

# Interest-Based Bargaining in Education



65,354	11
67,736	12
70,107	13
72,483	14
74,860	15
77,236	16
79,613	17
81,989	18
84,367	19
86,745	20



A Review of the  
Literature and  
Current Practice

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# Interest-Based Bargaining in Education



68	63,794	11
64,185	67,750	12
66,542	70,107	13
68,898	72,463	14
71,254	74,820	15
73,610	77,176	16
75,966	79,533	17
78,322	81,889	18
80,678	84,246	19
83,034	86,602	20
85,390	88,959	21
87,746	91,315	22
90,102	93,672	23
92,458	96,028	24
94,814	98,385	25



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## FOREWORD

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**T**he use of Interest-Based Bargaining in education, as an alternative to traditional collective bargaining, continues to be debated and discussed. While many have strong feelings on the issue, fewer have a thorough understanding of it.

This report is intended to serve as a reference guide for Association staff, leaders, and members who want to know more about what Interest-Based Bargaining is, what it is not, and how it has been used in education.

I am sure you will find this summary both useful and informative, and I believe that it will help you to make informed decisions about the use of Interest-Based Bargaining.

Reg Weaver  
*President*  
*National Education Association*

## EXECUTIVE SUMMARY

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Despite almost 20 years of experience with a variety of alternative techniques in collective bargaining in education, there is no summary of the research on negotiation practices or survey of practice variations in use. The parties in negotiations have little to guide them in their investigation of the utility of what are commonly referred to as Interest-Based Bargaining (IBB) strategies. In order to give negotiators tools with which they can make choices appropriate to their needs based on current knowledge and practice, this report offers an informed discussion of the utility of various bargaining models. It provides:

- ▶ A summary of the research on the use of IBB techniques in educational collective bargaining;
- ▶ An overview of the current practice of IBB in education;
- ▶ Examples of IBB in practice in education.

A survey of the literature on IBB practice and outcomes, including empirical, theoretical, and qualitative research, as well as case descriptions during the period of 1985-2002 on the use of IBB in educational, public sector, or industrial settings identified approximately 100 journal articles, dissertations, and cases in practitioner publications. The majority of the empirical research reviewed was too limited in scope and methodology to provide evidence that could be cited in this report. The analysis of the literature provided a set of internal and external factors affecting the use and utility of IBB, which were used to frame questions for facilitators and bargainers on current practice in IBB.

A second goal of this report was to describe the current state of IBB practice, including its method and rate of diffusion, variations in practice, and factors motivating and supporting the use of IBB in educational settings. Given the absence of empirical data, practitioners providing IBB training and facilitation were identified as primary sources of information on current practice. Trainers/facilitators possess diverse and broad perspectives because of their interactions with multiple sites, their participation in professional associations or networks, and their (often) institutional affiliations with unions, employers, school boards, and state or federal employment relations agencies, and the variable IBB practices they employ. Seven practitioners who provide training and facilitation were interviewed: three staff members of NEA state affiliates, two FMCS commissioners, one practitioner in private practice, and one staff member of a state school board association. Among them, they have had direct experience facilitating more than 200 negotiations using IBB over

the past 10 years, in states with a variety of collective bargaining laws, as well as states without collective bargaining laws. These interviews provided detailed information on the IBB models in current use, which was used to create a matrix of variations in practices. The practitioner interviews also provided experience-based perceptions of the factors identified in the research as motivating IBB use and those supporting or suppressing bargaining team successes with IBB. While it cannot be claimed to represent a complete description of current practice, this summary provides a snapshot of the existing range of experience.

In pursuit of sources of data on current IBB awareness and use in educational bargaining, 34 NEA state associations were contacted for information on IBB practice in their state. These contacts helped to identify sources of IBB training and facilitation and to give a rough depiction of the state of training activities and providers nationally.

Based on the review of the research and interviews with facilitators, criteria were identified for choosing case studies to represent a cross-section of IBB experience. The three sites selected represent variation in state collective bargaining laws, the type of IBB model in use, geography, size of district, length of experience with IBB, the role and methods of the facilitator, and types and numbers of bargaining units and constituents participating in IBB. For each case, the primary negotiator for the union and the district were interviewed, and pertinent documents describing the process or outcomes of IBB were requested.

Finally, based on practitioner reports, case studies, and the literature, a set of questions were developed for bargainers to discuss when considering the use of IBB and assessing the likelihood of its effectiveness in specific circumstances.

## AUTHOR'S NOTE

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Over the past 10 years, colleagues and I at Cornell's School of Industrial and Labor Relations have provided training and facilitation in Interest-Based Bargaining (IBB) to many groups of negotiators, primarily in the private sector. Our more limited work in educational settings has included local school district negotiations, as well as university and community college negotiations. This experience provides a useful grounding in the theory and practice of IBB for the production of this report. However, Cornell faculty members were not among the practitioners interviewed, and cases where Cornell faculty assisted in negotiations were not selected for review.

This report benefited from the contributions of a number of practitioners who provided insights, references, and documentation of IBB practice: Sheila Bell, Carolyn Brommer, George Buckingham, Stan Damas, Rose Ellis, Tim Fitzgerald, Nancy Jorgensen, Jim Lang, Tom Lehrer, Jim Lowham, Steven Loeffler, Jermi Krage, Alice MacNamee, Jeanne Pritchard, John Stewart, and Ron Wilson. Each was generous with their time and experiences. Ann Martin and Susan Woods reviewed drafts and provided valuable editorial and substantive comments and suggestions. Research assistants Michaela Schoberova and Susan Archambault conducted interviews and provided library research. In particular, Susan Archambault's tireless tracking of sources, analysis of cases, and identification of variables was invaluable to both the structure and content of this report.

The research and writing of the report were sponsored by a grant from the National Education Association. All conclusions and opinions presented are those of the author alone.

Sally Klingel  
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## SECTION 1: INTRODUCTION

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### Examining Interest-Based Bargaining

The recent interest in alternatives to traditional collective bargaining practices began more than 20 years ago, with widely scattered experiments in various techniques, such as strategic bargaining, collective gaining, win-win bargaining, targeted bargaining, and integrative bargaining. With the publication of *Getting to Yes* by Roger Fisher and William Ury in 1981, interest in alternative bargaining processes spread quickly as practitioners created techniques for translating the Fisher and Ury notion of principled negotiations to the collective bargaining stage. An exchange of information and research among practitioners and researchers produced numerous theoretical articles, dissertations, and descriptive pieces published in the late 80s and early 90s. Excitement and caution were both evident in the discussion of bargaining successes, flaws in the process, omissions in the theory, predictions for the demise of either alternative or traditional bargaining practices, and recommendations to improve what came to be known as collaborative bargaining, mutual gains bargaining and finally, interest-based bargaining (IBB).

Since that time, research and writing on the subject of IBB have fallen off dramatically, but the practice has continued and become a regular part of the discussion, teaching, and training on negotiations and contract administration. Training in interest-based bargaining is now commonly offered in university labor relations training programs, is part of union and employer sponsored professional association trainings, and is offered as an intervention by some state mediation service providers and by the Federal Mediation and Conciliation Service (FMCS).

After more than a decade of experience and refinement, nontraditional bargaining practices appear to have settled into a set of methods that is more clearly distinguishable as a unified approach to bargaining. No doubt much learning has occurred, but it is still unclear whether IBB performs better than traditional bargaining in satisfying the goals of bargainers. Documentation of the evolution in practice is limited and confined primarily to descriptions of individual instances. Research on the extent of use of the process, or the effectiveness of IBB in meeting its stated goals, is even more scarce. Little is known about why parties choose it over traditional negotiation approaches, its effect on the parties' relationship, bargaining outcomes, and the ability of the parties to effectively advocate for their constituents. For bargainers today, then, little research-based knowledge can be offered as a result of the past 15 years of experience.

Despite, or perhaps because of, the lack of evidence for or against IBB, the question of whether IBB represents a viable or better approach to bargaining than do traditional practices continues to be debated. As the external environment for educational institutions holds increasing pressure for change and improvement and decreasing funding with which to work, the relative value of various bargaining strategies becomes even more important. Bargaining teams must choose their tactics in response to an often bewilderingly complex set of internal and external factors. It is natural to question whether IBB strategies are more successful than traditional practices in helping bargainers to achieve better outcomes in a complex environment.

This question of whether IBB is superior to traditional bargaining is perhaps not the most important concern for negotiators in education, however. In the pursuit of the most effective negotiation and bargaining practices, it may be more critical to question whether and when IBB provides appropriate responses to the conditions that bargainers face and how to best utilize IBB in those circumstances.

IBB is likely neither a panacea that will ultimately replace traditional negotiations, nor a short-lived fad without substance. It is, potentially, a permanent option in the array of strategies available to parties as they work to find appropriate and effective responses to a changing environment. Its utility in improving the process and outcomes of collective bargaining should be closely examined.

### **The Genesis of Interest-Based Bargaining**

Interest-based bargaining draws on the experience gained from a number of alternatives to traditional collective bargaining practices, each focused on changing the structure, process, or behavioral patterns in contract negotiations. The structural differences in an IBB approach are in the composition of the bargaining team, the amount and type of information used in negotiations, and the involvement of constituents. IBB negotiations involve more of the key decision makers, rely less on professional advocates, and typically eliminate the chief spokesperson role. In contrast to traditional bargaining, information is jointly gathered and analyzed prior to or during IBB negotiations and is shared as openly as possible. Increased attention is paid to the needs of constituents and to involving or informing them throughout the bargaining process.

The process difference between IBB and traditional bargaining is the manner in which the issues for negotiation are developed and discussed. Instead of presenting proposals, parties develop problem statements and provide the respective interests underlying negotiating positions to be used as criteria in developing solutions. Multiple options are considered, rather than two opposing positions. Trading concessions and compromising toward a middle ground is discouraged in favor of a focus on a workable solution that maximizes benefits for both parties' interests.

