



Strategic Bargaining Webinar

Class will begin momentarily

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Collective Bargaining II: Strategic Bargaining

BUILDING POWER

Instructor Name
Instructor Email





3 Objective

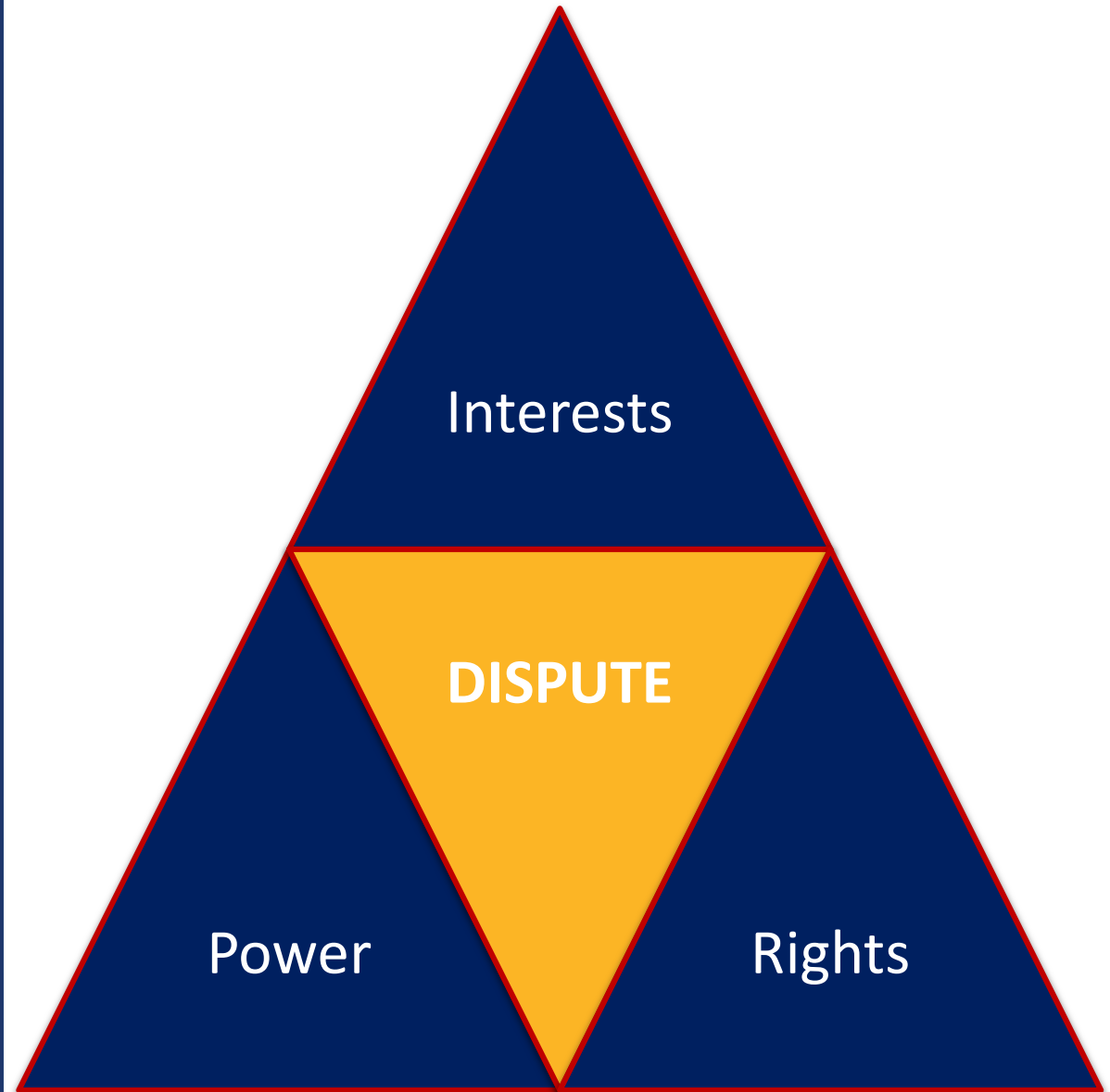
- **Demonstrate** use of techniques and strategies to turn **planning, process,** and **people** into power at the bargaining table.

Elements of a Dispute

Interests: Needs, desires, concerns underlying a position.

