

We offer these tips for negotiating your contract based on twenty-two plus years of assisting over 2,000 Superintendents in reviewing their contracts. The tips are also as a result of assisting many of these Superintendents through the negotiating process. This version of “Tips for Negotiating Your Superintendent Contract” is written for experienced Superintendents who are wanting to make revisions in their current contract. There is another version for new Superintendents who are negotiating their first contract.

1. The first step in the process is DETERMINING YOUR PRIORITIES. Make a list of these priorities as in the *Priority List for Contract Negotiations on page 2*. Be prepared, if applicable, to share it with the board representative with whom you are negotiating. The priorities you share with the district representative should only include items in the contract that you wish to have *added, changed, or deleted*.
2. In the EXAMPLE (see p. 2), the Superintendent candidate received a contract that offered a two-year term. The salary was not exactly what the Superintendent expected and there wasn't language for CONSISTENT SALARY INCREASES. The work days were also not stated and there wasn't language for establishing mutual yearly goals or a deadline date for the Superintendent's evaluation. The Termination for Cause and Termination Without Cause sections of the contract had wording that was detrimental to the Superintendent and either needed to be changed or deleted. Finally, there was an Indemnity clause, however, it needed additional language to protect the Superintendent.
3. One of the best ways to demonstrate your rationale for the salary you are requesting, is with a COMPARISON of “LIKE” DISTRICTS *for your geographical area*. Please see the *Priority List for Contract Negotiations* and chart on page 2, B. Salary, 1.
4. In addition to the ACSA CONTRACT CHECK SHEET, you may also want to utilize the ACSA “PIE CHARTS (attachment) when negotiating your contract. These pie charts track data from California Superintendent contracts in 4 basic areas: Term, Salary, Length of Buy Out, Planned Extensions. These charts are kept up to date specifically for Superintendents to have a resource while negotiating their contracts. The charts are based on the last 400 plus contracts that the ACSA Member Assistance & Legal Support Team have reviewed. If, for instance, your contract is a two-year contract, you can share the information from the pie chart demonstrating how many of the last 400 contracts reviewed, were three- and four-year terms. This particular chart adds credibility to your request. Three-year contracts are the norm for California Superintendents and four-year contracts are the legal maximum.



PRIORITY LIST for Contract Negotiations

The following example reflects comments relevant to a Superintendent contract offered by the Board (see p.1, 2.)

A. TERM OF CONTRACT

1. 3 or 4 year term.
2. Extend contract one additional year with a Satisfactory evaluation sometimes called “Evergreen” or “Rollover”. (Gov. Codes 3511.1 & 3511.2 address problematic “automatic extension” language)

B. SALARY

1. Competitive with “like” districts

District Name	District Type				Enrollment	Salary	Notes
	Unified	Elem	HS	Other			
My District							
District A							
District B							

2. Consistent Salary Increases in accordance with STRS Creditable Compensation Regulations:
 - a) Salary Schedule with step increases each July 1 as other certificated employees or management.
 - b) Salary Schedule with _____% increases each July 1 of the term of the contract. This percentage should be in concert with either the administrative or teacher’s salary schedule.

C. WORK DAYS

1. Number stated in Contract for transparency and for determining daily rate

D. EVALUATION

1. Date for establishing mutually agreed upon Goals and Objectives
2. Date for completion of evaluation prior to July 1. If not July 1, be sure to have language that assures you retroactive salary increases back to July 1.

E. TERMINATION WITHOUT CAUSE

1. Delete wording requiring the Superintendent to seek other employment as a condition of the Buyout settlement or separation agreement
2. Delete wording requiring differential pay if other employment is found or if the Superintendent retires

F. TERMINATION FOR CAUSE

1. Delete language that is unclear or leaves too much room for interpretation such as “improper behavior” or “any act the board deems inappropriate”
2. Delete language where Termination for Cause is based on 2 years of unsatisfactory evaluations
3. Delete language that allows the board to terminate you for two unsatisfactory evaluations six months apart.

G. SEPARATION BY MUTUAL AGREEMENT.

1. If the Superintendent and the District mutually agree to terminate the contract (Agreement), then language in the contract must be included specifically using the title “Separation by Mutual Agreement.” See ACSA Superintendent Sample Contract 19.2.1 for language. Without this clause a mutual agreement terminating the contract cannot be implemented.

H. INDEMNITY

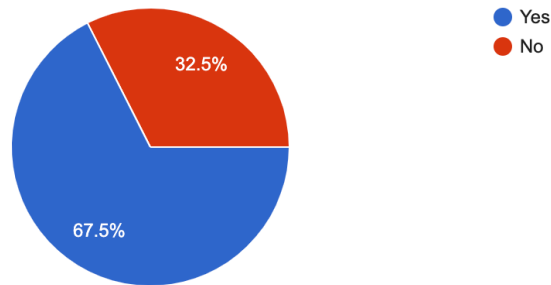
1. Add language that continues indemnification upon separation or retirement from the District. See ACSA’s Superintendent Sample Contract language on page 15, clause 21.