In order to pursue this different process, bargainers must assume less oppositional behaviors than are assumed in traditional negotiations. In IBB, parties are encouraged to use behavioral techniques that will allow them to explore and understand each other's perspective, needs, goals, and limits, rather than withholding or disguising the interests behind positions.

**Figure 1. Issue Discussion Process in Interest-Based Bargaining**

- ▶ Describe bargaining issues in problem statements
- ▶ Share all information relevant to the issue
- ▶ Discuss the parties' shared and separate interests on the issue
- ▶ Brainstorm a variety of options for resolving the issue
- ▶ Narrow options with jointly developed criteria or standards
- ▶ Use consensus to agree on the options that best satisfy the parties' interests

At its most basic, IBB, is an alternative set of responses to the dilemmas faced by bargainers as they try to manage the “negotiations within the negotiation” that occur in collective bargaining. As described by Walton and McKersie in their 1965 model of negotiation behavior, and refined in later work, bargainers engage in three major activities simultaneously during negotiations:

- ▶ Bargaining to reach agreement (on issues that can be either distributive or integrative in nature)
- ▶ Shaping the parties' attitudes toward each other
- ▶ Influencing intraorganizational differences in own or other's organization toward greater consensus or discord (Walton and McKersie 1965).

IBB provides an alternative set of tactics, strategies, and behavioral methods from those commonly employed in traditional negotiations for addressing these integral components of bargaining. Whereas traditional bargaining is often portrayed as a purely distributive exercise, where parties play tug of war over how to “slice the pie,” IBB is, by contrast, offered as a way to turn distributive contests into opportunities for mutual gain, where separate interests and needs are integrated into a satisfactory outcome. It is less reliant on the use of power to determine negotiation outcomes, and emphasizes the development of relationships and behaviors that will lead to a greater concern for shared success.

The development of IBB methods has been an evolutionary process, with many distinct models contributing to the body of practice. Some models were based on a normative approach to conflict and social relations, while others were more tactical in their origins, responding to the particular needs of the industries in which they occurred.

Many of the early alternative negotiation methods (for example, Goldaber's win-win model) focused heavily on the process of attitudinal restructuring between the parties, emphasizing the development of collaborative relationships that could facilitate the pursuit of mutual survival and growth, and create resiliency when faced with pressures from the external environment. Fisher and Ury in *Getting to Yes*, as well as the Collective Gaining approach developed by Robert Chadwick, provided practical techniques to help parties to maximize the joint "gains" possible on integrative, or variable-sum issues, and minimize or eliminate the "pain" of distributive or zero-sum issues. Numerous practitioners and researchers from the world of collective bargaining and formal dispute resolution contributed strategies for increasing constituent involvement and managing the relationship between collective bargaining and organizational change. (See for example, Barrett 1991, Hecksher and Hall 1994, Friedman 1992, Susskind and Landry 1991.)

Popular descriptions of IBB, and some of the IBB methods themselves, often stress the imperative for change in bargaining tactics, drawing a stark choice between cooperation vs. competition, or win-win vs. win-lose tactics. Explicit in the early Walton and McKersie work is the notion that bargainers may not engage in purely distributive or integrative bargaining, but may use a combination of both in order to satisfactorily resolve all the issues typically present in contract negotiations. This suggests that the selection of bargaining tactics is not an "either-or" choice. In later work, they elaborate on the role that external factors play in pushing parties to choose a bargaining strategy that combines tactics into either a "forcing," or "fostering" strategy (Cutcher-Gershenfeld, McKersie, and Walton 1995). Each negotiation occurs in a particular economic, legislative, and social environment, which can make the selection of bargaining tactics complex, and subject to change. Focusing solely on bargaining practices ignores the role of the external environment in shaping labor-management strategies. Thus, the development of IBB cannot be understood in isolation from the larger strategies and forces at play in educational settings.

### **Interest-Based Bargaining in Education**

Interest in alternative collective bargaining strategies in education corresponds with a similar trend in the private sector. Beginning in the early 80s, isolated incidents of bargaining reform experiments were evident in both public schools and industry (Johnson and Kardos 2000). In both arenas, the external environment was undergoing significant change, and interest in more cooperative labor relations and participative management systems began to surface. In education, this period was characterized by the so-called "second wave" of educational reform, which emphasized creating more avenues for participation in school governance by all stakeholders and a decentralization of decision making (Clark 2001). At the same time, considerable interest and experimentation with alternative bargaining was underway,

The linkage between change in educational hierarchies and collective bargaining reform was not always direct. For example, by the end of the 80s substantial movement in the

area of site-based decision-making projects had occurred, but only a fraction of such activities were included in contract language (NEA 1991). However, some highly publicized instances of success with IBB were clearly born from efforts to create collaborative structures for school reform (Johnson 1989). In higher education, by contrast, the interest in alternative bargaining began with an explicit linkage to shared governance. Attempts to further stakeholder involvement and address issues of professionalism found a neat match in a problem-solving oriented, data intensive approach to collective bargaining (Dennison, Drummond, and Hobgood 1997).

Increased attention to the costs of poor labor-management relations also prompted interest in IBB. From 1989 to 1992, California's Public Employees Relations Board launched a large scale experiment to test the ability of training in IBB and labor-management relationship improvement skills to lower the occurrence of disputes requiring intervention. The results were encouraging enough that the state began a new service to offer IBB training and assistance (Chisholm and Tamm 1993). Other states later followed suit.

Public frustration with collective bargaining's inability to deal with intractable conflict and lack of progress in school improvement prompted some large, urban school districts to make dramatic changes during high risk negotiations, utilizing alternative bargaining techniques. In Boston, private citizens donated the cost of a professional third party to help the teachers and district negotiators try alternative bargaining techniques to break bargaining impasse (Tyler-Wood, Smith, and Barker 1990).

A number of forces and events in the 90s drove change in collective bargaining in education, including the introduction of voucher programs and charter schools, change in state collective bargaining laws, rising tuition and operational costs, and growing concern from communities that institutional actors in education were not representing their interests. IBB presented a promising mechanism to:

- ▶ Enhance the image of public sector collective bargaining in the community as a process capable of representing and advancing the interests of all its stakeholders;
- ▶ Provide a venue for creating more professional teaching conditions and respond to the need for reform;
- ▶ Reduce the escalation of disputes and the associated costs.

As use of IBB spread beyond the few progressive efforts at school reform and high risk negotiations in large districts, smaller school districts, colleges, and universities began applying IBB practices simply to improve the collective bargaining process or to confront the more difficult educational decisions and issues of professionalism and their impact on student achievement.

IBB was introduced and tested during a period when the role of collective bargaining in creating stable structures and processes for effective operation of schools was under debate. Some saw traditional collective bargaining as a limitation to the goals of the

parties and sought to minimize its effect on organizational decision-making. Others advocated for collective bargaining as a forum for creating contractual agreements to govern and enhance collaborative efforts, but saw the traditional process of collective bargaining as inappropriate to that task. Both camps found reason to believe that IBB could have a positive effect on collective bargaining. As the next wave of school reform begins, the question again arises as to whether IBB is an appropriate response to a particular set of external environmental factors, and whether IBB provides a suitable mechanism for collectively bargaining over internal organizational changes.

## SECTION 2: RESEARCH ON INTEREST-BASED BARGAINING IN EDUCATION

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### Who uses IBB?

Although hundreds of negotiations occur in the public and private sector every year, no comprehensive data has been compiled about the types of negotiation strategies employed in these negotiations. A few research efforts provide a glimpse into whether IBB is recognized as a negotiation alternative and the extent of its usage. In the private sector, awareness of IBB appears to be high. In data collected by the Federal Mediation and Conciliation Service (FMCS) in a 1996 national survey of negotiators in the private sector, 62.6 percent of management respondents and 77.2 percent of union respondents reported awareness of IBB. Over one third of the managers and nearly half of union representatives reported some experience with the use of IBB in contract negotiations (Cutcher-Gershenfeld, Kochan, and Wells 2001).

Citations in practitioner and academic journals make it clear that educational bargainers have been experimenting with alternative bargaining approaches over roughly the same period of time as private sector bargainers, but the extent of usage is unknown. FMCS reports involvement in over 1,500 IBB negotiations in both the public and private sectors between 1996 and 2001, representing 5.4 percent of all negotiations in which FMCS mediators took part. A small, but discernable increase in requests to FMCS for IBB training took place, from 2.6 percent of all negotiations in 1996 to 6 percent in 2000 (Brommer, Buckingham, & Loeffler 2002).

One indication of the potential usage of IBB in education comes from an annual survey of school districts in Oregon conducted by the Oregon School Boards Association, which questions district leaders on their contract negotiation and administration processes. On average, 80 percent of Oregon's districts respond to the survey in any given year. In 1994, 50 percent of districts responding to the question of their bargaining strategy reported using alternative bargaining practices, with the rest reporting traditional strategies, defined as positional or proposal-based bargaining. In 2000, 61 percent of districts responding to the survey reported using alternative methods. This represents roughly between 44 percent and 47 percent of Oregon's districts engaged in IBB or a similar set of collaborative techniques during this period. An analysis of these self-reports of bargaining strategy over six years shows movement of districts between the two categories, indicating that there may be a cyclical pattern of bargaining among individual school district experiences,

despite a relatively stable overall pattern of usage. This is an intriguing pattern suggesting that national, aggregated looks at bargaining could obscure the “life cycle” of industry, state, or individual bargaining relationships. It may also be an indication of the lack of a purely collaborative approach or traditional approach, but rather a swing between two ends of a continuum, with a mixed set of techniques between (Wilson 1999).

To summarize, while it is likely that awareness of IBB as a bargaining strategy is widespread, IBB is probably used in a minority of negotiations. It is unknown if IBB is more prevalent in educational bargaining than in other sectors and if use of IBB is increasing or decreasing in any sectors.

### **Why do Bargainers Choose Interest-Based Bargaining?**

A number of internal and external variables may influence the choice of bargaining strategy in any particular situation. External variables include the source of bargaining rights, public opinion, the economic context for bargaining, and the demographics of the bargaining unit and its surrounding community. Internal variables that may influence bargaining strategy include negotiation and labor relations history, the composition of bargaining teams, perceptions of the negotiators regarding the nature of the relationship, or the nature of the issues facing bargainers in a particular round of negotiations (Descarpentrie and Sloan 1991).

