



# **EASMC Frequently Asked Questions**

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This document includes questions and answers previously published in the “Just Ask Liz” section of the EASMC newsletter. For ease of use, they are included in alphabetical order by topic, not in chronological order. These answers were based on the scenario described by the member and the particular circumstances at the time of the inquiry. Please use the answers as guidance recognizing that the details may have changed since the original question was submitted.

If you would like to submit a question for “Just Ask Liz” or if you have other FAQs that you would like to see answered here, please submit them to [lleskinen@mseanea.org](mailto:lleskinen@mseanea.org). We will update this section periodically, so please check back for updates and additions!

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# Accidents

## **Question:**

One of my students was hurt while in another class (apparently) because she came back to my class from the playground with a cut. The principal directed me to complete an "insurance form" and to write a statement of how the accident occurred. I did not see the accident, so I am uncomfortable doing this and why would I complete an insurance form?

## **Answer:**

First, you should not write a description of anything you did not see. So, for example, in an accident report you might say that the student presented with a bleeding, cut knee and that she said that she had run into a tree, or whatever the case may be. You should make it clear what you saw versus what was told to you. Relative to an insurance report versus an accident report, I have never heard of a teacher being required to complete one. I checked SMCPs policy JHCH and regulation JHCH-R (School Accidents and Medical Emergencies). There is no requirement in either to complete an insurance form. The text says, "If a student has an accident at school, a Report of School Incident form is to be completed no later than two (2) school days following the incident." Therefore, I recommend that you have a discussion with your principal and share that you should not be completing an insurance form and that you can only comment on what was reported to you on the Report of School Incident form (accident form). Again, you should only document exactly what you saw and what was reported to you. You cannot say how the accident occurred, for example, if you did not see it. You can just say what you did see when it came to your attention!

# **Administrators and Supervisors**

See Bargaining Unit/Membership.  
See Representation.

# **Bargaining Unit/Membership**

## **Question:**

I am an administrator and was recently told by a colleague that I am not eligible for EASMC representation in cases where an employee is making allegations against me, even though I am an EASMC member. Is this true?

## **Answer:**

Absolutely not! We value and support all of our members, regardless of their position. I suspect that such confusion arises from situations where there are two members with opposing positions involved in a case. In such situations, we first try to assist in an informal solution by mediating and facilitating discussion. Even if this approach is ineffective, the administrator is typically acting as an agent of SMCPS rather than as an individual and the complaint is therefore directed at SMCPS, making official representation unnecessary.

However, there are situations involving two employees who both require EASMC representation for a single case. Regardless of their positions, I will represent the first one to contact me and another MSTA UniServ Director will represent the second employee. This avoids any chance of unintentional conflict of interest, and ensures fair and quality representation to every member.

So far I have been successful in resolving complaints involving two members and work extremely hard to do so. I have not had to file a grievance against a member so far and always provide our A&S members with advance and private notice of concerns, advising them when possible, how to avoid a problem in the first place. In addition, most of our A&S members routinely call or e-mail to solicit advice on contractual matters or on difficult employee situations. We are able to help them meet their objectives fairly and within the bounds of the negotiated agreement. This dialog prevents many potential problems before they even start. If there should come a time when two members are in need of personal representation, I will ensure both members fair and expert service by requesting the support of one of my fine colleagues!

# Certification

## Question:

When I graduated from my Masters Degree program, I had accumulated 15 additional credits above and beyond that required for the award of my degree. However, the SMPCS Human Resources Department refuses to move me to the next column over on the pay scale. How can they get away with this and is it a violation of the negotiated agreement?

## Answer:

First, there's the issue of credit accumulation towards certificates and certificate renewal. These two areas are not subjects of bargaining and MSDE (through the Maryland Code) dictates the guidelines for eligibility of credits in these cases. The following is an excerpt from section 13A.12.01.02 of the Code of MD Regulations (COMAR).

.02 Definitions.

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Acceptable credit" means content or professional education course work earned after the conferral of the bachelor's or higher degree as provided in Regulation .05C of this chapter.

In order to save time and avoid long delays for its staff, SMCPs personnel attend MSDE training so that they can make their best attempt to review an employee's file and predict the outcome in terms of certification, but this is only a preliminary assessment. MSDE has the final say. If SMCPs' preliminary findings differ from that of MSDE's, then there is a SMCPs adjustment to match the MSDE outcome.

Second, there's the issue of changing lanes between and beyond the major MSDE certification milestones; this area is negotiable since it is a salary issue. It has been a longstanding SMCPs practice to count only those credits obtained after the bestowal of the Master's Degree or APC, not credits gained concurrently or previously. This practice is consistent with MSDE guidelines and thus, is the established practice across the state. While the guidelines for credit accrual are not specified (one way or the other) in the negotiated agreement, the current practice was agreed to by the Association and SMCPs decades ago and has been applied consistently ever since.

# Child Abuse

## Question:

A parent recently accused me of child abuse and the principal asked me to come to the office to give a statement and said I had to come up right away. Don't I have the right to a representative?

## Answer:

If you are accused of child abuse, assault, or any other criminal charge, **DON'T TALK TO ANYONE** ABOUT THE CASE. Tell the principal, parent, police officer, or social services worker that you will be happy to answer questions as soon as you have an attorney present. They must respect your right to have an attorney present during questioning - **EVEN IF THAT MEANS POSTPONING THE MEETING.**

As an EASMC member, call the EASMC office at 301-863-9216 immediately. Advise the person who answers that you are being accused of a crime and need an attorney. If for any reason you are unable to reach someone at the EASMC office, call MSTA headquarters in Annapolis at 1-800-448 MSTA and ask to speak to an attorney.

If you are unable to reach the UniServ Director at EASMC or an MSTA attorney, advise the principal, administrator, officer, or social services worker that the questioning will have to be rescheduled when you can have an attorney present and that you will advise them as soon as you have arranged for representation. They can contact your attorney by calling MSTA and asking for Damon Felton.

Do not allow yourself to be manipulated into discussing the case without legal counsel. The vast majority of complaints are false, but your response can easily be misunderstood or misconstrued. Promises like, "just answer a few questions and we can close the book on this and go home" or insinuations like, "you wouldn't mind talking to us if you were not guilty" are not designed with your best interests in mind. Expedience is never a good reason to sacrifice your legal rights.

# Coaching

See Extra Pay for Extra Duty.

# Conservation

## **Question:**

Our principal recently advised us that we are limited to a number of copies or "clicks" each month. How do they expect us to meet our students' needs under these constraints? Our school does not have a Rizo machine. (This question and answer are repeated from the March 2006 newsletter due to so many inquiries over the summer on this topic.)

## **Answer:**

We asked Superintendent Martirano this question. He said that there is an obligation for principals to monitor "clicks" in the pursuit of efficiency and cost containment. He explained that individuals should be judicious in their use of the copy machines and conserve to the extent possible (avoid running unnecessary copies). However, he added that school employees should have what they need to be successful and should speak to their principals individually on a case-by-case basis when they do require additional resources.

## **Question:**

Our staff was told to take home all heaters, microwaves, coffee makers, fans, etc. We have always had these things in our rooms. Many of our rooms are very hot or cold, so fans and heaters are often needed for reasonable comfort. And with so little time and so many responsibilities, we already spend our lunches doing planning and performing other tasks. By the time dozens of employees wait in line for a single microwave, or we walk to the other side of the school for a cup of coffee, we have zero time to eat or refresh. What prompted this?

## **Answer:**

I contacted Mr. Al Harrison, SMCPS Supervisor of Operations, with this question. According to Mr. Harrison, two of the five main functions of Operations include (1) providing for the efficient use of energy resources and (2) increasing efficiency through continuous monitoring of work methods and procedures of staff. On May 31, 2006, Mr. Brad Clements, SMCPS Chief Operations Officer, distributed a memo to all site administrators relative to energy conservations. According to Mr. Clements, "Everyone is aware of the increasing costs of the electricity we consume. These increases are no different for the St. Mary's County Public Schools." He cited the SMCPS Board of Education Policies and Regulations ECF and ECF-R, which state, "The Board of Education intends to encourage and support an energy conservation program to actively conserve consumption of electricity, fuel oil, gasoline and water," and "The use of personal electric heaters and air conditioners are not permitted."

In his May 31 memo, Mr. Clements stated, "Because of this we are asking all St. Mary's County Public School employees to do their part. Prior to the departure of your faculty and staff for the summer break please instruct them to take home personal devices such as unit space heaters, refrigerators, coffee makers and hotplates. Removing these personally owned devices will contribute to the energy conservation efforts of the St. Mary's County Public Schools. Should it be determined any personal devices are to be used at the school it will require the approval of the site administrator. Your support of this effort is appreciated."

This means that all employees are asked to support SMCPs efforts at energy conservation. However, if you have extenuating circumstances or a compromise to offer, you should confer with your site administrator, who has the authority to be flexible. For example, a site administrator may agree to have several microwaves or coffee pots placed strategically throughout the building for greater convenience of employees. If the temperature of your work space is uncomfortable, you should report it to your building service manager who is responsible for coordinating such concerns with the Maintenance Department if necessary.

Mr. Harrison was very helpful and said he would be glad to offer additional support or answer any other questions you may have on this topic. He can be reached at [aeharrison@smcps.org](mailto:aeharrison@smcps.org) or at 301 -475-4256.