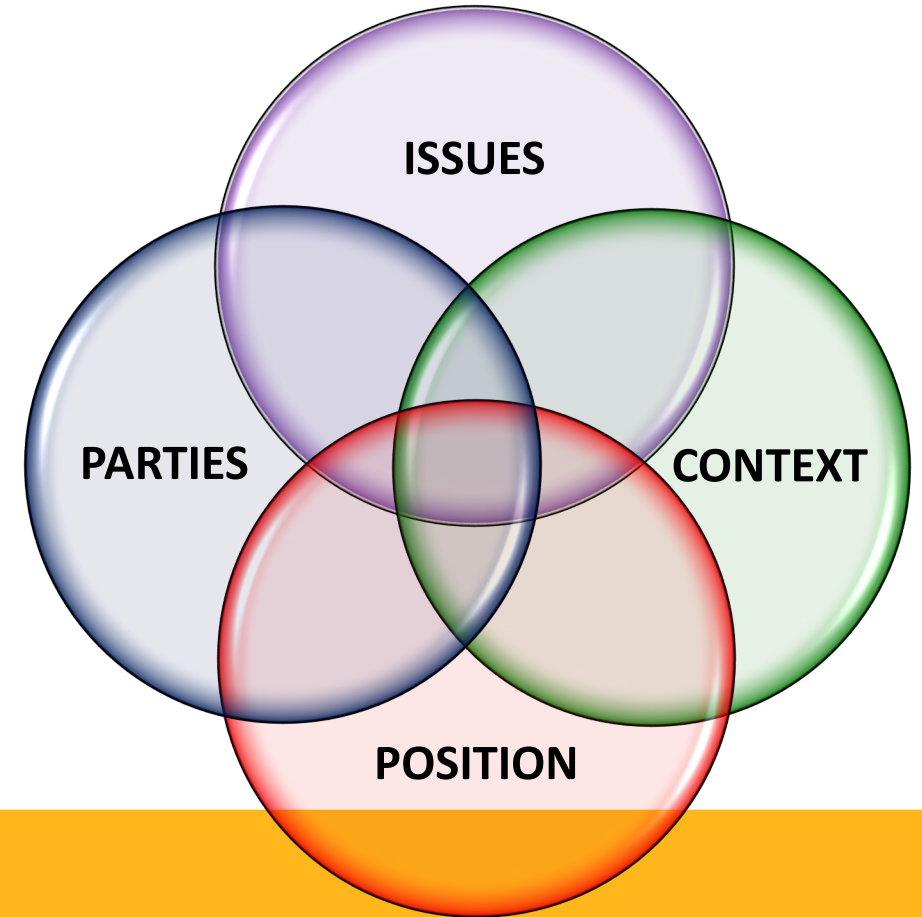
Rights: Independent standards (CBA, law, past precedent, etc.) that establish precedent & fairness

Power: Capacity to *force* a position on another party. Can be a threat and/or action.



Basic Factors that affect Every Negotiation:

- **Issues:** What is the **topic or problem** in dispute? Is it simple or complex? How important is to each party?
- **Parties:** What is the **relationship**? Trust level? Information sharing? Is power equal or unbalanced?
- **Context:** What **influence/support exists** in the environment away from the table?
- **Position:** **What does each side see** as the resolution?



So, How Do You Measure Success in Negotiations?

Cost: How much time, energy, money and/or other resources are spent on resolving the dispute?

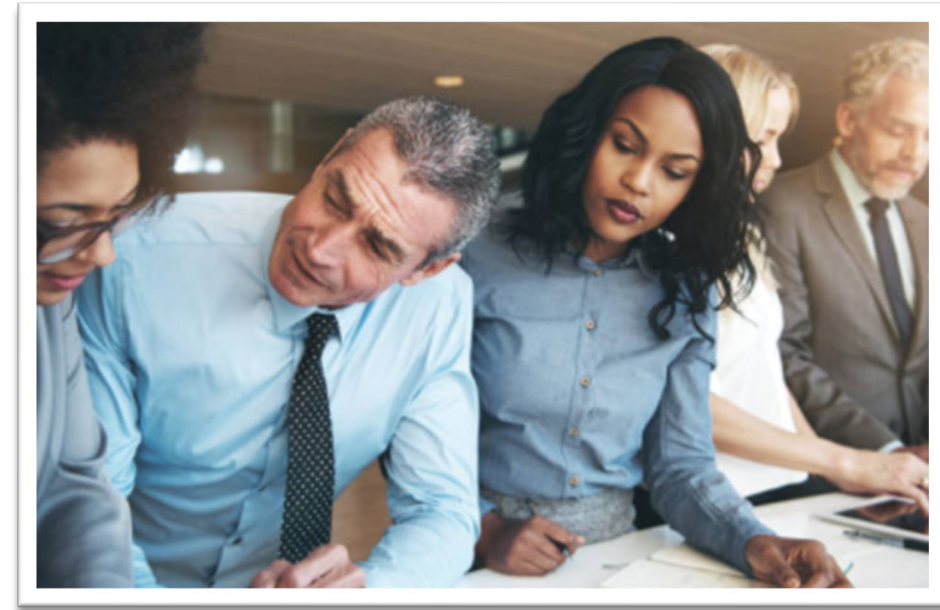
Outcome: How satisfied are the parties with the outcome of the negotiations?

Relationship: What is the effect of the negotiations on the relationship over the long term?



What is Strategic Bargaining?

- Strategic bargaining is a process which can be **adjusted to fit the experience** level of the different negotiation team members.
- **It builds other disciplines and doctrines** used by organized labor to *influence a successful outcome* for the bargaining unit employees.



