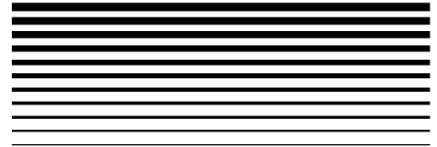


NEGOTIATOR'S NOTEBOOK



EXAMINING COLLABORATIVE BARGAINING TECHNIQUES

A growing number of Oregon school districts are choosing collaborative bargaining. Of the state's 250 school districts 103 used collaborative bargaining to negotiate teacher contracts in 1994-95, compared with only 19 districts in 1992-93.

Collaborative bargaining is a generic term that describes a variety of bargaining methods: win-win bargaining, collegial bargaining, consensus bargaining, cooperative bargaining, integrative bargaining, collective bargaining and interest-based negotiations. They all involve a two-way discussion with the goal of mutual gains between the parties to:

- increase the quality and quantity of communication between the parties;
- focus on joint resolution of problems;
- resolve issues with respect and dignity;
- improve working relationships between the parties;
- enhance the probability of successful negotiations.

A continuum of techniques

Districts can use a continuum of techniques — from traditional processes to collaborative or integrative styles — in negotiating collective bargaining agreements.

Traditional negotiations are based on an assumption that management and labor have a clearly defined set of different tasks and different interests.

The goal of traditional negotiations is to distribute a relatively fixed set of benefits and resources. This style is called "zero-sum" bargaining, since every gain is offset by a loss:

$$+ \textit{gain} - \textit{loss} = \textit{zero}$$

These distributive bargaining techniques are useful if there is a fixed resource, a single issue or if the outcome of the negotiations outweighs relationship issues.

Traditional negotiations involves a highly structured process, with written proposals and counter-proposals. Position statements usually include rationalizations and justifications for the positions. The goal is maximum gain and minimum loss. The process includes demanding concessions and applying pressure so that the opposing party agrees to those demands. Packaging proposals and trading off issues happens frequently.

A formal contractual relationship regulates the impact of management decisions and the rights of employees. Conflict resolution usually is characterized by a uniform application of work rules and practices. Contract language is interpreted legally.

Traditional bargaining includes a variety of models. The four used by Oregon school districts (see page 13) are:

- *Adversarial negotiations*, where bargaining is characterized by competing interests. The chief spokesperson typically is a professional negotiator.



Written proposals and counterproposals are used. Concessions are made infrequently and many issues are linked to make concessions more palatable.

□ *Process-oriented adversarial*, characterized by the use of the collective bargaining process itself to focus on a narrow number of issues, usually economics. Mediation, factfinding and the cooling-off period are used to gain strategic advantage to pressure the opposing party into concessions. Bargaining often is characterized by a one- to two-day marathon session, or *brinksmanship* bargaining during the 30-day cooling-off period.

□ *Informal adversarial* usually does not involve a professional negotiator, but typically involves union presidents and superintendents in informal discussions of bottom-line positions. Gentle pressure is applied by both parties and there usually is some type of gradual concession or movement. Issues are packaged early in the discussions. Written proposals usually are made only after considerable discussion. Sessions usually are of short duration and relatively low frequency.

□ *Expedited traditional* typically involves a limited number of issues discussed by both parties in a marathon bargaining session. The superintendent or board representative usually serves as the sole spokesperson. A professional negotiator often is not present but may be advising behind the scenes.

At the other end of the continuum are collaborative, or integrative, bargaining techniques. Integrative bargaining focuses on underlying interests. The goal is to integrate these interests by creating solutions that yield mutual benefit.

Collaborative bargaining models place high value on individual participation and cooperation in the process. Instead of a *bargaining* methodology, a *problem-solving* methodology is used for resolving conflicts between the parties. The structures and procedures are flexible as opposed to the highly stylized conversations and debates in traditional models.

The atmosphere is one of continual bargaining and consultation. Trust is established through the participatory process, with less reliance on specific

contractual obligations and duties. Collaborative/integrative bargaining establishes comprehensive ongoing communications and problem-solving forums characterized by:

- consult before proceeding;
- understanding, then be understood;
- being co-partners; and
- developing a relationship that survives the differences between the parties.

The four collaborative bargaining models used in Oregon schools are:

□ *Informal collaborative/cooperative* — an informal style of bargaining similar to the *informal adversarial model* used in traditional bargaining. Typically, there are no extensive teams of individuals from either party. Negotiations are loosely structured, short duration, with few meetings. Representation is by a union president and the superintendent or board chair. Issues tend to be limited and focused on solving problems rather than taking positions.

Differences between informal collaborative/cooperative negotiations and the informal adversarial negotiations relate to:

- attitudes of the participants;
 - working relationships;
 - amount of trust between the parties;
 - number of issues raised during the negotiations;
 - participants' personalities;
 - balance and nature of the contract;
 - ability to continue informal communications;
 - relative stability of the district's environment;
- *Formal collaborative* involves some formal training but does not require the facilitators' presence. Districts use a number of specific procedures geared to their own cultures. Districts feel considerable ownership over the extent and nature of the process.

Actual written proposals and counterproposals may be used, but considerable time is spent identifying issues, clarifying mutual interests and using some type of problem-solving technique. Typically there is a



minimal meeting structure, although marathon sessions are not uncommon.

The Employment Relations Board's State Conciliation Service uses a *formal collaborative model*, which includes a two-day joint training workshop in interest-based bargaining, conducted by ERB, with both the union and management negotiation teams present.

The training includes an introduction to the principles of interest-based problem solving using materials from *Getting to Yes*¹ as well as training on consensus decision-making. There is a facilitation option during the actual negotiations. The conciliation service also offers an interest-based mediation approach if the parties request mediation under PECBA. Written ground rules are developed by the parties as part of the training program.

□ *U.S. Department of Labor interest-based negotiations program.* This model is a joint problem-solving process based on the parties' interest and a mutual stake in the future. The model prescribes an expedited procedure with one- to two-day marathon sessions and completion of the entire bargaining process within 30 days.

While some options use a non-expedited format, the formal model indicates settlements can be achieved in record time. This model provides a two-day training program with the parties self-facilitating the negotiations. In some options, advocates from both parties may double as the facilitators. A formal issue-identification process emphasizes communications and clarification of interests. There is a structured problem-solving and brainstorming process, as well as options to establish written standards for judging the options in advance. There are no written proposals and hard issues are tackled first.

The process has a defined structure. It discourages a large number of issues from both parties because of the expedited nature of the model. The model is most often used with classified employee bargaining units.

□ *The OEA-OSBA Collaborative Bargaining Model* is the most highly structured of the collaborative bargaining models used in Oregon. This model provides parties with a team of two facilitators, one from the Oregon Education Association and the other from the Oregon School Boards Association. Each facilitator has a background in bargaining and specific training in this non-traditional process.

Facilitators advocate for the process, not the parties. Advocates sometimes are present during negotiations, but it is optional and controlled by the written ground rules. The facilitators conduct an unbiased assessment with each party to determine the school district's circumstances and to determine the parties' chances for success. Facilitators may make recommendations and/or describe the parties' strengths and weaknesses for embarking on this style of bargaining.

Typically, the bargaining takes place over a 12–14 week period, with an initial two-day (weekend) bargaining session. The parties then identify topics and divide into subcommittees to work on specific issues during a six- to eight-week period. The parties come together again in a final two-day (weekend) session to reach agreement on a total contract settlement. Written ground rules are specified by the process.

