

Board of Education

ACTION

TITLE: Recognize the Lapse of the Exclusive Consultation Agreement Between the Fort Smith Board of Education and the Fort Smith Education Association f/k/a Fort Smith Classroom Teachers Association and the Need for Greater Certified Staff Representation

DATE: November 26, 2018

RESPONSIBLE ADMINISTRATOR: Doug Brubaker, Ph.D.
Superintendent

BACKGROUND/CONSIDERATIONS:

Under Arkansas law (A.C.A. 6-17-202), a district may choose to “officially recognize in its policies an organization representing the majority of the teachers of the school district for the purpose of negotiating personnel policies, salaries, and educational matters of concern under a written policy agreement.” Under this provision, Fort Smith Public Schools has recognized the Fort Smith Education Association (FSEA) f/k/a the Fort Smith Classroom Teachers Association (FSCTA) since 1970.

Limited Representation

The District received a letter from the Arkansas State Teachers Association (ASTA) on November 6, 2018. The ASTA questioned whether continued recognition of the FSEA as the exclusive representative body of FSPS teachers was desirable or met the minimum requirements of the law. Mr. Marshall Ney, an attorney who represents the District, was designated to research this issue.

Historically, teachers who have paid dues to FSEA have had the exclusive right to serve on the team that has met with the district leadership team to engage in consultations about “curriculum, personnel policies, inservice [sic] education, salaries, fringe benefits, and other items of teacher welfare, contracts, dismissal procedure, and leaves of absence” (Policy GCQF).

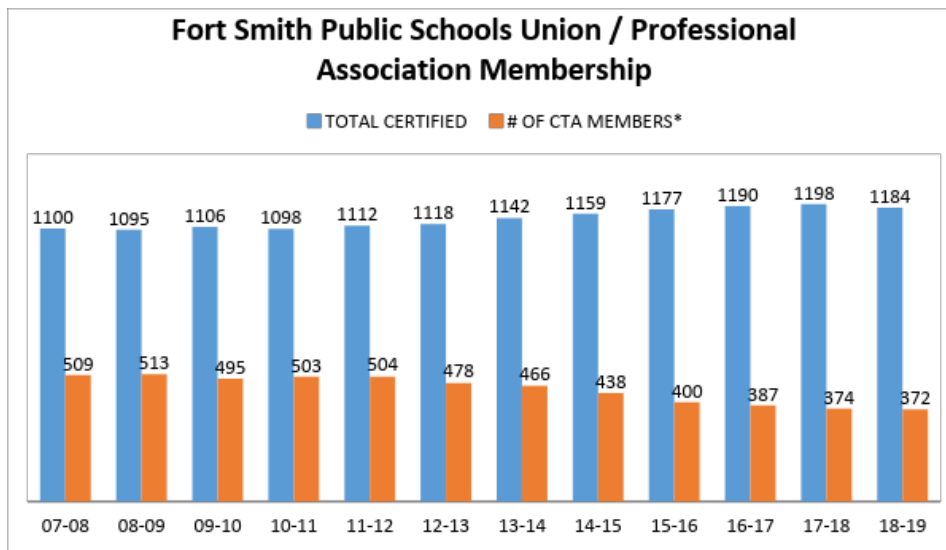
In its letter, ASTA expressed concern that this practice alienates “those who choose not to join the teachers union” and “marginalizes the voices of valuable professionals who work hard to

serve Fort Smith students on a daily basis.” The letter also notes that 267 of 269 school districts in Arkansas have adopted PPC processes.

Compliance

The ASTA letter also prompted an inquiry into whether the FSEA has continued to represent a majority of teachers as required by law. FSEA President Lorrie Woodward has acknowledged, [“Currently, FSEA does not have over 50% membership and has not for some time.”](#)

The chart below illustrates the steady decline of FSEA membership over the past ten years. The chart also indicates that in each of the past ten years, FSEA has not met the legal requirement that it represent a majority of FSPS teachers. In fact, up to 69% of FSPS teachers do not belong to FSEA.



Year	07-08	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	17-18	18-19
FSEA %	46%	47%	45%	46%	45%	43%	41%	38%	34%	33%	31%	31%
No Representation %	54%	53%	55%	54%	55%	57%	59%	62%	66%	67%	69%	69%

During its November 12 work session the Board directed the superintendent and the district leadership team to study the issue with counsel and bring recommendations to the November 26 board meeting.

RECOMMENDATION

A review of law and policy indicates that the professional consultation agreement has lapsed and is no longer in force because FESA does not represent a majority of the teachers in the district. To document this circumstance and as a gesture of professional courtesy, the administration recommends that the Board utilize the amendment provision detailed in the professional consultation agreement as listed below:

Any party desiring changes in this agreement will notify the other parties in writing at least thirty days prior to March 23 of any year.

If the Board agrees, the motion would read:

Move to authorize the Superintendent to notify the Fort Smith Education Association in writing that the professional consultation agreement has lapsed and that the Board intends to proceed with a broad-based, fully representative committee of certified staff with representation from each of its 27 school buildings rather than pursue a new collective bargaining agreement with any entity.