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BOOK REVIEW

THE PUBLIC SCHOOL EMPLOYER AND COLLECTIVE BARGAINING: A GUIDE TO THE CALIFORNIA EDUCATIONAL EMPLOYMENT RELATIONS ACT. Garry G. Mathiason, William F. Terheyden, Larry P. Shapiro. Fort Washington, Pa.: Labor Relations Press. (1977). Pp. iii + 409. Hardbound.

*Reviewed by William F. Kay**

Messrs. Mathiason, Terheyden and Schapiro are to be congratulated on this fine volume which contributes to a better understanding of the public school collective bargaining process in California. It should prove instrumental in providing public school managers in California with information and concepts that allow a relatively smooth and rapid transition into the new era of employment relations following the enactment of the California Educational Employment Relations Act. The book is also a basic resource for any legal practitioner or manager about to assume labor relations responsibilities for a public school employer in California.

Unfortunately, the work does have one major defect: a substantial amount of its information regarding the Educational Employment Relations Board practices and procedures is now out of date. Even the name of the agency has now been changed from Educational Employment Relations Board to Public Employment Relations Board (PERB).

As a result, the portion of the volume speculating upon the meaning and application of various provisions of the Act must be viewed in light of Agency and court decisions issued since the initial publication of the book. Additionally, some policies of the PERB have been altered and a recent flurry of PERB decisions has ended much speculation, at least as to the Agency's interpretation of the Act.

It is probable that the authors considered the problem of timeliness at the outset of their venture, but opted for a volume which would be of immediate and practical value to school officials. It is hoped Messrs. Mathiason, Terheyden and Schapiro will consider publishing updated information in

* B.A. 1963, Yale University, J.D. 1971, George Washington University; Member, California and Virginia Bars; Lecturer, UCLA Institute of Industrial Relations and School Employers Association of Northern California and Southern California, and Association of School Administrators (ACSA).

loose-leaf or supplemental form, with complete periodic revisions, so that the volume will be continually useful to labor relations specialists.

The need for supplementation is typified by Chapters One and Two, which provide a broad overview of the organization and function of the PERB and the authors' analyses of representation questions. The major representation questions have since been resolved by PERB decisions, and the Agency's procedures have been modified. Much of Chapters Four, Five and Six are similarly outdated.

On the other hand, Chapter Three, "Contract Negotiations Under the Act," is timeless in nature and is an invaluable and comprehensive study of bargaining techniques from the employer's point of view. This section should be read by all labor relations specialists in the public sector, whether or not operating within California, because it provides extensive and excellent exposition of the essential elements of the collective bargaining process.

Moreover, the authors, who have substantial credentials in both public and private sector labor relations, have taken great pains to illustrate the differences in those areas, especially in the day-to-day bargaining process. Unlike many labor relations attorneys who gain their experience in private sector collective bargaining, the authors demonstrate a keen understanding of these dissimilarities.

In addition to systematically setting forth the preparations for negotiations in public schools, the mechanics of the actual bargaining process, and the suggested techniques of management bargaining, Chapter Three contains superlative discussions of two issues unique to public sector bargaining: communications during negotiations, and the roles of the various elements collectively known as the Public School Employer. The authors approach the fact that the Public School Employer is made up of three distinct elements — the board members, the superintendent, and the management team, each responsible to different conflicting pressures, by intelligently suggesting distinct roles in the bargaining process for each of these elements.

This reviewer agrees with all the authors' proposals with the exception of the advice regarding the role of a "Consultation Committee." Section 3543.2 of the Educational Employment Relations Act (California Government Code section 3543.2) sets forth the scope of bargaining and provides that "the exclusive representative of certificated personnel has the

right to consult on the definition of educational objectives, the determination of the content of courses and curriculum, and the selection of textbooks. . . ."¹

As a result of this language, the authors recommend the establishment of a formalized "Consultation Committee" as a means of avoiding bargaining disputes over issues which might otherwise result in a refusal to bargain charge. The defect in this approach is that such a formalized consultation process might well heighten the dispute or weaken the employer's position.

For example, if a teacher union makes demands at the bargaining table regarding certain "professional items," and the management bargaining team responds by removing those issues to a formalized "Consultation Committee," the union will treat the Committee as merely an additional forum in which to bargain as hard as it would have negotiated in the mandatory bargaining process. It is this reviewer's opinion that the legislature intended the consultation process to be kept informal, in a chain-of-command format rather than a separate formalized process. This would avoid the pitfalls awaiting a formal "committee."

Two segments of this volume deserve highest compliments and special reading by all public sector labor relations practitioners. Chapter Six treats impasses procedures and work stoppages, where the authors rightfully dispell the various myths surrounding the fact-finding, and provide a pragmatic view of the fact-finding process established by the Act. The reader is provided with a practical means of insuring success, or at least avoiding disaster, in the fact-finding process.

Chapter Seven, which deals with communications during negotiations and strikes, could well stand as a separate publication. The authors call upon their experience in one of the longest school strikes in California history to render an intelligent analysis of the unique public context in which school strikes occur. The unspoken assumption which runs throughout this chapter is that a public school strike involves a battle for the public weal. Such disputes, unlike private sector strikes, are in the first instance political disputes and only secondarily economic battles. The party that prevails in a public school strike is the one who eventually wins the political dispute. The authors understand this process and provide analytical guide-

1. CAL. GOV'T CODE § 3543.2 (West Supp. 1978).

lines by which a public employer can prevail.

In summary, this volume is a valuable addition to the current literature on public sector labor relations. Although decisions issued since the publication of this work have detracted from its timeliness, the book nonetheless belongs in the library of every public school employer representative. And due to the singular importance of some of the individual sections of this work, it is also highly recommended reading to labor relations practitioners representing state and municipal governments.