

Audio Script: Bargaining 250 - Negotiating

This is the actual audio that was recorded for Bargaining 250. Use it for a reference or study guide.

Welcome to Bargaining 250

This course should take you about 45 minutes to complete

It is required for the certificate of completion in the Bargaining track.

The prerequisite course for this course is Bargaining 100.

The sections in this course are:

Developing a Bargaining Strategy

Timeline of Tasks and Responsibilities

The Bargaining Committee, and

Impasse

Section 1: Developing a Bargaining Strategy

What is Strategy?

The dictionary definition of strategy is: “Strategy is a careful plan or method to achieve desired objectives.”

This is exactly what we do when preparing for the bargaining table or other negotiations. We develop plans. This strategizing helps our success rate for achieving our desired objectives.

A Successful Union

A successful union must have strategies for both organizing and bargaining. Organizing campaigns and contract campaigns must be well-planned and coordinated to build power among members.

This foundation of power depends on involved membership and that involvement can lead to successful achievement of our bargaining goals.

Success in Negotiations

Power is often defined as the ‘ability to act, produce an effect, or to wield force.’

Our ability as a union to wield force and use our power determines our success in negotiations. Our power and force comes from an engaged, unified union membership.

Unified members build solidarity in the workplace, develop allies in the community and find employer vulnerabilities to help us succeed at the

bargaining table.

Elements of a Bargaining Plan

Developing the strategy for our bargaining plan requires thorough research and analysis.

Before starting bargaining, it is important to put together a good bargaining committee and prepare effective proposals.

We start with what is in place - we have appropriate governing structures like our BUNC, that will make up the bargaining team and works to have an effective communications network. That network works two ways - taking ideas from the members to the bargaining team, and returning information on bargaining progress back to the members.

At the bargaining table, the team must be in agreement on the techniques and tactics that will be employed throughout the process. They can set some of this up before bargaining starts, and then be prepared for changes as bargaining moves forward.

Planning for workplace pressure tactics is important as these tactics keep the interest of the members and let management know that the employees are supporting the union. They can also speed up the bargaining process if they are carefully planned.

Planning out actions with community allies and other impacted groups is important to the success of the negotiations. Management will be watching to see just how much external interest and pressure the union can bring to the bargaining process.

Characteristics of an Effective Committee

Some characteristics of an effective bargaining committee include the following:

Team members should be respected by both union members and management.

They will be doing the actual face-to-face negotiating so each team member should be either skillful at bargaining, or willing to learn bargaining and negotiating skills.

They should also be comfortable speaking to others - to small groups, one-on-one, members, management, and even to the media.

It is crucial that, as a team, they are united at the table. This means that team discipline is an important part of success.

Team members also must be hardworking, because bargaining is hard work. There are long days, nights and even weekends. To keep up that kind of schedule, the team members must all be responsible and disciplined.

Section 1 Review

What is a 'strategy?'

- a) A general's plan for war
- b) *A careful plan or method to achieve desired objectives*
- c) The map of your workplace
- d) A bulleted list

The answer is B - A strategy is a careful plan or method to achieve desired objectives. Our emphasis is on planning for our success during negotiations and bargaining.

What is one reason that communication during bargaining is important?

- a) *It keeps employees informed and lets the bargaining team know the issues of the members*
- b) It is required by the contract
- c) The DLC can add it to the membership agenda
- d) The progress of bargaining must kept secret

The answer is A - Communication during bargaining works two ways: taking ideas from the members to the bargaining team, and returning information on bargaining progress back to the members.

One crucial element of an effective bargaining team is:

- a) The team has at least five members
- b) The team has been working together for two years
- c) *The team is united at the table*
- d) The team is made up of people from the same job classification

The answer is C - When meeting with management at the bargaining table, the bargaining team must show a united front. Any uncertainties should be discussed away from the bargaining table.

Section 2: Timeline of Tasks and Responsibilities

Preparations by the Bargaining Committee

Once the Bargaining Unit Negotiating Committee, or BUNC, is assembled, it is time to plan strategy, set up a timeline and determine the tasks to be done. Be sure that each person clearly understands what is expected of them, and when it is due.

At least one person should be specifically responsible to oversee the gathering and analyzing of information on each unit's issue. Research also needs to be done on the groups who oppose and support the employee's cause.

The bargaining can start by requesting data from the employer and analyzing it as it relates to the issues they will be bargaining. If a bargaining issue survey has been done with members, that information is also analyzed. Compare the sets of data to see if there are any areas that overlap or that can be used to support the union's side of the negotiations.

With the research done it is time to begin creating and developing proposals. The

team looks at proposals that are both language improvements and that address economic issues.

