



NEGOTIATIONS CHECKLIST



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PREPARING FOR UNION NEGOTIATIONS

It is extremely important to prepare for union contract negotiations. According to the National Labor Relations Act (NLRA) (the basis for most state public employee relations), the employer is legally obligated to bargain in good faith with the union. Since the process can be challenging, it's crucial to take proactive steps ahead of time.

This includes:

- Identifying areas for improvement
- Preparing for potential proposals
- Forecasting costs to position your local for success

Keep in mind that the employer is also preparing for negotiations to showcase its value to employees. Therefore, proactive preparation is essential for affiliates to effectively navigate negotiations and minimize potential risks.

PREPARING FOR UNION NEGOTIATIONS

Negotiation is a fascinating process. Good faith bargaining is essential. The initial step involves forming a well-prepared negotiating team. Team members should comprehend their duties and responsibilities. The **employer's team** typically comprises the following individuals:

- One or more labor professionals, such as a labor law attorney and certified labor relations professional, if available – these individuals know the ins and outs of bargaining and can assist with any compliance issues.
- A human resources representative who can assist with payroll, benefits, and other HR-related discussions.
- An executive overseeing the operation.
- A senior financial expert who aids in determining the actual cost of any changes.
- A frontline supervisor who can provide firsthand knowledge of the employee's experience and the real-world impact of contract requirements.

The **union's team** must include members that are motivated to learn specific roles, budget, payroll, healthcare benefits, pensions, schedules, and operations. You should always consult your labor attorney early in the process. Once the negotiations team is in place, it's time to evaluate the members' needs and transform them into impactful proposals.

CONDUCTING UNION NEGOTIATIONS

Negotiations typically span over several days, weeks, months, and even years, and involve multiple rounds of bargaining. Some contract provisions remain consistent from contract to contract, while others, such as salary, are renegotiated with each new contract. Both parties may also make changes to certain sections, and either side may introduce new negotiation topics. Both parties should also explain the reasoning behind their proposals and counterproposals.



NEGOTIATIONS CHECKLIST

Taking detailed notes during negotiations is essential to ensure that all parties have a clear understanding of the proposals and counterproposals being presented. It's also crucial to obtain signatures from all parties on the agreed-upon language (Tentative Agreement TA).

ECONOMIC VS NON-ECONOMIC ITEMS

In union contract negotiations, there are two types of items discussed: economic and non-economic. Economic items involve costs for the organization and/or its employees, while non-economic items relate to issues concerning management rights and obligations, as well as leadership and employee behaviors.

Separating the economic and non-economic items helps move the process along, ensuring that time is not spent on language that will not be changed.

WHAT SUBJECTS CAN BE BARGAINED?

State law and court cases determine what can be bargained during collective bargaining negotiations. The classification of bargaining subjects generally falls into three categories:

- **Mandatory Subjects:** primarily concern wages, hours, and working conditions. Any adjustments to employee salaries, working hours, and safety protocols fall under mandatory subjects. By law, both parties are obligated to engage in discussions and work towards an agreement on these issues.
- **Permissive Subjects:** Both parties could negotiate on these issues yet are not bound to do so. These include topics such as the structure of the bargaining unit, the procedures for handling grievances, and other ancillary aspects of employment relations. While these matters can be discussed, there is no obligation for either party to enter negotiations concerning them.
- **Prohibited Subjects:** Some issues cannot be legally negotiated as they are outside the scope of collective bargaining, such as changes to the legal minimum wage or federal employment regulations.

The content of **mandatory, permissive, or prohibited subjects may differ by state** and can be influenced by state statutes and judicial interpretations. Courts frequently intervene to define these boundaries, particularly when disagreements arise regarding the scope of bargaining.

Whether at the negotiating table or during the life of a contract, parties could craft a memorandum of understanding (MOU) addressing a specific issue. An MOU is beneficial as it enables mutually agreeable resolutions to new or unanticipated matters that hold significance for both the union and the employer.

WHAT DOES RATIFYING THE CONTRACT MEAN?

When the union and employer teams reach a tentative contract agreement, they review it with their respective groups. The union holds a ratification meeting where employees ask questions and offer opinions. They then vote on the agreement by secret ballot. If both sides approve, a new collective bargaining agreement is established. If the agreement is rejected by either party, negotiations continue for a new tentative agreement.



NEGOTIATIONS CHECKLIST

If the parties are unable to reach an agreement, state law usually dictates the process for resolving the dispute. Typically, the parties have the option to use mediation or arbitration to come to an agreement.

DEFINITION OF IMPASSE

An impasse is that point in negotiations at which the parties are unable to reach agreement. In practice, “impasse” is a term of art. If the employer says no to a proposal, it does not necessarily mean that the parties are at impasse. It often indicates that the union needs to either modify its proposal or convince/bargain with the employer to accept the proposal. As such, the term impasse does not need to be separately defined in any agreement of the parties. An impasse exists when further bargaining would not produce progress toward an agreement.

CONTRACT NEGOTIATIONS PREPARATION CHECKLIST

If the collective bargaining agreement between the employer and union expires within the next 6-12month period, it’s time to begin preparing for the bargaining process.

