

Interest Based Bargaining Basics

Presented by

Elizabeth B. Valerio, Esq.

Deutsch Williams Brooks DeRensis & Holland, P.C.
Boston, MA

November 2, 2016

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The Usual Disclaimer

*The contents of this presentation
are for informational purposes only
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Brief Overview of Public Sector Collective Bargaining

MGL c. 150E

Management Rights And Areas
Not Subject to Decision Bargaining

- Core Managerial Rights
 - Decision to reorganize
 - Decision to abolish a position
 - Minimum manning
 - Curriculum decisions
 - Level of service decisions
 - Superintendent's authority to appoint teachers and supervisors

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DECISION and/or IMPACT BARGAINING

- | | |
|--|---|
| <ul style="list-style-type: none">• Decision & Impact Bargaining:<ul style="list-style-type: none">• Changes in mandatory subjects of bargaining within management's control | <ul style="list-style-type: none">• Impact Bargaining Only:<ul style="list-style-type: none">• Impacts regarding changes outside of management's control• Impacts regarding decisions by management regarding non-mandatory subjects of bargaining |
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Satisfying Your Bargaining Obligations

- Successor Bargaining
 - Negotiate to agreement or impasse
- Impasse:
 - Mediation
 - Fact Finding (*not Arbitration*)
 - Negotiation over Fact Finder's report resulting in either Agreement or Impasse.
 - If impasse is reached, the school committee implements its Last Best On-The-Record Offer

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Preparation for Collective Bargaining

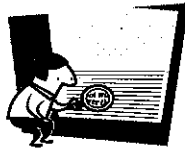
- Review the current collective bargaining agreements for *all* bargaining units in the district.



[13]

Preparation for Collective Bargaining

- Review unfair labor practice charges filed during the prior contract term.
- Review grievances and arbitrations from the prior contract term.



[14]

Preparation for Collective Bargaining

- Determine the data that is needed
- Collect data (often done in IBB by a joint management-labor sub-committee)



[15]

Preparation for Collective Bargaining

Select a bargaining team and engage labor counsel. (No quorum of the Committee at the table!)



(19)

IBB Training & Facilitation

- Active listening skills
- Conflict resolution skills
- Participation by all members
- Teamwork and consensus building

(20)

Establish Ground Rules

Include the following:

- All statements are "unofficial" and cannot be attributed to either party as bargaining history.
- All agreements are tentative subject to final agreement being reached on an entire package.
- The final agreement is subject to ratification by the union membership and approval by the school committee.

(21)

IBB Process

- Identify the issues
- Discuss interests related to each issue
- Determine the standards by which the options will be measured
- Identify options
- Evaluate options against established standards
- Develop/determine a solution(s) by consensus

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Practice Note:

- Consider limiting the number of issues
- Prioritize issues

[26]

Interests

- Express as a question
- Explain the problem or interest

[27]

THE HYBRID

Remember: The parties do not have to use all IBB or no IBB.

Even when the parties are using a traditional bargaining format, they may use IBB techniques to address certain issues.

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Interest Based Bargaining Basics

Q & A

Elizabeth B. Valerio, Esq.
evalerio@dwbboston.com

(32)

September 28, 2016

Tom Johnson-Labor Management History (TJohn76051@aol.com)

1. Negotiating team Member (management side) over a dozen Unit A/Unit B contracts.
2. CPO- Three school districts- 21 years¹
3. Former Licensed AAA labor Arbitrator
4. Has been a fact finder and mediator.
5. Former liaison (NBPTS) to Teacher Union reform Network (TURN)
6. Developed new teacher evaluation systems in MA/FL
7. Worked with several DOEs on labor, evaluation systems and collective bargaining issues²
8. Organized and directed a union-management "Shared Decision-Making " model (FL)³
9. Consultant to state wide NEA "Model Language" project (New evaluation system)
10. Analyzed over 100 CB contracts for MA DOE (Readiness Schools Project)
11. Analyzed CB contracts for sample language (Benefits-Sick Leave/etc.) for EQA (MA)
12. Served in both union and management roles.
13. Served as a school district HR/PD school district "examiner" for MA DESE- 14 years.⁴
14. Academically Trained in OD/OB and author of their use in school systems.⁵
15. Trained in Behavioral change Strategies⁶
16. Analyzed HR/PD and Leadership Governance in Urban/Suburban/Rural/Regional/and Vocational settings
17. Independent HR auditor in organizations and school districts in several states⁷
18. Former Liaison for NBPTS to Several National Organizations⁸
19. Has experienced management roles in Arbitrations/Mediation and State Hearings regarding disciplining employees.
20. Initiated and Chaired a "Professional standards Committee" that processed complaints against employees.⁹
21. Established a "Progressive Discipline" scenario that achieved a union-management balance¹⁰

