



# CASS EXPLORATION

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## The Negotiating Team

### Selecting the district's bargaining team

Collective bargaining often becomes as much a public relations matter as it is a collective bargaining matter. Therefore the parties in school district negotiations must take into account this politically charged environment.

In setting parameters for bargaining, it is imperative to review the school board's role in school district negotiations. The school board's primary role is to:

In relationship to the collective bargaining process, the board as a whole serves several primary functions. These include:

- establish bargaining policies and goals
- set parameters for the bargaining team
- direct the bargaining team's approach
- communicate with the public regarding the status and progress of negotiations
- meet statutory and other legal obligations while providing effective service for students and families of the district
- ultimately ratify the terms of the agreement reached by the negotiations team

While there is no right answer to the composition and size of the team, past practice, politics (internal and external), the community, and lastly, the unique needs of the school district itself all represent areas that need to be carefully considered.

The smaller the team, the easier to reach agreement both within the district team and within the teacher team. Fewer people signifies less time needed for caucus, less confusion and less need for formal procedures. On the other hand the smaller the team, the greater danger of a serious mistake in negotiations. To avoid the possibility of such mistakes the negotiating team must thoroughly explore all teacher proposals with management staff and building principals. It is also advisable to have payroll staff or special education personnel available when necessary during negotiations to provide immediate information on specific items.

To provide continuity in negotiations and contract management, the board should attempt to designate members of the negotiating team who are most likely to be dealing with various aspect of the contract in daily operations and ongoing labour issues such as grievances and arbitrations during the school year. This builds understanding and trust in the application of the collective agreement.

***The bargaining team must function within the board's set parameters for negotiations. The team should have authority to present written proposals and counterproposals to the employees' exclusive representative and to meet at reasonable times and places to bargain in good faith.***

***Training team members is crucial to the success of bargaining. Because of the complexity of the rules and because rules often change, each team member must have a firm grounding in the Labour and Bargaining Act and the most recent Employment Relations Board rulings.***

***It is important that trustees be part of the collective bargaining policy process with an appropriate alignment of responsibility, accountability and authority.***

The bargaining team is obliged to function within the board's set parameters for negotiations. It is essential that the team have authority to present written proposals and counterproposals to the employees' exclusive representative and to meet at reasonable times and places to bargain in good faith.

Individual team members' authority should be clearly defined so the bargaining team truly operates as a team. Individual team members have no individual authority to negotiate terms and conditions.

Regardless of who participates in at-the-table bargaining final decisions must be made at the board level. Appropriate declarations should be made indicating that the team's authority to reach a tentative agreement is subject to board ratification in a subsequent public meeting.

The continuity and stability of the negotiating team is crucial. As negotiations often extend beyond the expiration of the contract it becomes imperative that these issues be considered in selecting both board members and other team members.

### **Training**

Training team members is crucial to the success of bargaining. Because of the complexity of the rules and because rules often change, each team member must have a firm grounding in the Labour and Bargaining Act and the most recent Employment Relations Board rulings.

Knowledge of the strategies and tactics used in negotiations also is important. The individual's negotiating style, in combination with legal requirements under the statutes and the bargaining goals and parameters established by the board, all interact at the bargaining table.

These complexities quickly can submerge inexperienced bargainers into a confusing sea of disadvantageous settlements.

### **Board member participation**

The board of education is legally the governing agent and, in the final analysis, secures the binding decisions in matters being negotiated. Many authorities were found to be pondering whether or not a board member should be a member of the negotiating team. Many authors contend that board members should not be on the team since it would place the superintendent in an almost untenable role in terms of compromising his leadership role in matters of administrative authority and professional expertise.

Regarding the role of a board member, *Campbell (8)* expressed the view that board members should keep in mind that teachers are their greatest allies, not the enemy. No responsible educators are asking board members to give up their seats on the board to them, nor are they asking to be appointed ex-officio board members. They are simply asking the board to sit down and talk with them. The rapport between boards and teachers must be retained without reducing the flexibility and interaction necessary in a professional effort to a staid, restrictive formal agreement for collective negotiations.