Strategic Bargaining

Strategic Bargaining capitalizes on the principles of AFGE's "Organizing for Power" strategy, which includes:

- Energizing New Leaders
- Energizing and Activating Current Members
- Energizing and Activating Potential Members



Strategic Bargaining

- Can be applied to both term and mid-term negotiations
- Can be used in legislative grassroots mobilization
- **Encourages member activism and involvement**



Strategic Bargaining is not Reactive

Reactive bargaining makes it difficult to enact bargaining support structures.

- Efforts are sometimes rushed
- Research is sometime limited
- Management often controls



Strategic Bargaining is Based on an Organizing Model





The Traditional “Service” Model–

A Service Model Union is a “fee-for-service” organization. The members pay fees (dues) for services, such as bargaining and grievance representation.

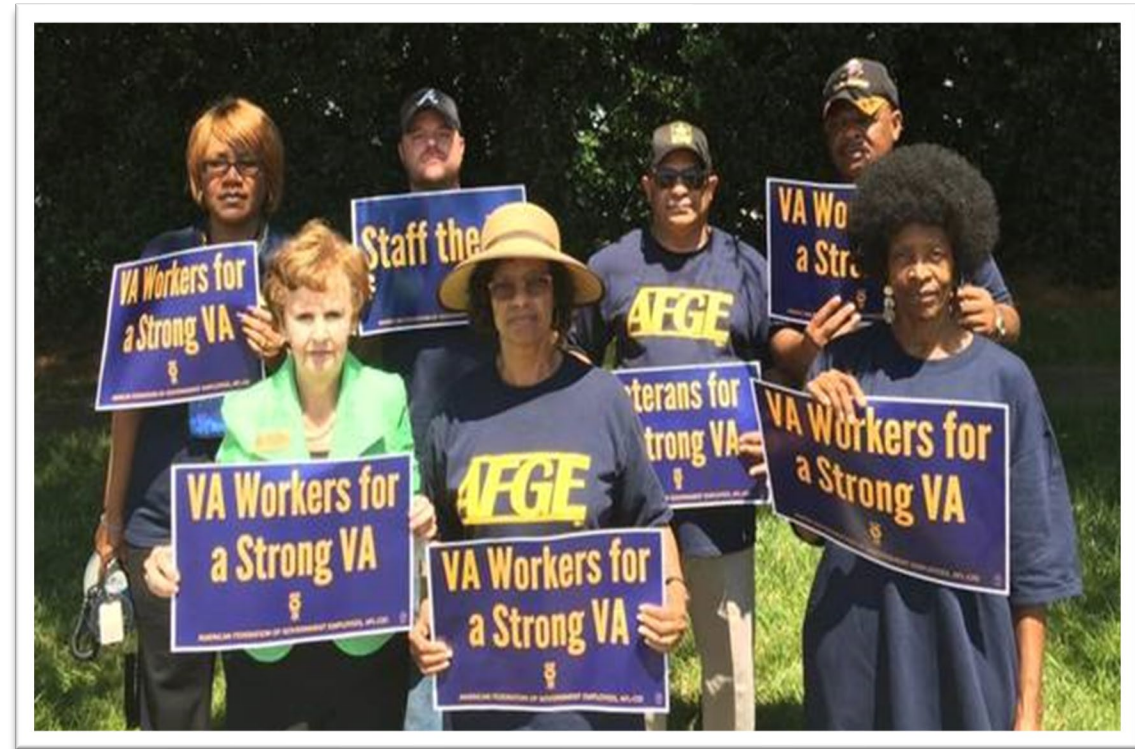
- **The Union is often seen as a third-party.**
- It does not build ownership or involve the rank-and-file membership in Union activities, such as collective bargaining.



The Organizing Model–

An Organizing Model Union is run by the members around issues and activities that matter to them.

- **Union is not seen as a third party.**
- Union is recognized as an organization of employees; working together to help each other.
- **Power, mobilization, and issue development comes from the members.**



Organizing vs. Servicing Model

Collective bargaining is more effective with Organizing Model--

- Bargaining involves member power and leverage.
- **Members have connections with the community, managers, and others who can influence the Agency.**
- **A bargaining team *must communicate with the membership to identify the most important issues.***

EPA Story



Start with a Strategic Bargaining Assessment



Start with an Overall Assessment

- How is bargaining viewed by the members?
- What do the members hope to achieve?
- What is your experience level?
- Who are you bargaining with?
- What resources do we have?



Attitudes Toward Bargaining Are Critical

Bargain with an eye towards:

- Building a stronger contract
- Building a relationship with management *that will better serve the members*
- Building the strength of unit membership



Change how Collective Bargaining is Viewed



By the Union

- We bargain at the table –
- ***but we win away from the table***

By the Employees

- This is our process; a chance to be engaged and have a voice

By the Agency

- The Agreement can benefit both sides.

Assess Your Experience Level and Training

- What kind of experience exists on the team?
- Where do our strengths lie?
- What other skills/experience would be useful when bargaining?
- Do we need any specific type of training?



Experience Level and Training (cont.)

- Consider: What experience exists on the Agency team?
- How have they bargained in the past?
- What relationships exist within the Agency that can assist the Union?



