

MOVING TOWARDS AGREEMENT ON BOARD GOALS*

Every fall, approximately one-third of New Jersey's school boards face a new round of negotiations and begin their preparation by setting their bargaining goals. Too frequently, this process is marked by a degree of fear and trepidation as well as a sense of futility. These attitudes are generally related to board members' memories and perceptions of past negotiations. They remember the many hours, the unpleasant difficulties associated with reaching an agreement and their disappointment with the final settlement. In fact, many board members believe that, in spite of their past commitment to obtain negotiated changes, they gave much more than they gained and ultimately failed to achieve the goals they had envisioned. Many believe that their inability to obtain their desired changes is due directly to a bargaining process that inherently favors the union.

While there may be a large kernel of truth to these perceptions, boards cannot avoid their legal obligation to negotiate in good faith over their unionized employees' terms and conditions of employment. Therefore, boards' preparation for successful bargaining must focus on how to best approach the required process to obtain a settlement that best meets the district's needs. This task means that boards must set bargaining goals that are achievable, within the realistic constraints of the collective negotiations process.

The Realities of The Bargaining Process

In setting bargaining goals, it is important to remember that negotiations is a bilateral decision-making process that inherently limits the board's ability to unilaterally establish terms and conditions of employment. Yet, the joint decision-making also limits the union's ability to unilaterally "call the shots." In other words, a settlement requires both parties' agreement. Thus, a negotiated contract represents a mutually acceptable compromise and both parties' concessions on their initial positions.

This is one of the reasons that each set of negotiations is marked by slow, and sometimes tortuous, movement from stated positions. Modifying initial and interim positions to eventually reach agreement takes time, as each party is reluctant to give more than is necessary. Thus, the best strategy in each round of bargaining is to deliberately pace concessions to move slowly and incrementally.

A "slow and incremental movement" pace is also a factor in successive rounds of negotiations. Bargaining is essentially a conservative process, as changes in the *status quo* or in negotiated provisions, unless mandated by law, do not occur rapidly. Changes that involve concessions in a well-established or valued union benefit are particularly difficult to obtain in one set of negotiations and significant changes may take several successive rounds of negotiations. A board decreases its chance of achieving its goals if it ignores the slow and incremental nature of collective bargaining and is unaware of the importance the union attaches to maintaining the *status quo*. However, a board that sets its goals in full recognition and acceptance of the realities of the process will increase its chances of achieving its desired changes.

The Importance of Short-Term and Long Range Goals

Recognizing the difficulties of achieving major changes within the constraints of a basically conservative process leads to an understanding of the need to set short-term as well as long range goals. Consider, for example, the dilemma of a board that has had a great deal of difficulty in attracting qualified new teachers. Not only has there been a scarcity of applicants for certain positions, but the best qualified have turned down offers of employment because of the district's relatively low starting salaries. However, the board's ability to offer higher salaries is totally limited by the contractual provision which requires that initial placement on the guide be directly related to years of teaching experience. The board correctly identified the need for a negotiated change that would

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restore the board's full discretion in placing new hires on the salary guide. Given the realities of bargaining, do you think the board could achieve this drastic departure from the current practice in one round of bargaining? Probably not.

The board's desired change is likely to be rejected by the union because it represents a complete reversal of the status quo. However, the board is likely to be more successful in achieving a series of small changes that, while falling short of the ultimate goal, nevertheless provide the board with some degree of new and additional discretion. Thus, a board's likelihood of success is increased if it establishes both a short-term and a long-term goal. In this particular scenario, the board's long-term goal would be to obtain full board discretion in initial placement; its short-term goal (what can be achieved in this round of negotiations) would be a more modest change that would, nevertheless, give the board a greater degree of flexibility in compensating new hires and improve its ability to attract new staff. Then, in successor negotiations, the board could slowly and incrementally build upon its new small, but helpful, achievement to move through a number of contracts to eventually gain its long-term goal.

Your union has used the "short and long-term" approach with great success over many years. Your employees' generous compensation and insurance packages were not obtained in one round of negotiations, but came from the union's persistent, long-term commitment and attention to improve its members' status in every round of bargaining. In that process, accepting what is realistically possible in one round of negotiations helps to set the stage for future gains.

Some board members may believe that setting short-term goals would be detrimental to the board's ability to obtain the significant change it wants. It is true that the achievement of short-term goals may not lead to a perfect and ideal change desired by the board. However, it nevertheless improves the board's contractual authority to act and, as such, is far preferable to perpetuating the full limitations imposed by the old agreement. So, as your board prepares its bargaining goals, it will be worthwhile to remember the old cliché: Rome was not built in a day.

Achieving Realistic Goals

Approaching negotiations with an understanding of the importance of slow and incremental movement in successive rounds of negotiations assists boards to develop realistic, achievable bargaining goals. Realistic goals can be achieved by:

Clearly identifying the board's real and immediate needs In the example given above, the board would really like to have full discretion in the initial placement of all new hires. However, the board's real and immediate need is to replace its complete lack of discretion in initial placement on the guide with a degree of flexibility that

permits it to hire qualified staff, particularly in areas of staff shortage. Of course, the board would really like to have as much discretion as possible, but its immediate need is to attain greater flexibility to hire a certain group of teachers. Any change, no matter how small, that would result in an improved position for the board at this time would be far better than the conditions created by the current contractual restriction. Taking a small, slow gain leads to getting a "foot in the door"; the door may be pushed further in successive negotiations.

