



# THE ADVOCATE

Volume 8 No. 3

A Communication for Members of the Aurora Education Association

December, 2009

## DASSC Attacks Teacher Due Process

The Denver Area School Superintendents' Council (DASSC) which includes the superintendents of the 23 Front Range school districts, recently used the opportunity of the "Race to the Top" competitive grant process to recommend changes to the Teacher Dismissal Act that they believe will promote teacher effectiveness. DASSC communicated the changes they believe should be made in teacher employment and dismissal to Lt. Governor O'Brien and Commissioner Dwight Jones. Superintendent Barry is a member of DASSC and has communicated with AEA leadership that he is in support of the contents of the letter. Below is a synopsis of the recommendations:

### Recommendations for Probationary and Continuing Contract Status of Teachers:

- Change the provisions of the Teacher Dismissal Act so that teachers are not automatically granted continuing contract status after three years. Two options were proposed:

#### Option 1

- Districts would have discretion to grant continuing status at any time after the end of a teacher's **third year** and before the end of a teacher's **seventh year** of employment.

#### Option 2

- Lengthen the period of time before continuing contracts are granted to **five years for all teachers in all school districts**. Both options would maintain the current statutory provision for non-renewal, so that a probationary teacher could be non-renewed for "any reason deemed sufficient by the superintendent."
- Change the provision that grants teachers non-probationary status after three years of continuous employment so that once teacher non-probationary status was achieved, that status would be subject to renewal every **five years**.

### Recommendations for Changes to the Teacher Dismissal Act:

- Discontinue teacher compensation while a dismissal case is moving forward from the appeal process through a hearing in front of an administrative law judge, unless the teacher wins the hearing in question and is reinstated.
- Shorten the remediation process required before teachers are recommended for dismissal, by providing a teacher notice of deficiencies and a reasonable time to improve to the point of consistent satisfactory performance.
- Shift the burden of proof at a contested dismissal hearing for performance from the school district to the individual teacher. The teacher would have to prove arbitrary or capricious behavior on behalf of the school district.
- Require the losing party in a dismissal hearing to pay hearing related expenses.
- A teacher who was not recommended for dismissal following a hearing process but placed on probation, could still be non-renewed at the end of the year at the discretion of the superintendent..

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## Teacher Due Process cont'd...

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### Recommendations for Changes to the Teacher Dismissal Act cont'd:

- Eliminate a guaranteed teaching position in the district when teachers lose their position at a particular school. Districts would be under no obligation to force place those teachers in other schools.
- Teachers could be given up to a full year including one full hiring season, to find a position in another school. If the teacher isn't successful in finding a job through the voluntary staffing process, the district would have no further obligation to continue employing that teacher even if the teacher has a continuing contract.



### Implement Professional Work Year:

- Expand teaching to a full time profession by extending the work year so there would be more time for instructing students and more time for adult learning.

### Implement an Effective Evaluation System:

- Development of a consistent evaluation system that is results based and fair and that aligns the systems used to evaluate districts, schools, and individuals.

Because the process by which a teacher can be dismissed is covered through state statute and not through our collective bargaining agreement these recommendations hold considerable significance to all licensed staff members. The recommendations are not part of any specific legislation at this time. We will be monitoring during the legislative session to see if any of these proposals become part of a bill.

The DASSC letter is posted on the AEA website. We would also like to hear your thoughts on this matter, and have set up an AEA survey for that purpose. The link to that survey is on the AEA website at ([www.auroraea.org](http://www.auroraea.org)) under News and Events at the bottom of the home page.

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## Colorado Teacher Dismissal Act

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Given everything teachers have to do, it is somewhat understandable that they rarely consider what legislative policies dictate their employment. The DASSC letter brings the need for clarification on these matters into sharp relief. Following is the language from the Colorado statute on teacher dismissal.