Consider Available Resources (more than you likely realize)

- **Membership**
- District
- Other Locals
- Council
- National (e.g., FSED)
- Outside groups or coalitions



300,000 MEMBERS

HAVE YOUR BACK.

Strategic “Process”



Preparation



- 1. Identify Goals**
- 2. Bargaining team training and assignments:**
 - Communications and Community Outreach
 - Organizing
 - Legislative
 - Research
 - Notes and Records
- 3. Effective Ground Rules**
- 4. Research/Proposal Preparation**

Goals and Objectives



To have a plan, we need to know what we want and what we hope to achieve.

What are our goals for:

- Contract language
- Labor management relationship
- Internal communications
- Community and legislative outreach
- Membership growth/organizing goals in campaign

Objective: Better Contract Language

In order to obtain this objective, there are a series of tasks to be completed:

1. ****Member Surveys**
2. ****Member Work Groups (EPA)**
3. ****Communicate and Mobilize**
4. Research
5. Information Requests



Strategic Bargaining Process

**Consider
Developing
Bargaining
Work Groups**



Communications Working Group

- 1) **Nominate/appoint working group (volunteers)**
- 2) **Train and manage the work groups**
- 3) **Ideally, you should have different groups working on different bargaining issues and for coordinating information sharing**
- 4) **OVERALL GOALS--**
 - Identification of Issue topics
 - Ability to quickly schedule and distribute updates (newsletters, press releases, petitions, etc.)
 - Coordinate Op/Ed pieces and media outreach



Consider an Organizing Work Group

Develop strategic plans for the following:

- Development of organizing messages,
- Workplace mapping,
- Scheduled organizing events (coincide with bargaining dates),
- draft phone-trees for organizing committee work
- develop bargaining specific organizing literature



Consider a Legislative Working Group

Develop strategic plans for the following tasks:

- Coordinate support for issue-based lunch and learns
- PAC events
- Outreach to other Locals, Central Labor Councils, State Federations, customer advocacy organizations (VFW, AARP, etc.)
- **Work with AFGE Legislative Department on issue advocacy**



Research Work Group

Develop plans for the following tasks:

- Review contract articles
- Review grievances, ULPs, and arbitrations
- Review negotiability issues (past road-blocks?)
- Review impasse options (are there case law options?)
- Field Services and District office assistance



Pre-Bargaining Preparation is Critical

All bargaining team members should know:

- ✓ Basic bargaining law (5 USC Chapter 71, etc.)
- ✓ Contracts (CBA, Supplements, MOAs)
- ✓ Relationship between laws and contract language goals (e.g., Is your issue negotiable?)
- ✓ What is your labor-management relationship?
- ✓ What are management interests?



Pre-Bargaining “Assistance”

Available AFGÉ organizational assistance:

- Communications Assistance
- Organizing Assistance
- Legislative Assistance
- Research and Training from FSED
- Organizing Dept



Pre-Bargaining Preparation: **Budget**

Develop a budget for bargaining, including but not necessarily limited to:

- newsletters
- bargaining updates and mailings
- lunch and learns
- Travel?
- organizing “incentives”
- t-shirts and buttons



Strategic Bargaining Process

Ground Rules!



Ground Rules

- Provide an outline of negotiation procedures
- Determine the Union's official time (bargaining, prep, mediation, and more...)
- Rules of engagement
- Calendar for negotiations
- Location of negotiations
- ***Opportunities for favorable positioning***

Ground Rules (cont.)

Items to consider:

- Location of negotiations
- Official time “limitations”
- Time for preparations (Including “work groups” not on the bargaining team)
- Size of bargaining teams
- Observers?
- Subject Matter Experts
- Cost of Travel
- “Joint releases” concerning proposals?



More on Ground Rules

- Caucuses
- Impasses
- Ratification prior to agency head review.
- Ensure reasons for Agency Head disapproval
- Payment/reimbursement for travel & per diem



Strategic Bargaining Process

Research



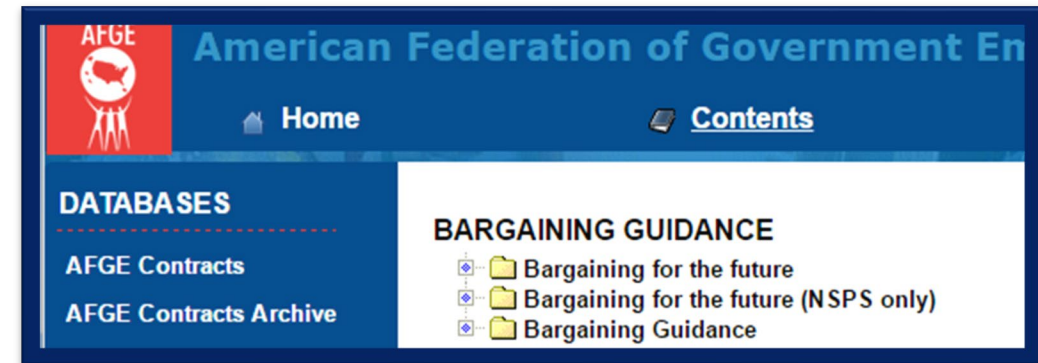
More on Bargaining Research

- Always focus on what do the members want?
- Review grievances, ULPs, MOUs (what has or has not worked?)
- Consider how to work with Agency bargaining style and experience
- **What are the Agency's priorities?**