Assessing the importance of the change A board goal can generally be achieved—if the board is willing to pay whatever it takes to get what it wants. For example, in the preceding example, the union would probably raise little objection to the board's desired flexibility, *if* the board were willing to raise all current teachers' salaries to match (or exceed) the additional compensation given to new hires. In setting achievable goals, the board must therefore determine the importance of achieving the full flexibility it wants versus the acceptability of greater, but still limited, discretion that it needs. The board must also consider the advisability of paying a possibly large price for what it does not really need as well as the short and long-term implications of this approach. The board must also assess its commitment to the change, its willingness to hold up a settlement to obtain its ideal solution as well as its ability to remain united if this unresolved issue leads to a long and pressured-filled labor conflict.

Using proposals and counterproposals effectively Effective bargaining, including the skillful use of slow and incremental movement, is essential in a board's ability to maximize the goals it can achieve. As negotiations are based on compromises, and the union's point of acceptability is unknown, a board is best served by introducing lofty initial proposals that far exceed its real needs. In our example, the board's initial bargaining proposal should express its ultimate desire to regain full control of initial placement on the guide. The union's reaction to that first proposal can then guide the board's negotiator, at the appropriate time, to slowly begin to modify the "extreme" change.

For example, the union may reject the proposed change on the basis that uncontrolled placement on the guide for new hires would be unfair to experienced, senior staff members who then may be paid less than a new employee. Under these circumstances, the board could offer a modified proposal, or counterproposal, such as: "Initial placement on the guide may exceed a new employee's years of teaching experience, but shall not exceed five years of additional credit."

The board should develop a series of solutions that would constitute an acceptable improvement in the current agreement. This series can range from the board's initial proposal to the board's "bottom line" for this round of negotiations: to obtain some form of flexibility to the guide placement only (at this time) for new hires in areas of teacher shortages. The board negotiator's slow and

incremental movement towards the board's bottom line may well result in a union agreement that will provide the board with even more flexibility than it hoped to achieve in these negotiations.

Responding to the union's reaction to the board's proposal. Any board proposal to change the current agreement will most likely be perceived by the union as a "give back" of an existing union advantage. It is therefore extremely important to listen carefully to the union's reaction. The board can then eventually and, whenever possible, incorporate language which will meet the objections without damaging the board's goal to address its current needs. For example, in our scenario, the union's concern about equity for existing staff may be accommodated by providing additional benefits, other than increased salaries for current staff. If administratively feasible, the board could consider agreement to a rotating schedule that permits current staff to leave with the students on Fridays or other selected days. Ignoring the union's reaction to a "give back" proposal will simply kill the board proposal; however, considering and, whenever possible, accommodating the union's needs may, in the total context of negotiations, lead to a degree of success for the board proposal.

Assessing the union's response Too often, boards are too quick to believe and accept unions' rejection of board proposals. Saying "No" is a favorite, often used union bargaining tactic designed to wear down boards to the point that they will abandon their pursuit of board proposals. Don't give up. Don't even modify your proposals to meet an important district need, until you are absolutely convinced that the union's objections and its stated problems with your issue are real and need to be considered and accommodated to reach a mutually acceptable settlement.

Thinking creatively Understanding the board's problem and its real need, as well as the union's reaction, can possibly lead to a creative solution. The board's need for initial placement flexibility and the union's unrelenting

opposition to advanced placement on the guide could, for example, possibly be resolved by a proposal to give the board the flexibility to grant off-guide payments. Certain new teachers, for example, who meet the district's criteria and fulfill the district needs, or are certified to teach in certain difficult-to-fill categories, could be, at the board's discretion, given an off-guide bonus. Boards' brainstorming in executive sessions or in caucuses may result in the discovery of creative and possibly productive new approaches. However, it is imperative that boards consult with their administrators and their labor relations resources to assess the short and long range implications of these possibilities before they bring their ideas to the bargaining table.

Keeping track of board goals Negotiations can be a protracted process and much time can elapse from the time the board has set its goals to the point of agreement. In this drawn-out time frame, boards must remember both their identified short-term and long-term goals. They must remember that their initial proposals were drafted to provide room for movement and compromise and cannot confuse these proposals with their basic, bottom-line short-term goal. Similarly, boards must also remember that their short-term goals were designed as building blocks and basic cornerstones for subsequent progressive improvements in future negotiations. Achieving that goal means that future boards must continue to raise board proposals that can build upon and expand the objectives gained through prior negotiations. To that end, current boards must create and maintain a file on negotiations, which will permit future boards to continue the pursuit of realistic, achievable improvements in contractual provisions that benefit the administration and operation of their districts.

A board that recognizes the slow and incremental movement of negotiations and develops realistic bargaining objectives can successfully move towards agreement on board goals in this, and successive, rounds of negotiations.