A teacher may be dismissed for physical or mental disability, incompetency, neglect of duty, immorality, unsatisfactory performance, insubordination, the conviction of a felony or the acceptance of a guilty plea, a plea of nolo contendere (plea of no contest in a criminal case) or a deferred sentence for a felony, or other good and just cause. Teachers may not be dismissed for temporary illness, previously approved leave of absence, or military leave.

Teachers must be given written notice of a school board recommendation for dismissal, and if the teacher objects the teacher must file written notice of the objection and a request for a hearing. Failure to file the objection within seven days of the dismissal notice waives the teacher's right to a hearing. The dismissal hearing is held before an impartial hearing officer selected by the teacher and the school district, and is open to the public unless a private hearing is requested. The decision of the hearing officer may be appealed to the Colorado Court of Appeals.

A school board may take immediate action to dismiss a teacher without a hearing when a teacher is convicted, pleads nolo contendere, or receives a deferred sentence for the crimes of enticement of a child, aggravated incest, contributing to the delinquency of a minor, incest if the child is between the ages of 10 and 18, or any crime involving child abuse, unlawful sexual behavior, or child prostitution. A teacher may also be dismissed without a hearing for a conviction involving the illegal sale of controlled substances.

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## What Every Member Should Know about Every Member Option

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Elected officials make decisions about Colorado public education and our jobs. These elected officials -- on school boards, in the Legislature, on the State Board of Education -- make decisions that directly affect each one of us who work in public education. The politicians pay attention to public education and that's why we pay attention to elected officials.

**CEA's** political action committee, The Colorado Fund for Children & Public Education, uses members' contributions called Every Member Option (EMO) so our Association members can be involved in ballot issue campaigns and make contributions to candidates we interview and recommend.

**Every** member should know how Every Member Option works. CEA members contribute \$39 (teachers) or \$18 Education Support Professionals (ESP), collected with your dues payment. This money is set aside in a separate account when it is received, and used by The Colorado Fund for Children & Public Education to help Public Education to help defeat anti-public education ballot issues; support pro-public education ballot issues; help local association's pass bond and mill levies and elect school board members; and make contributions to candidates for state elective office (State Board of Education, the Legislature, and statewide offices). The CEA EMO not help elect any federal candidate to office such as Congressional leaders or the President.

**The** only candidates we recommend are candidates who demonstrate to us that they measure up

on the education issues we care most about -- strengthening public education, maximizing student learning, ensuring children's health and safety and respecting education employees. We recommend candidates only if they complete our entire recommendation process which includes: (1) submitting a comprehensive, written questionnaire on public education issues and issues that directly affect public education employees and (2) interviewing face-to-face with local Association members.

We recommend Democrats, Republicans and Un-affiliated candidates. Our recommendation process is bipartisan and based on our issues, support for public education and educators.

**We** hope you agree that your EMO contribution is important and you want to add your contribution to those of your fellow members. But if you do not wish to do so, you can get a refund of your EMO by notifying us in writing no later than December 15.

**To** request a refund, send a written, dated request with your full name, home address, and local association name to CEA:

**Every Member Option Refund  
Colorado Education Association  
1500 Grant Street  
Denver, Colorado 80203-1800**

**When** CEA receives your request, they will verify your membership status and send a refund check. Questions about this process should be directed to Linda Lutz at 303-837-1500.

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## Nominations Open for Delegates to CEA/NEA Assemblies

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Nominations for delegates to the CEA Delegate Assembly and NEA Representative Assembly opened at the November 17th AR Council, and will close on December 15th. All Association members are eligible to be elected as delegates and are encouraged to consider placing their name in nomination.

The CEA Delegate Assembly will be held on April 22-24 at the Denver Tech Center Marriott. At this meeting over 700 delegates from around the state will debate new business items, make policy decisions for our state organization, and elect new officers. This year, delegates will elect a new CEA Secretary-Treasurer.

The NEA Representative Assembly will be held from July 1-6 in New Orleans, LA. Approximately 10,000 delegates will convene to debate new business items, resolutions and legislative issues and set the focus of our national organization. If you are interested in becoming more involved in **YOUR** association please consider placing your name in nomination for one or both of these very important meetings. A nomination form is included on the next page, and available from your building AR, or on the AEA website.



