



## PREPARING FOR BARGAINING: A Plan

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Successful bargaining begins months before the parties meet at the bargaining table. An understanding of the process, the parties and the issues, the development of goals, parameters, and initial positions, are crucial underpinnings to effective negotiations. To wait until the onset of bargaining to address these issues can complicate an already difficult and time-consuming process and can be most detrimental to the board of education. An uninformed negotiating team can make potentially serious mistakes during the early stages of bargaining; a lack of preparation can lead to a loss of bargaining power and credibility which may be difficult, if not impossible, to recoup. Boards of education are therefore well-served to prepare themselves and their negotiating team well ahead of the first negotiating session.

### Elements of Preparation

The first consideration in planning your preparation is to identify all phases of the process which will need to be addressed to ensure your readiness to negotiate. The most typical considerations include:

**Selection of the Negotiating Team** Which eligible board members will represent the Board at the bargaining table?<sup>1</sup> What characteristics are important for the negotiating team? Certainly interest, patience, availability are important considerations. For a full discussion of the board team and its selection, see Chapter 4 of *Collective Negotiations* (NJSBA, School Board Library Series, Vol. 5, 1983) and “A Board Policy on Negotiations” article in this section of *The Negotiations Advisor*.

**Selection of the Board’s Chief Spokesperson** Will the Board represent itself or seek a professional negotiator? Does the Board wish to continue its traditional approach to representation or is that in need of reassessment? Are there qualified, experienced board members who are available, and willing, to undertake this time-consuming task or should the Board consider a professional negotiator? (For more information, see “The Use of Professional Negotiators” in another section of *The Negotiations Advisor*.) If the Board has previously relied on professional assistance, should they so continue and should they retain the same individual?

The selection of a chief spokesperson can be a difficult and time-consuming process. However, mechanically following tradition without assessing the implications, reappointing the same board member who has “done it for years” simply to avoid hurt feelings, or appointing someone new on the basis of internal politics rather than expertise and experience, is not in the Board’s best interest.

**Training of Team Members** Understanding the process of negotiations and keeping abreast of bargaining trends and changes in the bargaining law are significant components of preparing for bargaining. Collective negotiations has been described as a “game”; but it is a serious game which holds significant implications for the district and the Board’s players should therefore know, understand, and be able to apply the rules of the game.

Training is essential for all boards’ negotiating teams. Teams headed by board members need a basic understanding of the process, of the tactics and strategies they can use, and the ability to recognize the union’s use of bargaining techniques; experience in private sector bargaining is helpful at the school’s bargaining table, but is not sufficient to prepare the team for the unique rules of the public sector process. Teams headed by professional negotiators benefit from their own understanding of the dynamics of negotiations; training improves their ability to observe the movement of the process and their effectiveness in reporting the progress of negotiations to the full board. Therefore, the Board’s negotiations obligation involves a commitment to provide training for its negotiations team.

The NJSBA presents a series of annual training programs for board members. Preparing for Bargaining, Intermediate Bargaining and Advanced Bargaining, held in the fall of each year, can provide team members with skills necessary to represent their boards. In addition, a series of publications are available. Please consult the article on “Resources for Bargaining” elsewhere in *The Negotiations Advisor*, the annual NJSBA’s Board Member Academy Course Catalog, or call the Labor Relations Department for further information.

**Training for the Board** Although the actual task of face-to-face bargaining is delegated to a committee of the

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<sup>1</sup>The School Ethics Commission has issued a number of decisions and opinions concerning which board members and administrators may not participate in negotiations. For a summary of these holdings, please see the “Labor Relations Issue Summary: Opinions of the School Ethics Commission Affecting Negotiations” in the References section of this publication.

board, negotiations is the responsibility of the full board. All board members who can participate in negotiations<sup>2</sup> are involved in setting parameters, reassessing parameters and, ultimately, in ratifying the agreement. A well-informed board, whose expectations for the process is realistic and who understands the differentiated functions of the board and the bargaining team, is well prepared to meet its responsibility. A knowledgeable bargaining team, the board's professional negotiator, as well as the NJSBA Labor Relations staff are resources that can assist the full board to understand and to meet its role in negotiations.

