

Collective Bargaining for School Committees

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OUR OVERVIEW

- The Legal Framework
- Bargaining Approaches – Traditional v. Interest-Based Bargaining
- Preparations for Bargaining
- Ground Rules
- Basic Bargaining Strategies
- A More Advanced Approach
- How Do we Do This and How Do We Do It Well?

THE LEGAL FRAMEWORK

Massachusetts General Laws Chapter 150E authorizes eligible public employees to organize and form, join or assist any employee organization for the purpose of bargaining collectively on questions of wages, hours, and other terms and conditions of employment.

It protects employees who engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection, free from interference, restraint or coercion.

It also protects an employee's right to refrain from such activities.

THE LEGAL FRAMEWORK

The School Committee is the exclusive bargaining representative.

THE LEGAL FRAMEWORK

- Bargaining
- Mediation
- Fact-finding
- More Bargaining
- Impasse

THE LEGAL FRAMEWORK

What does it mean to fail to bargain in good faith?

- Refuse to negotiate
- Surface bargaining
- Regressive bargaining
- Failure to provide information
- Unilateral changes
- Lack of sufficient authority to bargain effectively

THE LEGAL FRAMEWORK

Over what subjects does an employer have to bargain?

- Mandatory subjects
- Permissive subjects
- Illegal subjects

THE LEGAL FRAMEWORK

What leverage do unions have to get more?

- Political tactics
- Picketing/communications to parents/citizens
- No strike or withholding of required services
- Binding arbitration is not mandatory (or recommended)

TRADITIONAL V. INTEREST-BASED BARGAINING

Traditional Bargaining

- Position-based
- Generally more contentious
- Can put desired outcome before problem to be “solved”
- Can have detrimental impact on relationship
- Can make trade-offs/packages
- May be quicker to resolution if not contentious

TRADITIONAL V. INTEREST-BASED BARGAINING

Interest-Based Bargaining

- Identify issue
- Discussion of interests/concerns
- Collaboratively identify potential solutions
- Evaluate options
- Consensus-based decision-making
- Can be effective in building trust
- Typically takes more time
- No/limited caucuses allowed

PREPARATIONS FOR BARGAINING

- Review CBAs and issues that have come up since the last round of negotiations
- Input from administrators
- Evaluate financial means
- Evaluate finances and concerns as compared to market as appropriate
- Draft proposals (if using traditional approach)
- Decide who will represent the District
- Obtain input from counsel (CBA review; legal guidance)

GROUND RULES

- Size and membership of bargaining team
- Who may be present other than bargaining team (Experts, etc.)
- When and where will meetings be held
- When may caucuses be held
- Length of sessions
- Cancellation of sessions
- Limitations on proposals (by number or timing)
- Public comments
- All tentative agreements are subject to final package
- Ratification

GROUND RULES

Additional Items for Interest-Based Bargaining

- Consensus-based decision-making
- Goal for completion of negotiations
- Schedule for negotiations (and food)
- Bargaining history
- Information sharing
- Expectations for decorum
- What happens if no resolution is reached?

BASIC BARGAINING STRATEGIES

- Draft “aggressive” proposals and counterproposals
- Match the non-sense on economics
- Responding with a “no” or “hold” always gives you more time to evaluate the proposal
- Try to identify union’s true “wants” and don’t accept them even if you can until necessary to close the deal
- Avoid “regressive” responses

A MORE ADVANCED APPROACH

- Have a long-term plan to obtain stronger management protections and more financially sustainable contract
- Establish short-term goals by understanding the value of what you are seeking and current bargaining conditions

A MORE ADVANCED APPROACH

- Leverage favorable provisions in existing contracts to develop a more favorable “pattern” on an issue-by-issue basis.
- Identify units that will reach agreement and allow you to establish patterns, particularly on wages
- Understand economics in town/region

HOW DO WE DO THIS AND HOW DO WE DO IT WELL?

- Drill down on issues to understand their implication
- Be sure to be clear, concise and precise with your language
- Develop clear bargaining history
- Avoid terms that have an evolving and unclear meaning – “practice”, “current”, “future”

How Do We Do This AND How Do We Do It WELL?

- Use package proposals to bring negotiations to closure
- Use “Off-the-Record” proposals if necessary
- Use back channel communications deliberately, but carefully
- Never be afraid to walk away from the table or push the process to the next level

How Do We Do This AND How Do We Do It WELL?

- Use draft MOA/CBAs strategically and control drafts of language
- Communicate with superintendent and school committee and, as appropriate, other influencers (e.g., mayor, town manager, administrators)



QUESTIONS?

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