



SCHOOL BOARD ACTION REPORT

DATE: March 31, 2021
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For Introduction: April 7, 2021
For Action: April 7, 2021

1. TITLE

Approval of the Memorandum of Understanding (“MOU”) between Seattle Public Schools (“the District”) and the International Union of Operating Engineers Local 609 (“609”) regarding Enhanced Cleaning during the COVID-19 Pandemic.

2. PURPOSE

This Board Action Report initiates approval of an MOU that provides for a one-time, one-thousand dollar (\$1000.00) bonus for all 609 employees who commit to working extra shifts during the reopening of schools and who actually work at least sixteen (16) hours of additional cleaning work per week, on average, through the remainder of the 2020-2021 school year (excluding spring break). In exchange, the MOU provides that if 609-represented members cannot cover the additional cleaning needs, the District may utilize contracted service providers.

3. RECOMMENDED MOTION

I move that the School Board approve the MOU with 609 as attached to the Board Action Report. Immediate action is in the best interest of the District.

4. BACKGROUND INFORMATION

a. Background

The District must comply with cleaning requirements of various federal, state, and local government authorities, such as the U.S. Centers for Disease Control and Prevention, the Washington State Department of Health, the Washington State Department of Labor and Industries, the Office of Superintendent of Public Instruction, and Public Health – Seattle & King County, as well as its agreement with the Seattle Education Association.

In anticipation of bringing students back for in-person instruction, the District and 609 began bargaining in January 2021 to ensure staff would be able to provide the enhanced cleaning associated with safety measures for in-person learning.

On March 12, 2021, Governor Inslee ordered the District to reopen for in-person school for all elementary students by April 5, and for all secondary students by April 19, 2021. As a result of that order, the District has an immediate and dire need for additional custodial staff in order to provide additional cleaning and disinfecting of school facilities so that they are safe for students during the ongoing COVID-19 pandemic.

The District determined it could not satisfy its cleaning needs solely by having 609 custodial staff work overtime or having non-custodial 609 employees (e.g., gardeners and nutrition services workers) perform cleaning duties as overtime. Specifically, the District requires approximately 213 additional custodial positions between April 5 and 19, 2021 – an additional 108 FTE custodial positions to perform daily cleaning of classrooms after school hours and an additional approximately 105 FTE custodial positions to perform cleaning of high-touch surfaces during the school day. As such, in addition to working towards hiring more custodial staff, the District proposed that it would have the authority to temporarily hire contracted service providers to ensure it has necessary staffing to implement enhanced cleaning protocols.

During bargaining, 609 opposed the District utilizing contracted vendors for additional cleaning. On March 24, 609 filed for a temporary restraining order (“TRO”), seeking a court order that would prohibit the District from utilizing contracted workers to perform enhanced cleaning of school facilities.

Prior to the Court ruling on 609’s motion, the District and 609 agreed to the MOU, which provides certain 609 members a one-time bonus and would allow the District to supplement Union employees with contracted workers, if needed, on April 5 or later such that schools can safely reopen. Under the MOU, 609 employees will not lose pay or hours.

Specifically, the MOU includes overtime preference for all 609 employees. Also, in exchange for allowing SPS to use subcontractors as a last resort, 609 employees who work at least 16 additional hours per week on average, for the remainder of the school year (excluding spring break), will receive a \$1000 bonus.

Given the tentative MOU, 609 and the District have agreed to hold the TRO and preliminary injunction hearing in abeyance. 609 will withdraw its lawsuit should the MOU be ratified.

- b. **Alternatives** If the Board does not approve the motion, the District will not have agreement from 609 to subcontract if it becomes necessary in order to meet health and safety requirements regarding additional cleaning and 609 will continue to pursue its TRO. If 609 is successful in obtaining a TRO, the District will not be able to use subcontractors, meaning the District will not be able to meet the federal, state, and local health & safety standards associated with a return to in-person instruction. If the District were to prevail in dismissing the TRO, 609 would still likely file a grievance and/or unfair labor practice and seek back pay for any contracted work.

- c. **Research** 609 members were informally surveyed (mutual agreement) to see how much extra work they would be willing to pick up. Additionally, contracts were pursued with two cleaning companies and one was recently signed with ABM.

5. FISCAL IMPACT/REVENUE SOURCE

The estimate for the total new cost of this agreement in 2020-21 is approximately **\$259,000**, with the funding source being the federal Elementary and Secondary School Emergency Relief) ESSER grant.