# AURORA EDUCATION ASSOCIATION

## AEA DELEGATE NOMINATIONS

**CEA DELEGATE ASSEMBLY**

**APRIL 22-24, Denver, CO**

**NEA REPRESENTATIVE ASSEMBLY**

**JULY 1-6, New Orleans, LA**

On January 11-20, 2010 the Association will conduct an election for delegates to the CEA Delegate Assembly and the NEA Representative Assembly. Any member in good standing is eligible to run for one or both of these state and national association governing bodies. The only other requirements are a willingness to give some of your time and a strong desire to represent the membership of AEA. All nominations (using the form below or during open nominations at an AR Council prior to the close of nominations) must be made and information received in our office no later than December 17, 2009 in order to have your name published on the ballot. We especially encourage minority AEA members to seek election.

### CEA DELEGATES

Delegates are elected for a one-year term. All individuals receiving votes will be rank-ordered. Delegates and alternates will be selected based on placement in that ranking. Sixteen **(16)** at-large delegates will be elected.

### CEA FUNDING

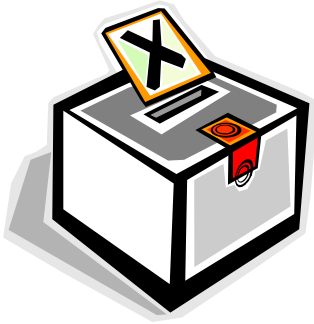
Delegate expenses incurred during attendance at Delegate Assembly will be reimbursed by AEA. AEA business leave will be arranged for elected delegates.

### NEA DELEGATES

Delegates are elected for a one-year term. All individuals receiving votes will be rank-ordered. Delegates and alternates will be selected based on placement in that ranking. Eight **(8)** at-large delegates will be elected.

### NEA FUNDING

The eight **(8)** delegates with the greatest number of votes will receive funding to defray expenses incurred during attendance at the NEA RA based on the delegate amount budgeted in the 09-10 AEA budget.



## RESPONSIBILITIES OF ALL DELEGATES

1. Attend all meetings called prior to the Assembly as well as all caucuses and sessions at the Assembly unless excused by the President of the Association. A pre-CEA Delegate Assembly meeting is scheduled for April 13, 2010, location to be determined.
2. Inform the Association Representative Council of business being presented to the Delegate Assembly and obtain the opinion of the Representative Council on these items when possible, as well as actively supporting items desired by the local membership at each Assembly.

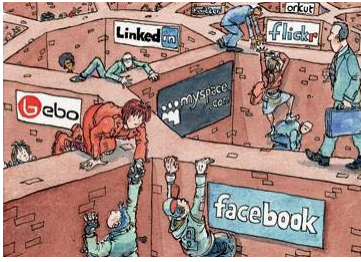
Any member interested in representing AEA, by serving as a delegate to either the CEA Delegate Assembly, or the NEA Representative Assembly, needs to complete the bottom portion of this form, and return it to the AEA office no later than Thursday, December 17, 2009. **Candidate statements must be submitted by January 5, 2010 and MUST be 50 words or less. Statements may be emailed to Laura Scott at [lscott@nea.org](mailto:lscott@nea.org).**

Name: \_\_\_\_\_ School: \_\_\_\_\_ Home Phone: \_\_\_\_\_

School Email: \_\_\_\_\_ Home Email: \_\_\_\_\_

# Social Networking Do's and Don'ts

Social networking sites allow individuals to create a “profile” about themselves that they can share with others. Profiles include personal information and interests, educational and professional information. Social networking is a great tool for multi-way communication and can help individuals organize around specific issues. Teacher use of social media should be used wisely however. Here's a quick guide to help you navigate through social networking as a public education employee.



**Don't:** Accept anyone who you do not know as a friend.

**Do:** Be aware that users can search for you by anything in your profile (your employer, university, etc.) Control who sees your page, by setting your privacy settings so only “friends” can review your information. Stay away from sites that cannot be closed to the public.