¹ Cambridge/Needham (MA); Broward County (FL)

² MA/FL/WI

³ Broward County School Board (3 year project)

⁴ In that role he has written scores of "Strengths/Challenges/Findings and Recommendations on HR/PD operations.

⁵ Boston College/ Harvard Business School/Harvard School of education

⁶ Stanford University

⁷ MA/RI/FL/AL/NC/WI/CA/CT.

⁸ NEA/College Board/Annenberg superintendents/NBPTS/Various State union and management groups (NY/NJ/PA/VA/DC/FL)

⁹ Broward County, FL (25000 employees-13,000 teachers) Fifth Largest district in the US.

¹⁰ Broward County School district- processed over 700 complaints (1985-1996)

IBB – Reflections from an experienced Human Resource Practitioner.

Positive

1. The IBB approach is an attractive alternative to traditional Collective Bargaining rituals (CB)
2. It has the potential of carving out CB language that positively influences services to students.
3. It requires an independent process consultant to mediate/assist/clarify and align CB with IBB requirements.
4. It has the potential of promoting long term positive CB influences by reducing the influences of traditional "Positional Bargaining" influences.
5. It is referred to as "Mutual Gains Bargaining" by some advocates.
6. It has its own developmental series of steps that both parties must agree to adhere to make the process work.
7. Parties may carve out certain CB language that connects to student influences that can benefit from IBB. (E.G. effects of the MA model language on student performance,

Challenges

1. It is personality dependent for it to work
2. Union Negotiating teams and Management Representatives may find it too time consuming.
3. Although adopted by the two sides, it may be rejected by successive role incumbents on either side of the table.
4. It is time-consuming to follow the sequences of the IBB protocol.
5. The operating history in a school district and the political culture of labor management relations may be too strong in its traditional approaches to CB, to have IBB sustain itself over time.
6. There may be influences outside of the district that mitigate against identifying CB topics for IBB (E.G. DDM use in Teacher Evaluations)
7. There currently is no available anthology of case studies or CB contracts offering testimony as to how and where IBB has worked, and how long it survives in school district CB contracts

Tom Johnson- TJohn76051@aol.com

Center for American Progress - Report

The experiences of these six districts demonstrate how collaboration between teacher's unions and administration can be created and sustained over time to improve teaching quality and student performance. Based on the results of this study we offer the following conclusions and recommendations for local unions and districts seeking to engage in collaborative approaches to school reform and improvement:

- **Systems.** Education reform and improvement must be seen as a systems problem.
- **Formal structures.** Shared decision-making in school improvement must take place at both the district-level as well in the schools themselves.
- **Quality.** Successful union-management collaboration in public school reform must focus on substantive areas affecting the quality of teaching or student achievement.
- **Networks.** The development of peer-to-peer networks for improving teaching provides teachers with better skills, but also with a social network that can continue to support them and the ongoing exchange of ideas and techniques necessary to increase instructional quality.
- **Culture.** In addition to formal structures at the district and school level, districts must develop strong cultures of collaboration that inform approaches to planning and decision-making, as well as hiring decisions by school boards and superintendents.
- **Learning organizations.** Shared learning opportunities are critical to building and sustaining long-term collaboration.
- **Stability.** The longevity of all of these cases has benefited from the long-term tenure of union leaders, superintendents, or both.
- **Board of education.** Collaborative systems and management styles require the full support of school boards.
- **National union.** Districts and local unions can benefit greatly from the technical assistance, support, training, and resources available from their unions at both the national and state levels.

September 24, 2016-Author- Tom Johnson-TJohn76051@aol.com

Thoughts on IBB

These are titles of Books that have influenced my administrative practice as a long term school district HR Executive and which promote Leadership and Management behaviors in both union and management personnel conducive to developing high levels of trust among the two factions. Trust is the lifeblood of labor management collaboration, the essence of IBB.