This estimate is based on the two hundred and fifty-nine (259) employees who responded to the Facilities survey committing to at least sixteen (16) hours of additional cleaning work per week for the rest of the school year, making them eligible for the \$1000 bonus.

Expenditure: One-time Annual Multi-Year N/A

Revenue: One-time Annual Multi-Year N/A

6. COMMUNITY ENGAGEMENT

With guidance from the District’s Community Engagement tool, this action was determined to merit the following tier of community engagement:

Not applicable

Tier 1: Inform

Tier 2: Consult/Involve

Tier 3: Collaborate

7. EQUITY ANALYSIS

609 employees are used to having extra work opportunities, including overtime opportunities, during a normal school year. Custodial staff have not had overtime opportunities during the 2020-21 school year, since there have been less cleaning needs due to the remote instruction model. Although the District is proud to have been able to retain all custodial staff and not reduce any hours, reduced overtime opportunities has resulted in reduced salary for some custodial staff. Additionally, Nutrition Services and Security staff often pick up cleaning opportunities during the summer, but those were not available last summer during the pandemic. 609 is among our most racially diverse employee groups and many of these employees make below the King County average income. Providing these overtime opportunities and the bonus will restore some of the extra hours they are used to and help alleviate the equity issues that have been exacerbated by the pandemic.

8. STUDENT BENEFIT

Data show that students are struggling academically and socially while learning online, and it is important that students have the opportunity to return to school as soon as possible—particularly those furthest from educational justice, such as students of color and those receiving special education.

In order to safely reopen and comply with strict protocols for cleaning and sanitation of facilities, however, the District must increase the frequency that custodial staff clean classrooms after school and during the school day.

If we cannot fully satisfy the additional cleaning needs, the District’s ability to return students to in-person learning, while meeting rigorous health and safety protocols, would be undermined. At worst, the District could be forced to return to remote learning if it is unable to meet health and safety standards.

9. WHY BOARD ACTION IS NECESSARY

- Amount of contract initial value or contract amendment exceeds \$250,000 (Policy No. 6220)
- Amount of grant exceeds \$250,000 in a single fiscal year (Policy No. 6114)
- Adopting, amending, or repealing a Board policy
- Formally accepting the completion of a public works project and closing out the contract
- Legal requirement for the School Board to take action on this matter
- Board Policy No.5020, Collective Bargaining, provides the Board shall approve this item
- Other: State law requires that school Boards fix salaries for all employees and approve benefit and leave policies (RCW 28A.400.200; RCW 28A.400.300)

10. POLICY IMPLICATION

Approval of this MOU complies with Board Policy No. 5020, Collective Bargaining Agreements, which states, “Any agreements reached by the chief negotiator shall not be binding upon the Board until formally approved by the Board.”

11. BOARD COMMITTEE RECOMMENDATION

This item was not reviewed in committee due to the duration of bargaining with 609 and timing of when a tentative agreement was reached.

12. TIMELINE FOR IMPLEMENTATION

Upon approval of this motion and execution of the MOU, bonuses will be paid out after the end of the school year to eligible employees, but SPS will be able to utilize subcontractors immediately, if necessary.

Upon execution of the MOU, 609 will move to dismiss its lawsuit.

13. **ATTACHMENTS**

- Memorandum of Understanding between the Seattle School District Number 1 and the International Union of Operating Engineers, Local 609 Regarding Enhanced Cleaning during the COVID-19 Pandemic (for approval) Bonus costing tool (for reference)

Memorandum of Understanding
between the
Seattle School District Number 1
And the
International Union of Operating Engineers, Local 609
Regarding
Enhanced Cleaning during the COVID-19 Pandemic

This agreement is entered into by and between Seattle School District Number 1 ("the District") and the International Union of Operating Engineers, Local 609 ("the Union"). ~~The parties agree that the top priority is to ensure that students have access to safe in-person instruction.~~ The parties have reached one-time, non-precedent setting agreement to ensure the Facilities department is adequately prepared to implement the additional cleaning necessary to ensure District schools and buildings meet health and safety requirements with respect to the COVID-19 pandemic. The agreement is as follows:

1. The District has the right to hire and fill hourly custodian positions (temporary position). These positions will be Union-represented and covered by all terms and conditions of employment that would apply to hourly/part-time custodians unless exceptions are explicitly noted in this MOU. The following provisions apply:
 - These positions will be paid according to the Assistant Custodian G position on the salary schedule.
 - They will be considered "unassigned" custodians.
 - The exact FTE and schedule of these positions will be determined by the District on a case by case basis.
 - The District has the right to layoff employees in these positions at its discretion and not in accordance with any layoff provisions in the CBA.
 - Employees in these positions will not be anticipated to work 630 hours in the 20-21 SY upon hire. Therefore, they will not be benefits-eligible unless/until they actually work or are compensated for 630 hours in the 20-21 SY.
 - IUOE Local 302 members and 609-represented employees will receive preference for hire into these positions, provided they meet the minimum qualifications.
 - Employees in these positions will not have Central Pension Fund contributions deducted from their pay.