The common wisdom holds that IBB may present an attractive strategy in good economic times, but when resource constraints predominate, bargainers will choose a more traditional approach to bargaining. However, the economic context for bargaining may play a dual role. IBB may be more attractive in strong fiscal environments, where perceived risk may be reduced and likelihood of mutually satisfactory economic packages may appear higher. Conversely, IBB may be more attractive in poor economic years, as a promising strategy to find potentially mutually satisfactory results in a difficult time. There is case study evidence to support both rationales for its usage, but no empirical research comparing economic conditions and the choice of IBB. IBB has been chosen in public school settings as an explicit response to uncertain political and economic circumstances (Scarselletta-Straut 1998) or as a strategy to deal with intransigent fiscal and governance problems as has been the case in at least some higher education experiences (Kandel 1997; Dennison, Drummond, and Hobgood 1997; Friedman 1992).

Differences in the legislative environment might be expected to affect the use of IBB in a number of ways. In locations without an externally mandated set of rules for bargaining, union and management might be more likely to try IBB because of its more flexible approach to creating bargaining processes. On the other hand, in states where binding arbitration applies, IBB might be an alternative to bargaining to impasse and losing control of the final outcome. The effect of the legislative environment may be mediated, however, by the level of union power in any particular situation and the cost of exercising that power.

While the relative frequency of usage in states based on the legislative environment is unknown, a review of the cases shows that IBB occurs in states with strong public sector and education collective bargaining laws, as well as states with no or weak laws.

The role of public opinion or pressure from community stakeholders on bargainers is put forward as a motivating factor for choosing IBB (Keane 1996). It is clearly one factor in some individual cases that compelled bargainers to try an IBB approach, but its effect on the overall usage of IBB is not yet defined (Peace 1994). Similarly, there is no systematic evidence that the nature of the issues confronting bargainers affects their choice of negotiation strategy. Reports of cases refer to the need to confront problems facing the individual organization in a deeper, more comprehensive way as one of the factors that attracted them to the IBB process (Crist, Hingham, and Wall 1996; Diaz 1999; Kerchner and Koppich 1993; Susskind and Landry 1991).

A number of factors particular to individual bargaining relationships could motivate bargaining teams to try a different approach. Individual cases demonstrate that a positive labor relations climate can prompt the parties to view IBB as a complementary process to maintain or strengthen the current relationship (Rauth 1990). In other cases, frustration with poor labor-management relations and the results of traditional bargaining would appear to cause many bargainers to try IBB (Devinatz 1998).

One survey of 246 districts in Illinois (10% with IBB experience) reports that districts that had past job actions, especially strikes, and districts with longer histories of collective bargaining, are more likely to choose IBB. The perceptions of union and management bargainers on the state of the labor-management relationships in these cases did not appear to have an effect on choice of bargaining strategy. This supports the notion that, direct experience with negative outcomes from traditional bargaining can prompt the search for an alternative (Descarpentrie and Sloan 1991).

This same study also found that a district's use of professional negotiators or attorneys as chief negotiators is negatively associated with the use of IBB, and the use of superintendents as chief negotiators is positively associated with the use of IBB. No similar effect was found among union bargainers or their advocates. One possible explanation for this is that external negotiators for districts may be less likely to accept the structure of most IBB negotiations that eliminates the role of chief spokesperson, and encourages participation by all members of a bargaining team. Superintendents may play a key role in influencing the choice of districts to use IBB, perhaps because of their willingness to accept more active involvement of their constituents in bargaining discussions.

In summary, no single factor appears to predict the use of IBB, or preclude its use. It is likely that bargainers weigh the mix of internal and external factors particular to their situation and assess its utility based on calculations unique to their current circumstances.

## How Does Interest-Based Bargaining Affect the Labor-Management Relationship?

A primary assumption of alternative bargaining models is that a distrustful and antagonistic labor-management relationship is both a result of the potentially destructive effects of traditional bargaining tactics and a reason for the adoption of such tactics in the first place. IBB seeks to remedy both problems and promotes the expectation that more collaborative bargaining will have a positive effect on the labor-management relationship overall.

IBB then should produce noticeable effects on the perceptions of bargainers about their ability to work together. While there is much testimonial evidence of change in individual bargaining relationships, little research has been done to assess whether bargainers experience a difference in on-going labor-management relations as a result of IBB experience. One study of the perceptions of bargainers in public school districts who had tried IBB found general agreement among bargainers that IBB improved the labor-management relationship. Union negotiators as well as district and board of education bargainers believed that use of IBB in negotiations had a positive impact on the labor-management relationship and on support of the contract by constituents, and the IBB process improved communication between bargainers. Teachers' union representatives, however, had a significantly less positive view than did administrators or board members on these impacts. While all the negotiators found trust, morale, and cooperative atmosphere to be improved, teachers rated the improvement in trust significantly lower than Board of Education negotiators (Brod 1994). Similarly, a 1996 FMCS survey of bargainers in the private sector found 80 percent of managers and 60 percent of union leaders who are aware of and have some experience with IBB report a preference for it over traditional negotiations (Cutcher-Gershenfeld, Kochan, and Wells 2001). This significant difference between management and union bargainers echoes the differential views of IBB presented in the educational study.

Another indicator of a positive change in the relationship would be a reduction in grievances or the need for intervention by a third party in the form of mediation, fact-finding, arbitration, etc. In an effort to assess the impact of training workshops on IBB processes and labor-management relations, the California Public Education Relations Board (PERB) studied districts over time to see if IBB training resulted in fewer disputes requiring intervention. Districts who received training in IBB and labor-management relationship improvement reported a significantly lower number of requests for mediation and fact finding, and a lower number of Unfair Labor Practices (ULPs) than those that did not receive the training (Chisholm and Tamm 1993). The lower rate of PERB filings during the 1989-1992 period corresponded to an overall decrease in the general population of districts during the same period, but IBB-trained district numbers were significantly lower compared to the general population. Similar results were reported in a study of districts comparing those who utilized Mutual Gain Bargaining: significantly fewer grievances occurred after Mutual Gain Bargaining, though ULP rates remained similar to those districts who had not received training (Brod 1994). And, in a study of municipal negotiations, the use

of a distributive bargaining strategy (traditional tactics) increased the likelihood of reaching impasse in contract negotiations and the use of integrative strategies (IBB tactics) was associated with lower rates of impasse (Chandler and Judge 1998).

Based on these research outcomes, IBB can produce both perceptual and tangible changes in the labor-management relationship. Union leaders are less enthusiastic about the extent of the change IBB produces than their management counterparts, but both union and management negotiators associate positive outcomes with IBB.

### **Does Interest-Based Bargaining Produce Better Outcomes to Bargaining?**

Fisher and Ury advance the notion that an interest-based approach can improve the relationship between parties and at the same time, provide agreements that are wiser, because the parties are able to openly discuss their real needs and settle on outcomes that can be verified with objective, external criteria. Clearly, IBB can improve the relationship in particular instances, but there has been little empirical research on the outcomes of IBB and whether it changes or improves the content of the agreements.

One study attempts to compare contract language in school districts that utilized IBB with comparable districts that engaged in traditional bargaining. Examination of 84 matched pairs of contracts in Ohio found no significant difference in advances achieved in the areas of leaves of absence, salary, and other salary and benefits. Salary findings were nearly identical (Hoynes 1999). In a recent study of 18 sets of similarly matched private sector contracts in Canada, there were more frequent changes to wages and benefits that could be termed concessions in IBB contracts. There were also more changes in IBB contracts that could be termed “mutual gains,” resulting in benefits to both parties (Paquet, Gaétan, and Bergeron 2000). The findings of both studies are limited by the difficulty of objectively comparing contract language and the methodological problems of selecting comparable districts and controlling for internal and external differences between districts.

In the Hoynes study of school district contracts, the type of district—its size, demography, and geography—did not affect contract outcomes in terms of overall advances for the union. Those districts that already had contract language favorable to the union did not fare better, or worse, from the union’s perspective, using IBB than those who had language favorable to the district. However, the type of district was a factor in some particular areas of the contract. Unions in small rural districts using IBB made noticeable gains in clauses related to basic working conditions such as class size and planning period. Large, urban districts where the union already had better language on working conditions made more gains in contract issues such as academic freedom. IBB districts that were larger and more affluent and had more extensive levels of contract language to start with, also had more language specifying joint committees and contract waivers. Such committees were a result of issues discussed at the bargaining table, in areas such as the middle school concept, technology, inclusion of special needs students, and distribution of extra day assignments (Hoynes 1999).

This snapshot of bargaining outcomes suggests that a variety of factors come into play in the assessment of IBB as compared to traditional bargaining outcomes: the maturity of a contract, the size and demography of the district, and the nature of the problems or pressures in a particular situation may be among the differential factors that affect the kinds of changes IBB may make in bargaining outcomes.

### **Does Interest-Based Bargaining Expand or Change the Subjects of Bargaining?**

Surveying the forces and movements underway at the beginning of the 1990s, it appeared to many that the scope of bargaining in education would “change to expand beyond compensation and the impact of educational reform on working conditions.” (Shedd 1988). Collective bargaining seemed likely to produce agreements addressing a broader scope of issues and problem-focused, instead of rights-based, settlements (Kerchner and Koppich 1993). The trends pointed toward increased use of many forms of joint committees, decentralization of decision-making, waivers, and public pressure for change—all factors conducive to a change in labor relations and collective bargaining techniques.

While IBB has been used in many instances where the predicted changes are occurring, there is little research on the relationship between the two strategies for change. Case studies report that some districts use IBB primarily to change the tenor of the discourse in bargaining to one that is more productive, but have not tried to change the topics or results of bargaining (Scarselletta-Straut 1998). Other districts have used IBB to confront more difficult issues of educational policy, addressing both its content and outcomes. In these instances IBB has sometimes resulted in labor-management committees, education policy trust agreements, or other mechanisms that expand the scope of joint labor-management decision making (Hoynes 1999; Wishnick and Wishnick 1993).

