason that we don't list a specific number is that some people don't work the whole year, and we don't want to put a hard and fast number in there
- Under the "Claims" portion in Article 12.02, it says that sick leave can be used for an illness or death of someone in your household, which is "bereavement"
- Regarding a reason for request, certain schools do it differently; the contract states that "under no circumstances will teachers be required to provide the supervisor with the reason for the personal leave request"
- Technically, if you're taking a personal day unless it's right before a holiday or the first day of school, it's a personal day and you shouldn't be asked for a reason
- Another item regarding the MOU is that there are types of leave where an employee only receives $\frac{2}{3}$ of their salary; can employees use sick leave to pay for the other $\frac{1}{3}$?
- Yes, that is the language about leave available due to COVID; federal guidance documents have confirmed that this is the case; are you looking for something similar to that in the regular contract language?
- The District does not get reimbursed for the $\frac{2}{3}$ pay from the federal government, however private employers might
- Can a teacher use their own personal leave to pay for that other $\frac{1}{3}$? Yes
- In PeopleSoft, the type of absence used in Leave Management doesn't always align with the contract. Can we work to align PeopleSoft and the contract? Yes
- Regarding enfranchisement, the constitutional right to vote, and language around election day; other districts have language that teachers can leave at the end of the student day with no requirements to stay late on election day



- With the exception of FHSAA events or in those cases where the teacher and principal have scheduled an event in advance, we would like for there to be a day for the teacher to participate in voting or early voting
- To clarify, you don't technically have a constitutional right to vote, you have a constitutional right to be afforded the same opportunity to vote as everyone else, minus limited exceptions; our country has a long history of disenfranchisement of different groups of people
- We also need to discuss the TALC Sick Leave Bank
- We've had a lot of discussion about this article. Does anyone have any additional story that we can add? None
- There were some options embedded in the story but we didn't pull them out directly
- We're not ready for options at the moment; we need to work on the outline and come back with some meat on the bones
- We're ending early and TALC is aware that a lot of the conversation moving forward is going to be around salary and benefits; the District has not yet had Executive Session with the Board
- We can't have conversations about salary and benefits until the District has the Executive Session meeting and TALC gets the data they requested
- The District is scheduled to have Executive Session at the end of next week on Friday, October 2, 2020
- If all goes as planned, then we will be ready to have those discussions at the next regular session. For the benefit of those watching, the next step on the District side is to be granted the bargaining authority needed to begin the conversation.
- There's new statutory language around the minimum base salary of \$47,500, but there's a whole lot more in terms of the impact to employees
- SPALC and District Bargaining Teams will meet next Monday, September 28, 2020
- The next meeting with TALC is October 5, 2020; at that meeting we hope to have a rough draft of Article 12 (Leave) to share with everyone

Check-Out