For the curious Administrator interested in how style creates trust, I suggest the following texts that can provide research-based strategies to bring union/management closed enough to use IBB.

Some may be out of print but will be available through university library systems.

1. "The Human side of Enterprise"- Douglas McGregor
2. "Flawless Consulting" Peter Block
3. "Stewardship" Peter Block
4. "Change Forces" Michael Fullan (Especially Chapter four)
5. "Organizational Diagnosis" Harry Levinson
6. "Reframing Organizations" Terry Deal and Lee Bolman
7. "The Great Jackass Fallacy" Harry Levinson
8. "Theory and Practice" Chris Argyris and Donald Schoen
9. "The Reflective Practitioner" Donald Schoen
10. "Getting To Yes" Ury and Fischer
11. "The Heart Aroused" David Wyte
12. "Why Managers Cannot Learn" Wilford Drath
13. Other influential writers are - Peter Drucker; Abe Zalesnic; Karen Stephenson; Warren Bennis/St Thomas Aquinas (Ethics)/IBB Publications from the "Rennie Center" (Harvard)

There are common themes throughout.

1. Successful Organizational Cultures are built over time through thoughtful repetition and purposeful alignment with mission/purpose.
2. Organizational cultures can only be changed when various current role incumbents wish them to change and act out in new ways as they face traditional challenges.
3. When role incumbents compete to win for their constituencies, cultures become fragmented as to values, purpose and outcomes. In school districts, when this occurs, student services often suffer as "win/lose" exchanges emerge.
4. "Management" is different than "Leadership"¹
5. Awareness is the first step in organizational (and personal) change.²
6. Collaboration brings outcomes quicker and more effective than competition.
7. Organizational history tends to dominate patterns of doing things in school districts³.

¹ Managers do things right- Leaders do the right thing- Warren Bennis

² Al Bandura- Stanford University- 1970

³ Often seen in labor/management history

8. An organization's history of Labor Management relations tends to dominate how the two parties act and react toward each other.
9. Creating new organizational cultures occurs best with labor-management collaboration around shared values followed by specific plans and assessments co-implemented of the effects of these values and strategies in plans shaped and supervised by the two parties in joint committees.
10. Organizational changes often require outside assistance⁴ as each stage of change occurs to provide feedback, mediation and advice to both parties. The road map is the plan. The independent outsider is the traffic control person. The participants are the drivers of planned change⁵.
11. The threshold of an IBB potential in a labor management environment begins when each party enters the conversations about their mission dependent wants and needs by listening to each other and brainstorming together about ways that their interests and common values can be met in solutions to everyday issues.⁶ These then get folded into formal negotiations for mutual benefit.

In my experience, Interest based bargaining can best occur when there is high trust of the district administration by the union leadership and high trust of the union leadership toward the administration. This is the first step however. Trust cannot be mandated. It evolves over time through a process of in-vivo testing and mutually benefitting outcomes around significant workplace topics. It is also dependent on leadership stability in both union and management.

Trust occurs in a mutually controlled environment of Honesty, Ethics, Collaboration, and Dependency, in a transparent working environment.

The best way to determine levels of trust is for the district to do a 360 degree assessment supervised by the two parties (Union/Management)⁷, using theoretical frameworks from the above literature to assess whether the level of trust in the district is sufficient to attempt IBB. The district should use an independent consultant to conduct the assessment and feed the results back to both parties.

Strategy: Bring high levels of administrators from both union and management together for a series of shared PD experience, a "Text Based" discussion of any (or all) of the above texts⁸. Offer in-service or university credits as a final strategic plan to begin IBB is developed by the group from their readings and discussions. Each session should have a recorder and a reflector. Develop the 360 assessment document. Use it as a jumping off point for IBB topics.

Adopt the framework developed by the group and experiment with it. Track built-in inhibitors that prevent full IBB implementation. Adopt practices that promote shared values. Build new sections into contract language and into policy.⁹

⁴ "Homeostatic Anchors to Change" Levinson- "The Exceptional Executive" Chapter 13

⁵ "The Culture of The School and The Problem of Change" Seymour Sarason-1968

⁶ Telephone Interview with NEA board member who developed a sustainable IBB culture in MD.-2016

⁷ And assisted by an experienced and credible third party- mutually agreed upon.

⁸ Developed by the Annenberg Institute for School reform- Brown University RI

⁹ School Committee policies can be developed (See Preamble) to put shared values into writing.