# Counseling Program

## **Question (September 2009):**

Counselors are up in arms over the change in structure that places them under instruction rather than student services. Although there is language in COMAR that requires schools to have a counseling program, it has been suggested off-handedly that if we don't prove our worth, then we may not be needed. I don't think that's the intent of the re-organization, but it really hasn't been made clear to us why the change and what the plan is, so many of us feel threatened and out of sorts. Could you possibly ask the question so that our concerns are addressed?

## **Answer:**

I contacted Dr. Martirano directly and he was very surprised and sorry to find out that our counselors could have ever received or developed this kind of negative impression. He said that the converse is actually true and provided the following explanation.

*I have realigned our efforts to be more responsive to ever changing dynamics of the needs of our students. I made the change based upon the value and role that our counselors play in the advisement process. They are valuable staff members in the process of building relationships with students and advising them to take courses that will stretch their intellectual abilities. As everyone knows, I want more students placed in rigorous courses. At the same time, I do not want ANY student dropping out of school. Counselors are an integral part in defining the success for our students. Counselors are natural builders of relationships with our students... an approach to which I greatly ascribe. Since my arrival in SMCPS, counselors have "proven their worth." I have great respect for them. Placing counselors in the Department of School Administration, Accountability and Advisement actually elevates the role that counselors play in determining the success of ALL our students. I truly value the contributions that counselors make to our school system. The change in the structure acknowledges the strong importance of their job.*

I hope that Dr. Martirano's words bring you the reassurance, confidence, and calm necessary to move forward with peace and pleasure! Please let us know if you have any other concerns in this regard.

# Declaration of Intent

See Transfer, Voluntary.

# Dress Code

## **Question:**

Our faculty handbook details a dress code that is very specific. For example, it says that no teacher is allowed to wear "tennis shoes". I know that in some areas, these may be required for the safety and comfort of the staff member (like Allied Health, physical education, etc.). I thought that we have a SMCPs policy that refers to "professional dress" and that they could not make blanket statements about that.

## **Answer:**

SMCPs Policy GBCB, Staff Dress, dated December 11, 2007, states, "The attire of professional employees during working hours should reflect the professional position of the employee and should be exemplary to students with whom the professional employee works." It is our position that faculty handbooks and other site publications and directives should not be more restrictive than that of the official SMCPs policy. The primary focus should be safety and suitability to the professional position assigned. If an employee suffers any penalty or discipline for dress that does not violate the SMCPs dress code, we can and will grieve it. I recommend that employees express any concerns directly to the site administrator, either in person or in writing, depending on your relationship. If there are special needs based on employee health or assignment, I recommend documenting those needs and requesting a dress code exception in writing to the site administrator. Most of our administrators are very supportive and reasonable, but please call us if you perceive an exception and we'll gladly get involved to help.

# Duty Day

See Work Hours.

# Evaluations

See Performance.

# Extra Pay for Extra Duty

## Question:

Article XVII of the negotiated agreement lists a number of extra-pay-for-extra-duty (EPED) assignments for middle and high school music teachers, yet there are none for elementary teachers. Why not? We spend many hours beyond the duty day preparing for required concerts, plays, and other community events, many held on weekends.

## Answer:

The current EPED schedule actually does include an Elementary Music Teacher category valued at five points (the point system is used to determine the EPED payment). If you feel that your duties are not being fairly represented or compensated, there is a process in place to review and assess this. You should submit your concerns and accompanying support materials to me or to EASMC President Jan Emerson for submission to the EPED Committee.

## Question:

I am currently an AP and have been told that APs are not allowed to accept coaching positions for SMCPS. Is this true?

## Answer:

There is no limitation placed by the law, the negotiated agreement, or SMCPS policy. A&S employees should maintain and apply for any extra-pay-for-extra-duty (EPED) positions for which they desire and feel qualified. Of course, there is no tenure for an EPED position, so EPED agreements are subject to annual renewal. That said, site administrators (or their designees) are required to provide head coaches with feedback no later than 30 days after the completion of the EPED activity, so hopefully you would have a heads up if there were concerns. Next year (effective July 1, 2009), coaches/sponsors must be advised in writing no later than the end of the school year if they may not be offered the same assignment in the subsequent school year. If you are denied an EPED position for which you are qualified based on your AP assignment, please contact us for assistance.

## Question:

I thought that extra pay for extra duty (EPED) stipends are supposed to go up every school year, but it apparently is not going up and I am not sure we are getting the calculations done correctly.

## Answer:

There are two factors that determine the value of EPED stipends. First there is the point value of the assignment, which is not guaranteed to increase every year, but could. As you can see from the table below, this point value is based on your experience in the specific EPED

assignment and was negotiated to increase \$5/point in each of the last three contract years (on July 1, 2006, 2007, and 2008).

	2006-07		2007-08		2008-09	
	1-5 Yrs. Experience	6+ Yrs. Experience	1-5 Yrs. Experience	6+ Yrs. Experience	1-5 Yrs. Experience	6+ Yrs. Experience
Point Value	\$ 195	\$ 200	\$ 200	\$ 205	\$ 205	\$ 210

As far as the points assigned to each EPED activity, there is a documented process that resulted from bargaining years ago. A joint EASMC/SMPCS EPED Committee reviews and makes recommendations on EPED issues. According to the negotiated agreement, "The committee will be composed of five representatives appointed by the Association and five appointed by the Board." They make recommendations about "... the positions eligible for compensation, the amount of compensation and the justification for the compensation." This is done based on a mathematical formula applied to the data submitted on the EPED application form. Once total points have been determined, then the actual dollar value of a single point is applied to the total assigned points. For example, the EPED Committee determined that the Director for Theatre for high school is assigned 10 points. Using the chart above from the negotiated agreement, that sponsor will receive \$2050 this year if he/she has less than six years of experience in that specific EPED position title.

If any employee feels that the quantity of points assigned to a particular EPED assignment are outdated and no longer relevant or fair, he/she can complete an EPED form (available from EASMC or from the SMPCS HR Department) for review during the next scheduled EPED Committee meeting. The mathematical formula will be applied to determine if the demands of the duty warrant an increase in assigned points. The EPED form is used to document the required responsibilities, which are then applied to the formula to determine the amount of points to be paid. EASMC can request that this committee convene to review these forms when there are a sufficient number of them submitted. Any additions in EPED stipends or increases in existing stipends must be approved by the Board of Education of St. Mary's County.

# Faculty Meetings

See Meetings.

# Fair Share Representation Fee

## **Question:**

I've heard some of my colleagues (members) talk about the need for "fair share" and that they are getting frustrated that we don't yet have fair share. What is it and how would it help me?

## **Answer:**

Why couldn't agree with you colleagues more; they are exactly right - a "fair share" representation fee IS fair! However, enactment of a fair share fee, also called a representation fee or an agency fee, requires legislation. And, of course, legislation changes require legislators who will support it. EASMC has been working hard to help our elected officials understand this inequity (some do and some don't) and we certainly can use the help of both you and your colleagues, so here's the scoop.

Currently EASMC is required by law to negotiate and enforce a contract that covers all certificated personnel, regardless of whether or not they are EASMC members who contribute financially by paying member dues. There is a substantial cost to reach and enforce collective bargaining agreements yet these costs are unfairly borne strictly by EASMC members. Nonmembers receive the same benefits and rights as do members yet they do not pay for the cost of achieving or maintaining them. For example, nonmembers receive the salary increases and benefits that have been negotiated by EASMC. Nonmembers also benefit from contract administration and enforcement, which establish precedent on disputes and secure improvements or benefits for all certificated employees, not just for the employee who raised the issue. EASMC must also pay its share of binding arbitration costs regardless of whether an employee is a member or not (doing so would subject EASMC to a Duty of Fair Representation lawsuit under the state collective bargaining law).

If the required legislation were passed, it would allow EASMC to negotiate with the Board of Education of St. Mary's County to establish this fair share fee. It would NOT force any employee to join EASMC. Instead, it would simply allow EASMC to negotiate a provision that all certificated employees who decline to join EASMC would pay just their "fair share" of the cost of benefits that they already receive free of charge. Since over 80% of St. Mary's County certificated educators choose to be EASMC members, it is clearly unnecessary to force EASMC membership.

So please spread the word and help us educate members, nonmembers, and other stakeholders in the education community about the need for a fair share representation fee!

# Finances

See Salary.

# Fundraising

## **Question:**

Fundraising seems to take a prominent role in my school. What are these used for, who is accountable to make sure that the funds are properly used, and what is their priority given our focus on instruction?

## **Answer:**

According to SMCPs Chief Academic Officer Linda Dudderar, school fundraising projects such as student pictures and other campaigns organized by the PTAs are used to purchase supplemental materials and equipment for the school. There is a SMCPs policy in place for such efforts and financial accountability for school fundraising is maintained via the school's Student Activities Funds. Two signatures are required for any expenditure of fundraising funds, one of which is the principal's, and both internal and external audits are performed annually to ensure policy compliance. According to Superintendent Michael Martirano, fundraising during the school day should have a minimal impact on instruction. If you feel that it is out of hand at your school, he encourages you to share your concerns in a private discussion with your principal. Dr. Martirano has asked Kelly Hall and Scott Smith, SMCPs Directors of Instruction, to reinforce these principles with administrative staff.

# Grades

## **Question:**

Can teachers enter their online grades from home? If not, shouldn't time be made available during the duty day?