Details for the OEA-OSBA Collaborative Bargaining Model are included on pages 15–17. Facilitators are present for the first weekend's bargaining session and are on-call for the subcommittee bargaining during the second weekend bargaining session. Facilitators also conduct a two-day training session to familiarize the parties with each step of the process.

Bargaining cycles

Viewed historically, organizations tend to cycle between using adversarial and cooperative relationships, depending upon the situation. (See Figure 1.)

¹*Getting to Yes*, Roger Fisher and William Ury, Penguin Books 2nd Edition, 1983

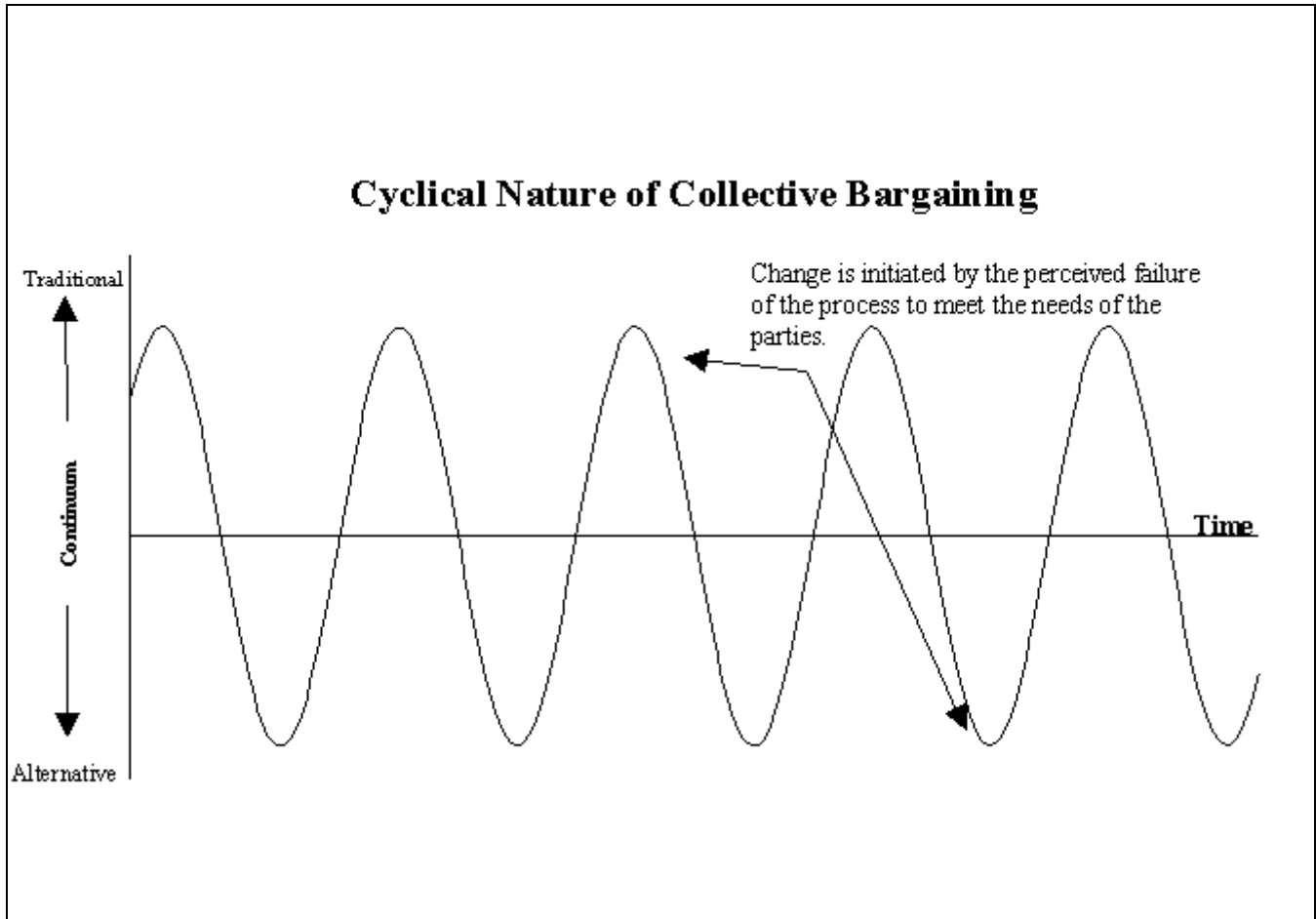


Figure 1

The turning points are defined by the participants' perceived value of benefits and the costs associated with the settlement. For instance, if districts using a traditional approach perceive the methods as not working and the conflict gets out of control, a party may decide a change is needed. Or the parties may decide they have not met their goals and objectives on a consistent basis.

The three main reasons why parties consider using alternative bargaining techniques are:

- The traditional methods are not working or create too much conflict, i.e., "there has to be a better way."
- There are a number of environmental changes,

i.e., a fiscal crisis, that necessitate a change in the way of doing business.

- New methods are needed to change the *status quo* and initiate such programs as school improvement or site-based decision-making.

After alternative bargaining methods are used successfully for several contract periods, union members often call for a more hard-lined bargaining approach because:

- In a climate of cooperation, union members begin to question: Why are we paying union dues? What are we getting for our money? Unions need problems to successfully address; otherwise, the union has no



reason to exist.

□ Unions may need to be perceived as "strong" to be able to collaborate. A union becomes strong through successful strikes and confrontations. Strong unions typically attain success through higher salaries, improved fringe benefits and smaller class sizes.

On the other hand, management also must be seen as strong or the union will dominate it, and collaboration is not needed. Management must recognize that teachers play a legitimate, constructive role in policy-making. If teachers are not viewed as having a legitimate role in policy making, then bargaining probably will continue in a more traditional manner. If the only tool you have is a hammer, then all of your problems begin to look like nails.

The use of alternative and traditional techniques not only cycles from contract to contract, but can cycle over multiple contracts as well. For instance, Warren S. Stone, in 1924, wrote:

"Organized labor in the United States has gone through three cycles. . .the first was the period when class consciousness was being aroused. . .the second was the defensive struggle for the principle of collective bargaining, a period of warfare. . .[T]oday the third cycle lies in constructive development towards a system of cooperation rather than war."

In another pattern, districts cycle for extended periods in either the collaborative or traditional portion of the continuum and only occasionally make bridges between the two.

A shift from a traditional cycle to a collaborative cycle usually is precipitated by some critical event. For example, a number of districts have attempted to use more collaborative and non-confrontational techniques after a strike to accelerate the healing process. The strike caused the parties to realize they need to change their way of doing business. Consequently, use of alternative bargaining techniques becomes possible.

The movement from collaborative to more traditional techniques also requires some type of precipitating event. Most often it is a fiscal crisis. In Oregon,

decreasing resources have strained collaborative and cooperative relationships, resulting in more confrontational or adversarial approaches as parties try to resolve their competing interests.

Districts have a choice, then, to use different techniques in their collective bargaining. A proper assessment of where a district is in the collective bargaining cycle is crucial. Identification of specific collective bargaining goals and objectives is also essential.

The choice of alternative or traditional bargaining models provides additional tools that enable districts to more effectively achieve their goals.

Advantages and disadvantages of collaborative bargaining

While collaborative techniques do not eliminate the conflict inherent in collective bargaining, they do provide a different way to manage it. By enhancing communication between the parties, highlighting mutual interests and applying a problem-solving strategy, conflict may be channeled into more productive means. Successful alternative bargaining in Oregon districts has resulted in improved relations between staff, administration and the school board, as well as a strong sense of teamwork and shared responsibility.

