

Why not “VOLUNTARY NON-BINDING ARBITRATION” to end the current strike?

I had a question posed to me by a member of our community about arbitration. That question was, “why not agree to non-binding arbitration and get the kids back in school now?” After a somewhat short conversation I thought maybe an explanation of my position was warranted. My primary opposition to the Union’s request for voluntary non-binding arbitration are the following items:

1. The request which was presented as an MOU, requested in item #3 to waive all timelines and other procedural requirements for final best offer arbitration. Maybe I just didn’t understand what is meant by this, but it seemed odd to waive procedural requirements of a process designed specifically to resolve issues such as this.
2. The MOU states, “The Parties will exchange final best offers on or before October 8, 2021 unless extended by the panel. The Parties further agree that final best offers **will not be posted for public comment.**” To me, this is a deal breaker. Act 88 has specific requirements regarding making the proposals available for public inspection and requires a public comment period where the comments go directly to the arbitrator. When you are at a point, where negotiations have failed, a strike has occurred, and no end is in sight, the negotiation is now a matter of public interest.

From Act 88 [1992 Act 88 - PA General Assembly \(state.pa.us\)](http://www.pa.gov/legislation/act88)

(g) Upon submission to the arbitrator of both parties' final best offers under subsection (a) or (b), the employer shall post, within the time limits described in subsection (d), the final best contract offers in the school entity's main office for the purpose of soliciting public comments thereon. Copies of both parties' final best offers shall be available from the school entity's main office. The cost of copies shall be established by the school entity and shall be paid by the requestor.

(h) The public comment period shall close within ten (10) days of the first day of posting. All public comments shall be directed to the arbitrators for consideration who shall provide them on request to the employer and to the employees' organization.

3. The ability to strike again – It has been stated that the union could not strike again in the spring if we agree to this. I can see nothing in Act 88 that prohibits a second strike and did not see anything in the MOU waiving the right to strike a second time. The act merely states a strike cannot occur during the non-binding process or the 10 days after receipt of the determination of the arbitrators. I would be much more supportive of entering the arbitration process early knowing that no matter what, the kids **will not** have to endure another strike in the spring.
4. When non-binding arbitration becomes mandatory the state pays 50% of the cost and the union and the district each pay 25%. Under voluntary, the costs are bore by the district and union. The extra cost is probably not a deal breaker for me, as I personally feel we are going to do mandatory arbitration regardless and simply being back in school would be worth it to me. However, when coupled with the other items above it matters.
5. Where do you go from Best - At the time the union gave its strike notice, we committed to placing our best offer on the table hoping to prevent/end the strike. I am not sure exactly where you go from there, but the arbitration process will become mandatory either way. So if you assume it is going to happen either way, sooner would be better in my opinion as long as the process is what it should be.

I could not support the union’s request for voluntary non-binding arbitration as it was submitted. That doesn’t mean I don’t support non-binding arbitration or am not willing to do it, I just think we need to follow the process as outlined in Act 88 and would want some assurance that there would not be another strike this year for me to support entering the process voluntarily.

Disclaimer: These are my thoughts and represent only that. They are not an official statement of any entity or organization.

Sincerely,

Jason Barnett