Request Information about the Employer

The research on the employer should be thorough. The bargaining team requests information on the state's budget and, sometimes, the budget of specific departments as well.

Who is the decision-maker for the state and what is their process for making those decisions? This insight is of great help throughout bargaining.

Finally, what are the likely goals and issues of the state that the state is looking to address during bargaining? The team will craft the proposals to coincide with the issues that the state is likely to bring up.

Research the Industry

The bargaining team conducts research on other state budgets and other public sector employers.

They want to know how *our* wages and benefits compare with those offered in other jurisdictions. The team considers both public and private employers when making these comparisons.

Other things they look for are how well-organized are other public sector employees? And, how have we done in recent negotiations? Will that experience be of help with this one?

Proposal Preparation Process

The team is very thorough when preparing proposals...they review past negotiations on the same topic or with the same unit, go over pertinent areas of the current contract, and read recent surveys and notes taken in discussions. They go through the grievance files for the past year, and review the policy file to keep the negotiations within guidelines.

The team develops justifications and arguments for each proposal they plan to make during the negotiations. They prepare examples and other descriptive materials, visual displays and any other documents that will help prove the case for each proposal.

Finally, the team writes down the explanations for each proposal and calculates any associated economic costs.

Types of Proposals

What kinds of proposals will be made on behalf of the membership? They certainly have needs and wants that will be the central issues. Any housekeeping changes for the negotiations themselves can also be a proposal.

The team will also develop discussion topics - that is, items to be discussed during

the negotiations but are not set forth in the formal proposals.

The bargaining team will consider proposals they might be willing to trade for others - what might possibly be swapped out as the team compromises its way to a deal?

And, finally, which of the proposals are simply throw-aways - requests that will be the first to go when the negotiating begins in earnest?

Reasons for Contract Costing

'Contract costing' means that we figure out the costs to the state of our current contract and proposals. We do this because:

- We want to compare 'apples with apples' - We want to be negotiating for items that have equal value to our members with the counter-proposals from management.
- We do this because we want to help our team make decisions more accurately and more quickly while at the table. If we have the numbers in front of us we are better prepared to compromise - or to refuse to compromise on a specific item.
- We do this because we want to make effective comparisons with other contracts and other settlements.
- And, we do this because we want to keep dishonesty at the bargaining table to a minimum

This costing-out work is usually done by the Local 1000 research department.

Committee Prep and Training

It is crucial that the bargaining team understands the mechanics of bargaining - who says what, how things are phrased, when should they caucus and when should they compromise.

Each bargaining team member should know the union's formal and informal rules for bargaining. Having a printed list will help the bargaining team remember these rules.

The bargaining team should be aware of what tactics can be expected from management and when to expect them.

At the very beginning of the planning process, individual task assignments and deadlines should be clearly spelled for each and every bargaining team member.

The bargaining team's decision-making processes should be defined and discussed by the group during the planning process before bargaining starts.

One very basic skill that the bargaining team should practice is showing committee discipline at the table. The team will do some role-playing with a few

possible scenarios to make sure everyone is on the same page with unity and behavior at the table.

Lastly, each member of the negotiating team should have a solid understanding of how this bargaining process can help build membership power, and what kinds of workplace actions need to be taking place throughout negotiations.

Roles of Committee Members

The bargaining team will need to decide on team member roles.

A chief spokesperson or chair will be elected. Other roles include a note-taker or secretary, a number cruncher - someone who is a costing expert, and experts on other specific issues depending on the proposals you are planning to make. The chair can appoint these, or the team can decide together.

Each team member should be an observer of the bargaining process as it is happening, and observers of the people on both sides of the table. You can learn a lot about what to do next and how to approach it by making careful observations.

Throughout the bargaining process the team will stay closely linked to the mobilization team and to the media. Clear communication between the team and worksite leaders helps keep worksite actions fresh and engaging. Prompt communication between the team and the media keeps up the action in the community and it reminds management that members are engaged and that you have the community's interest.

Section 2 Review

What large group will the bargaining team research to prepare proposals for bargaining?

- a) People who are unemployed
- b) *The state*
- c) Assembly Subcommittee #4
- d) The Leadership Academy

The answer is B - The team will research other departmental budgets and public sector employers. They will consider how our wages and benefits compare with those offered in other jurisdictions and take into consideration both public and private employers. How well organized are other public sector employees? How have we done in recent negotiations and will that experience be of help this time?

Why should the team take the time to do a cost analysis of the proposals?

- a) To negotiate for items of equal value
- b) To make team decisions more accurately
- c) To help make comparisons with other contracts
- d) To help keep misrepresentation at the table at a minimum
- e) *All of the above*

The answer is E - All of the above - We negotiate for items that have equal value to our members with the counter-proposals from management. To help our team make decisions more accurately and more quickly. To have good data so we are better prepared to compromise...or to refuse to compromise; and, to minimize table dishonesty.