Successful collaborative bargaining can have the following positive outcomes:

- manage the parties' inherent conflict and prevent uncontrolled escalation of the conflict;
- broaden participation by employees and their organizations;
- achieve contracts that are acceptable to both parties;
- promote greater mutual respect and trust;
- increase the quality and quantity of communication;
- focus on joint resolution of problems;
- recognize negotiations as a single step in the labor relations process.

Successful collaborative bargaining negotiations can result in increased productivity and improved relationships and provide a platform to develop high-performance organizations. Equally true, this type of



bargaining is not an easy method to use. Despite its positive results, the collaborative bargaining approach has a number of disadvantages.

Collaborative bargaining requires a substantial commitment of both time and resources. The time commitment is increased by training required before the parties begin bargaining.

Its methods are based on communication and trust. Such a trust-based process carries inherent risks and may be vulnerable to deception and manipulation, i.e., hidden agendas. Consequently, some collaborative efforts include not only procedural ground rules but trust agreements governing behaviors during the process. Because of these factors, motivation to establish mutual cooperation and sustain successful relationships must be relatively high and sustained.

When the ongoing relationship between the parties is in balance with the content or results of the ultimate agreement, there is a greater chance for success using a collaborative approach. However, when relationship issues start to outweigh content issues, a number of pitfalls appear:

- Relationship issues are elevated so that substantive concessions are made in the name of cooperation. These concessions can lead to situations where more and more is given in the name of cooperation. The only questions that remain in such negotiations are "How much?" and "When?" This form of *hug-me, mug-me* collaborative bargaining, by either side, is a misuse of the process.

- The parties focus on the process so much that the content is diminished. In this type of situation, the focus is on group dynamics and how to process issues. There are constant disputes and discussions on the precise problem-solving model to be used. Disagreements and endless discussions on small details are so extreme that ultimately very little is accomplished.

- The relationship between the parties is so positive that groups tend to talk issues into the ground and prolong the negotiations. The focus is on eliminating conflict and defining common goals rather than achieving workable solutions to problems. This form of *feel-good* bargaining is typical of groups that lack

focus, leadership and training.

All of these pitfalls are common when the context and balance is removed from collaborative bargaining. Relationship/content issues are carried to extremes either through parties' ignorance, lack of preparation, misapplication of the techniques, or manipulation of the techniques through hidden agendas.

Criteria for assessing the success of collaborative bargaining

Evaluating the success of collaborative bargaining techniques requires careful assessment of these factors:

Motivation — The parties must be sufficiently motivated to engage in a collaborative process, believing either that some fundamental change or improvement is needed in their relationship or that a good relationship should not deteriorate. A high level of motivation is vital because it is the degree of commitment to the process and its goals of mutual respect and trust that can carry the parties through the stressful phases of bargaining. Also, this commitment should extend beyond the bargaining table, assuring that the new relationships continue for the duration of the contract. While this motivation cannot be externally placed on the parties, training and education can provide the necessary supportive functions.

Realistic expectations — Collaborative bargaining is a process, not a guarantee to a better contract or better relationship between the parties. It merely provides an avenue for increasing the chances of reaching a wise agreement.² It's critical for all parties involved to understand and have realistic expectations of the process from the outset.

Collective benefits — The collaborative bargaining

²A wise agreement can be defined as one which: meets the legitimate interests of each side to the extent possible; resolves conflicting interests fairly; is durable; and takes the interests of children and the community into account.



approach has a better chance of success if the parties believe there is some goal that can benefit both sides. An example is restructuring insurance programs for maximum employee benefits while providing cost containment advantages for the employer. Another example is in the area of school improvement.

Finances — Consider the financial status of the district. A district facing financial crisis — in the midst of layoffs and program cutbacks — is a difficult environment in which to launch collaborative efforts.

Stability — Consider the overall stability of the district. Districts in administrative or political turmoil, i.e., superintendent removals, board recalls, etc., also provide a difficult setting for collaborative efforts.

Communication — Look at the level, scope, style and accuracy of communication between the parties. Communication and attitudes based on rumor, innuendo and a lack of face-to-face meetings can signal trouble for collaborative bargaining.

Relationship — Assess the current relationship between the parties. Parties engaged in traditional bargaining often have an adversarial, or at best, cautious relationship. The probability of success must be evaluated with the personalities of the participants in mind.

Contract — Consider the collective bargaining contract itself to determine whether there is balance in the contract, as well as in the labor-management relationship.

Two inventories are included on pages 18–20 to help districts assess the status of their labor/management relationship and their negotiating style. The first inventory is a way to assess the relationship between members of management and labor in four differing areas: support for cooperation, promotion of a favorable climate, assessment of

credibility and safety of openness. This profile was developed by the National Partnership Council in Washington, D.C., created by President Clinton.

The second inventory, designed by OSBA, allows a negotiation style assessment of individual management/labor bargaining team members. Understanding these styles is critical to establishing appropriate behaviors in collaborative bargaining. The dilemma in most negotiations is knowing when to be competitive and assertive and when to be collaborative and cooperative.

Most negotiations provide a mix of issues, some of which require more competitive behaviors and others that require more cooperative behaviors. This requires a realization that conflict and competitiveness make it more difficult for the parties to find collaborative solutions to problems. Collaborative bargaining can fail when the parties fail to recognize possible collaborative solutions to problems, without falling back on more competitive, distributive techniques.

Those who believe an issue can be resolved only through an adversarial or distributive process can bias the range of possible outcomes, resulting in negotiations that look only at a limited scope of possible solutions. Consequently, the motivation of the parties is critical in their commitment to the process and its goals of mutual respect and trust that can carry the parties through the stressful phases of bargaining.

The collaborative process

In examining the collaborative process, it is useful to look at the following critical elements:

- timelines and structure;
- team composition;
- problem-solving methods;
- usefulness of facilitation;
- decision-making process;
- role of the advocate; and
- ground rules.

Timelines and structure

Timeline demands are different with different col-



laborative models. An advantage to some collaborative procedures is that bargaining is completed in a relatively short period of time in a reasonable fashion. This is attractive to many districts and associations but requires considerable resource dedication.

For instance, in the U.S. Department of Labor interest-based negotiations process, the negotiations take place over a 30-day period. The parties' ability to reach agreement in such a short period depends on the type and number of issues brought into the negotiations.

Since the basis of collaborative bargaining is to enhance communication between the parties about both issues and underlying interests, considerably more time is required than in a traditional setting. This additional time is magnified by the number of issues brought into the negotiations.

In the OEA-OSBA Collaborative Bargaining Model, unions typically bring in 20 to 40 issues. Management typically brings in 5 to 10 issues. As the parties divide into two or three subcommittees working over a six- to eight-week period, they may be hard-pressed to process that many issues. Consequently, when evaluating a collaborative process, the parties need to examine the model's timelines along with the number and type of issues brought into the negotiations.

The parties should consider these elements before any joint decision is made on the type of collaborative bargaining model to be used. Some districts and unions have informal talks regarding the number and types of issues each side will bring into the negotiations to better judge timelines and resource dedication requirements.

Districts and unions that attempt to limit the number of issues may encounter endless discussions on how many subparts there are to each issue. On the other hand, some districts and unions have no difficulty limiting the number of issues. This usually occurs in medium- and small-sized districts whose bargaining histories indicate there are relatively few issues brought to the bargaining table.