## **Answer:**

I believe that most teachers are currently using Easy Grade Pro, which can be used from home. Posting of marking period grades for report cards is currently done with TAC and cannot be done outside of the building. According to Mr. Bill Caplins, when we move to E-schoolplus+ this fall, it will be available from anyplace having internet access (including home). Mr. Caplins demonstrated E-Schoolplus+ and I am extremely excited about its potential to reduce member workload and more evenly distribute responsibility and accountability across various stakeholder groups, including families. Of course, there will be a slight learning curve, but I believe that teachers will be thrilled with the rewards once fully implemented.

That said, I don't believe that it is reasonable to expect teachers to enter online grades at home, whether or not it is technically feasible. I understand that working at home is occasionally a sacrifice that teachers choose to make, but it should not be the expectation, the assumption, or an obligation to meet the requirements of your job. Most principals work really hard to ensure that they provide as much time as possible to enter grades, given the constraints of schedules and resources. I highly recommend that you and your colleagues discuss this topic with your administration and work together to brainstorm better options to support the process.

## **Question:**

Can an administrator tell me to drop a zero from a student's grade (they didn't turn it in) because their parents are complaining about that zero?

## **Answer:**

Yes. An administrator CAN tell you to drop or change a grade, but I would maintain that an administrator SHOULD NOT tell you to do so. If you face this issue, I recommend that you first do a self-assessment and ensure that your grades and grading policies are accurate, fair, consistent, and published. I have been involved in several cases where, upon reflection, teachers have found an error or that their online grading setup inadvertently caused a minor assignment to count for an inordinate percentage of the student's grade. So ask a colleague to perform a sanity check for you (sanitized, of course, to ensure student privacy); sometimes we cannot catch our own mistakes when we have invested the countless hours that teachers devote to grading.

If your self-assessment checks out, then I recommend that you meet with the administrator to jointly consider a resolution. Seek to understand the rationale for the request and fairly contemplate the administrator's or parents' justification. If you still disagree, then proceed to make your case! Share your grading policy, relevant background information and history, and the student's grades. If you thoroughly explain your analysis and the administrator still insists

that the grade should be changed, then I suggest that you respond in writing (for the record) that (1) you have verified the mathematical validity of your grades, (2) you have confirmed the fairness of your policies and their implementation, (3) you have reviewed the facts of the matter, and (4) you find no error in the grade and therefore no need for change. Do not refuse to do anything, but simply state your finding. If the administrator feels the need to change the grade, then he or she can do so and take responsibility for it accordingly.

In summary, if you have confirmed the integrity of your grades and grading system then provide an honest explanation and hope for a supportive response. If you are instead ordered or directed (versus being asked) to change a grade without reasonable justification, then call us and we will assist you in navigating the problem. Teachers all over the state are feeling pressure from parents who occasionally want "apparent" success versus real success. I find that under similar circumstances, Dr. Martirano is supportive of his staff members as long as their data and actions are fair and consistent.

# Holidays

## **Question:**

I have some questions and concerns about the fact that SMCPs is closing down all sites over the over the upcoming Christmas holiday break. How is it fair that 12-month employees get extra days off?

## **Answer:**

Here are some points that may help clarify.

This isn't a gift nor is it intended to be. Nobody is being given anything that somebody else doesn't already have. Ten- and 11-month employees are already off, as you know, so they are not affected. If they were, they would have the same result (whether considered an advantage or disadvantage). There is no violation of the negotiated agreement which states, "The number of duty days for 12-month employees shall be determined by subtracting Saturdays, Sundays, and holidays from the total days in the calendar year." The superintendent can declare those days as holidays and school calendar is one of the two areas that we actually agree is an illegal topic of bargaining. The buildings are being shut down as an energy conservation effort that saved over \$200,000 last year, which ultimately benefits all employees and students. We cannot allow SMCPs to require employees to take leave if the buildings are being shut down and employees are forced out, which is the case. These are our members and we are always collectively thrilled when any one of us benefits!

Some employees are equally frustrated that they are being banned from their sites since they typically use this time to perform essential requirements that cannot otherwise be met. The result is a compromise in our position (as an Association paid to advocate for members). Employees who are prevented from having access to their work site will not have to take their own leave for five of the days (December 26, 29, 30, and 31, and January 2), but will have to take their own leave or work in the cold for three of the days (December 22, 23, and 24). Only emergency employees will be in occasionally to ensure the safety of sites and they will be paid double time, as negotiated by CEASMC.

The bottom line is that we are a union. We are in the business of protecting and advocating for members. The end result of this decision, which the superintendent made for financial reasons, is that many of our members had a nice thing happen to them. I hope this helps answer some of your questions. Please let me know if you have any additional questions and I'll be glad to see what I can find out.

# Inclement Weather

## **Question:**

How long do we have to stay after the students are dismissed due to inclement weather and can we be required to come in early on a day with a weather delay?

## **Answer:**

Chief Operating Officer Brad Clements distributed a memorandum on September 5, 2008 to all employees entitled Employee Codes for School Closings, Delays and Dismissals, which explains the codes and how they are to be implemented. According to Dr. Martirano, it is his intent for site administrators to use good judgment and let folks leave as soon as the students have left. As for late arrivals, the September 5 memorandum clearly specifies the timing and site administrators do not have the authority to supersede the direction from Mr. Clements, as Dr. Martirano's designee. In addition, Kelly Hall, Scott Smith, and Linda Dudderar each follow up with administrators during regular meetings and whenever there is an early dismissal or a delay to supplement the memorandum's guidance and to answer any related questions.

# Insurance

## **Question:**

Is there going to be a traditional program anymore?

## **Answer:**

The final determination will not be made until school year 2009-2010. Employees who tried the PPN this year and did not like it may switch back to the traditional plan during the upcoming open enrollment. If there are 50 people enrolled at the end of the 2008-2009 school years, then the plan will remain in place for the 2009-2010 school year. For school years 2007-2008 and 2008-2009, any employee who was previously eligible for the traditional plan during the 2005-2006 school year, who is not eligible for Medicare, may switch back to that plan during open enrollment periods. The traditional plan will continue to be provided in school year 2009-2010 if more than 50 employees and/or retirees are still enrolled as of June 30, 2009. Ms. Stacey Suite will be publishing the meeting opportunities soon and we'll include them in the newsletter as well. So far we have not had any members call with concerns about the PPN plan.

## **Question:**

I know of some teachers who want the benefit of the health insurance over the summer as they look for other work, teaching or otherwise, and may resign in August if they find something. Are there consequences for that?

## **Answer:**

As for resigning, if you think that you are not going to be recommended for renewal, then by all means, it is in your best interests to resign and it must be done by May 1. If done afterwards, SMCPS can request that the state withhold your certificate and the school system can keep your accumulated summer pay, if applicable.

In terms of health insurance, the only way to get it is through COBRA once you've resigned. If you notify them by May 1 that you will not be back next year and then teach through the end of this year, you will have insurance through June 30. After June 30, you can get COBRA insurance, but you must pay the full cost. Employees (or their covered dependents) have 60 days from their termination date to come back and request COBRA coverage. COBRA can be cancelled the first day of any month, but the coverage has to be continuous (no gap in coverage). If you think you are not going to be covered for just a brief time period (such as one or two months), you can avoid paying the COBRA premium since you have 60 days to come back and request it. Then you can wait and see whether the medical costs you incur for those months are more or less than the COBRA premium. This is a legitimate strategy.

# Leave

## **Question:**

My principal requires that we contact her personally rather than using sub-finder to report absences. This is extremely inconvenient and it seems to be a form of intimidation – not the best way to encourage attendance from professionals! Is this fair?

## **Answer:**

It's neither fair nor a good business practice. SMCPs implemented Sub-Finder for a reason and it's to be used. I spoke to Dr. Weiland and Dr. Martirano on this subject, and they concur. Both employees and administrators need to be able to handle absences efficiently. If you or your child is ill, or if you have a personal emergency, you should not be held hostage to tracking down an individual who may or may not be available to take your call. Not only is this tact inefficient for the employee, but it greatly reduces the school's chances of obtaining a substitute, much less in a timely manner. And finally, SMCPs cannot track and manage the availability of substitutes if they do not have proper records of needs and usage. Dr. Weiland said that he will contact administrators as necessary to ensure that Sub Finder is being utilized as designed and intended by SMCPs.

## **Question:**

Jury Duty was removed from Sub Finder at the end of last year. Was this intentional and why?

## **Answer:**

We spoke to Dr. Weiland and Dr. Martirano. Both reported being unaware of its removal and Jury Duty was returned to Sub Finder soon after our discussion. There was originally some speculation that perhaps the Sub Finder program could only accommodate a limited number of options, but it was resolved nonetheless!

## **Question:**

I always call SubFinder and follow the proper procedure for taking leave, but often discover upon returning that no substitute was obtained for me. Why should I be "charged" a day of leave if SMCPs does not have to pay for a substitute?

## **Answer:**

The fact is that once you have followed the proper procedures for securing leave, SMCPs is responsible for ensuring that your assignment is covered. Of course, the standard protocol (and probably preferred by all parties) is to obtain an official substitute. However, if there is not one available or there is some other kink in the process, it is up to your administrators, on behalf of SMCPs, to ensure coverage. This may be accomplished by seeking volunteers from amongst your colleagues, covering the assignments themselves, or by whatever method the situation dictates. In any case, your school administrators, as representatives of SMCPs, assume your

responsibility in covering your assignment and replacing the services for which you are normally paid. Thus, no payment is due you.

