

Collective Negotiations in Education

EDU 5721

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Labor-Management Relations

The Process: A Definition

The Labor Relations Process occurs when management and the exclusive bargaining agent for the employees (the Union) jointly determine and administer work rules.

Labor-Management Relations

The Phases

- ◆ **Recognition of the legitimate rights and responsibilities of union and management representatives.**
 - legal rights of employees
 - organizing drives
 - abiding to laws and labor agreement provisions
- ◆ **Negotiations of the Labor Agreement, including strategies, tactics and impasse-resolution techniques**
 - strikes, mediation, arbitration
 - the role of the media
- ◆ **Administration of the negotiated agreement**
 - applying the terms of the agreement
 - largest amount of time, energy
 - involves larger number of people

The Labor-Management Process

Elements

- ◆ **1. Environmental**
 - **Technology**
 - **State of the Economy**
 - **International Forces**
 - **Product Market**
 - **Public Opinion**
 - **Labor Market**

The Labor-Management Process

Elements (2)

- ◆ **2. Management**
 - **Consultants**
 - **Competitors**
 - **Customers**
 - **Creditors**
 - **Sub-Contracts**
 - **Supplies**
 - **Administrators**

The Labor-Management Process

Elements (3)

- ◆ **3. Union**
 - **Local**
 - **County**
 - **Regional**
 - **State**
 - **National**

The Labor-Management Process

Elements (4)

- ◆ **4. Contract**
 - **Salary**
 - **Benefits**
 - **Conditions of Employment**
 - **(Working Conditions)**

What we're going to do...

- Examine these Elements of Negotiations from a...
 - Labor-Management Historical Perspective
 - Brief overview of history of leadership and management
 - "Meaning of work" *Maslow, McClellan and White*
 - Theoretical-Literature Perspective
 - Outlines of Major Literature
 - Conflict Management: Borisoff and Victor
 - The Manager as Negotiator: Lax and Sebenius
 - Getting to Yes: Fisher and Ury
 - Social Psychology of Negotiations: Groups/Teams
 - Games Theory of Negotiations
 - Practitioner-Process Perspective
 - History of Educational Bargaining
 - Collective Bargaining in Education
 - Types: Distributive vs. Integrative
 - Major Factors of Bargaining
 - The Elements of a Contract
 - Scope of Bargaining
 - Mandatory/Permissive/Prohibitive Elements
 - Guidelines and Strategies of Bargaining

The Meaning of Work

- **Agrarian Society: Pre 1800**
- **Industrial Society: 1800 - Pre-WW II**
- **Information Society: Post WW II to Present**

Work - Organization Theories

- **Functional Theory: Pre- 1900**
Cameralism Europe
Civil Service
- **Classical Theory: 1900 - 1930**
Line and Staff Taylor Fayol Weber
Span of Control
Unity of Command
- **Human Relations Theory: 1939 - 1950**
Morale Mayo Gulick Urwick
Group Dynamics
Participative Supervision

- **Behavioral Theory: 1950 - 1970**
 - Roles** Macgregor Mazlow Hertzberg
 - Reference Groups**
 - Leader Behavior**
- **Transformation/Transactional Theory: 1970 - Present**
 - Work as an Art/Craft** March Mintzberg Deal
 - Rights/Responsibilities**
 - Culture of Organizations**
 - Shared Values/Decision Making**
 - Strategic Planning**

LABOR

Needs, Satisfaction, Work

- **Physical/Security: \$, Materials, the job**
- **Social: Place to go, Belonging, Support**
- **Egoistic: Task Significance**
 - Productiveness**
 - Responsibility for Others**
 - Interest/Challenge: Satisfaction**
 - Skill**
 - Knowledge**

MANAGEMENT

Organization, Mission, Connection

- **Planning: Vision, Alternatives, Course**
- **Organizing: Roles, Purpose, Group Effort
Environment**
- **Staffing: Positions, Recruitment, Training,
Placement, Discipline, Compensation**
- **Leading: Influencing, Motivation, Style
Communication, Approaches**
- **Controlling: Measuring, Resources, Performance
Corrections**
- **Coordinating: Link Individual to Organization
Goals Realization
Essence of Management**

NEGOTIATIONS

Linking Workers with Organization

- **Successful Organizational Characteristics**
Peters and Waterman: 43 Excellent Organizations
- **Oriented toward action**
- **Learned needs/customs**
- **Promoted autonomy/entrepreneurship**
- **Driven by Philosophy based on Vision**
- **Focused on what they do best**
- **Created simple organization**
- **Centralized and de-centralized when appropriate**
- **Success is Transitory**
2 yrs: only 14 of 43 met criteria

Thomas Watson

"A manager's job is to make sure workers have the tools and information they need and to help them when they find themselves in trouble."