Strategic Research

- Try to consider before bargaining starts, how to best respond to Agency proposals and concerns--
- Review FLRA guidance on case law
- Review CyberFEDS case law summaries



AFGE American Federation of Government Employees

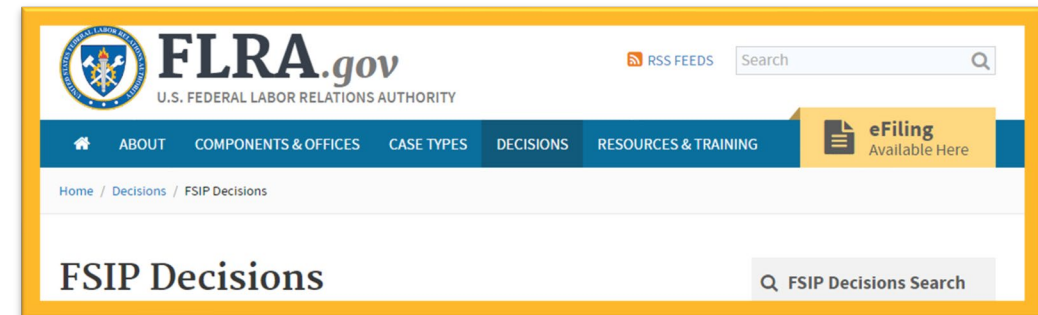
Home Contents

DATABASES

- AFGE Contracts
- AFGE Contracts Archive

BARGAINING GUIDANCE

- Bargaining for the future
- Bargaining for the future (NSPS only)
- Bargaining Guidance



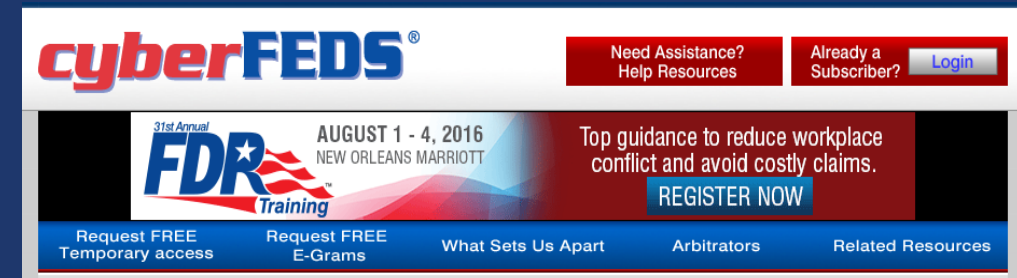
FLRA.gov
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Strategic Bargaining: Research (cont.)

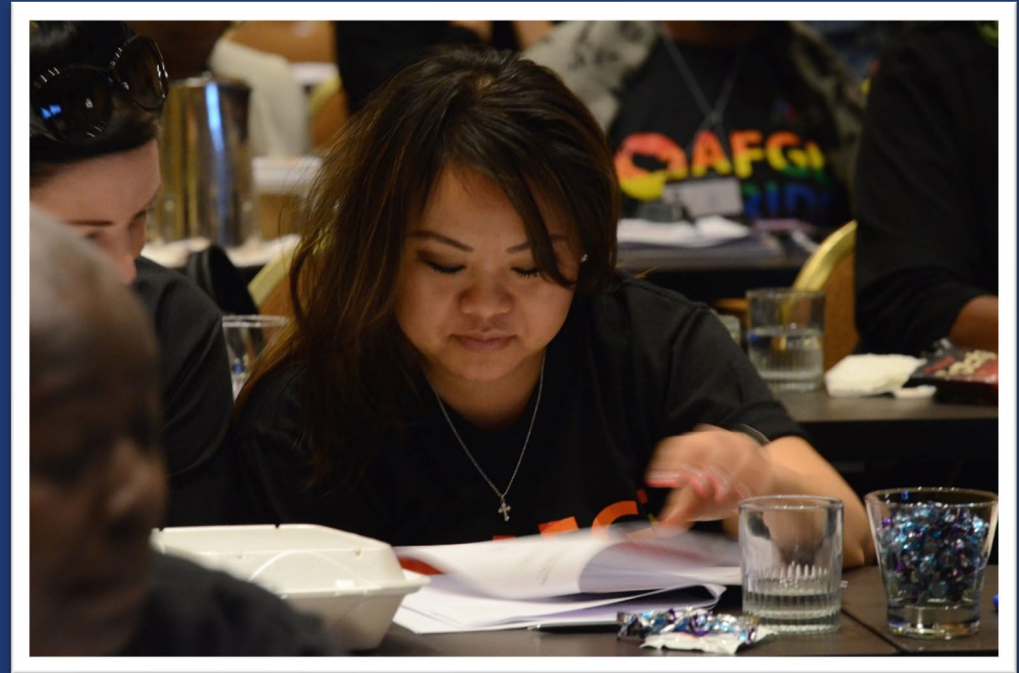


BE AWARE OF TIMELINES:

- Effective CBA dates?
- Windows for reopening?
- Timelines for sending demand to bargain letters
- Time needed to draft proposals
- Time to prepare work groups
- Timing for workplace actions and events

Strategic Bargaining Process

Proposal Development



Step One – Bargaining Survey

1. Collect information from members by drafting & distributing Bargaining Surveys (Field Services has templates)
2. Review surveys to Identify--
 - **Common issues** that **appear often**
 - **Novel issues** that are of worthy note
 - Compare results to initial goals. Do the initial goals need to be expanded?

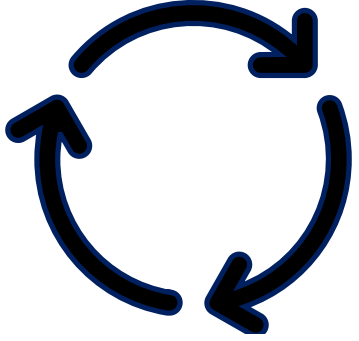


Step Two – Research Proposals base on:

- Bargaining goals
- Membership survey results
- Leadership knowledge and experience
- Prior grievances, MOAs, and disputes
- Changes in federal workplace standards & govt regs
- **Contract language/guidance from similar contracts**



Step Three – Pre-Bargaining Work for the Bargaining Team



Before furnishing the agency with any contract proposals, the bargaining team should work together to identify:

1. Identify “aspirational” and “bottom-line” positions
2. Develop strategies for each Article:
 - Communications and mobilization
 - Best ways to move from starting to final positions
3. Identify what are the common goals and needs of both parties?
4. What are potential compromise and tradeoffs?

Step Four – Drafting the Proposals



Proposal language should be drafted and reviewed by the bargaining team after:

- Research has been done
- Needs have been assessed
- Goals have been identified
- Aspirational and bottom-line positions have been discussed, and
- **Bargaining strategies have been established**

Strategic Bargaining Process

**Communicate,
Mobilize and
Organize!!**



No Blackouts!

Never agree to an Agency's request to eliminate or limit your ability to communicate with your members during bargaining!



Communicate with Employees

- **PRE-NEGOTIATION** –
Surveys/Meetings
- **DURING NEGOTIATIONS** – Inform and
Action Requests
- **POST NEGOTIATION** – Ratification

How do we communicate with employees now? Is it working?



Outreach—

- To Members (and other BUEs)
- To other Unions
- To community groups
- To elected representatives (allies)



Always Remember the Benefits of Mobilization–

- **Builds Leverage at the table**
- The bargaining unit will have more input and know that they have a voice
- The bargaining unit will feel ownership of the process



Members “Own” the Contract

- BUEs will see the relationship between activism, gains at the table, and their rights at work.
- **The CBA will be easier to ratify because the BUEs fought to make it happen.**
- **Workplace action builds power at the table, but also as an organizing tool.**



Examples of Effective Workplace Actions

- **SHARE SSMS (“stupid stuff management says”)**
- **Use Council/Local MAPPING** to identify
 - Where specific issues of importance are to employees
 - Where you need to organize around negotiations
 - **Who you can depend on to mobilize workplace actions**



Workplace Actions

Organize events:

- **Identify and recruit workplace leaders**
- Make sure the organizing message:
 - **relates to negotiations and**
 - **links directly to membership concerns**
- Create an Organizing Calendar
(with events)



Workplace Actions (cont.)

- **Collect and maintain up-to-date contact information for the bargaining unit**
- **Target employees who have shown an interest in how negotiations are going**
- **Deliver newsletter, bargaining updates**
- **Maintain and work phone trees for updates, events, and actions**

