



UNDERSTANDING THE UNION AND ITS ROLE AT THE BARGAINING TABLE

A thorough understanding of the bargaining process and of the bargaining issues is a prerequisite of successful negotiations. Yet, in the flurry of negotiations preparation—in the midst of assembling relevant comparative data, developing board proposals and parameters, and analyzing the impact of union proposals—few board negotiations teams stop to assess the organization they will be facing across the bargaining table. Understanding the union, its role and its needs, however, is necessary for the board to obtain a sound perspective of the flow of bargaining, to set realistic bargaining expectations, to plan effective bargaining strategies, and to develop a productive ongoing labor relationship.

The Board and the Union

Virtually all boards in New Jersey have an established relationship with at least one employee union. Most interactions between the board and the district's unions generally occur in an environment marked by competition rather than cooperation: the board level grievance procedure challenges the decisions of the board's administration; arbitration involves an appeal of the board's determination; and negotiations attempt to limit the administration's flexibility and to influence the board's allocation of district resources to benefit employees. The competitive nature of the board-union relationship is a logical result of the differing responsibilities and perspectives of the two bodies. The union is the advocate of employee interests; but the board is the advocate of the entire district and as such, it must balance employee interests with the needs of students, the needs of the local educational program, as well as the needs of the taxpayer, in order to meet its responsibility to protect the district's interest.

In the midst of the competitive and adversarial aspects of the relationship, the interdependence of the board and the union tends to be overlooked. A board cannot legally change terms and conditions of employment without obtaining agreement from the union nor can the union achieve its goals without the board's consent. The ability to cooperate and to reach consensus is essential to reaching a negotiated agreement and to the ongoing board-union relationship. However, the conflicting perspectives of the board and the union frequently create hostile, combative attitudes which intensify the adversarial relationship and

interfere with the parties' ability to cooperate.

A clear understanding of the union's role, its goals and its needs, can assist boards of education to develop productive attitudes and strategies which can reduce belligerency and improve the parties' ability to cooperate within the context of their different perspectives. To that end, boards need to develop sensitivity and appropriate responses to the union's role as a bargaining agent, to the relationship of the union to the teachers, and to the union's organizational needs.

The Union as a Bargaining Representative

The union is the exclusive bargaining representative of the bargaining unit. As such, the union's purpose at the bargaining table is to represent the interests of unit members in improving the terms and conditions of their employment through the process of collective negotiations.

All unions, regardless of the nature of their membership, seek to obtain these gains at the bargaining table. Whether the bargaining unit consists of private sector blue collar employees or public sector professional employees, the union's role as the unit's exclusive bargaining representative is to advance and protect the unit's contractual benefits. Therefore, the teachers' union's first priority at the bargaining table will simply be to represent the needs of its membership; the needs of the district and the resources of the community will become union considerations only in later stages of bargaining when the union must assess the realities of reaching a settlement. However, during most of the bargaining process, the teachers' union will staunchly and aggressively seek to obtain additional benefits for its teachers and resist any efforts to reduce existing terms of employment; the teachers' union will act as a *bargaining* representative for teachers.

The teachers' union's status as the exclusive bargaining representative and its role at the table are statutorily established in *N.J.S.A. 34:13A-1 et seq.* The union's bargaining role is thus legitimate and valid in the context of collective negotiations.

Frequently, however, board members are offended, angered, and frustrated by the teachers' bargaining team

positions. Expecting teachers' concerns about the kids and the quality of the educational program to be expressed at the bargaining table, board members may tend to react negatively to what they perceive to be selfish, narrow-minded negotiations positions which place the welfare of the teachers above the needs of the district. Understanding the union's role as the teachers' bargaining representative, however, can be a reminder to the board that the union is at the table precisely to represent and to protect the teachers' welfare and that it is the board team's responsibility, and not the union's, to represent and to protect the needs of the district.

The union team's bargaining stance should therefore not be interpreted as indicative of teachers' selfishness and lack of dedication to the process of instruction; indeed, the most aggressive union team member may be the very teacher who remains in school working with individual students until late in the afternoon, far beyond the contractual teacher day. The bargaining table, however, is not the forum in which teacher dedication can, or should, be expressed. Determination and implementation of educational policies are not, and should not, be raised in negotiations. The bargaining table is the forum in which, through give and take, both parties' competing interests in the allocation of resources can be resolved to a mutually acceptable understanding of governing terms and conditions of employment. Board members can be more effective and productive at the table if they respect the teachers' right to exercise their bargaining rights and expect, and accept, the union to act as a bargaining agent.