***The primary reason that the board member should remain apart from the actual negotiations is that their most important task is policy making.***

***In general, the superintendent should not be part of the negotiating team. The superintendent should be informed throughout the proceedings and should provide direction to the team within guidelines set by the board.***

Certainly the role of school boards has evolved over time, and they are not currently responsible for determining funding levels. But there remains a fundamental need for the public to have a strong voice in how the schools operate in their community. What is required is greater clarity as to what the school boards are, and are not, accountable for to their local publics. It is important that trustees be part of the collective bargaining policy process with an appropriate alignment of responsibility, accountability and authority. In general, board members should not be part of the negotiating team. There are numerous reasons why board members should stay out of negotiations even in the face of politically motivated teacher assertions that board members do not know what is going on at the table. Such assertions often are misinformed; it is the teachers who typically are far less informed than board members about the status of negotiations. The primary reason that the board member should remain apart from the actual negotiations is that their most important task is policy making. Negotiations are time consuming. For board members to actually conduct the negotiations requires enormous amounts of time both during the discussions as well as in preparation.

Negotiations also require a certain degree of skill and knowledge given complicated labour laws, provincial and federal legislation, and settlements that may cost hundreds of millions of dollars over several years. Of equal importance is the fact that many board members do not have the personality traits required for effective negotiations. This is as much a compliment as it is a criticism.

Furthermore, having board members do the negotiations places a board at a crucial strategic disadvantage as they lack detailed knowledge of the school system essential for effective negotiations with teachers. Finally, the mere fact that board members even participate in a minor way in negotiations encourages teachers to play to the audience, which does nothing more than prolong the discussions.

The literature concluded that the board of education, in dealing with educational problems, can better use preventive measures by taking the initiative in setting up negotiation procedures. Satisfactory negotiation procedures are best developed in a climate of good will before the need for them becomes acute. If teacher leaders and school officials learn to use negotiations wisely it may prove to be the most therapeutic educational development of this century.

### **Superintendent Participation**

In general, the superintendent should not be part of the negotiating team. It is important that they are informed throughout the proceedings and provide direction to the team within guidelines set by the board. This distance and remoteness enables the superintendent to preserve a professional relationship with teachers and administrators that is not entangled and complicated by negotiations. Such a relationship facilitates the ability to reestablish relations and to refocus attention on the instructional program at the conclusion of an agreement, particularly in the event that negotiations become acrimonious.

The superintendent's role in collective negotiations is dependent upon the viewpoint he or she takes, as well as that of the board of education and the teachers. It was found that varying definitions of the superintendent's role have been expressed by different organizations and writers.

The School Superintendents Association (AASA) has expressed the belief that the superintendent be an Independent third party in the negotiation process, reviewing each proposal in light of its effect upon students and working closely with both the board and the staff representatives in an attempt to reach agreement in the best interests of the educational program. Further, they maintain that the superintendent continue in the position of educational leadership assuming responsibility for initiating and guiding changes in patterns of staff relationships. The National Education Association (NEA) has taken the position that the superintendent should seek ways to bring the local association and the school board together so that they can develop a professional negotiations agreement. The NEA has found that the superintendent, in assuming responsibility as the executive officer of the board and as a member of the profession, recognize that shared responsibility in policy determination is a professional concept. The superintendent, according to the NEA, can be of great assistance by helping the board to recognize that the achievement of educational goals requires this joint approach to the solution of educational problems.

The superintendent is required to take the initiative in starting up negotiations. They become consultant and adviser to both the board of education and the teachers. A negotiator other than the superintendent would not necessarily undermine the position of the superintendent. Negotiation is a specialized function and specialized personnel are not new in school systems of size. The negotiator would report directly to the superintendent and in this way the superintendent would have a role in the decision making process.

According to (*Washburn & Jahr, 2007*), the superintendent cannot abandon his leadership and catalytic role. It's their contention that the superintendent should direct his efforts to making the transition to the formalized and structured staff relationship evolutionary rather than revolutionary. The superintendent cannot forget his dual role as administrator and executive officer of the board. He must act as a channel of communication between the staff and the board, and he must present recommendations which are a manifestation of his continuing and thoughtful leadership.

It would appear that on the basis of the application of sound administrative and organizational theory and practice, the most appropriate role of the superintendent should be that of negotiator for the board. However, all too often in social organizations, decisions are not based on rationality alone. Some authors have described the superintendent's role as follows:

- Exert a positive influence in both directions.
- Assist the members of the board in the most important endeavor with which they are charged: namely that competing successfully for a portion of each available dollar on behalf of the instructional program.
- Assist professional colleagues, the teachers of the district, in their area of greatest inexperience—policy-making and implementation.

A review of the literature revealed the view that the superintendent of schools' specific role will not only be dependent upon the individual superintendent's philosophy regarding negotiations. The board of education's philosophy regarding the superintendent and negotiations, as well as the philosophy of the teachers, will influence the role the superintendent plays. The literature indicated a strong responsibility on the

part of the superintendent to be knowledgeable of all aspects of the negotiation process and to assume a leadership role in the procedures.

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## READINGS AND REFERENCES

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