It is difficult to judge solely from contract language whether IBB changes the subjects of bargaining. When IBB is used in districts where educational reform and bargaining are linked, practices may vary widely on how the contract reflects decisions made by the parties. Some contracts contain detailed language on decisions on reform; others have only a reference to mechanisms outside the contract for reform (Hoynes 1999). In other cases, consistent change occurs during the life of the contract through joint labor-management initiatives, which then become a subject of bargaining or prompt other contractual changes when bargaining occurs (Perez Castillo and Xochitl 2000). And, reforms such as site-based decision making can prompt the use of IBB in some cases (Hirokawa, Mahoe, Nakashima, and Seely 1994).

In a 1994 study of private sector bargainers, union and management who report a preference for IBB were more likely to also report that they negotiated new language for increased worker input into management decisions (Cutcher-Gershenfeld, Kochan, and Wells 2001). This possible relationship between IBB and innovations in contract language

is echoed in a Canadian study of contracts where researchers report that while both traditional and IBB negotiations produce a similar number of changes in the contract, the areas in which those changes cluster are different. IBB negotiations produced more frequent changes in the areas of grievances and disciplinary measures, work organization, and labor-management relations initiatives. Vacations and holidays were more likely to be changed in traditional agreements, due to increases in annual leaves and holidays. (Paquet, Gaetan, and Bergeron 2000). A FMCS analysis of the cases in 2001 in which FMCS was involved shows that working conditions and work reorganization were more frequent in IBB than traditional, and that wage and pension issues were more frequently changed in traditional negotiations (Brommer, Buckingham, and Loeffler 2002).

Thus, while IBB can be associated with a broadening or change of the subjects of bargaining, it is not clear if IBB negotiations are the cause of such expansion, or if IBB creates more avenues for joint discussion of new issues, or if changed relationships gained through mechanisms such as site-based management cause the initiation of IBB bargaining.

If traditional collective bargaining practices were adopted in schools as an appropriate response to an authoritarian structure of management, then there is a question of what role collective bargaining can play in school reform (Johnson and Kardos 2000). It is unclear whether administrators and unions do not attempt to effect changes and reforms through collective bargaining because conventional collective bargaining is a significant barrier to such changes, or whether substantial change and innovation in school operation is a necessary prologue for constituents to have the motivation to change collective bargaining practices to accommodate the new workplace.

### **What Supports Successful Use of Interest-Based Bargaining?**

A flurry of IBB-type bargaining occurred in schools and industry in the late 80s and by the early 90s researchers and practitioners began to critique IBB training and implementation processes and identify factors that could impede IBB success. These early assessments of IBB practice criticized the weak linkage between the training process for IBB in both education and industry settings and its implementation protocols. Commentators noticed that while the ideas and concepts transmitted in IBB training were powerful and attractive to participants, the parties were often unable to put them into practice.

A number of elements were identified by practitioners and researchers for improved IBB implementation, including:

- ▶ Orientation sessions for broad cross-sections of constituents and stakeholder groups prior to the agreement by parties to utilize IBB, with an emphasis on developing awareness and gaining commitment from constituents to try the process;

- ▶ Intensive training for bargaining teams in the techniques, behavioral skills, and concepts of IBB before commitment to the process;
- ▶ Development of clear ground rules for behaviors and protocols before engaging in bargaining;
- ▶ The use of facilitators to help craft negotiating protocols and guide bargaining sessions;
- ▶ Clear process for developing information needs, sources, and analysis of information;
- ▶ Clear process and format for collecting, presenting, and prioritizing issues for bargaining;
- ▶ Post-bargaining training for constituents in implementation of the contract and use of IBB techniques in contract administration to institutionalize both the agreements and the problem-solving process.

(Friedman 1992; Susskind and Landry 1991; Hecksher and Hall 1994)

Some also questioned whether the dispute resolution philosophy underlying an IBB approach was robust enough to deal with the complex environment surrounding collective bargaining, the differential power between labor and management, and the varied nature of the relationship between the bargaining parties and their constituents. There was concern that the process emphasized the development of personal trust between negotiators, but ignored the difficulties of representing and managing a constituency during bargaining.

Discussion in the literature on IBB pointed out the need for unions to actively consider how use of IBB might change their representational role and strategies. In traditional negotiation practice, tactics for involving members in negotiations are based on mobilization and solidarity, fundamental union precepts arising from the social and legal structures of the labor relations system. To be successful, IBB requires union leaders to use a different, more decentralized set of tactics to build power and constituent involvement. Rather than asking constituents to mobilize around a few clear issues, IBB asks constituents to be more deeply involved in both framing the nature of the issues to be negotiated and maintaining involvement in a bargaining process that seeks to develop more complex solutions to issues. Thus, while IBB increases constituent involvement and makes constituents more active “consumers” of collective bargaining, it also makes them vulnerable to “divide and conquer” tactics. Unions may therefore be fundamentally more mistrustful of IBB than management because the milieu in which they operate requires them to build power in a number of ways, including mobilization for pressure tactics (Cutcher-Gershenfeld 1994; Hecksher and Hall 1994).

Commentators also cautioned that a one-time use of IBB might improve the negotiators’ relationship and produce better outcomes on some complex problems, but could not transform the structure and operations of union and management and the organization in which they live. Change in the other organizational processes is necessary to build a sustained commitment to an IBB approach in bargaining (Hecksher and Hall 1994). This concern that successful implementation of IBB requires concurrent change in other

practices is supported by a study of three large Canadian school districts bargaining in similar circumstances at the same time. The districts that used IBB skills and techniques in problem-solving venues outside of bargaining were more successful in making the IBB process work in negotiations. In that study, realistic expectations of time and progress also differentiated the successful users from the unsuccessful (Scarsellata-Straut 1998).

In addition, IBB theory and practice has been criticized for underplaying the existence of real and legitimate conflict between parties in collective bargaining and for ignoring the potential use of other tactics (Cutcher-Gershenfeld 1994). In the emphasis on improved relationships, the parties may rush into a level of personal trust that makes any failure in IBB a betrayal of the relationship. This may cause bargainers to hesitate to use power or leverage, even when it is the most effective way to advance their interests and reach a negotiated outcome on a highly conflictual issue.

Recommendations for dealing with the lack of trust in IBB negotiations include:

- ▶ Develop processes to increase the availability and credibility of information both at the table and with constituents;
- ▶ Create useful analysis procedures that level the understanding for all parties involved, and reduce vulnerability due to lack of information or untrustworthy information;
- ▶ Make commitments to avoid actions that are feared by the other party, e.g., use of the press as a power tactic, communication to constituents outside of the bargaining table, attacking legitimacy of other's needs or existence;
- ▶ Openly discuss the potential for conflict, or a less than optimal outcome from IBB;
- ▶ Discuss how the parties will proceed if interests are in conflict and a mutually acceptable solution can't be found;
- ▶ Start negotiations early and set an early deadline for agreement, allowing time before contract expiration for use of other strategies for settlement.

(Friedman 1994; Cutcher-Gershenfeld 1994)

In an early examination of alternative bargaining practices in a variety of industries, including schools, the U.S. Department of Labor identified critical behaviors and practices that were factors for success. Most important were the bargaining teams' ability to apply relevant expertise to problems by skillful use of information or inclusion of appropriate in-house experts, a focus on mutual gain outcomes and workable results, and a realistic set of limitations on issues to be solved in negotiations, with creation of appropriate venues for dealing with those that are too lengthy or complex for a single round of bargaining. (U.S. Department of Labor, Bureau of Labor-Management Relations and Cooperative Programs 1990). Other factors identified as supportive for success were a good labor-management climate and previous experience with joint decision-making. Using bargaining as a way to initiate a change in the climate was found to be more difficult, though achievable. This suggests that an organization cannot be dependent on the ability of

negotiators to produce fundamental change through collective bargaining. Early experiences in higher education also pointed to the need for IBB to be part of a planned process for institutional change, imbedded in conflict management systems, information sharing systems, and ongoing behavioral norms (Kreppel 1991).

In summary, the research and critiques of IBB do not provide clear conclusions on the question of whether IBB is more or less effective than traditional negotiations as a means to achieve the goals of bargainers. IBB can produce outcomes at least equal to and sometimes superior to those achieved in other negotiating processes. However, it is clear that IBB cannot, as a single intervention, transform the labor-management relationship. The successful use of IBB to change the labor-management relationship appears to be dependent on situational supporting factors or concurrent changes in other organizational systems, structures, and relationships. IBB can provide the catalyst for transforming these organizational processes, or it can be a powerful, complementary tool. The factors supporting effective use of IBB as a bargaining tool and as a technique for enhancing the labor-management relationship are explored in the next section of this report.

## SECTION 3: CURRENT PRACTICE IN INTEREST-BASED BARGAINING

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### Extent of Interest-Based Bargaining in Education

Absent baseline measures, it is unclear if awareness and usage of IBB has been increasing, decreasing, or remaining stable in educational bargaining over the past 15 years. One indicator of awareness is the extent to which education unions provide information on IBB to their constituents. Thirty-four NEA state affiliates were contacted for information on awareness of IBB among local school districts and whether IBB was currently in use to their knowledge. Of those states contacted that permit collective bargaining, more than half (20) reported that the state association provides some sort of awareness training on IBB to local associations. All but three of the 34 state associations contacted report that IBB is in use in their states. Those states with no reported usage each had no legislative right to collective bargaining.

At least nine state associations have trained staff to provide IBB training and assistance and make them available to local affiliates upon request. Another nine states have active joint labor-management networks of IBB facilitators and trainers who provide IBB training and facilitation assistance. These networks use a dual facilitation model that pairs a union affiliated trainer/facilitator with a trainer/facilitator affiliated with school administration or boards. The NEA and the North American Association of Educational Negotiators have collaborated in the past few years to foster the formation and continuation of six such networks in Colorado, Idaho, Illinois, Maryland, Michigan, and Oregon.