2. The District and the Union agree that all current 609-represented employees will have the opportunity to commit to a specific number of work hours beyond their scheduled FTE and scheduled workdays to perform additional work needs identified by the District. All 609 members will be sent a "commitment survey" that indicates the hours of additional work needed, on which day of the week, and at which location. Employees will select all work needs they are willing to commit to. Commitment shifts will be filled on a first come, first serve basis, with priority will be given to employees already working at their assigned facility, to the extent operationally feasible.

The commitment survey will be due Wednesday March 31st at 2:00 PM. However, prior to April 19th, the District will provide employees who have made commitments the opportunity to modify them. These committed hours will be scheduled, to the extent the work needs exist, and considered mandatory unless excused by the supervisor on a case by case basis. Employees picking up the extra hours will be paid based on their rate in their normal position or at the G classification, whichever is greater. All applicable overtime rates will be applied, as described in the CBA and by law.

The District reserves the right to schedule any mandatory training for staff who have signed up to

commit to additional work. Staff will be compensated, including at any applicable overtime rate, for time spent in any mandatory training.

If additional work needs change, the District reserves the right to send out a modified commitment survey. Employees will have one (1) week to respond to any new commitment survey.

Staff will be expected to meet the same performance and attendance standards as staff normally assigned to this work. If performance and attendance standards are not met, the District may revoke any committed hours.

3. If 609-represented members cannot cover the additional work needs through the mechanism described in #2 above, the District may utilize contracted service providers. Any use of contracted providers will be non-precedent setting and will not replace or be used to replace any bargaining unit staff. This will not be considered past practice for any future arbitrations or lawsuits. Additionally, the District may utilize contracted service providers for any enhanced cleaning needs, to supplement any 609-represented staff who have committed to additional work associated with enhanced cleaning needs.
4. The provisions of this MOU will be in effect until the enhanced cleaning necessitated by the pandemic is no longer needed, but no later than June 30, 2021.

5. All current FTE local 609 represented employees who commit to working extra shifts during the reopening of schools (as described in #2 above) ~~and who actually work at least sixteen (16) hours of additional cleaning work per week, on average, through the remainder of the school year,~~ shall receive a one-time bonus of one-thousand dollars (\$1000) if they meet the following criteria:-

- Employees must have committed to work at least sixteen (16) hours of additional cleaning work per week, starting April 19th and through the end of the school year.
- Employees must have committed to work whatever location they are needed at (extra work preference will still be provided to employees at their assigned location, to the extent operationally feasible).
- Employees must work the extra hours they have committed to. However, even if staff are not actually scheduled sixteen (16) or more hours of extra work each week, as long as they work the committed hours they are actually scheduled, they will still qualify for the bonus. Case by case absences approved by the supervisor will not count against the employee for purposes of receiving the bonus.
- The bonus will not be paid out until at least the end of the school year. Any missed days to due COVID 19 or OJI do not disqualify from the bonus.

5-6. This Agreement is not intended to change any other terms or conditions of the current collective bargaining agreement between the Union and the District.

This agreement made this 29th day of AprilMarch 2021.

Seattle School District Number 1

IUOE Local 609

Tom Poulos
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IUOE Local 609

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Cost Tool \$1000 Bonus

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For questions and more information about this document, please contact the following:

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This is a copy of an Excel spreadsheet explaining the breakdown of \$1000 bonus.

750	Take Up Rate Assumption		Cost - \$1,000 for 16hrs+; \$500 for 8-15.9hrs	
	16 hrs+	8-15.9hrs	16 hrs+	8-15.9hrs
Number of 609 Employees	100%		\$ 750,000	\$ -
		100%		\$ 375,000
	75%		\$ 562,500	\$ -
	50%	25%	\$ 375,000	\$ 93,750
	25%	25%	\$ 187,500	\$ 93,750
Estimate as of 3/29	35%		\$ 259,000	\$ -
Rate	16 hrs+	\$1,000		
	8-15.9hrs	\$ 500		

<u>Total</u>
\$750,000
\$375,000
\$562,500
\$468,750
\$281,250
\$259,000