**Question:**

Recently I received a call from my daycare provider that required me to leave school suddenly to pick up my child. When I went to the front office and explained the urgent situation and my need to leave immediately to take my child to the doctor, I was told that I could leave after I had obtained coverage for my remaining classes. Are we supposed to find our own coverage if we are required to leave unexpectedly to handle a personal family situation?

**Answer:**

Employees are not required to obtain their own coverage. It is your responsibility to complete a leave form, to call Sub Finder, and to follow any other procedures required by your work site (assuming that such procedures do not conflict with the negotiated agreement). If you have an emergency situation, you should advise the cognizant site administrator who should in turn support you leaving and ensure coverage of your assignment.

**Question:**

Our principal recently told us that if we don't complete a leave form, that our pay will be docked for "leave without pay". Can she do this?

**Answer:**

Yes. As explained in the September/October newsletter article entitled "Leave Form is a Mandatory Source Document," all employees must complete a leave form for an absence, whether personal, annual, sick, or administrative leave. If you are not able to do so in advance due to illness, emergency, or being away from your site on administrative leave or otherwise, you must still contact your administrator to report the absence (via Subfinder or in accordance with the procedure established by your site administrator) and then complete a leave form you return to work. If you are not at work and there is no leave slip, then you are at risk for being docked a day's wages and for being counseled for not following proper leave policy.

**Question:**

When I agree to "volunteer" to cover a colleague's class(es) at the request of an administrator, shouldn't I get paid the small stipend per class and not per day? My principal told me that the stipend is \$12 per day only, whether you cover one or six classes.

**Answer:**

According to Article IV, Working Conditions, Paragraph C, of the EASMC Negotiated Agreement, "Teachers volunteering for substitute work when requested shall be compensated at the rate of \$15.00 per class." The new agreement starting July 1, 2006 increases the amount from \$12 to \$15 and the payment is per class covered. I recommend asking your principal to check this portion of the negotiated agreement, which should resolve the problem.

**Question:**

In the November newsletter, someone asked if we are supposed to find our own coverage if we are required to leave unexpectedly to handle a personal family situation and you said no. I have a similar situation that seems unfair. I am a paid coach under contract for extra pay for extra duty. As a coach I do not set the schedule of games, which occasionally requires that we leave before the end of the duty day to attend "away" games. My principal told me that I must find my own coverage if I want to leave early. Why should I have to find my own coverage to attend functions that are a part of my coaching contract? This seems unreasonable and unfair.

**Answer:**

Employees should not be required to obtain their own coverage to attend authorized school functions that are required for their assignments, one of which is coaching in your case. I would recommend having a direct conversation with your principal about your concern and ask that the school administration assume this responsibility. I also recommend that you submit the proper leave form on such occasions, requesting administrative leave. If these tactics are not successful, please contact us for further assistance.

**Question:**

I just received word from Human Resources that from now on anyone taking administrative leave needs to complete two separate leave forms. The first form that you need to complete is the form that you have always completed for administrative leave. It says Administrative Leave Request Leave Code 155 on the top. This is the form on which you indicate the purpose and funding of your administrative leave. The second form that you need to complete is the "regular" leave form on which you indicate the type of leave (sick leave, personal business, administrative leave, etc.) you are taking. Do you know why we have to do this now? I do not relish the extra paperwork.

**Answer:**

We raised this concern with Dr. Weiland, SMCPD Director of Human Resources. After some discussion and investigation, he recently advised us that the Leave Request Forms are being streamlined for next year and there will be one form. Thank you for your process improvement.

**Question (September 2009):**

I'm hearing that our current leave policy has drastically changed. For instance, I heard that an employee would be prohibited from taking a day off before a three-day holiday. Also, the employee would be prohibited from taking a professional day off. For extremely important events, the employee would have to get a two-week waiver from Linda D. and only for extenuating circumstances. These two points are certainly drastic to me. Can you tell me the new updated information about it?

**Answer:**

We discussed this topic in detail at both ratification meetings and fortunately, your information is inaccurate! You may still take off the day before or after a holiday or on a professional day, but you must submit your leave request to Linda Dudderar or Brad Clements (as appropriate based on your assignment) two weeks in advance. The intent is not to disallow leave, but to ensure advance planning for the purposes of obtaining substitutes and facilitating quality professional development. For example, if you know that you will not return from a family reunion until the second day of school, there is no reason not to secure approval well in advance to ensure time to acquire a good sub.

If you are ill or have a personal **emergency** on any of these days, you may still call in using Sub Finder. The changes described above apply to nonemergency personal leave on the specified days only. All other types of leave requests and personal leave requests (for days other than those specified) will be processed by your principal or the same party as before. There is simply a procedural change for personal leave requests for the day before or after a school holiday, the first or last day of the school year, and staff development days. Please let us know if you experience any problems in this regard.

# Lowest Level

## **Question:**

As a principal, it has always been my understanding that employees are obligated to handle concerns at the lowest organizational level per the contract. If an employee has a problem with how something is handled, shouldn't they have to make an appointment with me prior to contacting EASMC or CEASMC?

## **Answer:**

Employees are at liberty to call us anytime to assist them in resolving an issue. There is no requirement that they go through certain steps or that they speak to their principal before asking us for help. We can assist an employee privately, at the lowest level, and at the highest level. We certainly prefer and encourage individuals to try to solve their concerns before calling us, but the bottom line is that they are under no such obligation. In some cases, there is not an atmosphere of openness and trust, and employees feel intimidated or distrustful. In other cases, employees do not have the savvy, training, or skill to maneuver potentially dangerous, difficult, or threatening situations. The bottom line is that we are all in this together and solving the problem should be our mutual goal. I can assure you that problem resolution is our primary objective and most principals appreciate our involvement towards that end.

# Meetings

## **Question:**

On Friday, August 18<sup>th</sup>, I was told by my unified arts supervisor that I had to attend a meeting and my principal also scheduled a "required" meeting for the same time period. I felt up the creek without a paddle and both were pressuring me. This is an unfair position for employees to be in. What can we do about it?

## **Answer:**

The original intent was for that entire Friday to be spent with your supervisors. The principals then met in the afternoon, which caused an unintentional conflict. We discussed this dilemma with the SMCPs Central Office; they were apologetic and committed to resolve such conflicts in next year's event planning.

## **Question:**

What if my principal or supervisor calls me in for a meeting and then starts discussing or accusing me of misconduct, incompetence, insubordination, or impropriety? Don't I have the right to a representative before we have such a discussion?

## **Answer:**

Most of our supervisors and principals are professional and respectful of employees. They should not set you up to walk into such a meeting unknowingly, and instead, should give you the advance opportunity to arrange for representation. Always ask to know the subject of a meeting before attending so that you can be properly prepared!

However, if you do find yourself in a situation where your supervisor is discussing or accusing you of misconduct, incompetence, insubordination, or impropriety, advise the supervisor that the charge is one for which you could be reprimanded or suffer other disciplinary action and that you have a right to have a representative attend any meetings held to discuss the charge. Contact your EASMC building representative or EASMC at 301-863-9216. The EASMC building representative can accompany you to the meeting or we can arrange other representation as the situation requires.

If you are unable to reach the EASMC office, advise your supervisor that you wish to postpone the meeting until you can have a representative present. If the supervisor insists that the meeting proceed, you must attend in order not to be insubordinate, but don't discuss the charge. Your best bet is to repeat, "I'll be happy to respond to that when I have a representative present." Call the EASMC office immediately afterwards.

**Question:**

Our principal continues to have two faculty meetings a month before the duty day begins although we have told her she is violating the agreement with EASMC. She does let us go early on those Fridays, however. Can she do this?

**Answer:**

Yes, she CAN hold these meetings. However, you are under NO obligation to attend before your duty day begins. And if you are unable to attend, it is the principal's obligation to ensure that you receive any communications or information that you missed. As for being let out early on the relative Fridays, that is a fine gesture on the principal's part that is aimed at fairness and will probably increase the number of employees who CHOOSE to attend. However, it does not change the fact that employees cannot be REQUIRED to attend before or after the duty day. So, if it's a hardship on you and your family for you to be there before the duty day for the second meeting, you cannot be penalized despite that fact that employees are released on Fridays. Simply drop your principal a note or e-mail (so that you have a record) and let her know that you are unable to accommodate the second meeting before the duty day. I'm sure she'll understand. In the slight chance that there are any negative repercussions, I'll be glad to assist you.

**Question:**

I have a question about staff meetings. My friend was told by her principal that they have to attend two staff meetings a month this year. As a matter of fact this was put in their SIT plan for the year. She asked me about it and I told her that we are only required to attend one staff meeting. She would like some sort of documentation that she can take to her principal about the policy. Do we have any documentation that she can show her principal? Or is there a way we could contact the principal for her? Thanks for your assistance.

**Answer:**

The principal can schedule as many staff meetings as she wants to, but she can only expect you to stay beyond your duty day once a month. Employees cannot be penalized for not being able to come before or stay past the established work hours. This is an informal agreement only, but it has been the undisputed practice for decades, so there is no documentation that we can share. It has been covered numerous times in the newsletter though and I'll forward you the Q&A that she can share with her principal.

So, there is no problem unless people are being told that they must work beyond the duty day more than once or a month or unless someone has been penalized in any fashion for not doing so. Typically we ask members to make an attempt to resolve their concerns informally with their principal. This supports a trusted relationship and gives the principal the chance to make adjustments without feeling poked in the eye. Then, if the principal is resistant or hostile, we are glad to step in!