The Union and the Teachers

Given the union's function as a bargaining agent and its focus on teachers' interest in their terms and conditions of employment, it is not surprising that board members sometimes tend to perceive "the union" and "the teachers" as two separate and sometimes contradictory entities. Board members sometimes characterize bargaining proposals as "the union talking—our teachers would never support that position." Although this assessment may be very accurate during the early stages of negotiations, it is generally an illusory assumption in the later stages of the process. Indeed, in the last few years, it has appeared that some teachers have been more demanding than the union: tentative agreements have been rejected by the union membership and the teachers have sent their union representatives back to the table for a better deal. Generally, however, teachers can be expected to support their union's bargaining positions.

Sometimes, the teachers may not be aware of negotiation positions. The union leadership may keep the membership uninformed about the progress of negotiations and, on rare occasions, may deliberately misrepresent boards' positions. In those instances, board members are frequently motivated to tell the teachers the truth.

However, direct board communications of negotiations positions to the staff may backfire. If the board does not have an ongoing board-staff communications network, the board's information may be suspect as a self-serving attempt to by-pass and discredit the union; teachers' reaction to the perceived attack on their representatives may be to rally behind the leadership and to fully support the union's posture.

Although not every unit member may fully endorse every position taken by the union or be in complete agreement with the union's established priorities and parameters, all unit members know that the union, and not the board, represents them at the table. Teachers will trust the union and its recommendations because of their belief that the union is at the table to guard their best interests. Indeed, the union is present at the table because the teachers have chosen to be represented in bargaining by the current organization. Thus, a majority of the bargaining unit has expressed its belief that its interests can best be served by the union. Repudiation of the union, or a lack of trust, is far more likely to result from the teachers' perception that the union is too friendly with the board and is not sufficiently aggressive in protecting teachers' interests than from a sense that the union is disliked by the board because it is too demanding. Further, teachers are aware that a show of unity during negotiations is an effective demonstration of bargaining power which may be necessary to achieve their bargaining goals. Thus, a lack of trust in the union and its leadership will generally be demonstrated during union elections and not by repudiation of the representatives' vigorous efforts during negotiations.

Recognizing the relationship between the union and the teachers can prevent the board from proceeding on false assumptions which will only strengthen the union's bargaining posture. Boards should expect that, in most circumstances, teachers will not only expect their union to protect them but will, in turn, support and defend their bargaining organization.

The Union as an Organization

A local teachers' Association, no matter how small, is not an informal, unstructured group; rather, the local is a formal organization. It is usually affiliated with a parent, statewide association as well as with a nationwide organization. The overwhelming majority of New Jersey's teachers' locals (97%) are affiliated with the New Jersey Education Association (NJEA) and the National Education Association (NEA); approximately 2% are affiliates of the New Jersey State Federation of Teachers and its parent organization, the American Federation of Teachers, and the AFL-CIO.

The state and national organizations provide locals with a wealth of information concerning legislation, negotiations positions, and collective bargaining data; in addition, approximately 50% of New Jersey's teachers'

locals utilize the services of a professional negotiator provided by the state association. However, the teachers' bargaining agent is the local association and not the state organization.

The local itself, regardless of its affiliation or its degree of cohesiveness with the parent organization, is a formal organization. It has goals; it collects dues for itself as well as for the county, state, and national branches; it is governed by a constitution and by-laws; it holds periodic elections, and the leadership is accountable to the membership. As such, the local Association is subject to the same pressures, problems, and needs of any other organization. These internal organizational problems will affect the union's behavior at the table; therefore, an awareness of union problems can assist boards of education to develop appropriate strategies to respond effectively to the union's bargaining position.

Goal Attainment

The union's primary goal is the protection of its members. Attaining procedural safeguards against administrative action, providing procedures to appeal administrative actions, limiting teachers' work load, and increasing compensation as well as benefits, are the most common expressions of membership protection at the bargaining table. Special and specific organizational goals can also emerge when court decisions or changes in legislation result in a statewide perceived need or when local conditions indicate a need to address a particular issue troubling the local membership.