One important committee member role is:

- a) Writing a detailed agenda
- b) *Providing clear and timely communication*
- c) Providing refreshments
- d) Making signs for the meeting room

The answer is B - Throughout the bargaining process the team stays connected to the media. Clear communication between the team and the worksite leaders will help keep worksite actions fresh and engaging.

Section 3: The Bargaining Committee

Committee Ground Rules

Keeping team members to some basic rules will help bolster management's perception of the strength of the team. Here are some basic ground rules for bargaining committees:

Members attend all meetings – it is imperative that bargaining team members be present at all bargaining meetings. Presenting a united front can convey strength and power to management at the table.

Members accept personal task assignments and responsibilities delegated as part of the strategizing for negotiations.

The team practices open discussions in caucus to keep the communication open and accurate, and maintain unity at the table to keep the team balanced.

Any team decisions are by consensus and those decisions are fully supported at the table by the team as well as away from the table in conversations with the media and in workplace actions.

All communications convey unified messages to the membership, to the community and to the media.

Forging Committee Consensus

As the team develops its strategy and works through the bargaining process it is crucial to create and maintain consensus. This consensus will carry through to the bargaining table and it will be clear to management that this team is united. So the group discusses each proposal and strategy until consensus is reached.

Strategies to create consensus include generating options:

For example, the team can lay out some 'how-about's' for situations that are likely

to be part of the negotiating process.

They can probe for the middle ground – as a group, they seek to discover potential compromises for each proposal they plan.

The team can be pro-active and decide to confirm their consensus positions by either negative consensus, such as stating that, “Unless we hear otherwise our position is...”

And demonstrating positive consensus, by saying things like, “*I think our position is...and do you agree?*”

The Chair's Role in Crafting Internal Compromises

When meeting with the team, it is important to create internal compromises that become internal consensus. If there is significant disagreement within the team, internal compromises are necessary to make any progress at the table.

The chair should observe the team's progress in reaching consensus and wait for the right time to help guide them to agreement.

When working to come to an internal agreement, the chair looks for underlying perceptions and needs – what does each team member understand and how can that understanding be expanded? Do they need to do a role-play, or look at the relevant data? Or, perhaps they need to discuss the issue further? The chair considers a variety of ways to move the team to consensus.

It might become necessary to use an intermediary – it may take an outside person to facilitate the conversation and reach consensus.

Final Stages of Bargaining

In the final stages of bargaining the negotiating committee and elected local leadership must decide how to proceed.

Deciding if an agreement has been reached

To help decide if they have reached an acceptable agreement, the BUNC should ask these questions:

- Have they obtained the best agreement that can be obtained without a major confrontation?
- Have they negotiated a good contract considering where they started, the needs of the members, the state's financial condition, and other recent union settlements?
- Would a tentative agreement on the terms now available leave in place the most fundamental worker rights, or would it destroy the key elements of union protection such as seniority, the grievance procedure, or limits on management's right to make and interpret policies?

- Would the tentative agreement be ratified by the SBAC and the members? If possible, you want to avoid a close vote one way or the other because that can cause a divided group and a weaker union.
- If you refuse to settle now, will the employees be prepared to escalate the campaign? Are there ways to pressure the employer to agree to a better settlement? Is there access to resources needed to mount an expanded campaign?

Section 3 Review

One essential bargaining team member requirement is to:

- a) Transport the furniture
- b) *Attend all meetings*
- c) Adjust the schedule
- d) Compromise continuously

The answer is B - Bargaining team members must attend all meetings. Presenting a united front can convey strength and power to management at the table.

Why is internal team consensus important?

- a) *To maintain a united front at the table*
- b) To make sure all team members stay good friends
- c) Teamwork looks good on your resume
- d) The SBAC will review the bargaining notes and decide who to keep on the team

The answer is A - As the team develops its strategy and works through the bargaining process it is crucial that they create and maintain consensus. This consensus will carry through to the bargaining table and it will be clear to management that this team is united.

One good reason to decide to settle the negotiations is:

- a) Every demand from the membership has been met
- b) *A good contract has been negotiated, considering where you started*
- c) Membership might ratify this agreement
- d) Every campaign action possible has been done

The answer is B - It is time to settle the negotiations is when you have negotiated a good contract considering: where you started, the needs of the members, the state's financial condition, and other recent union settlements.

Section 4: Impasse

Impasse

If negotiations stall, it is called reaching an 'impasse.' This is the point at which no further progress toward an agreement appears likely because neither side is moving on the major unresolved issues. It is always a possibility when negotiating, and normally, the union does *not* want to bargain to what is legally defined as an 'impasse' because then management may be free to stop following the old contract. If negotiations reach an impasse, the employer could stop collecting union dues, and, reverting to their last, best offer, there is the possibility that they could unilaterally change wages, hours, and working conditions.