Founder of I.B.M.

Peters and Waterman

In Search of Excellence

- **Focus immediately on tangible results as first step.**
- **Identify one or two specific goals for which ingredients for success are in place.**
- **Focus on what can be accomplished, not on what cannot.**
- **Focus on what people are ready to do now.**
- **Once one project has been successfully completed, ask those involved with it their ideas on how to follow up.**

The Achieving Society

David McClelland (1961)

- **Understanding the Human Dimension**
 - The Need for Achievement**
 - The Need for Power**
 - The Need for Affiliation**
 - The Need to Avoid Failure**
- **"N Ach" Measures:**
 - Entrepreneurial Spirit**
 - Risk-Taking**
 - Amount and timing of Feedback on Ach**
 - Family Learning**
 - Type of Substitution of Satisfactions**
 - \$ for service**
 - Social for Power**
 - \$ for Ease**
 - \$ for Challenge**

Giving Work Meaning

Individual Differences and Job Security

- Instrumental: "Intrinsic"
 - \$
 - Job Security
 - Leisure
- Expressive: "Extrinsic"
 - N Ach
 - Desire
 - Ego
 - Challenge: Autonomy
 - Variety
 - Opportunity

| | CHALLENGE | |
|--------------|-----------|-----|
| | No | Yes |
| Expressive | 3 | 1 |
| ORIENTATION | ----- | |
| Instrumental | 4 | 2 |

Bargaining "Notebook": Details

| Issues | Buyer | Seller |
|--------|-------------------|---------------|
| | Bottom Target | Target Bottom |
| | Line Price | Price Line |
| | Actual Settlement | |

Distributive Bargaining

Some Characteristics...

- **Competitive: Win-Lose**
 - some situations are distributive in bargaining
 - need to know strategies to counter this type of bargaining
 - can be counter-productive
 - can be costly
 - can cause brinkmanship
 - could cause ethical dilemma:
 - in actual bargaining
 - in results of bargaining
 - leads to development of BATNA:
 - Best Alternative to a Negotiated Agreement

Distributive Bargaining (2)

The process...

- **Target Point:** point at which negotiator would prefer to conclude. "optimal point"
- **Resistance Point:** point beyond which negotiator is not willing to go. "Bottom Line"
- **Asking Price:** the initial offer
 - strategies:
 - give and take
 - open at target point, move to resistance point
 - start at lower than target for "room"
 - first offers can have dramatic effect! Must be reasonable.
- **Bargaining Range:** distance between resistance points of buyer and seller.
- **Alternative Point(s):** bargaining power; other comparables
- **Settlement Point:** solution within positive bargaining range; goal is reached if settlement is better than resistance point.
- **Bargaining "Mix":** package of issues and alternatives; holistic approach

Distributive Bargaining (3)

The Strategies...

- **Personality Positioning**
 - "The Curmudgeon": extreme positioning, small concessions.
 - "The Chameleon": change beliefs about item being negotiated.
 - "The Compromisers": if negative bargaining range, change resistance points.
 - "The Spin Doctor": "you bargained like a tiger" ... "you won"

Distributive Bargaining (4)

Tactical tasks...

- Assess outcome values and costs of terminating negotiations.
- Manage the other party's impression of your own outcome values.
- Modify the other party's notion of their outcome values.
- Manipulate the actual costs of delaying or aborting negotiations.

Distributive Bargaining (5)

Specific tactics...

