

HANCOCK CENTRAL SCHOOL DISTRICT

**Models of
Public Sector
Collective Bargaining
in New York State**

OPTIONS FOR HANCOCK CSD BOARD OF EDUCATION
AND MANAGEMENT TEAM CONSIDERATION

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Models of Public Sector Collective Bargaining in New York State

- I. **Overall Objective for Collective Bargaining:** To secure agreements that effectively address the interests of management, labor, and other key stakeholders in an employment relationship, and that provide a foundation for constructive future relations.
- II. **Distributive (Positional) Bargaining:** A collective bargaining model where each of the parties keep the negotiation process going by taking positions that do not reflect their real preferences, but rather one intended to set the other party to reveal their breaking point.

Philosophical Elements:

- Open high (extreme/overstated positions)
- Commit to these positions early and publicly
- Trade concessions toward mid-point (compromise)
- Channel communications through a spokesperson
- Never bargain against yourself
- Use coercive forms of power
- Give as little as possible for what you get
- Divide and conquer the other side; protect against the same on your side
- Argue merits of your position, defending it from attack by the other party
- Discredit case and claims made by the other party
- Use tactics to keep the other party off balance
- Characterized by threats, tension, and pressure
- Unfettered belief that negotiation is the division of limited resources

Advantages	Disadvantages
Control (for either party)	Antagonistic
Predictable format	Trust erosion
Concessions lead to compromise	Adversarial (risks relationship damage)
Settlements reduced (objective value)	Withhold agreement until the end
Strikes are rare	Creates a defensive reactionary environment
Requires little preparation	Duration
Can be quick and efficient	Confrontations lead to rigidity
Universally understood	Impasse (and increased costs) more likely
Keeps a team in line	Lack of control of the process and limited development of solution alternatives
Can be fun	Promotes arbitrary outcomes
Always seems like you get something	Always wondering if you could have gotten more

- III. **Integrative (Principled) Bargaining:** A collective bargaining model that relies primarily on the systemic application of problem-solving techniques where gains are not necessarily viewed at the expense of other parties during negotiations.

Philosophical Elements:

- Personal issues are separated from the differences that are subject of discussion between the two parties
- Concentrate on the interests at stake and not on the positions
- Seek a wide range of solutions prior to making a decision (brainstorming)
- Evaluate results on the basis of objective criteria
- Joint training
- Joint data collection prior to bargaining
- Pre-agreements on ground rules and bargaining plan

- Use of facilitators and sub-committees during the process
- Contract implementation and administration anticipated prior to settlement

MODEL – Mutual Gains (Win/Win): Negotiations process that assumes you will get what you want in a negotiation by making sure the other party’s needs are met.

Guiding Principles:

- Separate personal issues from differences that are subject of discussion between the parties
- Concentrate on interests at stake, not on the positions
- Focus on satisfying the other party’s interests
- Share information- which is critical for effective solutions
- Seek a wide range of solutions prior to making a decision
- Evaluate the results on the basis of objective criteria

Building Consensus:

- Approach issues on the basis of reason in an attempt to avoid arguing for your individual position
- Don’t change your position simply to reach an agreement to avoid conflict
- Support solutions you can agree with
- View differences of opinion as an asset rather than a hindrance
- Avoid such techniques as majority voting, averaging, or trading in order to reduce conflict and reach a decision
- It is critical to share information and ask questions

Advantages	Disadvantages
Cooperation	Open-ended proposals
Collaboration	Perceived very generous settlements
Communication	Time intensive
Positive culture legacy	Breakdown on monetary issues
Shared decision making	Expanded scope of bargaining
Information sharing (objective data)	Perceived loss of power
Builds trust	Risk of sharing information if that is not reciprocated
Focus on interests, not positions	
Creativity	
Consensus building	

Do	Don't
Use open-ended questions	Use close-ended questions
Use questions that seek information	Use questions that contain accusations
Use questions that will help you share your perspective	Use questions that will provoke an argument
Use questions that get to the interests behind the issues	Use questions that will begin a debate on a particular issue
Use questions that start with “How can we...”	Use questions that begin with “How can you...”

MODEL – Intensive Facilitated Model: Negotiating process in which both parties commit to a limited but continuous meeting schedule to expedite negotiations and reach successful conclusion.

Guiding Principles:

- Planning
- Investment
- Experience
- Communication
- Facilitation

Advantages	Disadvantages
Same as mutual gains	Not widely tested
Limited scope of bargaining	No protraction device
Limited issues	
Short bargaining duration	

Steps/Phases in Intensive Facilitated Bargaining

Phase 1

- (a) Approximately eight months prior to the expiration of the contract, experienced negotiators identify parties they believe appropriate for the process and agree on facilitation.
- (b) A timeline is mutually developed to meet the objectives of preceding the expiration of the contract and avoiding the employer’s budget-making process. Preliminary steps include:
 - i. One meeting with professional negotiators, local leadership and facilitator to discuss process and then gain commitment.
 - ii. Once there is basic agreement to proceed and a target date for negotiations, the parties build on the documents from prior successes to develop and adopt their own basic ground rules, which include:
 1. Selection of negotiating committees – agreement to limit the actual negotiating teams (3-5 members each including professional negotiators).
 2. Agreement to limit number of bargaining issues (5-6 issues each).
 3. Agreement that lesser “housekeeping” issues may be discussed and bargaining prior to intensive negotiations by local leadership.
 4. Selection of off-site location for actual negotiations.
 - iii. During this preliminary phase, the parties agree to open exchange of information and data. They mutually develop salary and health insurance comparables and are then on the “same page” when negotiations start (*Note: Preparing visuals – depending on local abilities, programs such as EXCEL utilizing a computer projector have proven very useful later in actual bargaining*).

Phase 2

- (a) Two (2) weeks prior to formal negotiations, the bargaining committees exchange proposals – present at the meeting are the bargaining committees, the extended management team, the entire union executive committee, and the facilitator.
- (b) Three (3) consecutive full days of bargaining are scheduled from 9AM to 5PM, unless additional time needed on particular issues by mutual agreement. (The parties reserve the

fourth consecutive day for unforeseen circumstances such as unfinished language development.)

- (c) Full Meeting #1 – The negotiations committees and facilitator return to the business offices in the evening after the second day of bargaining, to inform both extended teams of progress made up to that point. This meeting begins as a brief joint meeting, followed by caucuses by both full teams. This provides the opportunity for feedback and input by the extended committees.
- (d) Full Meeting #2 – On the third evening of bargaining, the negotiations committees and facilitator return to the Full Teams to report out the terms of the tentative agreement or to report the steps that will be taken if no settlement has been reached.