

Collective Negotiations in Education



EDU 5721
Bargaining Goals and Strategies

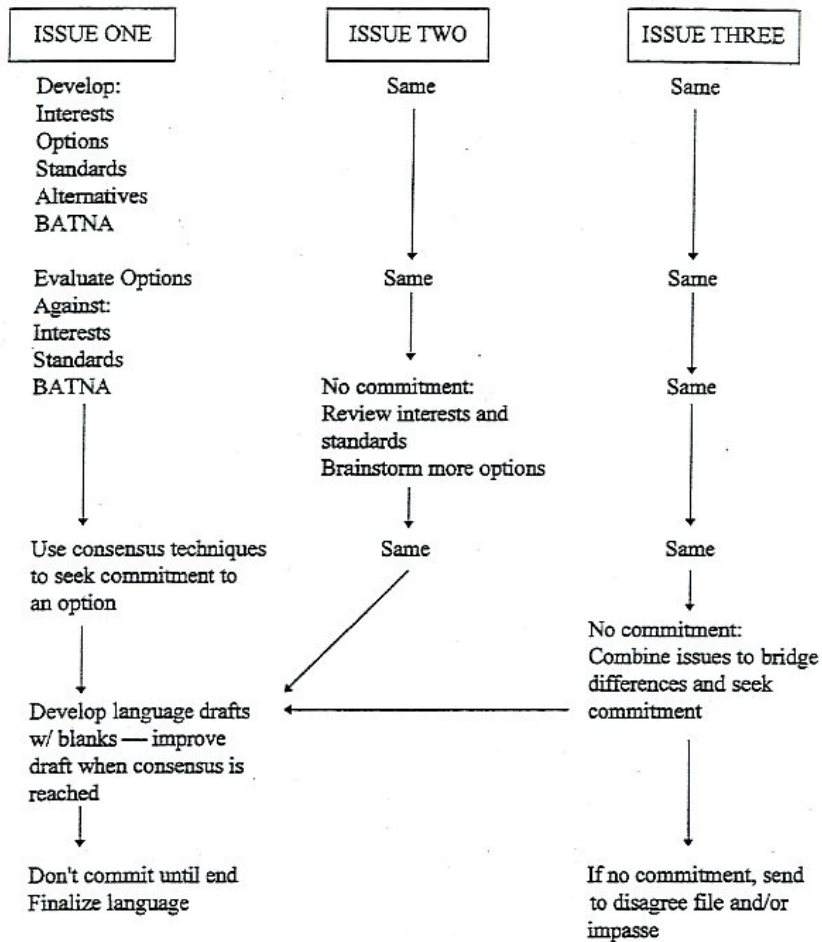
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COMPARISON: COLLABORATIVE & POSITIONAL BARGAINING

	COLLABORATIVE BARGAINING	POSITIONAL BARGAINING SOFT HARD	
Style	Collaboration	Accommodation Compromising Avoidance	Competition
Role of Parties	Participants are problem solvers	Participants are friends	Participants are adversaries
Goal	Wise outcome reached efficiently and amicably	Agreement	Victory
Relationship of parties	Soft on the people, Hard on the problem	Soft on the people, Soft on the problem	Hard on the people, Hard on the problem
	Be trustworthy	Trust others	Distrust others
Issue Control	Focus on interests, not positions	Change your position easily	Dig in to your position
	Explore interests	Make offers	Make threats
	Be flexible—understand alternatives	Disclose your bottom line	Mislead as to your bottom line
Options	Invent options for mutual gain	Accept one-sided losses to reach agreement	Demand one-sided gains as the price of agreement
	Develop multiple options to choose from, decide later	Search for the single answer: the one they will accept	Search for the single answer: the one you will accept
Standard	Insist on using objective criteria	Insist on agreement	Insist on your position
	Try to reach a result based on standards independent of will	Try to avoid a contest of will	Try to win a contest of will
	Reason and be open to reason, yield to principle, not pressure	Yield to pressure	Apply pressure

Adapted from *Getting to Yes, Negotiating Agreement Without Giving In*, Fisher and Ury, 1981.

STEPS TO REACHING AGREEMENT



Adapted from the California Teachers Association's *Interest-Based Bargaining Training*, CTA, 1995.