- Good Guy, Bad Guy: teaming to get quick result
- High Ball, Low ball: start very high (or very low)
- Bogey: use an inconsequential issue as trade bait
- Nibble: close to the end, thro in a small demand
- Chicken: who blinks first
- Bully: intimidation; play on fear, anger, emotional ploys;
 - higher appreance of legitimacy, lower questioning and bargaining
- Fighter: Aggressive behavior; attacking other position
- Counters...
 - Ignore: seems weak, could be powerful.
 - Discuss: negotiate the negotiation process
 - Respond in Kind: choose equally offensive position
 - Co-opt other party: befriend early on

O: ANTICIPATED OUTCOME
CL: COMPARISON LEVEL
CALT: COMPARISON TO ALTERNATIVE(S)

E: Satisfied, Leaves for Better Opportunity

INTERDEPENDENT RELATIONS

D: Not Satisfactory, Not Dependent, Leaves

A: Attractive, Satisfactory Relationship

B: Satisfactory, > Dependence on Relationship

C: Unattractive, Unsatisfactory

Prisoner's Dilemma

Games and Decisions

- **Games Theory: two parties, conflicting interests
two choices, Matrix "payoff"**
- **Zero-sum games: win-lose**
- **Mixed-motive: win/win, win/lose, lose/lose**
- **Prisoner's Dilemma:**
 - Two suspects taken into custody and separated**
 - DA certain they are guilty, evidence inadequate**
 - Each has two alternatives: Confess, not confess**
 - If BOTH DO NOT confess: Both, minor punishment**
 - If BOTH CONFESS, less severe sentence**
 - If ONE CONFESSES, NOT OTHER: Confessor-Lenient
Non-Confessor-Max**
- **Cooperative Position: Considerable advantage to either**
- **Competitive Position: Considerable advantage to one**
- **Cooperation, Deferment Theory**
 - Goals and Interest of Parties**
 - Length of Interaction**
 - Low/High Options**

Interdependent Relationships

The Social Psychology of Groups

- We usually have a knowledge of outcomes
- We assess those outcomes against a standard
- There are limits, below which we will not work
- We can assess negotiations looking at "Resistance Points"
- The Standard for Comparison: CL
The Outcome: O
The Alternatives: CLalt
- O above CL: Attractive
O below CL: Unattractive
- > Distance between O and CL, more Attractive ($O > CL$)
> Distance between O and CL, less attractive ($CL > O$)
- What are our options? CLalt
- If $O < CLalt$, people leave workplace
If $O > CLalt$, more dependent you are on job
- Define: CL : \$30,000 for job-seeker
CLalt: Not working, having another opportunity
O: Actual salary

Cooperation-Defect: Definitions

- **Defection:** an action such that, if everyone did it, things would be clearly worse. If only one or a small number of people defect while others refrain, life would be sweeter.
- **Cooperate:** the act of resisting temptation
 - not passive, but industrious
 - defect is sometimes more passive
- **Guillotine Metaphor**
 - two heads on chopping block
 - both hold ropes to the others guillotine

Cooperation-Defect Strategies

- Tit for tat
 - Cooperate first, then do whatever other member does
- Tit for two tats
 - Cooperate first. then tolerate two defections before defecting
- All "d" strategy
- 3 Questions:
 - Initial Viability: How can Cooperation get Started?
 - Robustness: Given unpredictable environments, which is best?
 - Niceness, provocability, forgiveness, clarity: Character traits
 - Stability: Can Cooperation protect itself from invasion?
- Happiton: "Retchgoo" 1:100,000 on roll of dice. all 7's
 - Postcards slow clock down by .00001
 - 20,000 postcards: 72 min to an hour
 - 160,000 postcards: clock rings 5 times, dice rolled only 5 times!
 - 8 postcards a day per person, 1/2 hour for 160,000 cards
- What to do?
 - 1:100 chance each month; 11/12 to get thru year; 50-50 for 8 years!
 - Cooperate
 - 1:700 each month, 1:60 each year; 13% chance in 8 years
 - 160,000 to make a big difference, made of smaller differences
- "Lurings Lottery"
 - \$1,000,000/n Prize n=number on entries

Used Car Negotiation

- ◆ **Facts**
- ◆ **Issues**
- ◆ **Bottom Line**
- ◆ **Target Price**
- ◆ **Actual Amount**

Used Car Negotiation

Labor Management Relations

| GROUP | BUYER | | | | SELLER |
|-------|-------------|--------|--------|--------|-------------|
| | Bottom Line | Target | Actual | Target | Bottom Line |
| 1 | | | | | |
| 2 | | | | | |
| 3 | | | | | |
| 4 | | | | | |
| 5 | | | | | |
| 6 | | | | | |
| 7 | | | | | |
| 8 | | | | | |
| 9 | | | | | |
| 10 | | | | | |
| 11 | | | | | |
| 12 | | | | | |

Nature of Negotiations

Two major considerations:

- Characteristics of the Negotiating Situation
- Key Aspects of Negotiations

Bargaining Occurs...