At the least, it appears that awareness of IBB is broad. The majority of state associations contacted had conducted awareness sessions or training in IBB in the past five years at state conferences, or upon request by local entities. Almost all states reported that constituents were aware of IBB, even if it had not been employed to any great extent in their areas. Only one of the state affiliates contacted had no knowledge of IBB practices, and 18 states provide resources through the state association for IBB training and facilitation. Another four states report that their state employment relations board provides IBB assistance.

The extent of usage, as reported anecdotally, varies considerably from isolated, sporadic incidents in some states to consistent and repetitive usage in others. At the low end of the range are states where IBB has been used in only a handful of sites over the past five years. Most states that report consistent usage estimate that 10 percent or fewer of the

contracts negotiated each year are done through IBB. This usage can be confined primarily to small districts, as in Pennsylvania, or confined primarily to larger districts, as in Colorado and Missouri. A few states such as Oklahoma, Oregon, and Maryland, report higher IBB usage in approximately one-third to one-half of the district negotiations in the past few years. Given the differences in the size and structure of districts across states and the differences in collective bargaining frameworks, it is difficult to compare levels of usage between states or to estimate an average of usage across states. From the anecdotal information provided by state associations, it appears that the majority of states find that less than 10 percent of districts are using IBB in any given year.

IBB skills and practice are also being used for problem solving apart from the collective bargaining arena. One state contacted prohibits collective bargaining, but reported that IBB is being used for grievance handling in some local districts. At least three of the networks in place offer facilitation and training in IBB strategies for use in school committees.

As an indicator of the extent of usage, the existence of resources for IBB training and facilitation is widespread. In addition to the resources provided by NEA state affiliates and school board associations, IBB training and facilitation assistance is available through private consultants and institutes and a few university education programs. Some state public employment relations boards provide training or facilitation as part of their package of services to public sector bargainers. FMCS also supplies services in IBB. In interviews, some of these IBB providers reported that requests for their services are steady and include “repeat customers.” While there is no consistent reporting of the extent or amount of usage available, these indicators suggest that the practice is becoming institutionalized in a number of states, albeit in a minority of districts in most states.

### **Reports from Practitioners on Current Practice in Interest-Based Bargaining**

To understand the diversity and commonalities of IBB practice, seven practitioners who work in geographically diverse states, with a variety of affiliations and backgrounds were interviewed. Though far from a comprehensive study of IBB practice, their combined experience as reported below provides an initial exploration of the state of the current practice in the field. Practitioners commented on their experience in response to questions in the following areas:

- ▶ What effect do various factors have on the decision to choose IBB over traditional bargaining?
- ▶ How does IBB affect the subjects of bargaining, the outcomes of bargaining, the resources used during bargaining, and the labor-management relationship in comparison to traditional bargaining?
- ▶ What factors appear to support successful use of IBB?
- ▶ What factors appear to make it difficult to use IBB?

## WHY DO BARGAINERS CHOOSE INTEREST-BASED BARGAINING?

The research and writing on IBB identify external and internal factors that could influence bargainers' choice of IBB over traditional negotiations. External pressures frame the choices bargainers make over their approach to negotiations, combined with the situational factors embedded in the particular history of the bargaining relationship. Practitioners commented from their experience on the importance of the following for bargainers' selection of IBB:

- ▶ The state of the *labor-management relationship*;
- ▶ The *economic climate* for bargaining;
- ▶ The *existence of other means of collaborative problem-solving in the organization*;
- ▶ The *legal environment for collective bargaining*;
- ▶ The *type of issues faced by bargainers*, including educational reform issues.

### **Labor-management relationship**

Practitioners' report that perceived failure in the traditional relationship is clearly a strong motivating factor for change. In particular, union leaders who perceive IBB as a risky strategy are often more willing to endorse an IBB strategy when frustration with traditional practices is high. To make the change, practitioners emphasize that there must be a critical mass of people who are fed up with the old approach. While union leaders often are the initiators of an interest in IBB, there must be a strong desire from both sides to try something different. The superintendent's role in establishing a tone and demonstrating a desire for change can be a key factor in the decision to use IBB.

The level and type of dissatisfaction with existing practice necessary to prompt a search for alternative bargaining practices varies. For some, dissatisfaction comes from a sense that traditional collective bargaining is too constraining and keeps the parties from dealing with issues of importance, or is simply achieving too little. Others are looking to improve their bargaining process or maintain an already workable relationship and are dissatisfied with the current practice. The perceived inefficiency of traditional bargaining can also be a source of frustration. Bargainers may be willing to spend the same amount of time, but want it spent in a more productive way and see IBB as strategy for that end.

### **Economic climate**

Practitioners do not find that fiscal crisis or economic downturn is a primary motivator for change. If anything, bargainers may be more likely to question whether IBB can work in a resource poor environment. Furthermore, the pressure of a poor economic situation can put greater stress on the bargaining process and make it more difficult for parties to try new behaviors and methods, thus making it less likely that bargainers will attempt a first time use of IBB.

In some cases, bargainers question the utility of traditional negotiations when facing difficult economic decisions and are motivated to try IBB to achieve a more effective settlement in bad times. Whatever the motivation, practitioners reported that IBB is being used in both resource-rich and resource-poor situations, with positive and negative results in each.

#### ***Existence of other means of collaborative problem solving in the organization***

Practitioners report that experience with collaborative change processes regarding educational policy and reform sometimes drives change in the collective bargaining relationship. Some organizations see a need for alignment between participative decision making in daily practices and the use of IBB in contract negotiations. More often than not, however, practitioners find that where there is a linkage between the two, the need for change in educational reform and experience with collaborative methods for achieving that reform is not causing districts to look for IBB. Rather, experience with IBB allows districts to approach new issues in a collaborative way.

There is often a clear institutional barrier between decisions about educational policy and decisions about employment conditions. Advances in one arena are often separate from the other. IBB may occur in a district where collaborative efforts are underway but still have little or no connection to those efforts. The size of the district and the composition of the bargaining teams appear to affect how closely decision-making processes are aligned. In smaller districts, the same players may be involved in decisions in both arenas and be more concerned with alignment. In larger districts, policy changes and reforms may occur in venues in which the bargainers are not intimately involved. If there is more collaborative problem solving on a day-to-day basis, it can make it easier for union and management leadership to get constituent buy-in to use an IBB approach to bargaining and thus remove that barrier. Practitioners cite the tone that the superintendent sets as a crucial factor in whether collaborative approaches are the norm or an aberration in one arena.

#### ***Legal environment for collective bargaining***

The legal environment apparently neither induces nor deters usage of IBB. IBB appears to be able to thrive in states with and without collective bargaining laws. The existence of the right to strike also does not seem to affect whether IBB is used. Practitioners have noticed that where there is a challenge from a state to amend or curtail collective bargaining, there is an increase in interest in IBB. Other tensions in the legal framework over taxation and public policy regarding education can also cause some groups to look for alternative bargaining methods. In these instances, IBB is attractive as a method for looking more deeply into problems and achieving outcomes that will deal more constructively with external threats. Practitioners see occasional evidence that community perception of bargaining has been enhanced due to IBB and results in increased fiscal and political support for educational institutions. However, practitioners are not always

able to follow particular bargaining teams over time to assess the outcomes of the work on external constituent perceptions.

### ***Bargaining issues***

Practitioners report that while the climate for educational bargaining produces increasing pressure to do more with less and achieve new standards, this does not necessarily translate into a new set of issues for the bargaining table that in turn prompt a search for nontraditional bargaining techniques. Instead, overall dissatisfaction with the depth and type of agreements in traditional negotiations is more likely to make IBB attractive. Additionally, as parties attempt to solve problems, rather than resolve opposing positions, nontraditional issues enter the discussions during IBB negotiations. Student achievement, evaluation, budget setting, teacher development, and issues around quality of teaching and quality of education, for example, come into the bargaining process, not as new issues or subjects of negotiations, but as interests to be addressed when working on critical issues of concern to both parties.

**Figure 2: Primary Motivators for Use of Interest-Based Bargaining**

- ▶ Frustration with existing practices
- ▶ Dissatisfaction with outcomes achieved in traditional practices
- ▶ Alignment with collaborative practices in the workplace
- ▶ Pressure from economic or legislative changes

### **Summary of factors influencing the use of Interest-Based Bargaining**

Practitioners' report that no one factor accounts for the decision to use IBB in a particular instance. Most commonly, IBB is chosen when the perceived costs of traditional negotiations become too high or when the potential opportunity provided by IBB is clear to leadership in either the union or the administration. The calculus of costs and opportunities is particular to the history of each bargaining relationship. IBB appears to be a pragmatic, rather than ideological, choice for most bargainers. In at least some situations, strong external pressure in the form of fiscal crisis or legislative changes has caused parties to choose IBB as an explicit attempt to deal with exceptionally difficult problems. In these instances, traditional negotiations are seen to be inadequate for the challenge posed by the environment.

The nature of the particular issues facing bargainers does not seem to be a primary motivator to use IBB. Bargainers are prompted by a desire to improve outcomes on all issues. In some situations, IBB is a direct outcome of attempts at educational reform or is linked to the desire to make educational policy changes. Public pressure for change and reform is a consistent environmental factor affecting the choice of bargaining strategies, but it is not the single motivating factor in most instances. IBB use is not dependent on

a particular legal environment for collective bargaining, although it can be affected by changes in the legal environment.

### **HOW DOES INTEREST-BASED BARGAINING AFFECT THE SUBJECTS AND OUTCOMES OF NEGOTIATIONS?**

Practitioners were asked to describe the range and degree of effect that IBB has on both the topics and the outcomes of bargaining. Based on the research and writing on negotiations, the use of IBB might be expected to affect not just the process of the negotiation, but the substance and aftermath of negotiations as well.