In section 3517.8 (b) of the Dills Act, it states,

"If the governor and the recognized employee organization reach an impasse in negotiations for a new memorandum of understanding, the state employer may implement any or all of its last, best, and final offer." This means that state employees would be stuck with the last set of conditions that were suggested by management.

If impasse seems near or negotiations seem to be stalled, as was mentioned in Bargaining 100, there are a variety of tactics that are tried to re-start the bargaining process and avoid impasse. These tactics include:

- Not rejecting management proposals we mainly disagree with. Instead, we stress that positions on individual items depend on the total package that management is willing to agree to.
- Continue to make new proposals on difficult issues, even if there is not a huge difference between our new positions and our old ones. We insist that management take the time necessary to prepare detailed information the union needs in order to bargain intelligently on the proposals each side has made.
- We do not say to management, to our members, or to the news media that it is clear that management has no intention of settling. We can say that so far they have not been willing to negotiate a fair settlement.

One way to create a 'break' in the progression toward impasse is to call for a 'caucus.' We caucus to discuss other strategies to move forward. The team leaves the room. We discuss the stall itself, take a breath as a team and return to the table revived.

This can clear the air for both teams, and it gives management time to think about the stall.

Another tactic is having an 'off-the-record' conversation with both teams. This gives both sides a chance to explore possible solutions that they cannot discuss publicly.

One specific kind of 'off-the-record' talk is a sidebar. A sidebar is a strategic pause in negotiations. It is another kind of off-the-record meeting that only involves the chief negotiators from each of the teams. This is a good tactic when we can't get management to move off of one issue. The team can then get some insight to figure out what the real issue is.

Side bars are 'off-the-record' informal discussions between representatives of the parties to seek non-binding positions on issues - away from the bargaining table. This process is exploratory and does not change table positions on bargaining issues. Side bars are usually conducted between the chief negotiators, the spokespersons or specialists in certain areas of expertise and are often used in an effort to expedite the more formal bargaining process at the bargaining table.

Another way to avoid impasse is to employ stronger pressure tactics. The problem may not be a failure to communicate at the table but rather a failure to force management to want to settle.

We may suggest trading one or more items for one or more others. *"We are willing to consider moving on X if you are willing to agree to our proposal on Y."* This is a signal to management that the first issue is not an issue that is set in stone, not an issue that will make or break negotiations.

The team may also group several issues into a package, or present an entire proposed contract that contains some compromises by both sides. This says to management that the team has developed what we think is a fair package, and we're willing to accept the compromises in it if they accept the entire package.

Still working to avoid impasse, minor changes can be made to save 'face' for one side or the other. If one team is finding it hard to admit that it has to change its position, a relatively unimportant change may allow them to say, *"Well, with that change I think we can accept it."*

We can suggest resolving an issue through a side letter rather than in the contract itself. A side letter is an agreement that is added on to the main contract. It is binding and can be grieved unless we have agreed that it can't.

If management officials are reluctant to break new ground on a controversial issue or to agree to special provisions for a particular group of employees, they may feel more comfortable using a side letter format to emphasize that the agreement is unusual or experimental.

When the contract is printed any side letters are included.

If management officials are ready to settle but their relations with local union negotiators have become too strained, they may find it easier to 'settle' with someone new.

If we feel this may move negotiations we can bring in a 'new face' such as a higher-level union official, to wrap things up.

Section 4 Review

'Impasse' means:

- a) Do not pass
- b) *Neither side is moving on unresolved issues*
- c) It is time for a major worksite action
- d) Community involvement has not yet started

The answer is B - Impasse in bargaining is the point at which no further progress toward an agreement appears likely because neither side is moving on the major unresolved issues.

What state law says that, if impasse is reached between a union and the state of California, "...the employer could stop collecting dues, and revert to their last, best offer...?"

- a) Proposition 8
- b) The Fight for a Fair Economy
- c) *The Dills Act*
- d) Assembly Bill 1655

The answer is C - The Dills Act lays out public employee rights, labor relations and representation details between the state of California and its employees.

Side bars are 'off-the-record' informal discussions between representatives of the parties to seek non-binding positions on issues away from the bargaining table. This process does not change positions on bargaining issues.

- a) *True*
- b) False

This answer is true - Side bars are exploratory and do not change table positions on bargaining issues.

End of Course

This completes Bargaining 250.

Your next step is to take and pass the Final Exam to complete this course.

Continue to take the other required courses to earn the Certificate of Completion in the Bargaining track.