There is a danger, however, in leaving timelines completely open with no definite end date to the

collaborative process. In some districts, the negotiations process has extended a year or more because there was no deadline. These *never-ending* collaborative sessions may or may not be productive, but there are a number of pitfalls, as identified on page 6, that may cause the parties difficulties.

For example, parties that have been able to avoid conflict by not dealing with major issues or by focusing on minutia may end up delaying discussion of issues in which there may be major conflict. This phenomenon can be exacerbated by the lack of timelines in the process.

The lack of timelines also can create problems in deciding what happens if the collaborative process does not work. Our recommendation has been to add *Cinderella clauses* to ground rules so that the parties know, if the collaborative process is not successful by a certain date, negotiations will proceed to mediation. Without these definitive processes (an ending date and request for mediation), the parties may not be able to use the process effectively.

Timelines and the structure of the process are intricately connected. If, for instance, the process indicates the parties will divide into subcommittees to address certain issues, then time must be allocated for those subcommittees to function. If, on the other hand, the structure of the process is designed to address all issues as a *committee of the whole*, timelines must relate to that function.

Team composition

Typically, the more people on a committee, the longer it takes to resolve issues. An advantage of smaller groups (fewer than seven) is the group's ability to make decisions in a more efficient fashion. Larger groups (more than seven) have a tendency to discuss issues more thoroughly and may come up with more creative solutions.

Consequently, the structure of the collaborative process also affects team size. For example, 15-20 bargaining team members need more time to discuss a large number of issues. On the other hand, if those 15 members are divided into three subcommittees with the



number of issues divided among the subcommittees, time can be used more efficiently.

The general rule of thumb is that the subcommittee process is more efficient for large numbers of issues. A disadvantage, however, is that participants need a higher degree of training and knowledge of issues than they would if all issues were discussed in a committee of the whole. Typically, teacher bargaining units tend to use and be more comfortable with subcommittee work, while classified bargaining units tend to operate as committees of the whole.

Critical decision makers of both parties should be present during bargaining. Typically, union bargaining teams incorporate a significant number of their executive board members as well as representatives from each building.

Typical management teams include board members (less than a quorum); the superintendent, personnel director or other central office staff, like the business manager; as well as building principal representatives.

The number of individuals involved relates directly to the structure of the process, the time needed for negotiations and the resources which must be devoted to complete the bargaining process. Getting the right size team requires a balance of resources, time and structure.

For additional discussion on team composition, see the *Negotiator's Notebook* Technical Assistance (March 1995), "Preparations for Bargaining, Selecting the District's Bargaining Team."

Problem-solving methodologies

The proper problem-solving methodology is one of the keys to a successful collaborative bargaining experience. Eighty percent of any solution depends on the proper definition of the problem.

Having the proper problem definition is like the story of two hikers who were being chased by a grizzly bear. While on the run, one of the hikers reaches into his backpack and pulls out a pair of jogging shoes. The other hiker glances over and asks, "Why bother? This bear can outrun you even with those shoes on." His partner responds "I don't need to outrun the bear. I just

need to outrun you!"

Since defining the problem is so critical, one of the concerns about a collaborative process is that one or both parties may manipulate information about problems and problem definition. One way to balance this tendency is to use an explicit problem-solving procedure that is monitored by a neutral facilitator. The role of the facilitator will be explored further in the next section.

A variety of problem-solving strategies have been used in successful collaborative bargaining experiences. (Four of them are identified on page 21.) The strategy used in *Getting to Yes* is useful in the *Informal Collaborative/Cooperative model* and is used by a number of Oregon school districts. This process provides general guidelines and principles which are integral in most of the collaborative bargaining models.

The *OEA-OSBA model* is a highly structured problem-solving process facilitated by representatives of both union and management. This comprehensive process can be adapted to the needs of individual districts and unions.

The *Oregon State Conciliation Service's model* also provides a practical way of using a six-step procedure to resolve issues. Reapplication of the six-step process can be useful and is designed for self-facilitation collaborative models.

The *U.S. Department of Labor model* was designed as a seven-step process, also for use in self-facilitation models. An advantage of this model is that there is excellent background material describing the process in detail.

The *Collective Gaining Scientific Method* used in Montana is useful for issues requiring ongoing monitoring and adjustment over time, such as non-economic issues or for establishing new or pilot programs.

The *Integrative Problem-Solving Methodology* strategy is useful in helping the parties identify and define problems. This method provides guidelines for evaluating and selecting alternatives to reduce the number of options generated.



Facilitation

The facilitator is one of the most under-valued but critical elements in a successful collaborative bargaining process. The facilitator serves as the process' neutral manager. The facilitator can serve as a resource to the group and suggest ways to improve the efficiency and effectiveness of the process. The facilitator should not express personal opinions on the content. In this way, the facilitator can assure the neutrality of the process.

Most important, the facilitator is not a mediator who makes assessments and judgements about the advantages and disadvantages of particular solutions identified by the parties. The facilitator serves as a gate-keeper for the group, keeping it focused and on task.

Facilitators who depart from the *guardian-of-the-process* role run the risk of dominating the group through an *advocacy-of-the-substance* role. One characteristic of collaborative bargaining is participation by all negotiating team members. The process becomes skewed when the facilitator assumes the role of expert on content matters.

There are four basic choices for facilitation:

Self-Facilitation — A number of collaborative bargaining models provide specific training of participants to allow for a self-facilitation option. Usually one member from either team or a single member acts as the facilitator for a particular session and assumes all of the characteristics of the facilitator's role. The individual does not make content comments and is restricted to observing the process and making suggestions to improve problem-solving strategies. Some models use a rotating self-facilitation option that requires additional training of all members of the team in facilitation roles.

Advocate Facilitation — Some models allow a management representative and labor advocate to act as co-facilitators. This can be confusing since the advocate's role is to advocate on the content of the negotiations, while the facilitator only comments on the

process. Without careful training and coordination between the advocates, this can degenerate into a quasi-traditional form of bargaining with chief spokespersons for either team doing all the talking. A more effective system for using advocates as facilitators is to rotate the facilitation not only between the two advocates but also among other group participants, as in the first option.

Outside Facilitation — The parties can hire a neutral facilitator. Both parties need to accept the person as neutral. The facilitator should have knowledge and expertise in collaborative techniques, group processes and consensus decision-making to provide the group with sufficient expertise. Cost can become a considerable factor. Some models require the facilitator's presence at all sessions, others require only periodic presence of the facilitators, and some models have only an outside facilitator on-call. A facilitator is essential, however, in conducting the necessary training.

Co-Facilitators — Some models, like the OEA–OSBA Collaborative Bargaining Model, assure neutrality by providing both a labor and a management representative to balance any questions regarding facilitation. This highly structured way can be expensive but is useful when there is a minimal level of trust between the parties or where there is a good deal of suspicion about the process itself.

Group decision making

The problem-solving strategies used in collaborative bargaining can generate a variety of solutions but agreement is needed on a final alternative for successful bargaining to take place. The method for making these decisions is a critical element of the collaborative process.

Most collaborative bargaining processes use a consensus decision-making model for making decisions within the group and the final selection of alternatives and options. This strategy should be identified prior to starting the model so both parties know how decisions will be made.



Some models use different forms of consensus decision-making. The OEA–OSBA Collaborative Bargaining Model, the U.S. Department of Labor Collaborative Bargaining Model and the state Conciliation Service bargaining model essentially use the same definition of consensus: A decision that everyone can support, agree to, or live with.