Keep us informed and thanks for keeping up!

**Question:**

Our principal has published a calendar with FOUR faculty meetings a month although we have told her she is violating the agreement with EASMC. Can she do this?

**Answer:**

Yes, she CAN hold these meetings. However, you are under NO obligation to attend before your duty day begins or to stay after it ends. And if you are unable to attend, it is the principal's obligation to ensure that you receive any communications or information that you missed. So, if it's a hardship on you and your family for you to be there or if you simply object to trying to stay more than one day a month, you cannot be penalized. Simply drop your principal a note or e-mail (so that you have a record) and let her know that you are unable to accommodate more than one meeting a month that extends beyond bargained work hours. I would also ask the principal if she has a preference as to which meeting is deemed the "monthly" meeting. If she doesn't care or fails to reply, then rearrange your schedule as best suits your personal and professional needs. I'm sure she'll understand and does not expect you to stay late for all four meetings. In the slight chance that there are any negative repercussions, we'll be glad to assist you.

**Question:**

We received a principal's bulletin on Friday with the following as the last item: "Teachers should refrain from grading papers during faculty meetings. The presenters deserve your undivided attention". In your opinion, is the above a suggestion or mandate? Will we be insubordinate if we grade papers or otherwise refrain from giving presenters our full attention? Since faculty meetings are a standard/traditional practice, doesn't it follow that the multitasking we have always done counts as a standard/traditional practice too?

**Answer:**

I recommend that those concerned speak to the principal about it rather than try to determine if he/she considers this a mandate or a suggestion. I think that you would be best served to tell the principal that you certainly will be polite and discreet, but that multi-tasking is essential to meeting your heavy workload demands. Depending on the response, you could also remind him/her that most teachers routinely work well beyond the duty day and sacrifice much personal time to meet the needs of their students, and that forbidding good use of your time will likely discourage rather than encourage people to continue to donate personal and family time.

All said, I'm guessing your principal is just trying to avoid blatant disrespect of guest speakers and ensure that folks have all of the necessary information, but I really think he/she is best advised to simply ask faculty members to pay attention. If you are able to respectfully pick up the essential information and grade papers, I don't see why that should be a problem.

In any case, I suggest that a group of those concerned or a few association representatives meet with the principal to better understand the concerns, express your apprehension, and try to come to a mutual understanding.

# Negotiated Agreement Access

## **Question (September 2009):**

Where do I get a copy of new contract for teachers?

## **Answer:**

You can pick up a hard copy from the main office at your site. I'm also glad to email you an electronic copy (pdf) for your convenience if you email me a request, and it's also available on both the SMCPs and EASMC web sites ([www.easmc.net](http://www.easmc.net)).

# Observations

See Performance.

# Open House

See Duty Day.

# Performance

## Question:

Someone recently told me that I should be getting my written observation BEFORE I meet with my administrator for the post-observation conference. Is this true and if so, that is not happening at our school. What do I do?

## Answer:

Article XX of the negotiated agreement, entitled Teacher Observation and Evaluation, states, "The 'observed' teacher shall receive sufficiently prior to the holding of a conference on this matter, a copy of the evaluator's draft report and/or notes. The draft and/or notes will cover, in substance, the areas of the final report, but may be subject to modifications as a result of the post-conference." This means that the evaluator should provide you with a copy of the draft report or notes AT LEAST 24 hours before your scheduled meeting so that you have no less than one evening at home to review, digest, and respond. This is extremely important because the post-observation conference is your opportunity to have a "meeting of the minds" about the strengths and weaknesses of your class events. You want to be prepared with questions, explanations, examples, artifacts, and data, if necessary to make your points. This is your opportunity to ask for assistance or to defend points of disagreement. It is impossible for you to be prepared for meaningful discussion without knowing what to expect.

So, what do you do if you are not provided a copy within a reasonable time before the meeting? You send your evaluator a note or an e-mail (so that you can keep a record of it) stating that you request to reschedule the post-observation conference after you have received and had sufficient opportunity to review the draft observation notes or report. TPAS and the negotiated agreement are very clear as to the process, so while your administrator or supervisor may be operating in haste, I'm sure he/she will gladly take the time to properly adhere to the requirements if you provide a polite reminder. If not, please contact us and we can assist you in having that observation expunged and a new one performed using proper protocol.

## Question:

I have a question about the performance assessments for paraeducators. Teachers are being provided the actual evaluation form and are being asked to complete them at our school. Is this correct?

## Answer:

I have gotten calls on this and always advise teachers to submit their input in written form, if requested, so that the administration can use it as one source of information, but NOT to enter it on the actual evaluation form. While teachers may be asked to provide input to the administration regarding a paraeducator's performance, the teacher is NOT qualified or authorized to write the actual evaluation. I confirmed my understanding with Dr. Weiland who agreed and added, "The principal is charged with the task of completing the evaluation though he or she may request input from a teacher."

**Question:**

Administrators and supervisors have recently been placed under a new system of performance assessment that mirrors the Performance Assessment System for Teachers. As an EASMC member, am I entitled to the same types of related services that I see EASMC provide to my teachers?

**Answer:**

Absolutely! We value each and every member and represent everyone equally. We can assist you in the same fashion that we support all members, including representation at meetings to resolve performance concerns, assistance in writing rebuttals, and direct involvement in developing plans of assistance. It is particularly important that you contact us if placed on a plan of assistance, since Maryland law does not offer the protection of tenure for principals. We will work with you and your supervisor to develop a plan of assistance that is fair, specific, effective, and timely; the result is a win-win for all stakeholders.

**Question:**

I received a negative observation and feel that I am being targeted by my principal. What are my rights?

Answer:

Receiving a negative observation is not always a sign that you have been targeted or treated unfairly. It may be that your perception truly differs from that of the observer and that the truth is somewhere in between. Times change and with new challenges, new research, new trends, and new leaders, there are sometimes new ideas that can make your job easier and more effective. First, I would consider the accuracy, tone, and seeming intent of the comments that feel negative. Make an honest assessment and incorporate the results into your post-observation conference. Be proactive and demonstrate your willingness to pursue a path of continuous improvement, but bring artifacts and examples to rebut any comments that you find unfair. You can and should ask for changes. Remember that both you and your observer want you to be successful. It is not in anyone's best interests (yours or your administrator's) to create additional work that detracts from the focus on student achievement. I find that in most cases, you are best to truly try to understand what it is that you might do differently and assuming it is reasonable, do it. Under Dr. Martirano's leadership, there are many options currently available for assistance without risk to you or your credibility. In any case, EASMC stands ready to support its members whether through advocacy (in those cases when the observation is definitely unfair, unproductively harsh, or factually inaccurate), objective advice, direct observation and feedback, or professional mentoring by successful and experienced EASMC colleagues. Rather than experience undue stress, please reach out for a hand if you are in need.

**Question:**

The new TPAS addresses PLC accomplishments. Is this legal?

**Answer:**

As you know, workload is currently the number one concern of our members. Prior EASMC President Jan Emerson and I met with Linda Dudderar and Jeff Maher last spring to review and discuss the proposed TPAS changes. It was agreed at that time that employees will only be held accountable on a performance evaluation for PLC accomplishments IF the site administration has provided time during the work day to meet and perform the related work of the PLC. If the level of activities resulting from your PLC results in you having to complete it on your personal time or during your planning period, then you should contact your principal for relief and assistance. By working together with your colleagues and site-based administrators, you should be able to re-define both the PLC expectations as well as the time allotted to find a fair middle road. Both Mr. Maher and Ms. Dudderar fully supported our position that you cannot be negatively evaluated for duties that you cannot reasonably accomplish during negotiated work hours.

# Personnel Matters

## Question:

I am a manager and have always had a great relationship of respect with the employees who are on my team. Recently, however, we have had to recommend one of the employees for termination. It was a very difficult decision reached by my principal with my input, and this recommendation was made after two years of working with the individual to try to bring up their performance to an acceptable standard. Now this employee, while waiting for appeal, is going around bad-mouthing me and my principal, telling my subordinates as well as the teaching staff about how unfair she's been treated. I know I cannot respond without violating employee privacy, but it seems very unfair that this person can destroy relationships that have been established for years. Is there anything that I can do?

## Answer:

This is an excellent question based on a frustration shared by many, ourselves included! You are exactly right in that your primary obligation is to maintain a high degree of professionalism by maintaining 100% silence on personnel matters and therefore completely guaranteeing employee privacy. Otherwise you put yourself at risk legally and professionally.

I recommend that you consult with your principal to design a joint strategy that includes direct communication with both the employee who's been recommended for termination as well as your subordinates. The principal can counsel or advise the employee in a memorandum that there should be no discussion of this matter during work hours. You, the principal, or both, should consider having general conversation with your other team employees since situations such as these can result in fear, distrust, and misperceptions. The key is to be general, supportive, and reassuring. Some sample talking points are below.

- MD law only gives the authority for hiring and firing to the superintendent, Dr. Martirano, and he makes the final decisions on these two issues at the local level.
- A manager has no authority to reprimand or terminate an employee.
- A manager can plan and schedule work, train and counsel employees, provide positive and negative feedback, set expectations, provide input to the site administrator, and keep the site administrator informed.
- Managers can refer concerns to the site administrator for investigation and decision-making relative to the best interests of the site or school.
- The site administrator may reprimand or discipline employees, but has NO authority to terminate. He/she may only make a recommendation for termination to the superintendent.
- There is a defined process and procedure that a site must take before submitting such a request to the superintendent. At the superintendent's direction, the Director of Human Resources assists the superintendent by staying involved and ensuring that these steps are taken.
- In all cases, the privacy of employees is protected in personnel matters.
- The manager, the site administrator, the HR Department staff, and Dr. Martirano must all uphold professional standards of conduct and not discuss any aspect of one employee's personnel matters with another employee who has no need to know.

