Collective Bargaining: New Lessons Learned
Susan Goldammer
Missouri School Boards’ Association

MSBA’s Goal
To provide information and education to Board members and administrators on collective bargaining and labor relations so they can make informed decisions for their districts.

Missouri Constitution, Art. I, §9
“That employees shall have the right to organize and to bargain collectively through representatives of their own choosing.”
History

- 1947, *City of Springfield v. Clouse* (Mo. Supreme Ct.): Missouri Constitution does not give public sector employees the right to collectively bargain.

Lack of Legislation Leads to Litigation

- 2009, *Springfield-NEA v. Springfield School District* (Trial court): School district can have teachers vote on whether they want to be represented by more than one union.

Lack of Legislation Leads to Litigation

- 2010, *Grandview-NEA v. Grandview C-4 School District* (Trial court): Challenged policy that allows teachers to vote on whether they wanted to be represented by more than one union. Held moot after NEA was elected exclusive rep.
Lack of Legislation Leads to Litigation

- **2012, American Federation of Teacher (AFT) v. Ledbetter:** “Good faith” negotiations required.
- While school boards may still reject any union proposal, if challenged a school district will need to be able to demonstrate it “sincerely undertook to reach an agreement” with the union.

- **2012, Fraternal Order of Police (FOP) v. Chesterfield, FOP v. University City (Mo. Supreme Ct.):** public entities may adopt policies for the election of union representatives, but are not required to do so.
- Mandated recognition of the police union because they presented card petition with over 50% signatures.

New Cases We Are Watching
Fraternal Order of Police v. City of Grandview (Jackson Cty. 2014)

City ordinance was unconstitutional because:

✧ It prohibited sergeants from being in the bargaining unit with police they supervised
   - Must provide a “fair and impartial forum” for resolution of conflicts like this
✧ It required a bargaining representative to receive more than 50% of votes of all employees in the unit, not just those that cast votes

Fraternal Order of Police v. City of Grandview

Ordinance unconstitutional because (cont.):

✧ It prohibited the sergeants and police officers from being represented by the same organization
✧ Prohibited collective bargaining representatives from receiving pay from the city while participating in collective bargaining
✧ Limited the duration of the economic portions of a CBA to one year

Fraternal Order of Police v. City of Grandview

Ordinance unconstitutional because (cont.):

✧ Allows city to alter the terms of a CBA if the union representative is decertified or if there is a budget shortfall
✧ Because the city did not adopt the ordinance before the police submitted petition to the city, the city should have automatically recognized the union!
Other Cases Pending

- Springfield NEA represents the teachers in collective bargaining.
- SNEA did not let non-member teachers vote on ratification of the agreement.
- Seeking judgment to allow all teachers to vote to ratify agreement

Good Language - Columbia

“All members of the Bargaining Unit shall be permitted an opportunity to vote upon ratification of this Agreement prior to submission of the Agreement to the Board of Education for approval. If the number of members of the bargaining unit voting in favor of the agreement is more than half of the number of employees in the bargaining unit, the agreement will be considered approved by the district employees in the bargaining unit. Union must notify the Board in writing of the outcome of the election.”

Amendment 3

“Section 3(i). Certificated staff shall retain the right to organize and to bargain collectively as provided in article I, section 29 of this Constitution, except with respect to the design and implementation of the performance based evaluation system established in this article and as otherwise referenced in this article.”
2013-14 Union Elections
✦ Normandy School District, Parent liaison, NEA
✦ West Plains School District, bus drivers, NEA
✦ Lincoln County School District, nurses, NEA
✦ Francis Howell School District, nurses, decertification of AFT
✦ Francis Howell School District, clerical staff, decertification of AFT

2013-14 Union Elections
✦ Columbia Public Schools, Custodians and Maintenance, Laborers International Union of North America
✦ Ft. Zumwalt School District, maintenance workers, International Association of Machinists & Aerospace Workers
✦ Harris Stowe University, various employees, MNEA
✦ Wentzville R-IV School District, bus drivers and aides, AFT (not certified yet)
Fair Share Fees

- A provision in the CBA that requires members of the bargaining unit that are not members of the union to pay a portion of the union dues anyway.
  - Must exclude any amount spent on political activity or anything other than advocating for the bargaining unit.
- Harris v. Quinn (2014 U.S. Supreme Court): Court did not overrule fair share fees, but indicates it would.

Paid Time Off

- Trend to ask districts to combine sick leave and personal leave into general leave or paid time off that is used for any reason.
- Pros: Ease of administration. Prevents employees from lying about their absences.
- Cons: Allows teachers to miss school for shopping trips, vacations, etc. depriving students of access to a highly qualified instructor.
Shameless Advertising

- School Personnel Survey – Due November 21!
- School Personnel Information Database and Employment Resources (SPIDER)
  a) Salaries, Leaves and Benefits
  b) Salary Schedule Bank
  c) Labor Agreement Bank
  d) Sample contracts and job descriptions

Shameless Advertising

- Online Staff Training
  - Confidentiality
  - Discrimination/Harassment
  - Mandated Reporter/Signs of Sexual Abuse
  - Discipline Policy
  - Infectious Diseases
  - More!
- Practical Personnel Law Webinars – Spring 2015