Negotiations preparation is a long and complex process with multiple steps that require in-depth analysis of your organization, your municipalities’ financial status, day-to-day operations, the collective bargaining agreement, and the employees’ objectives. Here is a brief and general checklist that may be of some help.

1. CONTRACT ANALYSIS

Examine and analyze the contract to locate provisions that:

- Conflict with other provisions
- Are obsolete or no longer followed
- Need clarification
- Need to be deleted and replaced with modern provisions
- Generate grievances

Additionally, it should be noted that some types of contract language are written in a form of “code.” In essence, the general interpretation of the provision is not particularly evident from a simple reading of the provision. In these cases, it might make sense to revise the provision to provide a simpler and easier to follow explanation of the contractual provision.

2. SUPERVISOR INPUT

Meet with the supervisors to determine what operational provisions could be changed to provide a more efficient workplace. Often supervisors know exactly what must be accomplished but are waiting for someone to ask their opinion. The employer usually will not ask for supervisor input.



NEGOTIATIONS CHECKLIST

3. FINANCIAL PARAMETERS

Typically, it is best to keep the financial parameters general to avoid creating a “must have” dynamic. This is not to say that the employer will not establish a bottom line, but instead, labor must develop multiple ways of achieving the desired result, regardless of the bottom line.

4. DATA COLLECTION

Some of the typical data the employer will have available for negotiations are straight time and overtime hours, attendance data, healthcare costs and trends, retirement costs, trends, and efficiency trends, just to name a few. The Local must have this same data as a minimum. Also include a municipal financial analysis (MFA), wage comparison with rank differential, costs of abatements, tax incentives, staffing factor, industry minimum standards (NFPA), and GIS/workload study.

Timeframe for IAFF technical requests:

- MFA: 4-6 weeks
- Wage comparison with rank differential: 6+ weeks
- Staffing factor/schedule assessment: 4-6 weeks
- GIS workload: up to one year

5. ESTABLISH PROPOSALS

Draft the proposals by presenting the contract language and developing the modifications thereto. This is typically accomplished using bolding for new language and strikethrough for language to be deleted.

The relative importance of the proposals and the final objectives must be determined so the employer knows where the Local will stand firmly.

It is important to understand that there are multiple ways of accomplishing the same objective. It's vital to establish a fallback position.

6. ESTABLISH ARGUMENTS

Background data should be gathered to support each proposal. Management's strategy and supporting arguments should be anticipated well in advance of the negotiations so that flaws in any argument can be properly addressed.

7. INFORMATIONAL PICKETING/STRIKE/LOCKOUT PREPARATION

Though the goal is to reach an agreement without resorting to any economic action that will harm the employer or the employees, preparations and contingency planning should occur well in advance of the contract expiration.



NEGOTIATIONS CHECKLIST

8. KEEP DETAILED NOTES

Maintain detailed notes during any meetings and negotiation sessions. All notes will be useful if a need arises to proceed to arbitration or court action.

Develop a bargaining book. The bargaining book is a useful reference source during negotiations and should include information such as:

- Bargaining strategy
- Expiring agreement provisions
- Memorandums of understanding (MOUs)
- Employer proposals
- Union proposals
- Bargaining session notes

BEGINNING NEGOTIATIONS

1. DEMAND TO BARGAIN

Before making any demand to bargain, check the state laws and current collective bargaining agreement for procedures or restrictions that the parties have already agreed to use. Follow the contract's provisions carefully so that the union does not make any errors that result in waving the right to bargain. A generalized demand to bargain would read as follows:



NEGOTIATIONS CHECKLIST

[DATE]

[BARGAINING AGENT]
[ADDRESS]

[BARGAINING AGENT FOR THE CITY OF _____],

As the sole and exclusive bargaining agent with respect to wages, hours, and working conditions and other conditions of employment for full-time employees, [IAFF LOCAL] hereby demands to bargain over the terms and conditions of the successor agreement to the current collective bargaining agreement. The union is available at the following dates and times [ADD AS MANY DATES AS POSSIBLE AND AS MANY TIMES AS POSSIBLE]. Please contact me as soon as possible at [PHONE NUMBER, EMAIL ADDRESS AND PHYSICAL ADDRESS], so the parties may schedule mutual agreeable bargaining sessions.

Thank you and we look forward to hearing from you soon to begin the process of negotiating a successor agreement.

Sincerely,
[LOCAL PRESIDENT NAME]

2. FIRST NEGOTIATIONS MEETING (GROUND RULES)

In most cases, it is a good idea to negotiate a memorandum that sets out the ground rules for the substantive negotiations. It depends a lot on your overall relationship with management. Depending on your agency, a contract may contain the ground rules both for mid-term bargaining and for bargaining to replace the contract.

3. KEEP DETAILED NOTES

Maintain detailed notes. All notes will be useful if a need arises to proceed to arbitration or court action.

4. BETWEEN NEGOTIATIONS MEETINGS

Hold brief meetings prior to each negotiation session with negotiating team. Review proposals, arguments, and develop rebuttals.

5. LAST NEGOTIATIONS MEETING

Finalize all mutually agreed upon proposals, ensure all tentative agreements are signed by both parties, provide best and final offer, and keep a detailed copy of the best and final offer to compare to the ratified copy and final copy.