- Employees should also uphold professional standards of conduct and avoid discussing personnel matters.
- However, when an employee does share his/her perception of a personnel matters, the manager and other supervisory personnel cannot respond or defend themselves by telling their side of the story due to their obligation to professional conduct.
- Thus, most employees will never know both sides of any personnel matter, so please keep that in mind when drawing conclusions. Please keep an open mind and respect that (1) there are two sides of every story, and (2) we are respecting all employees' rights to privacy by not discussing personnel matters.
- We can assure you that all employees are treated fairly and in accordance with SMCPs policies and the negotiated agreement.
- We all have to work together to support decisions that are in the best interests of student and staff well-being.

# Planning Time

## **Question:**

Our planning time is constantly being usurped for various reasons. We have to meet with the IRT one day, with the principal another day, and with our team on yet another day. Isn't this a contract violation?

## **Answer:**

Your planning period is intended for your personal planning. You may choose to schedule meetings that support your instruction, but such meetings should not be dictated or scheduled for you. There are occasions when your planning period is the only practical time to meet. In these cases, your administration should provide a replacement time for your planning. Most principals are vigilant in this regard, recognizing your need to be thoroughly prepared, and will arrange coverage during another class period. While this approach is not ideal for you or your students (the students miss out on your instruction and you have to prepare sub plans), it offers some flexibility and support to meet your needs as well as those of the school system. If your planning period is pre-planned without your approval, stop by or drop a note to your principal and ask for that a replacement time be provided.

## **Question:**

We have been conducting team planning during our planning period at our school. I know that it's not normally allowed, but we voted and the majority of the team teachers want to meet then instead of before or after school. There is one teacher who is very upset about this and maintains that we are violating the negotiated agreement. Please advise us.

## **Answer:**

The rights established in the negotiated agreement cannot be voted away unless it is by unanimous agreement and then the issue is choice versus command. So, if 4 of 7 folks (for example) vote to conduct team planning on their personal planning periods, the remaining three cannot be held hostage to that vote and cannot be required to team plan at that time. Of course, those who support it can continue to meet to team plan during planning time, but they cannot expect the others to attend nor can they penalize the others by virtue of (1) making decisions that affect the others without their input or by (2) sharing information that the others will need but not get. However, if the four choose to meet during their planning and team plan together, without harm to the other three who can then choose to meet at a different time, then that can certainly happen. You just need to be sure that essential information (information that the other three need to perform their jobs) is shared back and forth between the groups.

# Portfolios

## **Question:**

We have been required by our principal to develop and maintain a "Teacher Portfolio" to be used for "professional development and student assessment." Can we be required to do this and if so, when? Certainly with the focus on test scores, we should not be placed in a position to have to sacrifice our instructional planning time for this purpose and yet the only other choice is to sacrifice even more of my personal family time.

## **Answer:**

We discussed this issue with Superintendent Michael Martirano and Chief Academic Officer Linda Dudderar. They confirmed that there is no county-wide SMCPs policy that requires official "Teacher Portfolios" and neither supported such a requirement considering the many other demands placed on teachers. That said, Ms. Dudderar explained that teachers may be required to maintain data such as parental contact logs or logs of other activities, and that it might make sense to keep them in a single, easily accessible location such as a notebook. She was simply referring to a method of storing data already being maintained, not the creation of additional duties and tasks for teachers. Ms. Dudderar agreed to check into this requirement and follow up.

# Privacy

## Question:

My EASMC Building Rep. said that there has been much discussion on the video taping of IEP meetings. Has there been a final determination about the legality of taping and whether an employee can refuse to be taped?

## Answer:

We have engaged the superintendent, his cabinet, and the SMCPs and MSTA attorneys in a series of vigorous discussions on this topic. Special education is an area that is full of procedural traps for school systems. There are no clear taping regulations, but there are some relatively clear findings and directives.

- The 2006 regulations of the Individuals with Disabilities Education Act (IDEA), a law ensuring services to children with disabilities, require school districts to take “whatever action is necessary to ensure that the parent understands the proceedings at a meeting.”
- Several courts have ruled that parents have the right to record IEP meetings.
- Neither IDEA or COMAR specifically addresses the use of audio recording devices at IEP meetings.
- No other federal statute authorizes or prohibits the recording of an IEP meeting by either a parent or a school official.

The risks for a school system are great since a violation of a parent’s procedural rights can lead to a non-public placement of a student at the school system’s expense (including the prevailing party attorneys’ fees!). The threat of parents claiming that they cannot meaningfully participate in the IEP process and the complexity of this taping issue, lead most school systems (including SMCPs) to allow videotaping. Thus, neither the Maryland State Department of Education (MSDE) nor SMCPs currently has a policy limiting or prohibiting taping.

SMCPs allows parents the right to tape IEP meetings in order to assure parental access to the IEP process. As a SMCPs employee, you cannot rightfully refuse to participate if IEP meeting attendance is part of your job expectations. You can, however, express your discomfort, *request* to be relieved from those expectations, and script your comments to the extent possible. You could be at risk for insubordination should you refuse to attend a taped IEP meeting. It appears that an individual teacher’s objection based upon the Maryland Wiretap Law is without merit in this setting.

Given this information, EASMC President Wanda Twigg and I raised the topic at our January 22 meeting with Superintendent Michael Martirano. While SMCPs’s practice has been to tape when a parent so requests, MSTA Attorney Damon Felton believes that SMCPs could make the decision to restrict or limit audio recordings of IEP meetings. However, according to Dr. Martirano, the taping is as much to protect the staff members and school system as to respond to the parental request. If a parent brings out a taping device, the school system does the same. Ultimately, based on existing laws and regulations, educators, administrators, and parents must work collaboratively and in good faith in an effort to make this often challenging process work so that children with disabilities can receive that Free Appropriate Public Education in the Least Restrictive Environment appropriate.

# Redistricting

See Transfers.

# Representation

## Question:

I am a principal and you and I have recently met several times along with one of my teachers to develop a plan of assistance. You do a wonderful job there advocating for that member, but since you are so strident, I always wonder who is available to represent me since I too am an EASMC member?

## Answer:

Thank you for the fine complement. Please rest assured that I am available to represent you as passionately! The pivotal point is this: labor unions in the United States are legally recognized as representatives of *workers*, not *employers*. As a principal, you are a designee or appointee of the employer and when you are reprimanding an employee, or in this case, counseling an employee for performance-related concerns, you are acting on behalf of your employer – the Board of Education of St. Mary's County. As the employer's appointee responsible to ensure successful performance at your school, it is your employer that should represent and support you. If, on the other hand, you receive an unsatisfactory evaluation or are placed on a plan of assistance, I will be available to represent YOU as the EMPLOYEE.

I am so glad that you asked this question because occasionally supervisors advocate for a separate union to represent A&S employees for this very reason. While perhaps well-intended, they are misguided. There is NO labor union that represents the employer. Labor unions represent labor. Now while that's the official distinction, I want to emphasize that it's my role to ensure due process and the rights of employees, not to unfairly protect poorly performing workers. When I am working with you to develop a plan of assistance, I think it's mutually beneficial to have an extremely tight and well-written plan with clear expectations and deadlines, multiple opportunities for feedback, and easily measurable criteria. This protects all parties involved and increases the chances of a successful plan that results in employee growth and improved performance to best serve students. And, although I am representing the *employee* (or worker) perspective in these interactions, I always invest doubly to reach a win-win solution when the person representing the *employer* happens to also be an EASMC member!

If you ever have concerns or questions, please feel free to call me or EASMC President Wanda Twigg to speak privately. One of the privileges of membership that many of our A&S members accept is the right to pick our brains confidentially before making a decision or taking a particular course. They often use us for a sounding board, for confirmation, to get advice, to avoid a contract violation, or to anticipate the Association's response. The purpose is not to plan or plot employee actions, or to violate employee confidentiality, but to provide generic feedback on specific scenarios or examples without us wanting or needing to know the individuals actually involved. If you call with an urgent matter and we are unavailable, please advise EASMC Administrative Assistant Jen Tippet that you have a pressing need and she will track us or another advocate down to assist you.

# Salary

## **Question:**

I am currently a CEASMC member and have recently completed my degree. I am hoping to be hired for a full-time teaching position with SMCPs (and become an EASMC member) and I heard that the school system now gives credit for years of paraeducator service. How does that work?

## **Answer:**

I'm so thrilled for you – good luck and congratulations! The language to which you refer is not effective until July 1, 2009, but if you are awarded a teaching contract, it too will be effective July 1, 2009 so you will be eligible if you meet the requirements. "New teachers who were previously hired by the Board as Paraeducators II shall be granted paraeducator service credit for up to ten years of Board service for the purpose of placement on the teacher's salary scale. This credit shall be applied at the rate of one year's credit (step) for every two years of Board paraeducator II service (a maximum of five steps based on ten years of Board paraeducator II service)." Please call me if you have any questions BEFORE you agree to your placement on the salary scale. And please spread the word! This credit will apply retroactively to any new teachers who were previously SMCPs Paraeducators II and were hired as new teachers in 2004 or after.