#### ***Labor-management relationship***

IBB can have a profound effect on the labor-management relationship in instances where there has been enough discord or poor bargaining experience to motivate the parties to do something different. However, there is strong agreement from practitioner experience that the use of IBB in one negotiation cannot, by itself, salvage a particularly acrimonious relationship between bargaining parties. It can improve an existing, troubled relationship but will not create a relationship where there has been a complete breakdown.

On a related point, practitioners refer to experiences where IBB was used as an attempt to achieve a hidden agenda by one party. In these instances, the IBB experience can be worse than traditional negotiations. These “hug me, mug me” experiences can damage the labor-management relationship for years.

On the other hand, practitioners also refer to the spillover effect that the use of IBB in negotiations can have on other aspects of the labor-management relationship. In some instances, an IBB problem-solving method is taught to groups in the organization for use in contract administration, problem solving, and shared governance venues.

#### ***Scope and outcomes of bargaining***

Because of the non-positional orientation of IBB, practitioners found it difficult to comment on whether IBB expands bargaining to a broader array of issues in contrast to traditional negotiations. In an IBB process, decisions about inclusion of issues into the bargaining agenda are not made based on whether they are mandatory or permissive subjects of bargaining. Instead, bargainers develop a list of problems, use the bargaining process to develop a set of solutions and then decide how the solutions can be best implemented. For those aspects of agreements that cannot be placed into the contract, bargainers may create memoranda of understanding to govern a process for extra-contractual decision making or implementation of solutions. Labor-management committees are often used as vehicles for further work on solutions developed in bargaining, or implementation may be delegated

to a particular administrative function or existing forum. One practitioner noted that the question of mandatory, permissive, or prohibited issues of bargaining had never been raised in more than 100 instances of bargaining he had facilitated. Another practitioner found that bargainers using IBB were more likely to limit the problems they attempted to resolve in bargaining to those that are critically important. The process allows deeper exploration of issues and solutions and thus discourages inflated bargaining agendas. Lesser problems that may have been commonly included in traditional negotiations as “throw away” issues are channeled to other forums for decision-making.

Two primary differences are noted by practitioners in the nature of agreements achieved through the use of IBB. First, the substance of agreements reached on non-economic issues differs substantially from traditional negotiations; the agreements on particular issues are more expansive, realistic, and of higher quality than those typically found in traditional negotiations. Additionally, practitioners found that agreements tended to be more connected to educational policy issues, if not directly addressing those issues.

The second difference noted in contracts achieved through IBB is that the language used to describe agreements is more concise and descriptive than that typically representative of traditional bargaining agreements. The language has less concern with retaining control and more concern for being understandable and usable as a guide for the intention of the parties. Rather than attempting to write contract language that can be used to advantage for an arbitrator’s interpretation, the process encourages language that clearly reflects agreement by the bargainers so that constituents will be able to understand and use it as a guide for future behavior, avoiding disagreement over its intent.

Practitioners report that bargaining outcomes on economic issues in general are no worse in IBB than traditional negotiations, but not necessarily better. They find that it is more difficult for parties to use IBB principles and techniques on economic issues and that there is often some use of positional bargaining strategies within the framework of interest bargaining. The IBB technique of joint gathering of economic data and open sharing of financial information can help the parties narrow the range of offers on economic issues, removing some of the risk from the process. This results in less time and effort spent by either party in using power to influence the negotiated outcome.

Information sharing and the IBB focus on problem solving also helps some parties to expand the number of options for distributing economic resources and to engage in joint research to increase resources. Practitioners also see more use of contingency language on economic issues to protect against unforeseen shortages or take advantage of windfalls.

While these are highly subjective perspectives on the outcomes achieved through IBB, it should be noted that each of the practitioners interviewed had extensive experience as bargainers or advocates in traditional negotiations. The FMCS facilitators interviewed, who are simultaneously working in traditional and IBB negotiations, have the opportunity to make ongoing comparisons of outcomes in both modes of bargaining.

### **Use of resources**

The major resource consumed in bargaining is time. While IBB does not necessarily reduce the amount of time spent by participants, the utilization of time is different. Issues are grouped into categories, with related issues combined or addressed together. This creates an opportunity to more precisely map the use of time in advance. Longer issues can be scheduled to start earlier, and work on them can proceed between bargaining sessions if necessary. The net effect is often a shorter period of bargaining and often fewer bargaining sessions. Parties agree to engage in more preparation for each bargaining session, so that time together is more efficient. This may contribute to the practitioners' observation that parties are more often able to settle before the contract deadline using IBB. IBB may also require a larger number of people to participate in bargaining than some traditional negotiations where professional advocates are the chief negotiators. Broadening participation may result in higher financial costs.

### **Figure 3: Effect of Interest-Based Bargaining on Bargaining Outcomes**

- ▶ More realistic and expansive outcomes
- ▶ More focused work on fewer issues
- ▶ Increased attention to educational policy issues
- ▶ Better or same wage outcomes
- ▶ Higher quality of solutions—more durable and usable
- ▶ Contract language less controlling, easier to use
- ▶ Spillover effect increased post-bargaining work, or ongoing monitoring of outcomes

### **Summary of Interest-Based Bargaining effects on bargaining outcomes**

Practitioners see strong evidence of the utility of IBB for achieving better outcomes on non-economic issues, with corresponding contract language that is easier to implement and is more useful to constituents. IBB does not appear to substantially affect the outcome of economic issues, but can reduce the perceived risk of negotiating economic packages by increasing the openness and availability of information. Parties may still use leverage during negotiations on economic issues, but the use of traditional adversarial tactics is greatly reduced. The need for constituent involvement and education on the issues under negotiations is greatly increased. IBB can improve the labor-management relationship where there is sufficient motivation to do so, but does not function as a

“cure-all” for labor relations problems. Purposeful misuse of the IBB process to gain advantage can create long-term damage to the bargaining relationship.

### WHAT ENHANCES SUCCESSFUL USE OF INTEREST-BASED BARGAINING?

Successful use of IBB is predicated on a conducive context for bargaining and on the effective use of particular IBB strategies. Some of the factors that practitioners have found support the use of IBB are also important for effective use of traditional negotiating strategies. Others are particular to IBB, required by the fact that IBB represents a change from the status quo and is more dependent on the commitment and confidence of bargainers and their constituents.

**Figure 4: Factors Supporting Interest-Based Bargaining**

- ▶ Stable labor-management relationship or strong motivation to change
- ▶ Number of issues limited to most important problems to be solved
- ▶ Focus on substance and outcomes
- ▶ Commitment and support for change
- ▶ Constituent confidence
- ▶ Financial stability
- ▶ Realistic expectations
- ▶ Training and facilitation

#### ***Stable labor-management relationship or motivation to change***

The nature of the labor-management relationship and its history can support success in two ways. First, bargainers who have experienced costly poor negotiations and are highly motivated to make changes to avoid incurring those costs again will work hard to make a new, unproven and potentially risky process work. Sometimes indirect experience watching a neighboring institution go through a strike can provide enough motivation to work at improving the bargaining process. Secondly, an existing relationship of respect and commitment to solving problems makes it easier for bargainers to adopt the core behaviors and practices required by IBB: sharing of information, creative brainstorming, and consensus decision making.

#### ***Number of issues limited to most important problems to be solved***

Traditional negotiations tactics can encourage inflation of the number of bargaining issues, with the understanding that some issues will be traded or withdrawn in favor of others. IBB requires that each issue brought to the table be addressed as a legitimate problem to be solved. Because IBB encourages thorough discussion of issues, it can be time consuming and large numbers of issues can stall and extenuate the bargaining process, increasing frustration. Practitioners encourage bargainers to gather issues from their constituents, framed as problems rather than positions, and eliminate “throwaways” or issues that can be dealt with in

some other forum. The investment of time required for information gathering for effective IBB discussion also favors a smaller number of issues. IBB encourages bargainers to educate each other on all aspects of an issue, with joint data gathering and exploration. A long list of issues can be both unmanageable and place too heavy of a burden on bargainers to generate information, taking time away from substantive discussion.

***Focus on substance and outcomes***

IBB is attractive to some bargainers as a remedy for ill will and distrust between labor and management. When the focus of bargaining becomes the repair or improvement of the relationship over the achievement of goals, bargainers can end up trading away important substantive issues for the sake of the relationship. Successful outcomes from IBB, as in traditional negotiations, occur when negotiators are strong advocates for the needs of their constituents and see relationship building as an important means for creating mutual respect and legitimacy for the needs of both parties, not as an end in itself.

***Commitment and support for change***

The level of commitment by key individuals to invest in the changes in behavior and process in IBB can have a strong effect on whether bargaining teams are able to make use of IBB's potential. Without full support of the need to change by those with the most influence, teams can easily become frustrated with the level of effort required to make a new process work or susceptible to criticism for abandoning conventional methods. Professional advocates who lead or participate in IBB must also be committed to changing the bargaining process. When an attorney or union representative does not support the use of IBB, teams can become fractured and unable to forge new behavioral and process agreements with the other party.

***Constituent confidence***

The practice of IBB, with its emphasis on problem solving rather than opposition, can conflict with constituent perceptions of advocacy. Bargainers must build confidence in their constituency that an IBB approach will not disadvantage their ability to represent constituent needs in an assertive manner. In IBB, bargainers need the ability to consider a wide range of options for resolving any particular issue. When constituents are not confident that their representatives will remain advocates, bargaining representatives may feel constrained from exploring new or untried possibilities.

**Financial stability**

If the goal of IBB is to improve relationships and develop deeper solutions to complex problems, financial health makes it easier to do so by removing pressure, reducing risk, and opening up opportunities for innovation. Bargaining is always more difficult in a bad economic climate and any strategy is under more stress. Traditional negotiations in bad times often result in a test of wills over resources, which can demonstrate to constituents that no more could be gotten, or nothing else could be done. In IBB, bargainers rely on their ability to educate constituents on the facts of the economic situation in order to demonstrate that they have achieved the best possible solution in a difficult time. When there is great uncertainty in the financial future, this task becomes more difficult.