The local leadership, as well as its affiliation, is judged by its ability to meet its goals and its ability to deliver protection to its membership. Leadership which is perceived to be unsuccessful in meeting local needs, or which is perceived to be lagging behind other associations in the delivery of benefits, may lose the confidence of its membership and be replaced, in the next election, by other individuals perceived to be more responsive to the membership and more aggressive in its search for employee protection. Occasionally, membership dissatisfaction may well lead to a complete rejection of the current organization and a change in the bargaining representative's affiliation.

Therefore, obtaining and maintaining protection of the membership remains a driving, motivating force for the union's bargaining team. If the majority of the associations in the county have obtained contractual dental plans, achieving dental insurance will become a high priority for those locals who have not yet persuaded their boards to agree to this form of insurance protection; unions who have successfully gained full insurance coverage will perceive a board's proposal to cap its premium obligation as an attempt to erode existing employee benefits; and a union which has always been in the forefront of obtaining employee benefits will jealously guard its position as the pacesetter. Thus, the union's need to attain its goals will affect the union's team behavior at the bargaining table.

Understanding the local union's need to meet its organizational goals can assist the board in placing union proposals in perspective. Rather than reacting with indignation and hostility to the union's constant search for increased benefits, the board can respond realistically and productively. Objectively, the board can assess the importance of specific proposals, review comparability data, evaluate the impact of agreement on the district, and begin to formulate compromise positions which can, to an acceptable degree, meet both the union's and the board's needs.

Maintaining Unity

Union goals are an expression of the needs of the membership. However, bargaining units are composed of individuals whose needs frequently differ; even a unit composed of only one job classification does not represent homogeneous needs. For example, a teacher unit can include librarians and nurses whose working conditions differ significantly from those of the classroom teachers; the experience and needs of elementary teachers can be considerably different than those of high school instructors; and teachers' areas of certification and assignment can create unique problems which are not shared by the rest of the unit.

In addition to different needs resulting from varied work experiences, teachers have different personal needs which they will want addressed in bargaining. Senior teachers will want increased longevity pay and retirement benefits; younger staff may want additional tuition reimbursement to foster professional development and a compressed salary guide to accelerate their movement towards better salaries; teachers who are their family's primary wage earners will find dependent insurance coverage a necessity while a single teacher, or a secondary wage earner, may be far more interested in increased paid time off.

The varied work and personal experience of the unit members create different needs and priorities. Frequently, all members' needs cannot be accommodated; choices must be made and the membership can find itself competing against each other to influence the determination of the unit's bargaining goals.

It will be the responsibility of the union leadership and its bargaining team to resolve the unit's internal differences and to create unity amidst the diversity. To that end, the union leadership may base its bargaining priorities simply upon the number of unit members who are strongly committed to the proposed change. The tentative settlement presented to the unit for ratification must contain sufficient improvements to receive acceptance and endorsement by a majority of the membership; the greater the improvements and the greater the number of diverse needs addressed in the settlement, the better the chances of unanimous acceptance and membership unity.

The union's bargaining team begins the process of

achieving unity before it enters into negotiations. It is not unusual for a union team to poll the membership to determine what changes in terms and conditions of employment are desired, and to proceed to include all responses in its initial set of proposals. The union's "laundry list" of proposals thus not only provides a rich source of trade-offs during bargaining, but also can be a mechanism to achieve internal union needs. The board team can assess the importance of various proposals by determining the number of unit members who will be affected by the proposal and their degree of influence within the unit. An understanding of the diversity of union needs can also assist the board to realistically assess the components of a settlement which may be necessary for union acceptance.

The process of achieving union unity continues during the course of negotiations. Frequently, the union team reports on the progress of bargaining to the union's executive committee and/or to the membership. Areas of board resistance are discussed and the membership is usually prepared for union defeats and compromises. A skillful union team, just like its board counterpart, is aware that negotiations is a progressive process which is marked by slow, incremental movement, shaped by compromise, timing, and reality. By communicating the currently achievable and the currently impossible, the union is demonstrating its efforts for the membership as well as working towards attaining realistic membership expectations, ratification, and unity. If a union bargaining team is unsuccessful in persuading the membership that the tentative agreement represents the best currently achievable deal, the settlement will either not be ratified or its approval, by a narrow majority, will threaten the unity of the bargaining unit. The union team will thus be looking for compelling explanations to present to its membership.