ACSA Superintendent Contract Data “Pie” Charts

January 2024

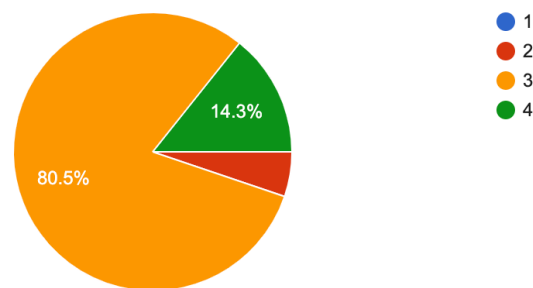
Scheduled Increases

77 responses



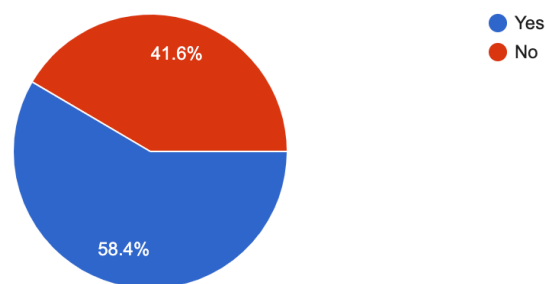
Term Years Options

77 responses



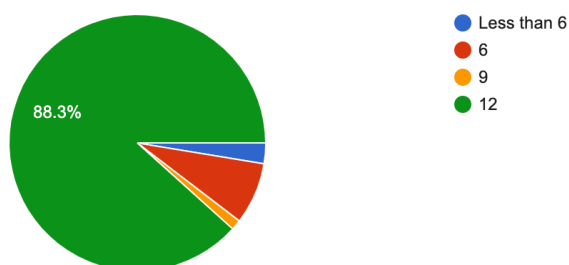
Roll-over

77 responses



Buy-out Months

77 responses



One of the best ways to demonstrate the rationale for the salary you are requesting is to do a comparison of “like” districts in your geographical area. For the contract areas of Term, Scheduled Salary Increases, Length of Buyout for ‘Termination without Cause’, and Planned Contract Extensions (aka ‘Evergreen’ or ‘Rollover’) clause., you may find these ACSA “pie charts” useful in your contract negotiations.

These charts are based on the last 77 superintendent contracts reviewed by ACSA’s Member Assistance and Legal Support Team.

Superintendents shared that having California comparison data for superintendent contracts has added credibility, and often speed, to reach fair agreements.

RATIONALE AND LANGUAGE FOR YEARLY CONSISTENT SALRY INCREASES

Rationale 1: Avoiding Post-Retirement Pension Issues with CalSTRS

In January of 2015, the California Legislature adopted new regulations for the California Teachers Association Retirement System (CalSTRS). These regulations were adopted to provide legal guidance as to what is considered “creditable compensation.” Creditable compensation is the salary reported to STRS that determines your post retirement pension. One of the articles in the 2015 Creditable Compensation Regulations (article 3, section 27400) defines what is “creditable” compensation. A big issue was that STRS determined that member retirees were “spiking” salaries. This term refers to certificated employees having their salary increased close to retirement, which looks as if the member is “spiking” their salary to increase their pension.

The 2015 regulations outlined that having “consistent” salary increases (article 5, section 27600) imbedded in an employee’s contract was considered creditable compensation and, therefore, avoids the “spiking” issue. The Association of California School Administrators Member Assistance and Legal Support Team, which has assisted nearly 2,000 Superintendent with their contracts in the past 22 plus years, advises administrators with multi-year contracts, especially Superintendents, to include the wording in their contracts that provide consistent salary increases in the form of a board adopted salary schedule or yearly percentage increases. Doing this, will avoid having sporadic bumps in salary that result in STRS possibly considering the raises as “spiking” and requiring the STRS member to repay large sums of money and reduce their pension even several years after they have retired.

In the last 400 contracts ACSA has reviewed, over 60% of them now have “consistent” salary increase language so as to avoid post retirement issues with STRS (see ACSA Pie Chart). This percentage has increased over the last couple of years in superintendent contracts because of the 2015 STRS Creditable Compensation Regulations and the Member Advocate and Legal Support Team’s commitment to assisting Superintendents with contract language that protects them from having future STRS issues.