- **When there is a conflict of interest between two or more parties**
- **When there is no fixed or established set of rules or procedures for resolving disputes**
- **When parties prefer to work outside the prescribed set of rules**
- **When parties create their own rules**
- **When the parties prefer to search for agreement rather than fight, capitulate, break-off discussions or refer to a higher authority**

Characteristics of Bargaining

- **Conflict**

"separate but conflicting interests..."

Negotiations: A process for taking care of ourselves under difficult circumstances

- **Use Force**

**War, boycott, sabotage, isolate, violence
lockouts, abuse, strikes**

- **Give in/Break off**

Non-assertive: precedence, repetition problems

Break Off: by anger, frustration, strategic pause, threat,

Types of Bargaining

- **Prix Fix: Buyer accepts or moves on**
- **Probabilistic: Coin-flip**
- **Arbitrary: "The Hagggle"**
- **Auction: Highest Bidder**
- **Reason: Individual Choice**
- **Laws: Societal Choice**
- **Rules: Formulas and Procedures**
- **Third Party: Indirect solution;
No means to resolution**

Key Aspects of Bargaining

- **Interdependence: Incompatible Goals Locked Together**
- **Altered Perceptions: "Perceptions are Reality"**
- **Concealment/Openness: Feelings and Communications**
 - **Degree of Openness**
 - **Building Trust**
- **Situational Negotiations: Distributive/Integrative Goal Definition**
- **Creativity: Cooperation/Respect**
- **Subjective Utilities: Defining things of value "good" and "fair"**
- **Role and Constituency: Individual/Organization**

Key Aspects...(Cont'd)

- **Negotiator's Personality: Avoid Over-reaction
Stubbornness
Chemistry**
- **Observer Influence: Power, Impressions**
- **Personal Relations: Degree of Dependency**
- **Process: Exchange of proposals in "Good Faith";
Refusal to negotiate
"Package proposal"
Information Exchange
Definition of Problem: rationality
for modification**

Key Aspects...(Cont'd 3)

- **Settlements: Winners and Losers, but remember...**
 - 1) **your reputation at all times**
 - 2) **relationships beyond negotiations**
 - 3) **durable, satisfactory settlements**
address needs of both parties
- **Intangibles**
 - Win/Lose**
 - Trust/mistrust**
 - looking good/bad**
 - conflict/avoid**
- **Tangibles**
 - Terms**
 - Conditions**
 - Rates**
 - Language**
- **Weigh the Intangibles carefully!**

Planning a Negotiating Process

Understanding the...

- **Tangibles and Intangibles at Stake**
- **Motivational Orientation of Both Parties**
- **Definition of Reasonableness**
- **Definition of Rational Behavior**
- **Definition of Fairness**
- **Rules on How Fair Judgements will be Made**
- **Importance of Site Selection**
- **Role of Time**



The Nature of Conflict

Conflict Management: Borisoff & Victor

- **Definition: "expressed struggle between two interdependent parties who perceive incompatible goals, scarce rewards and interference from the other party in achieving their goals." Hocker and Wilmot (1985)**
- **Types:**
 - Intrapersonal**
 - Interpersonal**
 - Intragroup**
 - Intergroup**
 - International**

Conflict Management: 5 Step Model

Step 1: Assessment

- **Assessment**

Individual Traits

Nature and Cause of Conflict

Clarification of Goals

Examination of Climate

Determination of Conflict Handling Behavior

Assertiveness

Cooperation

Competing

Compromising

Collaborating

Avoiding

Accommodating

Conflict Management Model

Step 2: Acknowledgment

- Individual perceptions vs Objective assessment
- "Cultural Evaluation": "out-of-awareness"
- Understand: Concepts

Precepts

Time

Language Use

Proxemics

Kinesics

Haptics

Conflict Management Model

Step 3: Attitude

- **Level of Engagement: Inclusive vs Exclusive**
- **Demonstrate: Conciliation**
 - Compassion**
 - Concern**
- **Atmosphere of Trust/Cooperation**
- **Understand Implications of Our Assumptions**
 - "Cultural Ectomorphism"**
- **Understand Own Perceptions**
 - Suspend judgement**
 - Unaware of Behavior: Physical**
 - Emotional**
 - Non-Verbal Behavior**
 - Pressure not to lose**
 - Positive Regard of own position**