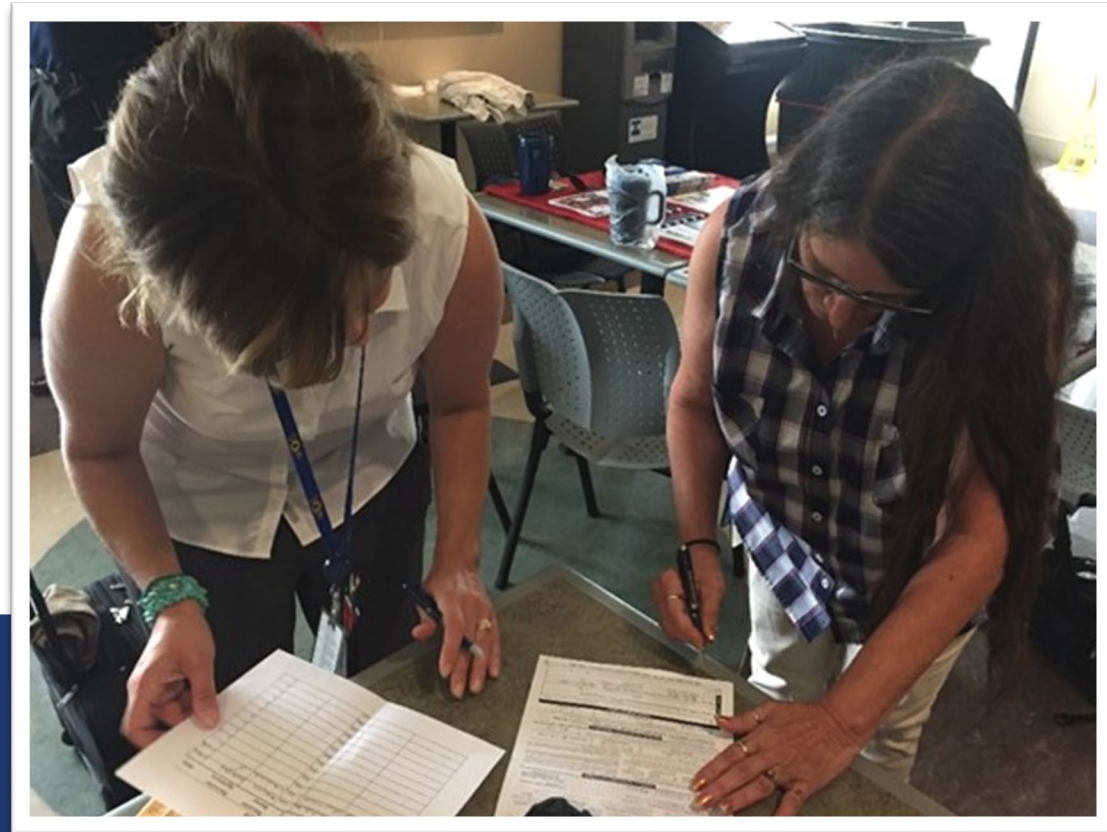


Effective Organizing Sends a Message to Management

For Example—

- 1) You start with an 800 person bargaining unit with 100 members, an outdated contract with no changes favorable to employees in years
- 2) The Union demands to bargain and solicits employee input
- 3) The Union hosts organizing events and adds 400 members.

What's the message?



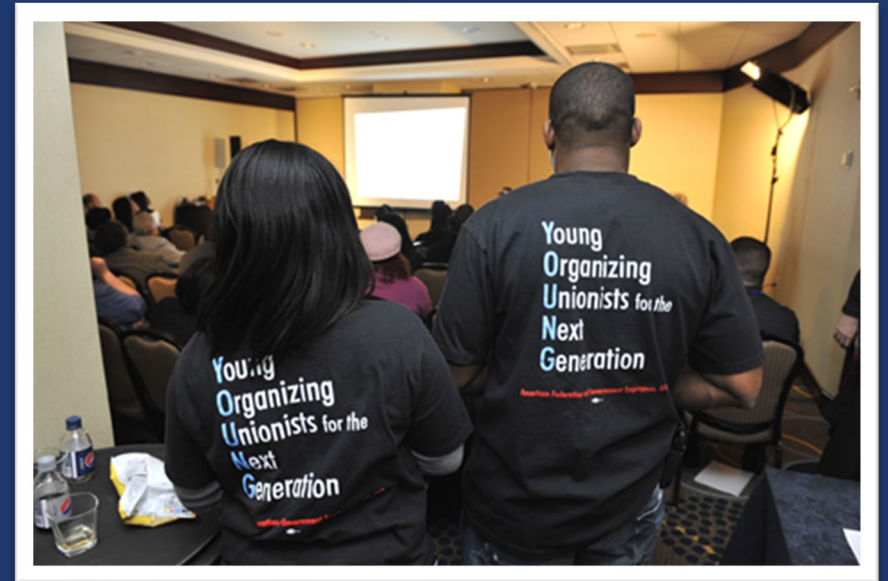
Organizing Around Bargaining is Effective

- ***BEST organizing occurs during negotiations***
- Union visibility increases
- Union power at the bargaining table increases



Negotiation Methods

Traditional Bargaining



Stages of Traditional Bargaining

Preliminary Stage

Establish negotiator “identity”