Rationale 2: Keeping Increases in the Superintendents Salary from Becoming the Focus of the District

Including “consistent” salary increase language in the Superintendent’s contract avoids bringing up this issue on a yearly basis thus avoiding conflicts with other employee groups and the community. The work of the district needs to focus on achievement, not the Superintendent’s increase in salary.

Rationale 3: Providing the Superintendent Equity with Other District Employees

Other employees in the district have consistent salary increases in the form of a board adopted salary schedule or district step schedule with yearly increases. The Superintendent is just asking for equitable and consistent treatment.

Sample Contract Language for Consistent Salary Increases

Having the goal of providing the Superintendent with consistent salary increases in accordance with CalSTRS Creditable Compensation Regulations adopted January 1, 2015, and in an effort to maintain equity with other certificated personnel, the Superintendent shall receive each year of the term of the Agreement a _____% increase to the Superintendent’s salary beginning July 1, _____ and continuing each year of the Term of the Agreement. This increase shall be based on the average step increase found in the certificated teachers’ salary schedule. (NOTE: this language may be modified to meet your specific needs. Additional sample language may be found in ACSA’s Superintendent Sample Contract: pp. 4-6).

*For additional information and assistance, please call 1-800-608-2272
ACSA Member Assistance and Legal Support Team (MALST)*

ACSA

Superintendent Contract Review “CHECK SHEET”

The purpose of this check sheet is to assist our members in reviewing their current contract in preparation for a contract extension or reviewing their proposed contract for a new position. We have not included all possible clauses in a contract and have purposely limited the items to those we consider top priority. We have also included tips on avoiding a CalSTRS audit - pre and post retirement.

_____ **Term of Contract** is 3-4 years. California Code (EC 35031) allows a maximum of four (4) years for a multi-year contract.

_____ **Contract Extension** clause that allows the contract to extend one additional year with a satisfactory evaluation. (Sometimes referred to as an “Evergreen” or “Roll Over” clause) Making your extension contingent on a satisfactory evaluation will most likely avoid the issue in Government Codes 3511.1 and 3511.2, which speak to “automatic” extensions.

_____ **Scheduled Salary Increases** for step increases on a salary schedule by percentage or by set dollar amount increments - see ACSA sample contract for options. *Consistent* and *equitable* salary increases vs. one time large increases will most likely assist in avoiding STRS spiking issues. Salary increases start July 1.

_____ **Spiking Issues.** Inconsistent salary increases and “creditable” compensation errors in the last years leading to your retirement may result in a STRS audit (possibly up to 7 years prior). See the January 1, 2015 CalSTRS Creditable Compensation Regulations for clarification of creditable vs. non-creditable compensation.

_____ **Avoiding a STRS audit.** Your salary increases can be justified by aligning your percentage or set dollar increments with either administrative or certificated teachers' salary schedule step increases and/or with a salary survey of superintendent salaries in surrounding “like” districts.

_____ **Health Benefits** (same as other employees). Be aware of Gov. Code 7522.40 – having a different health benefit vesting schedule from other employees of the same class. There are differing opinions as to the interpretation of this code.

_____ **Work Days/Vacation Days** Include the actual number of work days in your contract. Number of vacation days that may be accrued must be clearly stated. *The buyout of these days should be based on the current year daily rate.*

_____ **Professional Dues and Service Club Fees.** Make sure to specifically state Association of California School Administrators (ACSA). Service club fees will include dues and expenses.

_____ **Evaluation Language** is written correctly (see ACSA sample contract). Include deadline dates for yearly goal setting and final evaluation, which is before July 1 (salary increases and contract term extensions may be dependent on your evaluation).

_____ **Termination for Cause** clause has clear language that doesn't leave room for interpretation and also doesn't allow for termination based on unsatisfactory evaluations. Avoid language that allows the district to terminate For Cause based on two unsatisfactory evaluations in two separate years or six months apart.

_____ **Termination Without Cause or Early Termination** clause includes a 12 month Buyout that uses the term “shall” pay vs. “may” pay up to 12 mos. (Note: As of January 1, 2016, Government Code 53260 will allow a maximum of 12 months for a Buyout of a Superintendent.) Language should not include a requirement that the Superintendent seek other employment and check in with board or have to pay the difference between new salary and monthly buyout. **THIS BUYOUT IS FOR LIQUIDATED DAMAGES DUE TO THE FACT YOUR REPUTATION AND CAREER MAY BE DAMAGED.**

_____ **Abuse of Office** Clause meets the requirements for Gov. Code section 53243.2. (ACSA Sample Contract section 8.4 specifies the recommended language as required under AB 1344.)

_____ **Indemnification Clause.** The District will indemnify you for any torts or claims brought against you in your capacity as Superintendent. Include additional language to protect you after leaving or retiring from the district.

For additional information call the ACSA Member Assistance and Legal Support Team (MALST) at 1-800-608-2272.