**Analyzing the Current Agreement** Negotiations of successor agreements are based upon the provisions of the current agreement as both parties attempt to improve their existing position. Before boards can begin to prepare their bargaining goals, parameters and proposals, they must assess their current situation under the contract. This involves an analysis of the contract, by both administrators and board members, and a review of the district's experience under the contract.

The language of the contract should be analyzed for its legality, clarity, and its ability to meet the district's needs. For additional information concerning this important task consult the Selected Contract Clauses section of *The Negotiations Advisor*.

The district's experience under the contract's provisions can be obtained from administrative input. Your administrators' records of grievances arising under the present contract can highlight the problem areas; additionally, your administrators can provide you with insight as to provisions which created problems which did not rise to the level of a formal grievance as well as to those provisions which, while not causing problems with the union, were most difficult to administer. For a more detailed discussion of the role of administrators in negotiations, please see the article on that topic in this section of *The Negotiations Advisor*.

An analysis of the current agreement is not complete without an analysis of the salary guide. An assessment of the structure of the expiring salary guide is an important aspect of preparing for bargaining. For a detailed discussion of guide analysis, please turn to the Salary Guides section of *The Negotiations Advisor*.

**Costing Out the Current Agreement** Since the current contract will become the base of the next round of negotiations, it will be important to identify the cost of employment under the existing agreement. This task will include costing out the salary guide. This involves constructing a scattergram, which represents your staff's distribution on the guide, and calculating the total paid to unit employees, including longevity. This total amount paid in salaries becomes your "salary base" which will form the basis for your future increases. As such, it is important that an agreement as to district's salary base be

reached with the union early on in negotiations. A failure of the parties to reach an early and mutual understanding of the salary base can lead to completely divergent assumptions that will ultimately complicate the ability to reach a settlement.

Costing out the agreement also requires calculating the cost of all negotiated forms of compensation (such as extracurricular stipends) and contractual benefits as well as analyzing employees' utilization of benefits available under specific situations, such as sick leave, temporary leaves and tuition reimbursement.

The NJSBA publication *Costing Out the Labor Agreement* can offer guidance and direction to your costing activity. Costing is a time consuming part of preparing for negotiations but it is essential to informed negotiations. A determination of your contractual costs provides you with the necessary base to anticipate the cost of future agreements, to defend your position or opposition on any economic issue, and to know the total cost of the proposed contract before you agree to it.

**Comparative Data Analysis** The importance of comparability data to public sector negotiations cannot be overemphasized. Whether or not we understand or agree with its role in determining bargaining expectations is irrelevant to thorough preparation—comparisons will be made by the union and the mediator, and boards should be prepared to respond knowledgeably and intelligently. Furthermore, an analysis of comparative data permits the board to anticipate union proposals and to prepare its position on the issues most likely to be raised by the Association.

Comparative data analysis can only be helpful to the board if it is based on truly comparable items. For a complete discussion of valid comparative analysis, please see "The Pitfalls of Comparability Research" in this section of *The Negotiations Advisor*.

**Determining Bargaining Goals and Priorities** An analysis of contractual provisions and of comparative data can demonstrate where the board is as a result of prior negotiations. This information can be used to determine where the board would rather be. For example, a board may wish that it could schedule six instructional periods rather than the five currently allowed by the contract or that its starting salaries were more competitive. The board's "wish list," its desire to change the *status quo*, can provide direction to its negotiating effort if these become expressed as bargaining goals.

The ability of the board to "get" something out of negotiations, rather than to simply "give," is dependent upon the establishment of goals. If a board enters negotiations without a sense of what it wants, it is likely to get nothing out of the process. While setting goals does not, in and of itself, guarantee a positive outcome, it does assure that the board will direct its negotiations to try to

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<sup>2</sup>The decisions and opinions of the School Ethics Commission that exclude board member participation apply to all board members, not just members of the negotiations team. Please consult article cited in the previous footnote.

achieve its desired change.

Not every item on the board’s “wish list” will have equal importance. Establishing priorities will assist you to organize your bargaining efforts to improve your ability to “get” a meaningful and valued negotiated change.