In preparing to present and support their bargaining positions, board negotiators should therefore develop arguments which will be persuasive to the union team. Well-planned, substantiated board positions which include considerations of the negative over-all impact on the unit, as well as on the district, can be more convincing to the union team than generalized emotional and vague responses. Not only can the union negotiators understand the board's opposition and its rationale, but they can utilize the same well-reasoned arguments to explain to their membership why the union's proposal is unacceptable and realistically unattainable at this time. Thus, the union leadership's receptivity to a well documented board position is enhanced by its assessment of its ability to "sell" it to the membership.

The Needs of the Leadership

The leadership of any organization is marked by the responsibility of promoting the health, well-being, and continuity of the group. The dedication of the union leadership to union goals is, therefore, to be expected as

a natural expression of its role. Regardless of its private assessment of the validity of a grievance, the union leadership will vigorously pursue the negotiated appeal procedures not only to defend the negotiated rights of its membership but also to protect the union's role, and image, as the protector of the employees.

The organizational functions of leadership are, in all democratic associations, frequently emphasized by individual aspirations and motivation. Representatives who enjoy their elected role and find the responsibilities challenging may want to continue to perform these tasks or may aspire to higher organizational positions. Re-election, whether to a board of education or to a position in the union, depends upon being responsive to, and representative of, one's constituency. Thus, union leaders will be sensitive to the needs and mood of the membership; leadership styles and decisions may, therefore, be a reflection of the leadership's assessment of the desires of the membership rather than expressions of the leaders' personal goals. This does not mean that leaders never use their positions in an organization to fulfill their own economic or political needs, but leaders who pursue their own goals while ignoring the interests of the membership, will find it difficult to continue to be re-elected. Thus, all leaders will attempt to meet their constituencies' expectations; and union leaders will attempt to deliver as much as is possible to their membership.

The intensity with which union leadership will seek to deliver additional benefits is affected by many factors, including the leadership's sense of its own security. A bargaining team representing a unit which is torn by dissension, which includes a small majority of union members, or which may be facing the emergence of a challenge by either a rival union or a rival slate of officers, may feel intense pressure to demonstrate its importance in providing membership protection. Threatened leadership may, for internal organizational reasons, become intransigently wedded to a position and be unwilling to recognize the realistic, and possible, range of settlement; threatened leadership can become completely motivated by its own internal needs. On the other hand, secure leadership is less likely to lose sight of the interdependence of union and district needs necessary for a settlement.

Although boards of education should never become involved in the union's internal affairs, it is undeniable that the relationship which exists between the board and the union can become a factor in the leadership's security. The membership may find leadership that is bypassed or ignored by the board to be lacking in effectiveness and credibility; however, leadership whose role and status are recognized by the board is much more likely to receive membership respect and support. By responding to the union with acceptance of its bargaining role, and with an understanding of the eventual need for mutual cooperation, boards can contribute to the union's ability to recognize and to move towards the basic mutual need to reach consensus.

Summary: The Board's Response

Understanding the role and the problems of the union can assist the board to improve its bargaining effectiveness and its ongoing labor relationship. Expecting and accepting the union's position as a bargaining agent can prepare the board for the realities of negotiations and can reduce board members' hostile reactions to union proposals. Reduced hostility can not only focus discussions on the issues, rather than on personalities, but also can facilitate the possibility of consensus. Understanding the organizational needs of the union and its leadership increases the board's ability to view the bargaining process and its resulting settlement in a realistic context. A sense of the achievable can help boards to identify long-term and short-term bargaining goals as well as to develop effective tactics and strategies to support their achievement.

Appropriate board responses to the realities of the union, however, must include a sharp and clear consideration of the board's needs. *In spite of their appreciation of union needs, boards should not agree*

to terms and conditions which will interfere with the effective administration of the district's educational or operational program. A refusal to agree, however, should be based on the board's logical assessment of its parameters and of careful consideration of the long and short range implications of agreement. A refusal to agree should not be based upon the board's dislike of the union negotiator, its lingering resentment of the bargaining process, or its desire to "win big" and to bring the union to its knees. Appropriate board responses are based upon careful, conscious considerations of the needs of the union and the board.

Well-reasoned board responses will not change the competitive, adversarial relationship between the board and the union, but they will reduce the hostility which can interfere with the parties' ability to reach agreement. Well-reasoned board responses which are based on a balance between board and union needs can, therefore, lead to effective board bargaining and to a productive ongoing labor relationship.