## **Question:**

My partner lost his job and we are having great difficulty making ends meet on my salary. I struggle daily to arrive at school in a positive frame of mind when I have so much stress at home due to the economy. Does the school system offer any programs to assist me?

## **Answer:**

The SMCPs Department of Human Resources refers employees like you who are being adversely affected by the current economic situation to the Employee Assistance Program (EAP). The EAP is a professional service for help with a wide variety of problems, is available at no cost to you, and is completely confidential. Pamphlets are available at HR or through EASMC. Although the EAP does not lend money, this program does work with individuals who are having financial difficulties and Dr. Weiland said that he too has been working with individuals on a case-by-case basis. You should also contact the St. Mary's County Department of Social Services to secure find out what county programs are available to assist people facing financial hardships.

If you are having trouble making your mortgage payments or if you're facing foreclosure, DON'T WAIT. Contact your lender immediately as well as the following resources for advice and assistance.

Employee Assistance Program, 1-800-778-3277  
Dept. of Housing and Community Development Hope Hotline, 1-877-462-7555  
Home Owners Preserving Equity (HOPE), [www.mdhope.org](http://www.mdhope.org)  
NEA Member Benefits Site, [http://www.neamb.com/money\\_articles/100107A.jsp](http://www.neamb.com/money_articles/100107A.jsp)  
HUD-approved Counseling Agency, 1-800-569-4287 to find one near you  
Federal Housing Administration, [www.fha.gov](http://www.fha.gov)

**Question:**

What is salary compression?

**Answer:**

With negotiations rapidly approaching, scale compression is something about which you are likely to hear a lot. Based on your responses to the EASMC survey, this is an area of significant analysis and focus for EASMC. Our colleagues in Charles County recently negotiated significant scale restructuring and compression, addressing the rate at which teachers will move through the proposed scale based on their years of experience. This restructuring will be phased in over the next three years so that teachers in 2010 will reach full, maximum salary in their 23rd year of teaching (instead of having to wait until their 30th year, as teachers currently do here in St. Mary's).

Scale compression can be confusing and intimidating. Here's what it would do for you!

- ✓ Scale Compression would curtail the national and local trend of paying educators only a portion of full salary until they reach top pay (again, 30 years here). Currently your pay is broken up into incremental payments spanning 30 years to reach your career rate or top pay.
- ✓ Scale Compression would help ensure that you are paid a full salary as quickly as possible, not after 30 years.
- ✓ Scale Compression would improve your career lifetime earnings. By reaching the career rate or top pay in 20 or 25 years, for example, you would have more years at the top step to improve your earnings potential and base salary for retirement computations.
- ✓ Scale Compression would address those areas of the scale that significantly trail our competitors in neighboring counties.

# Special Education

## Question:

I believe that all three high schools are allowing an additional preparation period for case management for special education teachers. It sounds great, but not everyone in the Special Ed. Department is afforded this. Please inquire within.

## Answer:

While this topic has previously been a subject of negotiations, it is not currently included in the negotiated agreement. However, SMCPS does recognize the need for such additional time for special education teachers, which we appreciate, so I contacted EASMC member and Director of Special Education Marilyn Mathes for advice on this issue.

According to Ms. Mathes, "The role of the special education teacher has changed in recent years from providing instruction in a separate environment to collaborating, co-teaching and supporting students in the general education environment. A major part of the special education teachers' responsibilities can be described as the performance of case management duties. The effective performance of these duties has the potential to make a significant difference in the success of a student."

Ms. Mathes explained that the Special Education Staffing Plan is designed in recognition of the skills, time and professionalism required to effectively perform case management duties, outlines the basis and goals of special education staffing in St. Mary's County, and provides guidelines for the assignment of special education staff to schools. These guidelines are designed to assist the Department of Special Education in assigning staff to schools and to assist school-based administrators when establishing schedules. "They include reference to the number of IEP hours, number of students on a teacher's case load, and the general education enrollment in the school. The guidelines also recommend the allotment of 1 period per day for case management in addition to the planning period and 30 minute duty free lunch. This recommendation is included at all three levels: elementary, middle and high."

Relative to the inconsistency to which you refer in assignment, Ms. Mathes said that the staffing plan is used as a guideline as they review the needs of each school and make staffing decisions. "We work to meet the standards in the plan and to provide equity among schools. Decisions regarding specific teacher schedules and teaching assignments are made at the building level by the administration. Building administrators and schedulers are knowledgeable of the special education staffing plan and the recommendations included in it."

If you feel that you are eligible for a case management period and are not currently getting one, please start by reviewing the Special Education Department Staffing Plan. If the plan confirms your eligibility, I recommend that you then discuss your concern with your building administrator since Ms. Mathes said these are site-level decisions. If you and your administrator are unable to come to an agreement through dialog, then seek Ms. Mathes' input and assistance. And any time that you have unsuccessfully sought to resolve a concern, we are here to help facilitate a solution. The Special Education Staffing Plan supports the need for a case

management period. I feel confident that you and your principal can put your heads together to make it happen as Ms. Mathes intended!

### **Question:**

Are there rules or policies about who must be present at an IEP meeting? I think that I remember that team members present at an IEP meeting are a regular education teacher, case manager, and IEP chair. If there aren't enough substitutes available for the team members who require one, is the IEP meeting able to be held without the appropriate members present, or should it be rescheduled?

### **Answer:**

We asked Muriel Martin, SMCPs Supervisor of Special Education, this question and she said that the law requires that the following people are present at IEP Team meetings.

- The parents of the student - unless they give permission for the meeting to take place in their absence.
- Not less than one special education teacher or not less than one special education provider of the student.
- A representative of the school system who is qualified to supervise the provision of specially designed instruction and knowledgeable about the general curriculum and availability of resources.
- An individual who can interpret the instructional implications of evaluation results.
- Other individuals at the discretion of the parent or school system who have knowledge or special expertise regarding the student including related service personnel, as appropriate.
- The student, if appropriate.

She also explained that a member of the IEP team is not required to attend an IEP team meeting, if the parent of a student with a disability and the school system agree that attendance is not necessary because the member's area of curriculum or related services are not being modified or discussed.

According to Ms. Martin, a member of the IEP team may be excused from attending an IEP team meeting when the meeting involves a modification to or discussion of the member's area of curriculum or related service, if all of the following occurs before the meeting.

- The parent and the school system consent to the excusal of the IEP team member.
- The member submits a written summary of input into the development of the IEP to the student's parent and the IEP team.
- The parental/school system consent is provided in writing.

Ms. Martin said that legally, the team members described above must be in attendance unless prior arrangement has been made with the parent. The law has no provision for a lack of substitutes.

I contacted MSTa attorney Kristy Anderson for a second opinion. She agreed with Ms. Martin's summary except that Ms. Martin left out the regular education teacher of the student. If the

student is or may be participating in the regular education environment, then regular educators are required members of the team (COMAR 13A.05.01.07).

# Student Conduct

## Question:

One of my students attacked me during an emotional meltdown. I completed the proper paperwork and contacted the police department to make a report and potentially file charges. According to the sheriff's department, the decision to file charges can only be made by the principal, which is contrary to what you told me. Please advise.

## Answer:

I checked with MSTA Damon Felton to confirm my advice. You DO have the right to file formal charges with the police and you CAN seek to have a restraining/peace order granted. Neither of these decisions rests with the principal. Of course, I always recommend keeping your principal informed since he/she will be supporting you in dealing with any parental concerns or reactions. Occasionally the school administration will attempt to discourage employees from filing charges for a variety of reasons, but the decision rests with you. If you should get such a response from the police in the future, I recommend asking for a supervisor. If you are still not supported satisfactorily, obtain the name and positions of the police contacts and we will seek assistance from the MSTA Center for Legal Affairs.

## Question:

I was recently assaulted by a student while trying to break up a fight and the resulting injuries required me to be out of school for several days. Do I have to take sick leave for this time?

## Answer:

According to Maryland law, "...An employee of a county board who is absent due to physical disability that results from an assault while in the scope of board employment shall be kept on full pay status instead of sick leave during the period of absence." However, you are obligated to provide a signed statement that justifies the use of assault leave and if medical attention is required, a certificate from a licensed physician that states the nature and duration of the disability.

## Question:

Part of the superintendent's mission statement is, "Accept no excuses, educating ALL with rigor, relevance, respect, and positive relationships." Yet my principal is constantly accommodating parents by adjusting standards and in my view, weakening them. The end result is that teachers don't always feel empowered and supported in pursuing the SMCPS mission statement. Why aren't administrators held accountable to maintain rigorous standards?

## Answer:

I asked Superintendent Michael Martirano your question. He does hold administrators and supervisors responsible and has implemented a number of new initiatives to ensure excellence

throughout our county. That said, he does allow for varying styles and demeanors among leaders. What works for one will not necessarily work for another. If you think your principal is “cow towing” to every issue or has a history of lowered standards, Dr. Martirano recommends that you speak directly to your principal about your concerns. If that approach is not effective in your view, then contact either Director of Elementary Instruction Kelly Hall or Director of Secondary Instruction Scott Smith. If you require further assistance, please contact EASMC for additional recommendations and support.

# Student Interns

## Question (September 2009):

What are the protocols and safety mechanisms in place for student interns? Since classes are supposed to be taught by highly qualified teachers, are interns given some sort of temporary status of "certified"? Can they be left alone with students? Can they be left to independently provide instruction that is not under the direct supervision and direction of a highly qualified teacher?