Conflict Management Model

Step 4: Action

- **Integrate assessment, acknowledgement, attitude**

- **Primary: Verbal**

evaluative vs descriptive
controlling vs problem-oriented
strategic vs spontaneous
neutral vs empathetic
superior vs equal

Non-Verbal

body position
orientation
distance
facial expressions

- **Don't : use slang, jargon, obfuscation**
ask too many questions
ask unattentive questions

Conflict Management Model

Step 5 : Analysis

- **Have concerns of both parties been met?**
- **Can decisions be implemented effectively?**
- **Are the short, long term effects of solution viable?**
- **Has relationship between parties been modified effectively?**



Bidding Negotiations

Buyer/Seller

- **ROUND 1**
The Bowley point: price 9, quantity 10=Max Satisfaction?
Strategy to "reward" opponent? To "punish"?
Why?
- **ROUND 2**
Buyer Dissatisfaction- rewards lower
Pareto Optimality: Price 4, Quantity 15
Conclusions:
 - Bids/Counter bids: No communication, but rewards and punishments**
 - Strong need to communicate**
 - Impact of complete and incomplete info**
 - Game theoretic concepts: Bowley, Pareto**
 - Distributive vs Integrative Bargaining**

Getting to Yes

1) Separate People From Problem

- **PERCEPTIONS**
Negotiators are people first
Interest in substance & relationship
Separate both; deal with people
Be empathetic
Use "face-saving"
- **EMOTIONS**
Acknowledge them
Allow "steam-letting"
Don't React
- **COMMUNICATION**
Listen Actively
Speak to be Understood
Speak for yourself
Speak for Purpose
- **PREVENTION**
Build Relationships
Face the problem, not the People

Getting to Yes

2) Focus on Interests, Not positions

- **Interests define problem**
- **Identify Interests**
 - Ask Why?**
 - Ask Why Not?**
 - Most powerful: Human Basic Needs**
- **Acknowledge Interests**
- **Look forward, not back**
- **Be concrete, but flexible**
- **Be hard on problem, soft on people**

Getting to Yes

3) Invent Options for Mutual Gain

- **Diagnosis: Obstacles**
 - premature judgement
 - searching for single answer
 - assumption of fixed pie
 - solving "their" problem is "their" problem
- **Prescription: Invent creative options**
 - separate inventing from deciding
 - consider brainstorming with other side
 - broaden options
 - multiply options: circle chart
 - use different experts
 - invent agreements of differing strengths
 - look for mutual gain
 - make their decision easy

Getting to Yes

4) Insist on Using Objective Criteria

- **Fair Standards**

Market Value

Court Decisions

Precedent

Moral Standards

Scientific Judgement

Equal Treatment

Professional standards

Tradition

Efficiency

Reciprocity

Costs

- **Fair procedures**

Frame each issue with objective criteria

reason and be open to reason

never yield to pressure

The Manager as Negotiator

Key Elements

- 1. Interdependence
 - hard-to-replace skills
 - specialized information
 - relationships with critical players
 - gov't
 - media
 - superiors
 - legislature
 - staffs
 - civil servants
 - mutual dependence implies limits
 - complexity of problem
 - need for joint gain
 - need to preserve relationships

Lax and Sebenius, 1986

The Manager as Negotiator

Key Elements (2)

- **2. Perceived Conflict**
 - Neither can make the "pie" alone
 - Potential conflict/different preferences for pie division
 - Inter-play of interests and perceptions
 - diversity guarantees conflict
 - different units
 - different programs
 - different functions
 - Heterogeneous workforce
 - age, gender, ethnicity, education, experience
 - Conflict is a "fact of life" for organizations
 - legitimate differences can be healthy
 - myth of pure shared interests

Lax and Sebenius, 1986

The Manager as Negotiator

Key Elements (3)

- **3. Opportunistic Interaction**
 - **Beyond dependence and conflict**
 - **less than fully open motives and methods**
 - **self-interested maneuvering**
 - **facade of highly cooperative/submissive to authority**
 - **guard some information**
 - **move to stake out favorable positions**
 - **seek to mold perceptions and aspirations**
 - **without any strategic maneuvering:**
 - **becomes a "war" rather than negotiating**
 - **with strategic maneuvering:**
 - **becomes problem solving**
 - **interaction comes from those who care:**
 - **some ideas will conflict**
 - **some effort to influence decisions**
 - **some advantage-taking**
 - **some outright resistance**