**Establishing Parameters** Achieving bargaining goals may take several sets of successor negotiations. Within each round of bargaining, however, the board should establish the limits of an acceptable settlement. For a full discussion of this aspect of board preparation, please see “Bargaining Parameters” in this section of *The Negotiations Advisor*.

**Drafting Board Proposals** The board’s desire to achieve negotiated changes, its bargaining goals and priorities, become expressed through the introduction of board proposals. Initial board proposals should be drafted with a full understanding of the board’s needs and of the process of negotiations. As the give-and-take of bargaining will involve movement from an initial position, the

board’s first proposal should be drafted to provide room for sufficient movement during negotiations while still expressing the board’s needs in a reasonable manner. The board’s parameters should provide the team with a sense of how much flexibility it has in subsequent proposals.

Board proposals allow the board to exercise control in the issues under discussion and the issues included in the settlement. Proposals should be carefully drafted to avoid ambiguities and loss of flexibility. For more information on drafting proposals, see the Selected Contract Clauses section of *The Negotiations Advisor*.

## A Time Frame for Preparation

Thorough preparation involves many steps and a considerable amount of time. To address all necessary elements carefully and thoroughly, while the board is meeting all its other responsibilities, can be a difficult juggling act; under the pressure of immediate problems, crises, or deadlines it is not unusual to put-off less

Date	Task	Assignment	Completion
Reorganization Meeting	Selection of team	Board president	May meeting
May Meeting	Selection of chief spokesperson	Board discussion in executive session	June
June/July	Interviews with professional negotiators (?)	Board/Team	July meeting
July	Selection of professional	Agenda item: board meeting	July meeting
July/August	Analysis of current contract and salary guide Costing out agreement and establishing salary base Comparative analysis	Professional/Board/Team/ Administrators Board Secretary/Business Administrator Team Member(s)	August meeting
August	Update board-discuss board goals (agenda Item: executive session)	Team/Board	August meeting
September	NJSBA training seminars: Preparing for Bargaining; Intermediate Bargaining	Team/other board members	September
October	Team reports training to board (agenda item: executive session) Setting board goals and parameters (agenda item: executive session)	Board/Team Board/Team	October meeting Special meeting Oct./Nov.
October/November	Development of proposals	Team/superintendent/professional	November meeting
Third Week, December	First negotiations session	Team	
January	Team reports to board (agenda item: executive session)	Team/Board	Ongoing until completion of negotiations

pressing and more distant issues. This delay, however, can result in incomplete or superficial preparation which will be detrimental to the board's efforts. To avoid omissions, it is frequently helpful to develop a time frame for preparation which includes tasks, assignments, and deadlines.

Since preparation is designed to result in readiness for negotiations, the logical target for completion is the onset of negotiations. Many districts begin their negotiations in accordance with the PERC Law's general requirement of 120 days prior to the budget submission date; since the school budget is currently submitted to the voters on the third Tuesday in April, many local successor negotiations begin at the end of December. However, since the Law also permits the parties to mutually agree on another date, other districts begin bargaining earlier, or later, than December. While it is generally to the board's advantage not to start before December, your time frame should be based on your current understanding with the union.

With your starting date in mind, review all the elements of preparation in concert with your other anticipated board activities and plan your preparation calendar. Since your administrators' input is essential to your preparation, you will also want to keep their

responsibilities in mind as you chart your time frame. Boards have frequently found that many preparation activities can be best handled during the summer rather than in the fall, when school opening and budget preparation become prime responsibilities. It is, therefore, wise to plan your time frame as you enter your new board year. A typically thorough preparation calendar may be found on the previous page.

This sample time frame includes every important aspect of preparation and allows sufficient time for each activity to be conducted thoroughly and systematically. Early development alerts all involved of upcoming activities and allows time to schedule the responsibility. Indicating issues that should be placed on the Agenda should prevent oversights that can result in detrimental delays and in the lack of a board involvement in negotiations.

Develop a plan and a time frame for your district's bargaining preparation that reflects your board's needs and its responsibilities. This can assure your control over your readiness to face negotiations and your eventual ability to influence the actual negotiations process. Note, however, that the plan does not end with the first negotiating session but continues to involve updates to the full board. Your work has just begun!