FACILITATOR'S VALUES AND PRINCIPLES

Neutrality	A facilitator is the advocate for the process the group has agreed to use. A facilitator does not become involved in content, issues or outcomes.
Trust	A facilitator maintains confidence that the group can accomplish its purpose.
Honor	A facilitator accepts and works with each group member as fully functioning, capable and committed to the group's purpose.
Openness	A facilitator ensures that information is abundant and shared — that every group member has equal access to information.
Safety	A facilitator works to establish and maintain an environment in which group members can function — one free of interruptions, distractions and personal attacks.
Adaptability	A facilitator maintains a variety of activities, processes and interventions and the ability to implement them as needed to assist the group.
Flexibility	A facilitator recognizes that no single technique will be effective in every situation, and is prepared to respond to the needs of the group.
Acceptance	A facilitator acknowledges that disagreement is natural and inevitable in a group — that group members have differing perceptions, opinions and beliefs — and is prepared to help the group manage conflict.
Discernment	A facilitator is 100% present and engaged in the group's process, actively listening to each group member's contributions, focusing on both verbal and nonverbal communication.
Responsibility	A facilitator is responsible for his or her choices and behavior in working with the group. <i>However, each group member is responsible for his or her behavior and shares responsibility for the group's outcomes with other group members.</i>

Adapted from Hunter, David, et.al., *The Art of Facilitation*.

FACILITATION IN INTEREST-BASED BARGAINING

Facilitation is an important part of the process of interest-based bargaining. Facilitation assists the parties to work through the interest-based bargaining steps while allowing participants to focus on those aspects of the issue that are important to them.

A facilitator has a different role and responsibilities from those found in positional bargaining:

- Advocate:** An advocate focuses on content — issues, needs, concerns — on behalf of the group, and determines strategies, processes and actions to accomplish the group's objectives. An advocate usually bears most of the responsibility for achieving the objective.
- Trainer:** A trainer brings experience and expertise to a group to meet one or more needs of the group — to prepare the group members to take action on their own behalf. A trainer determines the processes and actions the group will experience during the training session, and is usually solely responsible for completing the training agenda.
- Consultant:** A consultant also brings experience and expertise to a group to meet one or more needs of the group — but determining strategy, processes and actions is shared between the consultant and the group. A consultant advises but usually does not direct. The group and the consultant share responsibility for achieving the objective.
- Mediator:** A mediator, as the term suggests, works "in the middle" of two or more groups. A mediator works with the group's issues, but uses his or her experience and expertise to determine the processes and actions the group will work through. Group members retain primary responsibility for achieving the objectives, although a mediator often will suggest specific options for the groups to consider.
- Facilitator:** A facilitator, as this term suggests, works to make the group's progress smooth and effective ("facile"). A facilitator works with the group's issues and the processes the group has agreed to use. A facilitator uses his or her experience and expertise to help group members work effectively together, but group members retain responsibility for achieving the objectives.

● Using the Elements: Communication

In Preparation With Your Team

- Process
 - Clarify goals, issues to be negotiated, interests, priorities, process, timelines, barriers, obstacles, constraints, etc.
- Substance
 - Utilize partisan perceptions tool to get inside the other party's head
 - Clarify the questions you want answered
 - Identify what you want to disclose to their team and why

In Actual Negotiation

- Process
 - Jointly discuss goals for district and union, and for the long-term negotiations
 - Generate a list of issues that will need to be resolved
 - Discuss time frame for completing negotiations
 - Discuss agenda, sequence of issues
 - Discuss venue for negotiations
 - Discuss process for negotiations
 - Discuss and agree on communication/groundrules for teams re. constituents, press, etc.
- Substance
 - Listen, show that you've heard
 - Model the disclosure you want
 - Use ladder of inference
 - Ask good questions
 - Use cooperative model of communication
 - When asking questions, explain why you want to know

● Using the Elements: Relationship

In Preparation

- Assess the current working relationship, define the goals for the relationship
 - If there is a gap between what you have and what you want, develop an explicit strategy for closing the gap
 - If the relationship is great, prepare to test your assumption that it's good and explicitly discuss how to maintain it