The Manager as Negotiator

Key Elements (4)

- **4. Possibility of Agreement**
 - interdependence, conflict and opportunism present
 - decisions better than unilateral alternatives
 - goal is to determine whether agreement is advantageous
 - agreements take different forms:
 - contracts
 - confirming memos or letters
 - agreements can be subtle:
 - nods, silence, word of affirmation, tacit accords
 - agreements are not forever; revisions are part of process

Lax and Sebenius, 1986

The Manager as Negotiator

Key Elements: Conclusion (5)

- **5. Characterizing Negotiations**
- **Negotiation is a process of potentially opportunistic interaction by which two or more parties, with some apparent conflict, seek to do better through jointly decided action than they could do otherwise.**

The Team in Negotiations

Areas of Training Importance

- **Roles**
 - Spokesperson
 - Wordsmith
 - cost/benefit analyst
 - recorder
 - observer
 - instruction expert
- **Tasks**
 - Read all proposals
 - prepare counter-proposals
 - study other team
 - research
 - record comments
 - suggest caucuses when needed

The Team in Negotiations (2)

Areas of Training Importance

- **Communications**
 - active listening: emotional tone
 - non-verbal cueing: facial, body
 - paraphrasing: repeating
 - wait time: think before reacting
- **Language Analysis**
 - alert to multiple word meanings
 - "will", "shall": mandatory
 - "could", "should": permissive
- **Method of Acquiring Comparative Information**
 - economic: salary, fringe benefits
 - non-economic: language, conditions of employment, geographic, comparability, network

The Team in Negotiations (3)

Areas of Training Importance

- **Financial Status**
 - **Budget: income and expenditures**
 - **historical allocations**
 - **\$ available for negotiations/ other**
- **At-the-Table Behavior**
 - **pre-decide standards**
 - **Life after negotiations**
- **Strategies and Tactics: Charting issues**
 - **Cooperate/Defer chart**
 - **Short/Long range goals chart**
 - **Target Settlement Analysis: High-Low chart**
 - **Outcome Analysis: O, CL, Calt**
 - **Resistance points: Bowley's law, Pareto's Law**
- **Recording process: Negotiations Book**

The Team in Negotiations (4)

Areas of Training Importance

- **At-the-Table Behavior**
 - pre-decide standards
 - Life after negotiations
- **Strategies and Tactics: Charting issues**
 - Cooperate/Defer chart
 - Short/Long range goals chart
 - Target Settlement Analysis: High-Low chart
 - Outcome Analysis: O, CL, Calt
 - Resistance points: Bowley's law, Pareto's Law
- **Recording process: Negotiations Book**

Types of Power

Social Power Inventory

- **Reward Power: The Golden Rule or Whoever has the Gold makes the rules: To Give**
- **Coercive Power: A Smith and Wesson beats 4 Aces; to take away**
- **Legitimate Power: The Foundation of Leadership proper, historical, reputational social, election, military**
- **Informational Power: The Persuasion of Data amount, # of sources, info persuasion**
- **Expert Power: Mastering Wealth of Information Credentials, demonstration, citations**
- **Referent Power: An an ounce of image is worth a pound of performance similarity, admiration, identif.**
- **Indirect Power: The American Express card intermediary**
- **Associative Power: Who do I Know? name-dropping**

The Machiavellian in Us

- **CHARACTERISTICS:**
Not concerned with morality
cool, detached, not involved
more concerned with means than ends;
manipulation
not "disturbed"; may be overrational
- **STUDIES:**
Males more than females
high machs do not do better than low machs on
intelligence measures
high machs not pathological
high machs not authoritative
high machs in professions of control, manipulate
mach not related to: occup, marital status, birth
order, socio-econ,
high machs more likely from urban
high machs tend to be younger
high machs from Western Civ.
high machs resisted confessing
high machs persuasive
high machs perceptive