However, some models have different meanings of consensus and different operational rules. Some models use an 80 percent major majority rule in which agreement is required of only 80 percent of the participants. Other models use a quorum consensus rule which requires a consensus only in a major quorum of the participants. Neither the quorum consensus rule nor the major majority census rule are recommended. Both of these processes allow minority opinions, which can decrease the acceptability of solutions identified by the group. Insisting that all group members reach consensus increases the chances of reaching a successful, high quality agreement.

Role of the advocate

The advocate's role in collaborative bargaining negotiations is substantially different than the advocate's role during traditional bargaining. During traditional bargaining, the advocate acts as chief spokesperson for the bargaining team to construct written proposals and counterproposals and, along with the team, to determine appropriate strategies and tactics. Typically, the advocate in a traditional setting is the sole spokesperson for the team and articulates the party's positions.

In a collaborative bargaining situation, the advocate does not act as the sole spokesperson or the chief negotiator. The advocate's role is to assist the team in developing strategies and tactics that are executed by individual team members, not solely by the advocate. The advocate and the participants do not take positions on issues, nor seek to represent themselves as the sole representative of either party.

The advocate in a collaborative bargaining situation also serves as a consultant advising on PECBA and the technical aspects of various issues in negotiations. Unlike the traditional situation, where this advice is

given privately in caucuses, the advice is given publicly in the presence of both parties during a collaborative bargaining session. Like the facilitator, the advocate must be skilled in group dynamics, conflict management and technical expertise in collaborative processes.

Ground rules

Ground rules are not recommended in most forms of traditional bargaining, but they are a good idea in the collaborative bargaining process because there are so many variations and models available. The type of model and its implications for timelines, team composition and resource allocation is critically important.

Consequently, ground rules should include:

- party identification;
- number of participants for the employer and union teams;
- whether the advocates will be present;
- the facilitator's identification and role as process advisor;
- specific timelines about when bargaining begins and ends, along with a *Cinderella clause* that outlines what happens if the parties do not reach tentative agreements;
- the parties' authority to bargain and reach conceptual and tentative agreements. The process should indicate that tentative agreements must be submitted back to the board and the union for final ratification and that the parties only have authority to reach a tentative agreement;
- whether team caucuses are allowed even though caucuses are rarely used in most collaborative processes;
- a brief outline of the process or model used by the parties;
- whether the bargaining process will be conducted as a committee of the whole or if subcommittees may be used;
- whether the bargaining sessions will be open or closed to the public pursuant to ORS 192.660 (2).

An example of some sample ground rules are included in pages 22–23.

Training

Collaborative bargaining requires a different set of skills than is usually found in the traditional bargaining processes. Because of this, participant training is critically important. Successful collaborative bargaining experiences are predicated not only on the parties' motivation but also the parties' knowledge and experience in the process itself.

Critical skill training needed to engage in collaborative bargaining is:

- conflict management;
- negotiations strategy;
- interpersonal communications training;
- consensus decision-making techniques;
- problem-solving techniques;
- defining and identifying interests;
- option reduction techniques;
- utilization of principled/integrated negotiations

styles;

- group process skills;
- evaluating alternatives; and
- development of ground rules.

Pages 24–28 offer a better idea of the different types of training agendas available.

Pages 24–25 are the sample agenda and table of contents from the training manual for the OEA–OSBA Collaborative Bargaining Model.

Pages 26–27 offer an explanation and agenda from the interest-based bargaining training workshops conducted by the Oregon Employment Relations Board Conciliation Service. Page 28 shows a sample agenda from the U.S. Department of Labor Office of the American Workplace Office of Labor/Management Programs training agenda for their interest-based negotiations.

By Ron Wilson, OSBA Director of Labor Relations

Traditional Bargaining Models in Oregon School Districts

Characteristics of Models

Type	Origins	Advocate Presence/ Input	Team Structure	Participant Training	Process	Sessions\ Time Frame	Ground Rules
Adversarial Negotiations Model	<ul style="list-style-type: none"> • Private Sector Manufacturing • Trade Union Style Bargaining 	Outside professional negotiator usually present	<ul style="list-style-type: none"> • Professional negotiator • Team participation usually limited to caucuses 	Structure/ Participation	<ul style="list-style-type: none"> • Highly Structured • Written proposals • Positional statements • Rationalize and justify positions • Maximize gains • Minimize losses • Demand concessions • Apply pressure • Few and small concessions • Packaging proposals 	<ul style="list-style-type: none"> • Sessions typically scheduled for every other week for 2-3 hours at a time • Typically 8-12 meetings prior to mediation • 2 to 12 months typically 	<ul style="list-style-type: none"> • Usually avoided • Can be submitted for strategic purposes
Process-Oriented Adversarial Model	<ul style="list-style-type: none"> • Private Sector Manufacturing • Trade Union Style Bargaining 	Outside professional negotiator usually present	<ul style="list-style-type: none"> • Professional negotiator • Team participation usually limited to caucuses 	Generic negotiations training	<ul style="list-style-type: none"> • Process used strategically • Focus on economics • Apply pressure • Written proposals • Positional statements • Maximize gains • Minimize losses • Demand concessions • Few and small concessions • Distributive bargaining 	<ul style="list-style-type: none"> • 1-2 day marathon sessions • 30 day option • Option for non-expedited format • 6-7 months depending on the number of issues 	<ul style="list-style-type: none"> • Usually avoided • Can be submitted for strategic purposes
Informal, Adversarial Model	<ul style="list-style-type: none"> • Private Sector Manufacturing • Trade Union Style Bargaining • Limited Problem Solving • Limited Issue Bargaining • Personality based 	Behind the scenes, if at all	<ul style="list-style-type: none"> • Superintendent/board chair/board representative serves as sole spokesperson • Team participation and discussion at the table 	Generic negotiations training, if any	<ul style="list-style-type: none"> • Informal, personable • Written proposals optional • Discussion of bottom line positions • Maximize gains • Minimize losses • Problem solve • Apply pressure gently • Gradual concessions/movement • Package issues early 	<ul style="list-style-type: none"> • Loosely structured, short duration, low frequency sessions • Typically 2-8 sessions total • Variable, usually 2 to 4 months 	<ul style="list-style-type: none"> • Usually no
Expedited Traditional Model	<ul style="list-style-type: none"> • Private Sector Manufacturing • Trade Union Style Bargaining • Limited issues 	Variable, professional negotiator may be present or advising behind the scenes	<ul style="list-style-type: none"> • If present,, usually the professional negotiator is spokesperson; otherwise, the superintendent/board chair/board representative serves as sole spokesperson • Team participation and discussion at the table 	Generic negotiations training, if any	<ul style="list-style-type: none"> • District-specific procedures • Limited issues • Marathon sessions • Limited number of sessions • Written proposals • Discussion of bottom-line positions 	<ul style="list-style-type: none"> • 1-2 day marathon sessions/weekends • 30/60/90 day options • Variable 	<ul style="list-style-type: none"> • Variable, mostly yes

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Alternative Bargaining Models in Oregon School Districts