In Actual Negotiation

- Before you talk about substance, describe your goals for the working relationship, elicit theirs
- If there is a bad history, mistrust, etc., raise the history, not to blame or attack but to understand their perceptions
- Develop concrete groundrules to develop relationship of trust, mutual respect
- Anticipate conflict, plan for how you as a team will deal with tough issues, e.g.
 - Elephant rule
 - Red flag rule = hot button

Using the Elements: Interests

In Preparation

- For each issue
 - Clarify your constituents and your interests
 - Clarify priorities among those interests
 - Estimate the other parties' interests and their priorities among those interests
 - Anticipate their positions, prepare questions to dig beneath the positions
 - Dig beneath your own team members' positions for underlying interests

In Actual Negotiation

- Share your interests, if not their urgency
- Elicit their interests
- If modeling doesn't open them up, test their interests by sharing your estimate of their interests
- Identify and confirm common interests
- Probe further about interests that are in conflict, not to resolve, but to understand
- When you get a position
- Ask
 - How does that meet your interest?
 - Why is that option important to you?
 - What would be wrong with ...?, etc.
- Write the position down as one option to consider

● Using the Elements: Options

In Preparation

- Brainstorm with your team, options designed to satisfy all parties, interests
 - Set an amount of time to brainstorm, during that time: all ideas are recorded
 - No evaluation
 - No criticism
 - No attribution
 - No commitment
 - Decide which options you'll share
 - Consider presenting more than one option you can live with

In Actual Negotiation

- Separate inventing options from deciding among them
- On each issue
 - Brainstorm options which satisfy the interests of both sides with the following groundrules
 - Set amount of time to brainstorm, during that time: all ideas are recorded
 - No evaluation
 - No criticism
 - No attribution
 - No commitment
- At end of time parties can ask clarifying questions. Then evaluate the options based on
 - How well they satisfy interests
 - Standards of legitimacy
- Invent options for mutual gain
- Ask for criticism of your options, not acceptance

● Using the Elements: Legitimacy

In Preparation

- Agree on data and standards that will need to be gathered to make wise decisions
- Appoint Joint Committee to gather data and standards
- For each issue brainstorm objective standards for choosing among options

In Actual Negotiation

- Ask the Joint Committee to research and report the data and standards they have found
- Assess which standards are most applicable, comparable to your situation
- When you get demands to accept a position
 - Use objective criteria as a sword
 - Here's what the number I propose is based on
 - And as a shield
 - Why is that a fair number?
 - Where did that number come from? How did you arrive at that number?

● Using the Elements: Alternatives

In Preparation

- Develop your Best Alternative To a Negotiated Agreement (BATNA)
 - Brainstorm all the possible alternatives to reaching an agreement
 - Identify your BATNA, the alternative which best meets your interests
 - If your BATNA is better satisfied elsewhere, you don't need to negotiate, walk to your alternative
 - To know whether to walk or talk, test your BATNA against your interests
 - If your BATNA is bad, brainstorm ways to improve it
 - If your BATNA is lousy and can't be improved, focus on interests, options and legitimacy in preparation and negotiation
- Evaluate their BATNA

In Actual Negotiation

- Keep your BATNA in your back pocket. Discuss it if:
 - It's better than they seem to think
 - Use it only to educate, not threaten the other negotiators
- If they threaten you with their BATNA
 - Reality test their BATNA in order to learn/educate them as to whether it's as good as they think it is

● Using the Elements: Commitment

In Preparation

- Work out a table of contents for a framework agreement
- Clarify with your team what authority you have

In Actual Negotiation

- Commit early on process
- Clarify the authority level of the other party
- Save commitment on substance until you've learned all you can
- Consider tentative agreement on each issue, contingent on the whole agreement

Collaborative Bargaining Worksheet

<p>TOPIC:</p> <p>CONTRACT REFERENCE:</p> <p>DEFINITION OF PROBLEM</p>	<p>INTERESTS</p> <p>Ours</p> <p>Theirs</p> <p>Others</p>	<p>OPTIONS</p>	<p>LEGITIMACY</p>	<p>IMPLICATIONS</p>
<p>COMMUNICATION</p>				<p>COMMITMENT</p>
				<p>PRESCRIPTION:</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>