Collective Bargaining: The Law

1900 - 1959: Private Sector Era

- **1912, Federal Postal Workers allowed to form union**
10th Amendment conflict: State's implied power
- **Boston Police Strike: 1919**
"... no right to strike against public safety
by anybody, anywhere, any time." Coolidge
- **Railway Labor Act, 1926: Employers must Bargain**
- **Wagner Act(NLRA), 1935: Employee right to bargain**
Unfair labor practices
- **Roosevelt, 1937: strikes by civil servants "unthinkable,**
and intolerable."
- **Ferguson Act, Ohio: 1947**
Strikes yield severe penalties for public servants
 - 1) striking employee fired**
 - 2) if rehired, no more compensation than before**
 - 3) if rehired, two year probation**

Collective Bargaining: The Law

1900 - 1959: Private Sector era

- **Taft-Hartley, 1947: Pendulum swings back a bit**
employees right to refrain from union
discrimination for joining, firing, selection
pressure in choosing reps
good faith bargaining
Today: much the same language in Agreements
- **Landrum-Griffin Act (amendment to T-H)**
expanded power of NLRB
minimum standards
conduct standards
responsibilities of parties

Collective Bargaining: The Law

1960 - Present: Public Era

- **Executive Order, 1962**
no strike for federal workers, including teachers
in federal programs
- **Who was first?**
Norwalk, Conn., 1946 Claims: early strike/agreement
Proviso Township, Chicago, Ill, 1938: written
agreement
- **Best Known: New York City, 1961 UFT replaces 90 Unions formal agreement in 1962**
Guild vs Union: UFT and NEA
- **First State: Wisconsin, 1962**
Mandatory Bargaining Law for teachers
Ct, Mich., Mass., RI follow
 - 1) Right to organize
 - 2) right of representation
 - 3) procedure for representation
 - 4) Duty to bargain rules
 - 5) definition of unfair labor practices
 - 6) procedured for impasse: mediation, fact-finding, arbitration
 - 7) right to strike

Collective Bargaining: The Law

1960 - Present: Public Era

- **1960: 3 strikes; 1968-70, 180 strikes; 1960-70, 500**
- **Utah, 1963: First State-wide strike, first of 6 state strikes in decade**
- **1960's strikes:**
 - 1) representation**
 - 2) grievances**
 - 3) negotiations**
- **1980's and 1990's: 33 states with mandatory collective bargaining**
 - 1) process well defined**
 - 2) time- lines**
 - 3) procedures for negotiations**

The Contract: Impact of Laws

- **Must be in writing**
- **Must have specific length (Varies)**
- **Must contain grievance procedure**
- **Must contain dues check-off procedure**
- **Must contain terms and conditions of employment**
- **Must be signed by both sides**
- **Must have expiration date**
- **It supercedes State law (some conditions)**
- **It allows, (not requires), agency shop fair share payment if not in union**

Scope of Bargaining

- **Mandatory**
 - Terms and Conditions
 - Areas of Negotiations
 - Language
 - Salary
 - Benefits
- **Permissive**
 - Board Policy
 - Supervision
 - hiring/firing
 - other management rights
 - other "affects" of employment conditions
 - problem with "affects"
 - 3 yr HS, Busing, close a school, new curriculum
- **Prohibited**
 - Teacher Certification
 - Teacher examinations
 - Some States: Evaluation

Cooperation-Defect Strategies

- **Tit for tat**
 - Cooperate first, then do whatever other member does
- **Tit for two tats**
 - Cooperate first. then tolerate two defections before defecting
- **All "d" strategy**
- **3 Questions:**
 - **Initial Viability: How can Cooperation get Started?**
 - **Robustness: Given unpredictable environments, which is best?**
 - Niceness, provocability, forgiveness, clarity: Character traits
 - **Stability: Can Cooperation protect itself from invasion?**
- **Happiton: "Retchgoo" 1:100,000 on roll of dice. all 7's**
 - Postcards slow clock down by .00001
 - 20,000 postcards: 72 min to an hour
 - 160,000 postcards: clock rings 5 times, dice rolled only 5 times!
 - 8 postcards a day per person, 1/2 hour for 160,000 cards
- **What to do?**
 - 1:100 chance each month; 11/12 to get thru year; 50-50 for 8 years!
 - Cooperate
 - 1:700 each month, 1:60 each year; 13% chance in 8 years
 - 160,000 to make a big difference, made of smaller differences
- **"Lurings Lottery"**
 - \$1,000,000/n Prize n=number on entries