**Realistic expectations**

IBB can suffer from its reputation as a means to a “win-win” solution on all issues and as a cure-all for acrimonious and destructive relationships. While practitioners all emphasize that better, more enduring relationships and agreements can result from IBB, all also caution that perfect solutions and complete satisfaction are not inevitable with IBB. When parties expect that a large buildup of issues can be resolved in one round of bargaining using IBB, or when constituents expect that the entire relationship between labor and management will be transformed through IBB, the level of achievement required to demonstrate success can become too high to be met. Bargainers are advised to be realistic with themselves and their constituents and maintain a sober perspective on the ability of IBB to improve the process and outcomes of bargaining.

**Training and facilitation**

All practitioners emphasize that training is a necessary precondition for use of IBB. Training provides information and experience to allow everyone to make an informed decision about whether to use the IBB process. Training also helps to level disparities in experience with negotiations and provides an opportunity to raise critical questions about how IBB will be implemented in each unique circumstance. IBB is a new set of processes and behaviors for most bargainers, requiring some practice and experimentation that can occur with low risk in a training session.

Facilitation enhances IBB success in two primary ways. For first time users of IBB, a facilitator provides a critical guide to a new process by answering questions about mechanics, suggesting techniques, and helping bargainers to try out unfamiliar behaviors. As a neutral third party, the facilitator can ensure that all adhere to agreed upon ground rules, removing some pressure from the negotiating teams to patrol the process while simultaneously participating in it.

## WHAT HINDERS THE USE OF INTEREST-BASED BARGAINING?

While we are still far from understanding the exact circumstances in which an IBB approach is most useful, practitioners predict that the following issues will make it difficult for the parties to use it effectively, at least on a first-time basis. In any circumstances, a strong commitment to try to faithfully use the IBB process to improve bargaining is a prerequisite. If either party has significant doubts about the process or if one party is participating in IBB for purposes other than to bargain more effectively, there is little chance that IBB can be successful.

**Figure 5: Factors Impeding Use of Interest-Based Bargaining**

- ▶ Existing, public positions on important issues
- ▶ Use of relationship to force high risk change
- ▶ Avoidance of conflict
- ▶ Use as a tool for masking agendas
- ▶ Withholding of information

### ***Existing, public positions on important issues***

Because IBB is by definition a non-positional approach to bargaining, it is important that issues be developed and discussed as problems rather than competing positions and that neither party begin the process with an attachment to particular outcomes. When positions on issues have been communicated to constituents, the results of bargaining will be measured against those standards. If the outcomes of IBB are substantially different from existing expectations, constituents will often refuse to support them regardless of whether they represent a better outcome than the original position.

### ***Use of relationship to force high risk change***

The IBB practice of intensive discussion for understanding issues at a deeper level can create strong relationships between bargaining teams and increase personal trust between bargainers. When these relationships are used as a source of power to push the other party into changes that their constituents may not be prepared to accept, it may damage the longer-term relationship and reduce the likelihood that IBB will continue to be used. Each bargainer needs the ability to go back to their constituents and advocate for the agreement with confidence that it addresses their interests with an acceptable level of risk. Practitioners warn that IBB cannot be an excuse for a weak or poor settlement in the name of improved labor-management relations.

### ***Avoidance of conflict***

Some bargainers are attracted to IBB as a means of reducing or smoothing over the difficult differences that may exist in a labor-management relationship. When real conflicts of interests are minimized or altogether avoided, the resulting agreements run the risk of being rejected by constituents. Manifestations of

the unresolved conflict often reemerge later in a more destructive manner. IBB practitioners ask bargainers to look not only at shared goals, but to surface conflicting goals or interests. Then, bargainers should work to find the best possible solution for the short-term and continue to work on better solutions for the longer term.

### ***Tool for masking agendas***

Practitioners often recommend to bargaining teams that IBB not be used when they suspect that one or both parties hope to avoid tough decisions through IBB, use IBB as a means to make difficult issues appear more palatable, or see IBB as a tactic for duping the other party into a pre-determined solution. Such agendas typically become clear during the course of bargaining, and their discovery results in substantially worsened relationships and often retribution or other destructive tactics. The effects of these experiences can damage the effectiveness of bargaining long into the future.

### ***Withholding of information***

One of the most critical elements of the IBB process is open sharing of information. The goal of IBB is not simply to reach agreement, but to solve problems with thorough, workable solutions. The process relies on accurate and full information to help bargainers judge the utility of options under consideration and make informed decisions about their likelihood of success. When critical knowledge is withheld, it cannot only reduce the quality of solutions reached but also can damage bargainers' ability to rely on the accuracy or completeness of other information used in bargaining.

## **Current Interest-Based Bargaining Models and Variations in Practice**

Over the past 10 years, IBB practice has converged on a problem-solving approach that is consistent with the theory of integrative bargaining. The most common techniques in use derive from the processes developed by the Harvard Negotiation Project and popularized by Fisher and Ury in the book *Getting to Yes*, the U.S. Department of Labor's program of Mutual Gain Bargaining, and the further modifications to Mutual Gain Bargaining developed by the FMCS in its experience with the P.A.S.T. model (Principles, Assumptions, Steps, and Techniques). Individual practitioners, consulting and university groups, and state-level networks of facilitators and trainers have all further modified the process based on their experience.

A comparison of current models in use for IBB training and implementation shows that IBB has become more systematic with increased attention to the quality of outcomes and efficiency of process. While enhancing and preserving the relationship is still a central feature of the process, it is not the overriding focus. Mechanisms have been added to make the process less reliant on trust between the parties and more sustainable over time. A relatively standard set of bargaining steps has emerged, though sequence and time allotted vary.

**Figure 6: Common Steps in an Interest-Based Bargaining Process****Prior to Bargaining:**

- ▶ Orientation to IBB process, assumptions, and risks and benefits
- ▶ Assessment of IBB and formal decision by each party to engage in IBB
- ▶ Joint training in IBB concepts, process, and behavioral skills
- ▶ Formulation of ground rules for the bargaining process
- ▶ Constituent discussions to develop issues/problems for bargaining
- ▶ Exchange of issues
- ▶ Joint information gathering and analysis

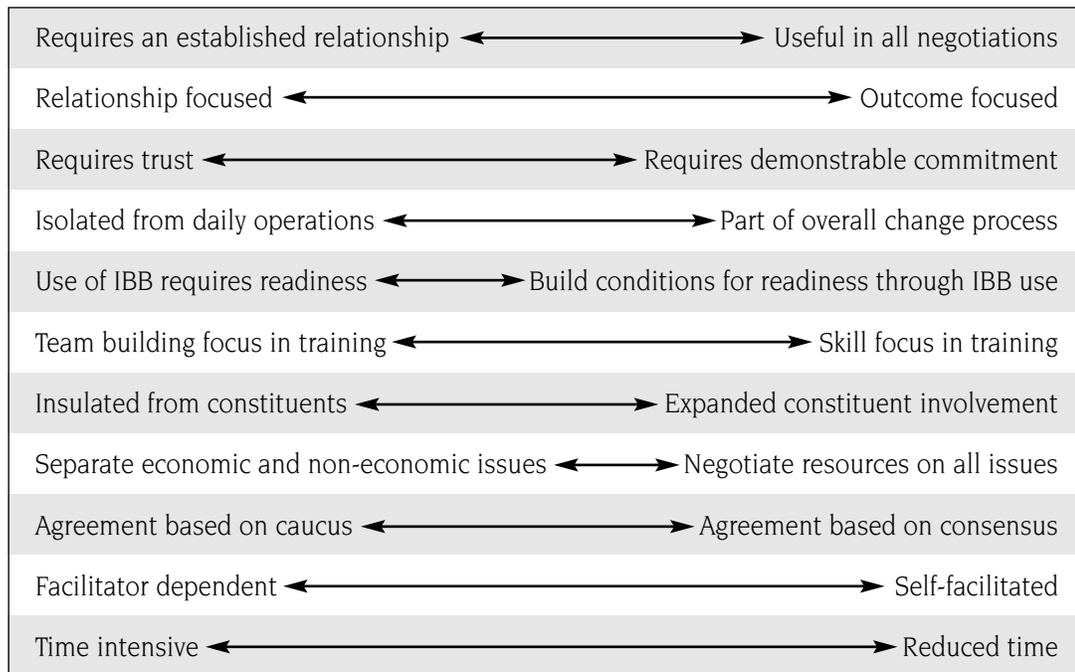
**During Bargaining:**

- ▶ Grouping of issues into categories and prioritization
- ▶ Optional use of subcommittees or other expertise outside of bargaining committees
- ▶ Ordered issue discussion process:
  - Presentation and discussion of nature and history of issue
  - Discussion of interests
  - Development of options
  - Culling of options based on criteria developed by parties
  - Consensus on best option
  - Tentative language development on each issue
- ▶ Crafting of final agreements and language

**After Bargaining:**

- ▶ Presentation of outcomes to all constituents, jointly or separately
- ▶ Ratification by constituents
- ▶ Optional memoranda specifying use of labor-management committees or other forums to further discuss or implement issues during life of contract

IBB practice varies along a number of dimensions, but these variations appear to occur within a narrower range than in the past. Some variability is due to specific structural differences between IBB models of practice, while other variations are a matter of degree of emphasis or importance.

**Figure 7: Variations in Interest Based-Bargaining Practice****Orientation and Decision Making**

Before agreeing to IBB, the parties jointly examine the IBB approach to negotiations, typically through a presentation by a trainer or facilitator. These orientation sessions may be offered to the bargaining teams alone, to the teams and other significant decision makers who are not part of the bargaining committees (e.g. board of education (BOE) members, administrators, and union leaders), or to a broad cross-section of school employees, administrators, BOE members, and community members. The orientation allows bargaining teams to judge the potential utility of the process and its requirements before deciding whether or not to engage in training for IBB. Orientation sessions can also educate key constituents on the differences they should expect to see in IBB compared to their experience with traditional negotiations.