Characteristics of Collaborative Models

Type	Origins	Districts Utilizing	Facilitator Intervention	Advocate Presence/ Input	Participant Training	Process	Sessions\ Time Frame	Ground Rules
Informal, Collaborative/ Cooperative Model	<ul style="list-style-type: none"> • Problem Solving • Limited Issues • Relationship based 	<ul style="list-style-type: none"> • Gore • Newberg • Pilot Rock • Silverton Elem. • Linn-Benton ESD • West Union • Central Linn • Damascus-Union • Central • Oakridge 	<ul style="list-style-type: none"> • Outside facilitators rarely used • No intervention during actual negotiations 	Behind the scenes, if at all	Usually none	<ul style="list-style-type: none"> • Informal • Friendly, • "Bottom line" discussions • Usually no formal written proposals • Limited participation by parties 	<ul style="list-style-type: none"> • Loosely structured, short duration, low frequency • Variable, usually 1 to 5 sessions 	No
Formal, Collaborative Model	<ul style="list-style-type: none"> • Problem Solving • Interest Based • Mutual Gains Bargaining • Principled Negotiations 	<ul style="list-style-type: none"> • Albany • Corvallis • Eugene • Beaverton • Hermiston • Junction City • Scio • Redland • Gladstone 	<ul style="list-style-type: none"> • Facilitators usually not present • Usually none during actual negotiations 	Yes active, if present	Facilitator provided training	<ul style="list-style-type: none"> • District- specific procedures • Written proposals may be used • Issue identification • Mutual Interests • Problem solving • Win/Win solutions • May use chief spokespersons 	<ul style="list-style-type: none"> • Minimal structure, 3-4 hour sessions • Variable 	Variable, mostly no
U.S. Department of Labor: Interest-Based Negotiations	<ul style="list-style-type: none"> • Private Sector Manufacturing • Interest-Based Bargaining • Principled Negotiations • Win/Win Bargaining • Expedited Bargaining • Mutual Interest Bargaining 	<ul style="list-style-type: none"> • Springfield • Bend-LaPine • South Lane • Lebanon • Rainier • Ontario 	<ul style="list-style-type: none"> • Self-facilitation • May use one facilitator • Advocates may facilitate • Minimal content interventions, focus on process 	Yes, active in content and process	Two day training	<ul style="list-style-type: none"> • Expedited • Issue identification • Structured problem solving/ Brainstorming • Focus on hard issues first • Establish written standards for judging options in advance • No written proposals • Active participation by participants 	<ul style="list-style-type: none"> • 1-2 day marathon sessions • 30 day option • Option for non-expedited format • 48 hour marathon • 30-day option 	Optional, but if present are minimal
OEA-OSBA Collaborative Bargaining Model	<ul style="list-style-type: none"> • Win/Win Goldaber Approach • Mutual Gains Bargaining • Relationship Issues • Problem Solving • Principled Negotiations 	<ul style="list-style-type: none"> • Bethel • Rainier • Jewell • Hillsboro Elem. • South Lane • Barlow-Gresham • Sandy UH • LaGrande • St. Helens • Lebanon • Warrenton-Hammond • Scappoose • Corbett • Tillamook 	<ul style="list-style-type: none"> • Two-Union and Management in tandem • Process related input only 	Optional and controlled by ground rules	1 day minimum; 1 to 3 days available	<ul style="list-style-type: none"> • Highly Structured • Meet off site • Extensive discussion of interests and issue identification • Problem-solving strategy • Brainstorming • Emphasis on communication by participants • No written proposals 	<ul style="list-style-type: none"> • Two "weekends" • Multiple Subcommittee meetings • High intensity activity • 10-12 weeks duration 	Yes, extensive

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The OEA-OSBA Nontraditional Bargaining Model Services and Benefits

The following services and benefits are available from the Oregon Education Association (OEA) and Oregon School Boards Association (OSBA) for school districts and local employee's associations that mutually agree to try a nontraditional bargaining approach:

□ The parties are provided with two facilitators who have a background in bargaining in Oregon. The facilitators' role is to advocate for the *process*, rather than for the parties.

□ The facilitators meet with representatives from both parties in a joint information session, outlining the OEA-OSBA model and the parties' responsibilities. This session is designed to help the parties decide whether to pursue a nontraditional process.

□ The facilitators conduct an unbiased assessment with members of each party to assess the circumstances in the school district. Honest answers to assessment questions help determine whether the nontraditional bargaining model is the best approach for the parties at this time.

□ The facilitators convene the parties for a joint information session. This session helps the parties understand each step in the OEA-OSBA process and how the parties work together and interrelate. Case studies and assigned readings help the parties understand their responsibilities in the nontraditional process.

□ The parties work out and agree to their own ground rules before beginning the actual bargaining process.

□ The facilitators convene the parties for a thorough training session to prepare for the actual bargaining phases. Some of the areas covered during this training session include:

- assertiveness training;
- group process skills—how to manage people's differences in a variety of situations including interpersonal communication, underlying interpersonal relationships and personal styles under stress;

- versatility;
- decision making on equal terms;
- team-building skills;
- developing a positive working relationship;
- creative, mutual problem solving skills and minimization of positional *polarized* bargaining;
- ownership through participation.

□ The facilitators convene the parties for the first weekend session. They facilitate the process throughout the weekend to open up communications between the parties, establish clear perceptions about the issues and begin trust-building between the parties.

□ The facilitators give complete instructions and thorough training for the subcommittee phase. The parties work by themselves in the subcommittees, but the facilitators occasionally check to see that the process still is on track. If the parties wish, the facilitators will facilitate a subcommittee meeting. During this phase, the parties attempt to reach agreement on as many issues as possible to bring in to the second weekend session.

□ The facilitators convene the parties for the second weekend session and facilitate the process throughout the weekend. The purpose of the second weekend session is to reach agreement on a total contract settlement.

□ Following contract settlement and ratification by the parties, the facilitators may convene the parties for a debriefing session. The purpose of this session is two-fold:

- The parties should review the process and identify strengths and weaknesses both for their future benefit as well as for the benefit of the facilitators to improve the process.
- More important, the parties should identify ways they will continue to develop their working relationships during non-bargaining years.



The OEA-OSBA Nontraditional Bargaining Model Sequence of Events

The Oregon Education Association (OEA) and Oregon School Boards Association (OSBA) bargaining coordinators decide whether both parties are interested in nontraditional bargaining. If the interest is coming from the parties' authorized representatives, the coordinators then assign facilitators to make the initial presentation to the school district. (These facilitators are not necessarily the ones who facilitate the nontraditional bargaining process if the parties decide to pursue it.)

First Meeting—The Initial, Introductory Presentation

— Two facilitators meet with representatives from both parties after both sides express interest in exploring the nontraditional bargaining process. The purpose is to briefly outline the OEA-OSBA Nontraditional Model, answer questions about the process and give the parties an idea how each phase will be implemented.

Second Meeting – Assessment — Members of each bargaining team must be appointed prior to this meeting and must be present at the meeting. The facilitators outline the nontraditional bargaining process for them. *The facilitators then conduct separate assessment meetings with each party.* The purpose of these meetings is to assess the parties' chances of success if they engage in nontraditional bargaining and for the facilitators to make recommendations and/or outline the parties' strengths and weaknesses with this style of bargaining.

Third Meeting – Joint Information Session — If the parties agree to proceed with the OEA-OSBA nontraditional bargaining process, all members of the parties are called together for the joint information session. The purpose is to instruct members about what will occur in each phase of the process, offer tips for success, confirm their commitment to the process and make assignments for the fourth meeting. One assignment is for all members to read Fisher's *Getting to Yes* prior to the fourth meeting.

Fourth Meeting – Joint Training Session — All members of both parties meet to role play and receive training about what is expected of them in each phase of the process. For example, they practice talking with each other on the basis of interest, rather than positional bargaining. Assignments are made which must be completed prior to the first weekend session. These include developing and adopting ground rules and preparing questions reflecting interests and issues to be discussed during the first weekend.

Develop Ground Rules — Representatives from each party meet, without the facilitators, to develop ground rules to take back to each side for adoption.