**Don't:** Join groups that may be considered unprofessional or inappropriate, and leave any such group of which you are already a member.

**Do:** Monitor comments that are posted to your page. Delete any with inappropriate language or content. Monitor your friends' Facebook photographs. If someone “tags” you in an inappropriate photograph remove the tag and ask that the photo be taken down. On Facebook, disable the Google search function.

**Don't:** Post vulgar or obscene language, materials, photos or links that may be considered inappropriate or unprofessional.

**Don't:** Post any negative information about your students, colleagues or school administrators. This includes information that can easily identify a student, team member or administrator.

**Do:** Use common sense when you're using social media.

**Don't:** Friend your students or give them access to your personal social networking site.

## Here's what you should know:

School employees with non-probationary status or “tenure” rights have far greater protection from discipline for their postings on a social networking sites than probationary employees. Even so, court rulings in favor of public education employees are becoming fewer and fewer based on First Amendment rights.



- Employees with tenure or “just cause” rights can be disciplined or discharged only if, in a due process hearing, the school district can show some legitimate reason related to conduct or competence. In the context of *off-duty conduct*, including posting on social networking sites, many courts have required a showing that such conduct has an actual adverse impact on the employee's ability to perform his/her job in order to uphold employee discipline.

- While probationary employees don't enjoy just cause protection, they may mistakenly believe that the First Amendment protects their right to post anything they want to on social networking sites. Unfortunately, school employees have limited free speech rights. Specifically, employee speech is not entitled to First Amendment protection.

- If the employee is merely speaking about matters of personal concern, e.g., social activities, partying, personal gripes, *etc.*; or
- If school officials believe that the employee's speech might **disrupt the workplace** or interfere with their job performance.

The bottom line is this.....teachers should be careful in using social networking sites. Once electronic communication of any sort is out there, it is out there.....and virtually impossible to retract or control.



# What Is/Is Not Insubordination

\*Insubordination is a term that is often used by administrators in addressing employee behavior that is inappropriate or unprofessional. It is also a term that is often misunderstood or misused. Insubordination is generally considered the wanton disregard of a directive or order of a supervisor. Management usually invokes the charge of "insubordination" in one of two kinds of situations, either an instance in which an employee is accused of refusing a direct order from a supervisor; or a confrontation between an employee and a supervisor.

\*In the case of refusing a directive by an administrator, the order should be clear and valid and the employee should have an understanding of the consequences of not following the order.

\*It can also be considered insubordination if an employee attempts to embarrass, ridicule or degrade a supervisor. A common example would be an employee who uses profane or abusive language, particularly when it may undermine the authority of management or the morale of other employees. The charge of insubordination is more likely to be

levelled if this behavior occurs in the presence of other people.

\*Sometimes teachers may be unclear when an administrator's request is a directive or simply a request. An example would be when a teacher is requested to cover a class during a plan period because there is no substitute available. In instances such as these, teachers should ask specifically whether they are being directed to do something, or if it is a request, and the



teacher has the option of making a decision whether or not to comply. \*The general rule for employees who are confronted with a work order they believe is objectionable, unfair, improper, illegal or a violation of the union contract is: "work now, grieve later." There are some exceptions to this rule however, such as when an employee has a reasonable belief that carrying out the work order will endanger the health or safety of him/herself or others.

## AEA Officers & Board Directors

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*The Aurora Education Association is the exclusive representative for all teachers full and part-time hired on contract in APS in matters involving collective negotiations with respect to wages, hours and other conditions of employment.*

*The mission of the Aurora Education Association is to empower licensed educators to advocate for students and themselves in order to provide quality education, professional excellence and economic security.*

*Our vision is to be an exemplary organization working together as powerful professionals. Through solidarity we are a collaborative and proactive Association. We are unified by our strengths and commitment to advocacy for children and to empower our members.*

*AEA is an affiliate of the Colorado Education Association and the National Education Association.*