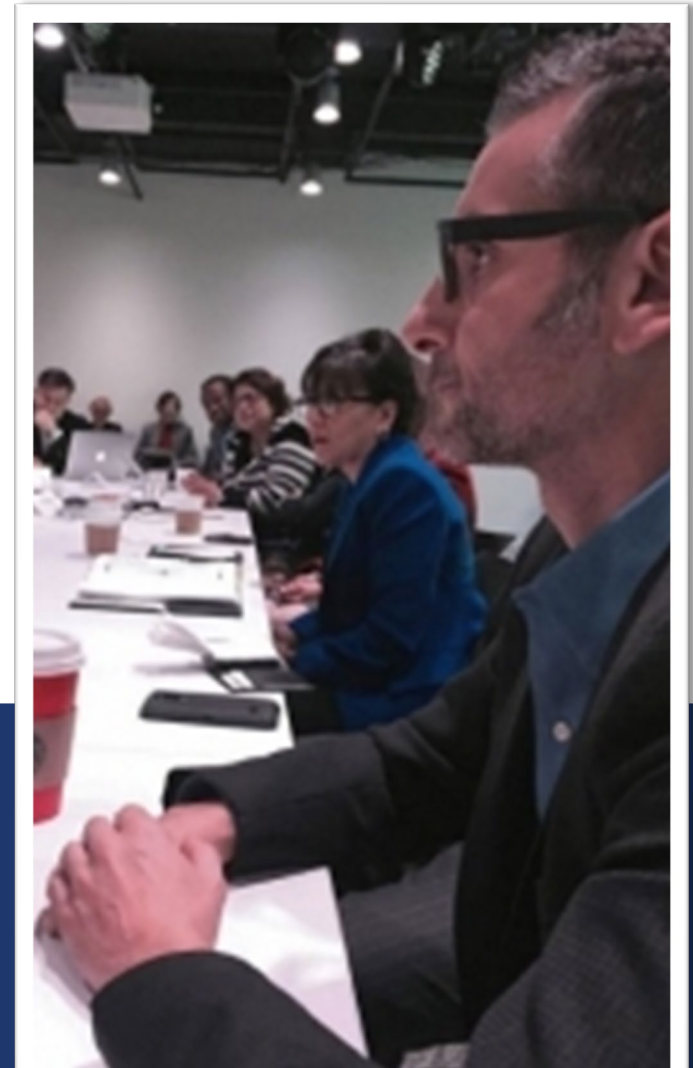
Establish tone for negotiations

Information Stage (Initial proposal/offers)

Questioning / Listening

Offers

Controlled Responses



Stages of Traditional Bargaining (cont.)

Competitive/Distributive Stage

Value claiming / Concessions

Closing Stage

Less concessions

Increased need for reciprocation

(e.g. packages)

Calculated patience



Stages of Traditional Bargaining, (cont.)

More Characteristics of the final stage:

- Need to preserve credibility
- Explore alternatives
- Need to leave opponent thinking they got a good deal



Important Negotiation Techniques (in any type of negotiation)

- ***Preparation, preparation, preparation***
- Reward cooperation
- Controlled responses
- ***Find and use leverage***



Negotiation Methods

Interest-based Bargaining



What is Interest-Based Bargaining?

- Bargaining method aimed at expanding the pie (“win-win”)
- Problem solving
- Addressing shared interests



IBB is also referred to as:

- Interest-Based Problem Solving
- “Integrative” Bargaining



What is Interest-Based Bargaining?

In traditional “adversarial” bargaining, parties dig into their *positions* and exchange demands

In IBB, the parties focus on understanding the problem and identifying the interests that underlie each side’s issues needs and wants.





- IBB assumes that mutual gain is possible and that solutions which satisfy mutual interests are more durable.
- The parties help each other achieve a positive result.



IBB has 3 distinct goals:

- 1) to reach a mutually desired and durable result
- 2) to reach agreement efficiently and fairly
- 3) to keep the relationship intact



Six Principles of Interest-Based Bargaining

1) **Sharing relevant information is critical** for effective solutions

2) **Focus on issues, not personalities.**

3) **Focus on the present and future, not the past.**

4) **Focus on the interests** underlying the issues.

6) ***Consider options*** to satisfy those interests

7) **Options should be evaluated by objective criteria, rather than power or leverage.**

IBB does not always work!

So, what is required for IBB to be successful?

- Evidence of labor-management cooperation during the past bargaining.
- Willingness to fully share relevant bargaining information
- Willingness to forgo power as the sole method of "winning."
- Understanding and acceptance of the process by all participants and their constituents.

Getting IBB Started

- **Training** with IBB experienced facilitators
(FMCS will provide training)
- **Joint meetings with mediators** to reach agreement on ground rules and protocols
- **Bargaining begins with discussion of issues and interests**



Typical IBB Start-up Negotiations

- Mediators often facilitate a joint meetings to reach agreement on ground rules and protocols



IBB: The Process



- Participants engage in **problem solving** around underlying interests or desires behind a **particular problem or problems.**

Interest vs. Positions?

Converting positions to interests:

If a demand, solution, proposal, or position appears on your interest list, try to convert it to an interest by ***asking what problem it is trying to solve or what concern it is intended to address?***




IBB: Summary of Negotiation Techniques

- **Focus on issues** – not personalities or the past
- **Describe the problem**, don't accuse or assign motivation
- **Focus on interests** – not positions
- ***Understand interests – don't judge them***
- Defer evaluation during the option-generating stage





Effective for IBB (cont.)

- **Share Information**
 - **Respect the role and responsibility of others**
 - *listen*
 - **Be open to reasoned argument**
 - **If you dissent – explain why and propose alternate solutions, or suggest how to modify existing solutions**
 - *Be willing to change your mind*
- 

IBB Also Requires Building Consensus

- Work collaboratively
- Combine ideas creatively
- Don't argue for an idea simply because it's yours
- Look for mutual gains