Adoption of Ground Rules — The parties meet separately, without the facilitators, to adopt the proposed ground rules.

Develop Interests and Issues — The parties meet separately, without the facilitators, to develop questions centering on interests and issues they want to discuss and resolve during bargaining.

First Weekend Bargaining Session — The facilitators and all members of both parties meet for the first bargaining session. During this weekend, the parties engage in interest bargaining where they discuss all the interests brought in by both sides. Each side displays its list of questions on sheets of newsprint on the wall. There is no limit on the discussion time for each question. *Each issue is discussed until no one has anything further to say about it. The only limit is the closing time.* The meeting typically begins on Friday evening and continues until the end of the day on Saturday. Before the parties leave, they assign the issues to subcommittees, assign team members from each party to serve on subcommittees and receive instruction from the facilitators about the subcommittee phase. (This is mainly *reminder* instruction because the



facilitators will have spent intensive time during the earlier training session on the subcommittee phase.)

Sub-Committees Meet — Over the next four to six weeks, the subcommittees hammer out as many tentative agreements as possible. The facilitators check periodically with representatives from the parties to make sure the process is working as intended. The facilitators may be called in to facilitate a subcommittee meeting if the parties deem it necessary.

The Second Weekend Bargaining Session — The facilitators convene all members of both parties to attempt to reach a total contract agreement. Each subcommittee reports, both verbally and in writing, on issues assigned. Lists are made of tentative agreements and areas which still need agreement.

With all members and facilitators present, the parties then attempt to discuss all issues still in dispute and reach agreement on them. The second weekend typically begins with breakfast on Saturday and continues until the end of the day on Sunday, or until there is a contract agreement.

Ratification — The parties take the tentative contract agreement back to their respective constituencies for ratification.

Debriefing — The facilitators may convene the parties for a debriefing session to discuss where the process could be improved and to assure that a working relationship continues to develop within the school district. The facilitators may recommend that the parties read Fisher's *Getting Together: Building a Relationship That Gets to Yes*.



Sample Self-Assessment Tool Relationship Profile

Member of
Management
Team

Member of
Labor Team

--	--

(Please check one.)

Date _____

Assign a number to each party:
5=Always; 4=Most of the time;
3=Some of the time; 2=Seldom;
1=Never

In our day-to-day relationship, management/labor:

1. Seeks a joint commitment to solving problems
2. Designates appropriate individuals for solving problems
3. Demonstrates respect for labor and management roles
4. Believes the parties' relationship is long-term and inter-dependent and behaves accordingly

5. Seeks informal opportunities to establish a rapport with the other party
6. Assigns individuals to help moderate behavior, move discussions along, and enforce behavioral ground rules or relationship guidelines
7. Invites and balances participation
8. Seeks to defuse hostile or stressful situations

9. Discusses issues with enough candor and conviction to accurately convey seriousness and legitimacy
10. Makes responsible promises
11. Provides timely notice of difficulties or delays in meeting commitments



12. Provides timely notice to other side on issues, events, or planned actions (even bad news)

13. Admits openly that other side is right or own side is wrong when factual analysis supports such conclusions

14. Discloses thoughts and feelings honestly

15. Asks questions that surface thoughts and feelings

16. Listens actively to encourage participation

For your information, questions 1–4 assess support for cooperation; 5–8 assess the promotion of a favorable climate; 9–13 assess credibility; and 14–16 assess the safety of openness.



Negotiations Style Inventory

The following is a forced-choice response inventory. For each of the 12 characteristics please choose either option a or b. Circle your choice under Col. 1 or Col. 2.

An effective negotiator must/must be:

	a.	b.	Col. 1	Col. 2
1	Objective	Aggressive	b	a
2	Courteous	Tough	b	a
3	Maximize settlement for the client	Get a fair settlement	a	b
4	Take realistic opening positions	Take high opening positions	b	a
5	Outmaneuver the opponent	Know opponent's needs	a	b
6	Willing to move from original position	Reluctantly move from original position	b	a
7	Reveal information gradually	Share information openly	a	b
8	Use threats	Not use threats	a	b
9	Be reasonable	Dominate the negotiations	b	a
10	Be honest and objective	Willing to stretch the facts	b	a
11	Probe the opponent's position	Be unconcerned about the opponent's position	b	a
12	Forceful	Friendly	a	b
Totals				

To score this inventory please assign one point for each circled letter and total Col. 1 and then Col. 2.

Col. 1 = Competitive or Distributive Negotiations Style
 Col. 2 = Cooperative or Integrative Negotiations Style

Range of Scores
 1 to 4 **Low**
 5 to 8 **Medium**
 9 to 12 **High**

Problem-Solving Strategies Used in Collaborative Bargaining

Generic Interest-Based Process	<i>Getting to Yes</i> ¹	OEA–OSBA Model	Oregon State Conciliation Service ²	U.S. Department of Labor ³	Collective Gaining "Scientific Method" ⁴	Integrative Problem-Solving ⁵
Outline the problem.	Separate the people from the problem.	Educate yourself and your constituents on the process.	Define and frame the issue.	Educate yourself and your constituents: identify issues and interests.	Identify, define and delineate the problem.	Identify and define the problem <ul style="list-style-type: none"> □ Define the problem in a way that is mutually acceptable. □ Keep the problem statement clean and simple.
Clarify and discuss interests.	Focus on interests, not positions.	Seek information from constituents on issues to be discussed and the interests underlying these issues.	Exchange data and interests.	Reaffirm joint commitment to the process.	Collect and share all pertinent data.	<ul style="list-style-type: none"> □ State the problem as a goal. □ Identify obstacles to attaining the goal.
Generate options and solutions.	Invent options for mutual gain.	Reaffirm joint commitment to the process.	Develop options through brainstorming.	Discuss your interests on the issue with the other party.	Formulate potential solutions by considering all options.	<ul style="list-style-type: none"> □ Depersonalize the problem. □ Separate the problem definition from the search for solutions.
Evaluate options based on interests and objective criteria.	Insist on using objective criteria.	Develop issue questions and list of underlying interests.	Evaluate options and compare with interests.	Brainstorm options that might satisfy the interests.	Test solutions by using theoretical and situational scenarios.	Understand the problem fully — identify interests and needs.
Seek agreements on a solution by consensus.	Identify the problem.	Discuss your interests on the issues (then group into categories).	Select solutions based on mutual gains by testing for consensus.	Establish criteria for judging the brainstormed options.	Evaluate each potential test solution	Generate alternative solutions: <ul style="list-style-type: none"> □ define underlying needs. □ expand the pie. □ trade off issues. □ cut costs for compliance. □ find a bridge solution. □ brainstorm options.
Draft language.	Diagnose the problem.	Brainstorm options that might satisfy interests.	Closure: <ul style="list-style-type: none"> □ "that's the deal" □ contingent agreement □ set-aside 	Evaluate the options.	Select an operational solution (thesis) and implement.	Evaluate and select the alternatives: <ul style="list-style-type: none"> □ narrow the range of options. □ evaluate on the basis of quality and acceptability. □ identify criteria in advance. □ justify personal preferences. □ use subgroups to evaluate. □ explore level of risk, expectations and time preferences.
	Generate possible approaches.	Establish objective criteria for judging the brainstormed options.		Communicate the results of the process to your constituents.	Adopt solution as the situation changes.	
	Develop action ideas.	Evaluate and narrow the options by testing against established criteria and by utilizing option reduction techniques.				
		Clarify and reach consensus on the solution.				
		Communicate results to constituents for final approval.				