## Answer:

SMCPS Regulation LEA-R, Guidelines for Student Teaching, references Article 6-108 (currently 6-107) of the Education Article of the Maryland Annotated Code, which states the following.

(c) *Authority of student teachers.*-

- (1) While the student teacher is assigned as a student teacher, he shall be given the same authority as if he were a certificated employee of the county board to which he is assigned.
- (2) The authority of the student teacher extends to:
  - (i) Every aspect of student management or discipline;
  - (ii) The handling of records of students; and
  - (iii) Any other aspect of authority granted to a certificated employee of a county board.

Regulation LEA-R also lists the professional qualifications and characteristics of the cooperating teacher as well as the responsibilities and expectation of the cooperating teacher, principal, and supervisors, all of whom have very specific roles in ensuring high quality instruction for students and the successful professional development of the student intern. This regulation can be reviewed at the following link:

<http://www.smcps.org/offices/boe/policies/Approved/L-%20Education%20Agency%20Relations/LEA%20-%20Student%20Teachers%20and%20Student%20Internships.pdf>

# SubFinder

## Question:

Is the below information true? "Reminder - the SubFinder system is programmed to find substitutes for **half days and whole days** only. If a teacher or staff member needs to be off for an hour or two during the day, that absence should be reported separately to the administrator. The SubFinder system telephone number is 1-866-763-2095. This number can be utilized to access information over the telephone as well as using the webconnect: [smcps.subfinderonline.com](http://smcps.subfinderonline.com)."

## Answer:

Yes, it is true. According to Ed Weiland, "Subfinder is programmed for either a half day or a whole day substitute. If the leave requested is for less than a half day, the principal will usually cover that period of time internally."

## Question:

Apparently if someone needs a substitute here it is common to ask math and other resource teachers to fill in for people without paying them the extra money it mentions in the contract. Are they considered teachers for the purposes of this payment?

## Answer:

They DO fall under our negotiated agreement and as such, can only VOLUNTEER to cover. The site administrator cannot require it unless there is an outright emergency; a routine sub shortage is not an emergency. And if folks CHOOSE to VOLUNTEER, then they must be paid.

## Question:

My principal requires that we contact her personally rather than using sub-finder to report absences. This is extremely inconvenient and it seems to be a form of intimidation – not the best way to encourage attendance from professionals! Is this fair?

## Answer:

It's neither fair nor a good business practice. SMCPs implemented Sub-Finder for a reason and it's to be used. I spoke to Dr. Weiland and Dr. Martirano on this subject, and they concur. Both employees and administrators need to be able to handle absences efficiently. If you or your child is ill, or if you have a personal emergency, you should not be held hostage to tracking down an individual who may or may not be available to take your call. Not only is this tact inefficient for the employee, but it greatly reduces the school's chances of obtaining a substitute, much less in a timely manner. And finally, SMCPs cannot track and manage the availability of substitutes if they do not have proper records of needs and usage. Dr. Weiland said that he will contact administrators as necessary to ensure that Sub Finder is being utilized as designed and intended by SMCPs.

# **Teacher Performance Assessment System (TPAS)**

See Performance.

# Transfers

## **Question:**

I have concerns about the Declaration of Intent process. Last spring I completed mine confidentially and submitted it, as directed on the form. My principal later called me on the carpet saying that she did not appreciate me not informing her of my desire to transfer. I was very disheartened that such a personal decision was shared without my permission. Isn't this a violation of my privacy since transfers are a personnel matter?

## **Answer:**

Once the Declarations of Intent are collected, lists are assembled of employees seeking transfers for each site to which they indicate a willingness or desire to transfer. While there is certainly no direct contact made with the "home" site and the unaffected principals do not receive the lists, there must be some way to communicate the names of applicants to the principals with openings. Thus, while you are certainly not obligated to reveal your job search efforts to your principal and you should not be discouraged from or penalized for seeking change, it is probably a good idea to address it generally since your principal may well be privy to such transfer request lists or hear about them from a colleague. I recommend being honest and asking your principal to support your efforts by serving as a reference. That way he/she will not be caught off-guard if contacted by your prospective new principal and will be much more likely to provide a favorable and supportive response. My biggest concern is that apparently not all employees realize that the transfer list is published. Thus, we have shared your concern with the SMCPS HR Department and Dr. Weiland has agreed to add a statement on the Declaration of Intent forms to ensure that all employees are informed of the information sharing before submitting the form.

## **Question:**

I am a non-tenured teacher and would like to request a transfer to another school. Do I simply contact Human Resources and make this request?

## **Answer:**

I answered this before with, "Non-tenured teachers are not eligible for transfers as far as I know." However, Dr. Weiland recently advised me that this is no longer the case. I am thrilled to issue such a correction! Non-tenured teachers are eligible to apply for transfers using the same process as that for tenured teachers.

## **Question:**

I just received my received my SMCPS Declaration of Intent form recently, which is a month or more earlier than usual. Why are the forms being distributed so early? Am I at risk if put down my current plans and they change later?

**Answer:**

I contacted Dr. Weiland, Director of Human Resources, to find out why the forms are being distributed early. I explained that while we appreciate the HR Department being proactive, that we are concerned that staff and administration alike may not yet know enough about next year's plans to make good decisions or predictions at this time.

Dr. Weiland explained that they are getting a jump start this year because the process will be more complicated than usual with the opening of Evergreen Elementary School, which will result in redistricting affecting at least four schools. The early planning is mostly to support staff and to ensure that you have plenty of advance notice. He stressed that you should not be concerned if you do currently plan a change, but later change your mind. This iteration is to identify those folks who are reasonably certain of their interests. Dr. Weiland said that the lists of employees requesting transfers is updated and distributed to site administrators monthly. You may send Dr. Weiland a written request at a later date to be added to the transfer list if you so decide. In either case, recognize that the site administrators DO get the transfer request list, so I recommend that you personally share your intent with your principal, although you are certainly under no such obligation.

My advice is to submit your list of possibilities if you think that a transfer is remotely in the stars for you. You are in no way at risk or obligated to accept a transfer should it be offered to you and you can send a written request to Dr. Weiland at any time to be removed from the transfer list should you have a change of heart. However, the advantage is that you will be on the first lists that go out for consideration.

**Question:**

I am a non-tenured teacher and understand that my school is likely to be affected by redistricting decisions. Will I be the first to go since I do not have tenure?

**Answer:**

Actually, if these types of assignment changes are dictated by the school system, they are called "involuntary transfers" and fall under Article XVI, Involuntary Transfers and Reassignments, in the negotiated agreement. In such cases, the site administrator must first seek volunteers. If no volunteers are identified, factors such as certification, experience, and subject matter expertise will be considered. While you being relatively new may be a factor in assessing your experience level, tenure itself is not a specified factor.

In any case, an involuntary transfer or reassignment can be made only after a meeting between the professional employee involved and the appropriate administrator, at which time the employee will be orally notified of the reason for the transfer and reassignment. Following the meeting, the reasons for selection must be provided in writing. If you object to the transfer or reassignment, you have the right to meet with the superintendent. While Dr. Martirano is always very understanding, I find that such meetings rarely change the final outcome.

When a principal or supervisor is even considering an involuntary transfer or reassignment, he/she should discuss the possibility with you. This gives you the option of applying for a voluntary transfer to schools of your choice on your Declaration of Intent submission. If you

think that you are at risk for an involuntary transfer that will not suit your needs or preferences, then I highly recommend that you indicate your interests in being transferred to others schools of your choice. This step does not obligate you to accept a transfer offer should you get one, but it does give you more control and more options should you be faced with a personally undesirable involuntary transfer.

And don't forget that professional employees involuntarily transferred have the right to request to return to the school from which they were transferred should a position for which they are qualified open prior to the first duty day for employees!

# Tuition Reimbursement

## **Question:**

I signed up for several CEU courses and the Department of Human Resources is saying that they will not reimburse me for the cost of tuition although I successfully completed the courses and submitted the receipts. Can they do this?

## **Answer:**

Yes. There appear to be two issues. The first is that you must seek and receive approval IN ADVANCE of registering. The second is that the negotiated agreement clearly states, "Tuition reimbursement will be provided for appropriate courses leading toward (1) initial certification, (2) renewal of Standard Professional Certificate, (3) Advanced Professional Certificate, (4) Master's Degree or any other approved course work." CEUs do not meet this definition.

# Videotaping

See Privacy.

# Weather

See Inclement Weather.

# Work Hours

## **Question:**

We had open house last night and were required to stay from 5:30 to 7:00 p.m. for this event. There is another evening event in February and we have been told that we are again required to stay until about 7:00 p.m. We also have other requirements such as the junior exhibition and the senior gala that we are expected to attend. How can we be required to do this if it's beyond our negotiated work hours?

## **Answer:**

There is a longstanding agreement between EASMC and St. Mary's County Public Schools that it's reasonable to ask employees to stay for ONE evening event (such as the open house, OR the expo, OR the gala) PER YEAR. If your principal has outlined a number of them, just ask which one is preferred so that you can make that your priority to fit into your schedule. After attending one, it's your decision as to what evening activities, if any, that you choose and are able to attend. Depending on your relationship with your site administrator, you may want to advise him or her that you will not be attending those remaining activities so that there is no miscommunication or false expectation. However, you do not owe any explanation and should not anticipate any negative consequences or reaction as a result.