

Teachers Association of Lee County
6830 International Center Boulevard
Fort Myers, FL 33912
239.275.TALC
www.islandcoast.org/talc



January 9, 2024

Robert Dodig, Esq.
2855 Colonial Boulevard
Fort Myers, FL 33966

Dear Mr. Dodig,

I am writing on behalf of the Teachers Association of Lee County (TALC) regarding the FY24 annual contract (Annual Contract) instructional staff were recently asked to sign. After reading through the Annual Contract, we had a number of concerns with the language used and the rights the School District of Lee County (District) is directing employees to waive.

Subsection (2) of the Annual Contract is not lawful because it does not comply with the US Fair Labor Standards Act (FLSA)

Even though teachers are overtime-exempt under the FLSA, employees who have spent time working for an employer cannot lawfully agree to pay back all salary earned for time already spent working for that employer unless they were somehow overpaid. The District is essentially asking an employee to work for free, to which he or she cannot lawfully agree.

Subsection (2) of the Annual Contract is also invalid under general "contract law" principles

Again, the District is blazingly asking their employees to legally agree to work for free. This annual contract lacks consideration since the District is requiring employees to retroactively reimburse their pay for time already worked.

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Subsection (3) is unlawful because it forces employees to waive their statutory rights under the Americans with Disability Act (ADA)

All employees, regardless of ability or inability, have clear protections against employer medical inquiries under the ADA unless those inquiries follow specific tests. This subsection of the Annual Contract skips over those preliminary requirements. How dare the District force an employee to essentially write a “blank check” authorizing all medical inquiries, regardless of whether the District has fulfilled its preliminary tests or not.

The District is legally bound to negotiate the subjects of Subsection (2) and Subsection (3) with TALC

Given that TALC is the certified bargaining agent for all instructional staff who are part of the TALC bargaining unit, the District is exposing itself to further liability by not negotiating the subjects of subsections (2) and (3) with the union. Even through collective bargaining, employee statutory rights cannot be waived, especially those provided for under federal law.

After careful consultation with our legal department, TALC is certain that the District has violated the law by forcing annual contract teachers to sign an unlawful Annual Contract. Further, since TALC and its representatives were previously unaware of subsections (2) and (3) of the Annual Contract, we demand that the District immediately retract the Annual Contract for all impacted employees. If the District believes that TALC previously provided with, or otherwise made aware of, the Annual Contract language in subsections (2) and (3), we request all records in the District’s possession or control proving such. TALC is willing to negotiate at the bargaining table to align the Annual Contract more closely with the terms already existing in the current collective bargaining agreement.

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Thank you for your immediate attention to this matter. We look forward to a prompt response on how the District will rectify these issues.

Kerr Fazzone, Ph.D.

Service Unit Director, Island Coast FEA

Cc: Kevin Daly, TALC President
Samuel Fisher, Board Chairman
Christopher Bernier, Superintendent
Kathy Dupuy-Bruno, School Board Attorney