¹ *Getting to Yes*, Roger Fischer and William Ury, 1981, Penguin Books, N.Y.

² Employment Relations Board, State of Oregon, 1992

³ U.S. Department of Labor, Office of the American Workplace, Washington, D.C.

⁴ Helena, Montana School District

⁵ *Negotiating*, B. Lewicki, J. Litterer, J. Minton and D. Saunders, 1994, Irwin, Inc., Ill.



Sample Agreement between the Employer and the Employee Union

Ground Rules for Negotiations

The parties are entering this Agreement to obtain a successor collective bargaining agreement. These ground rules are intended to define the parameters and operational rules necessary to secure that agreement.

1. The Employer and the Union shall use a collaborative bargaining strategy to negotiate a successor collective bargaining agreement pursuant to this letter of agreement.
2. The Employer and the Union teams shall have _____ participants. Each team shall have a Consultant: _____ for the Employer and _____ for the Union. The Facilitator for the negotiation shall be _____. The Facilitator shall be concerned with the process within the negotiations and shall not advise on the content of the negotiations.
3. Once conceptual agreements are reached by the parties, they shall reduce the agreements to a written form that will then be submitted back to the parties for review. If the parties mutually agree, the written statement shall be initialed as a tentative agreement.
4. If tentative agreements are reached by the parties on all the issues, they shall be submitted for ratification to the Employer and the Union.
5. A training session will be held with the parties and conducted by the Facilitator on _____ to provide communications and problem-solving skill training.
6. Caucuses may be called by either side during the negotiations. To the extent possible, the reason for the caucus and its result will be shared with the parties.
7. Bargaining shall commence on _____ and shall end on _____. If tentative agreements are not reached on the issues by the parties by midnight on _____, the parties agree to proceed directly to mediation via a joint request to the State Conciliator. The joint request shall list the outstanding issues and each party's position.
8. The parties agree to allow members to speak, express opinions and offer potential solutions without restraint.
9. During the negotiations, the following process will be used by the parties:
 - A. individual team meetings to develop interests;
 - B. sharing of interests/issues;
 - C. categorize issues;
 - D. data collection (as needed);
 - E. select issues;
 - F. clarify issues/interests;
 - G. brainstorm options;
 - H. judge options;
 - I. supposals/solutions;
 - J. conceptual agreement;
 - K. draft language;
 - L. tentative agreement.
10. Subcommittees may be used as needed.
11. All sessions shall be [closed][open].
12. All press releases shall be jointly approved by the parties. Spokespeople for either team, however, may respond to inquiries by the press.



The term of this Agreement shall be from the time of its execution until _____.

FOR THE EMPLOYER:

FOR THE UNION:

Name

Name

Date/Time

Date/Time



Sample Agenda

Collaborative Bargaining Workshop

1. **Introduction**
2. **Preparations for Collaborative Bargaining**
 - Self-Assessment (Partnership Handbook)
 - Advantages and Disadvantages of Collaborative Bargaining
3. **OEA-OSBA Bargaining Model**
 - Services and Benefits
 - Sequence of Events
4. **Negotiations Strategy Exercise**
5. **Negotiations Style Discussion**
 - Negotiations Style Inventory and Discussion
6. **Conflict**
 - Article Discussion
 - Thomas-Kilman (take on own Friday night, explain results Saturday morning)
7. **Principled Negotiations**
 - *Getting to Yes*
8. **Problem-Solving Process/Interest-Based Process**
 - Interests vs. Positions
 - Problem Identification (Lawn Exercise)
 - Truck Driver Game
 - identify interests and define the problem;
 - objective criteria;
 - brainstorm solutions;
 - option reduction;
 - consensus decision making.
9. **Communication**
10. **Ground Rule Discussion and Determination**
11. **Final Review of the Process**



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State Conciliation Services: Interest-Based Bargaining Training

This two-day workshop is a joint training in interest-based bargaining for union and management negotiation teams. The training combines mini-lectures on interest-based bargaining and skill building in group communication and decision making.

On the first day, the problem solving model is introduced. The second day is spent learning to use the problem solving process as the teams develop protocols for their interest-based bargaining. In addition, the teams have an opportunity to practice the problem solving model and the group participation skills they will need in this bargaining.

This training has been developed with the following assumptions in mind:

- Interest-based bargaining is only one model for negotiations. It is not a substitute for the collective bargaining process. The PECBA, its statutory requirements and time frames apply to this model. The external and internal pressures prevalent in collective bargaining may be present during this process as well.

- Interest-based bargaining does not eliminate conflict. Rather, it provides another process or approach to deal with conflict. It is important that the parties' expectations for this process are realistic. Interest-based bargaining is not a panacea for removing conflict from labor relations.

- Interest-based bargaining requires time and open communication between the parties. It is not a shortcut to consensus. Due to the time required for problem solving, the number of bargaining issues should be limited. In addition, this problem solving process works best when the issues address actual workplace problems. A more positional approach is better suited for a complete rewrite of the current collective bargaining agreement.

Attached is a typical agenda for this interest-based bargaining training. The time frames will vary depending upon the number of participants. In general, each day's program begins at 8:30 a.m. and ends at 4:30 p.m. It is

essential that all participants attend the entire session both days. Lunch is catered, with the union and management sharing the cost. While there is no fee for the training itself. There is a \$2.14 per participant charge for the copyrighted material used in the training.

Agenda: Day One

- I. Introduction of staff, purpose of training and the bargaining members
- II. What is collective bargaining?
- III. Introduction to the principles of Interest-Based Problem Solving
 - A. Principle One: Separate the people from the problem
 - B. Principle Two: Focus on interests not positions
 - C. Principle Three: Create options to satisfy mutual interests
 - D. Principle Four: Evaluate options for mutual gain
- IV. Introduction to the six-step problem-solving process
- V. Identification of procedural concerns that need to be decided before bargaining can begin
- VI. Team meetings to generate interests for protocols

(Principle One focuses on communication skills. Activities demonstrating the important difference between an interest and a position illustrate Principle



Two. Principles Three and Four focus on the problem-solving process including consensus decision making.)

Agenda: Day Two

- I. Problem Solving Styles: The energy directive
- II. Begin developing protocols for Interest-Based Bargaining (using the problem solving process from Agenda: Day One)
- III. Developing the agenda for the next bargaining meeting
- IV. Debriefing

Oregon Employment Relations Board, Conciliation Service, NEB 2/95.



U.S. Department of Labor: Interest-Based Negotiations (IBN) Sample Agenda

Day One

Introductions, Overview, Expectations

- participant and instructor introductions;
- overview of agenda;
- participant expectations.

Dimensions of Bargaining

- Internal, horizontal, external.

Interest-Based Processes and Principles

- concepts;
- processes;
- steps.

Brainstorming

- guidelines and benefits of brainstorming.

Film

- principled negotiations.

Issues and Interests

- define the issue;
- discuss interests behind the issue.

Options and Criteria

- generate options;
- establish criteria.

Preparing for Bargaining — Small Groups Session

- identifying issues;
- developing interest statements.

Day Two

Review and Guidelines

- principles, processes, and steps;
- establishing ground rules.

Interest-Based Bargaining Simulation

- using interest-based bargaining to negotiate a contract.

Evaluating Interest-Based Bargaining

- terms of the contract;
- effects of the IBN process.

The Next Negotiations

- What do you want to achieve?
- What are the obstacles?
- Overcoming the obstacles.

Wrap-Up

Source: U.S. Department of Labor, Office of the American Workplace, Office of Labor/Management Programs.