General Procedures for Negotiations

- **Organization**
 - Organize paperwork: 3 ring binder
 - Identify each Proposal: Date/Team
 - Sign off on agreed language
 - Take careful notes
- **Timing**
 - Do not rush
 - Meet when there is a reason
 - T's will compare salaries
 - Beginning items: expect few proposals
 - At the end: no surprises
- **Talking:**
 - agree on talking at table
 - agree on talking to media
- **Other:**
 - Don't agree to state statutes
 - Memoranda of understanding: a side letter
 - use of "sidebars": chief negotiators meet
 - Consider "re-openers"
 - Zip it up: Zipper clause

Collective Bargaining Tactics

- Asking for the Moon: start big
- Use of Public Sentiment
- Planning for Impasse: mediators/arbitrators
- Use of Media Releases: letters to editor
- Hot issues headlined: medical
- Promote high-cost items as "good for students": class size
- Reducing other parties' perceptions: data or information
- Items for future
- "Best Amalgam" proposals" best of everyone's contracts

Building the First Proposal

- Propose items to be retained/eliminated
- Strengthen clauses
- Prepare fall-back positions
- Anticipate proposals/reactions
- Prepare Quid pro quo proposals
- Prepare "throw away" proposals
- Determine absolutes and potential impasse items

Salary Schedules

Four Components

- Basic Structure of the Schedule
- Methods of Initial Placement on the Schedule
- Methods for Advancement on Schedule
- Salary Supplements

Component 1: Structure of Schedule

- **Columns: Lanes, scales, classes**
- **Rows: Steps**
- **Horizontal Dimension:**
 - **Academic Preparation: "Salary Classes"**
 - **Complete or Full Schedules: Degree Based**
 - **Additive Schedules: B.A. Based**
- **Vertical Dimension**
 - **Steps: Teaching Experience**
 - **Upper Limit**
 - **Opportunity to Fulfill Requirements**

Component 1: Structure of Schedule (2)

- **Incremental patterns**
 - **Horizontal: Preparation, degree, training increment**
 - **Vertical: Step, annual increment**
- **Fixed Dollar Amount: same \$'s between steps**
- **Variable Dollar Amount: different \$'s between steps**
- **Fixed ratio: ba X ratio: same increment to ratio**
- **Variable Ratio: different ratio between steps**

Component 2: Initial Placement

- **Credit for Previous Teaching Experience**
 - 75% of school year or more
 - within/outside State/District
- **Credit for Related Experience**
 - Directly related to discipline
 - e.g. library, P.E., Non-Public experience
- **Credit for Military Service**
 - Full or partial
 - Honorable Discharge
 - Experience Cap
- **Credit for Other Experience**
 - Peace Corps, VISTA, National Teachers Corp.
 - Non-combatative service in selective service

Component 3: Advancement

Horizontal Advancement

- Credits must be in field
- Credits must be in graduate program
- Credits must be approved by district

Vertical Advancement

- Automatic after stipulated time
- Advancement at specified points by credit or work
- Annual advancement with satisfactory performance evaluation
- Advancement based on merit
- Supermax or Longevity: constant increment beyond grid

Educational Productivity Approach

- Outcome measures for student learning
- Content, skills, comprehension, attitudes, behavior, volume, time

Career Ladder Plans

- Master teacher, Mentors
- Progression not automatic; formal evaluation; evidence of growth

Component 4: Salary Supplements

- **Extra Pay for Extra Duties**
 - **Guidance**
 - **Supervisory**
 - **Advisement**
 - **Extra-curricular**
 - **Athletic**
 - **Special Assignments**
- **Cost-of Living Adjustments (COLA)**
 - **Escalator Clauses: periodic changes provision matched to indicator (CPI)**
 - **Re-Opener Clauses: new salary negotiations within a contract period if CPI reaches or exceeds certain mark**
 - **End-of-Year clauses: converts changes in CPI to individual salary adjustments for next year**

Methods for changing Salary Schedules

- **Changes in the index or ratio base**
 - e.g. BA=1.00=\$30,000 increase by 5% to \$31.500
- **Changes in the Index or Ratio Structure**
 - BA=1.00=\$30,000 increase salary or ratio increments
- **Across-the-board Changes**
 - modifications to entire schedule
- **Variable Changes**
 - Different increments to different steps
 - reflects greater or lesser importance on grid placements
- **Changes in the pattern of salary scales**
 - reduce/increase steps or columns
 - restrict entry at certain salary scales: experience, preparation
 - intermediate scales (e.g. BA + 15)
 - Phase-outs: hold at step or column until requirements are met