



# Education Support Professional (ESP) Questions and Answers

## ESP Membership

**Q:** Who is entitled to ESP Membership?

**A:** Employees who are not *required* to hold a teaching or administrative certificate but are part of the staff supporting the education of the students are ESP's. This may include para-educators, sign language interpreters, secretarial personnel, food service, custodians, transportation personnel, maintenance personnel and technicians.

## Membership within the Association

**Q:** Are ESP members of the same group as the teachers?

**A:** ESP can choose how to organize themselves. They can be a part of the teachers Association, if the teachers agree, in a wall-to-wall unit, or they can organize as a separate Association.

- **Wall-to-Wall Unit** The local Association of teachers may include bylaw wording that allows the ESP to be a member of the Association. The ESP would pay local dues, may hold office in that Association, has all the same rights as the teachers inside the local Association. The ESP would not be a part of the teacher's bargaining unit. The ESP could choose to bargain or not to bargain their own agreement as they wish. When the teachers or ESP meet as a 'bargaining unit' they meet together with their own group – teachers or ESP. They are members at the National (NEA), State (NSEA) and Local Association levels.
- The bylaw language needed to allow wall-to-wall membership is as follows:
  - Section 1. Any person actively engaged in the education profession or any person interested in advancing the cause of education shall be eligible for membership.
  - Section 2. Active Membership.
    - b) Active Educational Support Personnel: Any person who is employed or who is on a leave of absence from an educational support position (teacher aides, clerical, custodial, transportation, food service, etc.) in a school district, college or university, or other institution devoted primarily to educational work and wishing to join the Association shall be an active member.
- **Separate Association** The ESP can organize their own Association with their own charter and bylaws. They would have their own officers and operate independent of the local teachers Association in the same school.

## Member Benefits

**Q:** What benefits would ESP have access to through the Association?

**A:** ESP have access to NEA Member Benefits the same as teachers, including:

- Liability Insurance
- Leadership and bargaining trainings
- NSEA Field Staff
- Legal assistance in accordance with the NSEA Legal services policy
- Significantly discounted car and home owners insurance as well as other savings resulting from discounts provided by various retailers to our members through member (ACCESS) cards.

## **Job Protection**

**Q:** Do ESP have the same job protection rights as teachers?

**A:** No. Only certificated school employees have guaranteed due process through state statutes. Job protection for ESP employees will have to be gained through bargaining or legislative action. NSEA has proposed dismissal rights legislation and continues to lobby job protection rights for ESP employees.

**Q:** What statutory and constitutional rights do ESP have, relating to unfair dismissal, reprimand or suspension?

**A:** Because ESP are considered 'at-will' employees, they do not have any specific statutory job security. Job security rights would have to be established either through negotiated agreements or legislation. ESP do have rights found via constitutional prohibitions/rights or statutory constraints. For example, they can not be discriminated against based on race, creed, or marital status. There are other protections provided via Fair Labor Standards Act. How overtime pay is handled is one item addressed in the Fair Labor Standards Act.

## **Association Dues**

**Q:** How are ESP dues determined?

**A:** ESP dues are proportional to the salary they earn. The local dues are determined locally.

## **NSEA Success in Advocating for ESP**

**Q:** What success has NSEA had in advocating for ESP issues?

**A:** There is a growing list of successes for local ESP members in Nebraska. Some examples include:

- ESP were being discriminated against based on marital status in receiving fringe benefits. The practice was stopped and all members received the same benefits.
- An ESP was required to clock out to show she had a 30 minute lunch break but was required to work during that period. The practice was stopped.
- Several ESP were required to work extra hours but were not being paid. The practice was stopped and the ESP were paid for all hours worked.
- An ESP had an agreement relating to job assignment that had not been followed through on. Information and documentation was gathered and presented to the Superintendent. The ESP was given the job earlier agreed upon.
- Informal negotiations resulted in ESP member receiving fund for health insurance.
- Formal negotiations resulted in a three-year contract for Arlington ESP.
- A Northeast NE group of ESPs gained recognition and the right to bargain a contract directly with the Board of Education.
- An ESP was being dismissed until the Field Staff went to a meeting with the Superintendent to clarify concerns. The ESP kept their job.
- When ESP hours were cut, collectively, with the help of their NSEA field staff, they went to the school board and received pay increases equal to the loss due to cuts in hours.

These are just some examples of ESP having their rights preserved that are given to them under law, as well as many examples of ESP being treated more fairly due to the strength and unity provided to them as a member being represented by the NSEA.