At this time, trainers may perform their own assessment of the bargaining situation and provide a recommendation on whether the necessary conditions are in place for successful use of IBB. Some practitioners report that they are more forceful in their assessment of conditions than in the past and strongly advise against the use of IBB if they do not believe the necessary conditions are in place. Other practitioners advise parties on missing elements or weaknesses in their situation and then help them to devise ways to deal with potential problems. The criteria used by practitioners for assessing the potential for success varies, and there is no consistent agreement on what constitutes a conducive set of conditions for IBB use.

**Training**

All the models examined require parties to engage in joint training before a first time use of IBB. The range of training required varies widely—from four-day sessions that combine labor-management relationship building or team building with training in the IBB process, to 1 day or half-day sessions that are followed with immediate use of the IBB process. In the latter models, practice using the IBB process is seen as the most effective training mechanism, and bargainers are encouraged to try the process on an issue as soon as possible. Other models require that a full training session must be completed before trying IBB. The cost in time and money that this requires is seen as a tangible demonstration of commitment by the parties to change their bargaining process. Some IBB models go further and seek to place training for bargaining within a larger organizational planning process. IBB training may be preceded by a goal setting or visioning process for the entire organization. Or bargainers may hold a retreat to identify long-term goals for improvement and build a more respectful working relationship before beginning IBB training and bargaining.

The assumptions behind training content vary along at least two dimensions. The first dimension is trust. Some models assume that effective interest-based bargaining can be achieved by adopting a set of particular behaviors and processes, even where the parties have not changed their fundamental relationship or have a low level of trust. In these training programs, communication skills and experiential practice with IBB techniques are emphasized. Other models are based on the notion that a transformation in the relationship is required to allow IBB use. In these training programs, significant time is devoted to understanding differing perspectives and building the level of trust and respect between bargainers.

A second dimension of assumptions along which training varies is the extent to which it requires bargainers to change their beliefs about the nature of conflict and social relations. Training can either emphasize the pragmatic nature of bargaining as a transaction to achieve shared and separate goals in a mutual dependency situation, or training can emphasize the common goals and desires of bargaining parties and the advantage of collaboration and reduction of conflict in bargaining.

In some models, training is offered only to members of bargaining teams for their use in negotiations. Training is repeated each time new people join the negotiating teams to reinforce the practice and ensure its continued use. Other models suggest that initial training sessions for bargainers include constituents or offer additional training during or after bargaining to other members of the organization. In the latter instance, the notion is that IBB principles and behaviors need to be imbedded in organizational practices for long-term change in the bargaining relationship to occur.

**Facilitation**

IBB models vary on the extent of facilitation required or recommended for negotiations. At one end of the spectrum are models that advocate self-facilitation, where the bargainers themselves take turns acting as facilitators or co-facilitate meetings. An outside facilitator is seen as unnecessary and potentially a harmful intrusion into the work of the negotiating teams. The concern here is that third-party intervention can bias the process, content, or outcomes of negotiations and erode control of the bargaining parties over their own outcomes.

At the other end of the spectrum are models that require intensive facilitation, with the facilitator playing an assisting role in crafting the substance of agreements. Here, a neutral third party is seen as essential to finding areas of agreement and disagreement between the parties and suggesting options to bridge differences, which the negotiators are then free to accept or reject. The facilitator has special responsibility for ensuring that the parties reach agreement and may draft text for agreements on behalf of the negotiators to use as a “straw man” for negotiation. Alternatively, this same function may be carried out by a subcommittee of negotiators who propose potential agreements back to the larger committee for consideration.

In the middle of this range are models that advocate the use of facilitators, in particular for a first time use of IBB, with very clear understandings on their role and limitations. In these models, the facilitator’s role is largely limited to guidance and management of the bargaining process. Care is taken to remain neutral and to refrain from offering any substantive suggestions on the content of discussions. The primary responsibility of the facilitator is to ensure effective and efficient use of time and to monitor the parties’ adherence to agreements on the process of bargaining. The facilitator may offer behavioral or process suggestions, but decisions on those suggestions are within the control of the parties. The facilitator does not take responsibility for whether the parties reach agreement.

Some models in use in educational bargaining stipulate the use of co-facilitators, one affiliated with a union organization and one with experience or affiliation as an administrator or board member. The intention is to eliminate the potential that any one facilitator will be perceived as biased and help both parties feel comfortable that their experience and perspective will be understood by the facilitation team. The co-facilitation model can be problematic, however, when one party cannot accept the presence of someone from “the other side” and so does not agree to the use of IBB. All models stipulate that any decision on the use of facilitation and the selection of a facilitator be a consensus decision between the bargaining teams.

**Bargaining Committee Composition**

Most models try to balance the tension between the increased efficiency of smaller bargaining teams and the need for involvement of key constituents and decision makers in the bargaining process. A common recommendation is that both negotiating teams try to have at least one representative from each group who may have strong opinions or power over the acceptability of a final agreement. For the union, this means creating a bargaining committee that represents both newer and more tenured members, from as many sites and areas of expertise as possible. For the management team, it requires representation from the board of education and any other municipal entity that may have to approve an agreement. The recommended size of bargaining teams tends to be five or six members per side—a bare minimum that must include principal decision makers.

Some models advocate for broadened participation, even if it means substantially larger bargaining teams. While this decreases the efficiency of the group and can add considerable time to bargaining, it can increase the quality of solutions and lay critical groundwork for ratification and implementation. Another option recommended to increase awareness and involvement without expanding bargaining committees is to invite broad participation or observation at critical moments in bargaining, e.g. during sessions devoted to the exchange and explanation of issues, during information sharing sessions, or at issue-gathering sessions before bargaining begins.

**Development of Issues**

The traditional method of developing a bargaining agenda where each side gathers proposals or demands to present to the other party often has the effect of “locking in” constituent expectations for particular outcomes. Bargaining success is then measured by how close final agreements come to initial proposals or positions. IBB, by contrast, begins by defining a set of issues of concern or problems to be solved. Traditional surveys can be counter-productive to this process.

Most IBB models recommend that bargaining representatives talk directly with constituents to solicit problems and concerns or use surveys that explicitly do not ask for proposals or solutions, but rather ask constituents to describe the most important needs and problems to be addressed in negotiations. Each party may then write formal descriptions of the issues they wish to bring to negotiations. These issue statements are then exchanged, explained, and included into a final bargaining agenda. Alternatively, bargaining teams may gather input from their respective constituents and then gather to develop a joint list of issues from bargaining. These sessions might also be preceded by larger organizational goal-setting processes that help to frame imperatives for bargaining.

In some IBB models, negotiating teams are encouraged to keep the number of issues on the bargaining table at a minimum so that every issue gets thorough discussion and attention, and there is not pressure to agree to vague or risky outcomes to meet contract deadlines. In other models, there is no prescribed limit on issues, but some issues may be referred to post-bargaining committees for continued work if they are not solved in contract negotiations.

It is common for the compiled list of issues to be divided into non-economic and economic issue categories, which are then negotiated separately. Economic issues are typically wages and benefits and may be bargained to tentative agreement before beginning discussions on other issues. Alternatively, all non-economic issues may be settled before turning to wage and benefits discussion. Separating the categories can help to prevent last minute trading or withdrawal of issues or refusals to come to tentative agreement on early issues.

### **Use of Time**

The length of bargaining and the number of bargaining sessions utilized in IBB varies widely. Some models compress contract negotiations into a one or two month period, with a minimal number of intensive bargaining sessions. A “workshop” model may be employed to achieve the shorter time frame, where two major bargaining sessions occur at the beginning and end of the negotiation, with an active process of issue exchange, optional subcommittee meetings, and information sharing throughout. While the mechanics of these intensive bargaining processes vary, all strive to make actual bargaining sessions as productive and efficient as possible by limiting them to two or three days, often using a weekend day. This makes it easier for board members to participate and reduces the time away from work for all bargaining committee members. Continuity of discussion is increased, but pressure for agreement may be increased.

At the other extreme is a continuous bargaining model where bargaining committees meet periodically throughout the life of the contract to work on issues or share information. As agreements are reached, the contract is reopened to include them. Most IBB bargaining however appears to occur over a three to six month period, with a varying number of bargaining sessions. The frequency and length of meetings varies according to the needs of the parties.

It is common for preparation work for bargaining, such as issue generation and identification of information needs, to be done separately before bargaining begins. Once negotiations start, most models proceed on an issue-by-issue basis, though some models create a schedule of issues, with more complicated issues begun early in the process and worked on simultaneously with other issues.

### **Subcommittees**

Subcommittees of non-bargaining team constituents may be formed early in bargaining to address specific issues and provide information or recommendations back to the bargaining committees. Subcommittees were frequently recommended in the past as a way to reduce the amount of time that bargaining committees had to spend on issues, to include more expertise in the development of options, and to get constituents involved in a portion of the bargaining process. The effect was to broaden, deepen, and lengthen the early stages of bargaining. However, problems arose when subcommittees were given unclear charges and limits and either took too long to develop recommendations, or developed firm solutions that they then expected automatic agreement on. This put bargaining committees in the awkward position of potentially rejecting subcommittee work. Some models now

discourage extensive use of subcommittees or advocate their use only if all members of subcommittees have received IBB training and understand their role and limitations.

To reduce the amount of time spent in bargaining sessions with full committee attendance, small group sessions or shorter meetings of the bargaining committee to share information and expertise are often recommended. This practice helps with efficiency but does not replace the constituent involvement and understanding of issues that the use of subcommittees provided. One other alternative is to gather for the opening portion of the issues presentation, and invite constituents to listen. They are then able to go to their advocates to add information or expertise to the issue.

### **Agreement Processes**

A similar process for agreement is used in almost all IBB processes. After a list of options has been created for resolving an issue, standards or criteria are developed for judging the options. Interests are the main criteria to be satisfied. In some IBB models a generic set of standards is used on all issues, in addition to the interests of both parties. Examples include feasibility, legality, and “sellability.” Options are examined, combined, and reworked if necessary to meet standards. Agreement is reached when there is consensus that one option or group of options meets the standards. Once options have been agreed to, tentative language is drafted, typically by two representatives, to be reviewed by the entire committee.

Some IBB requires that consensus be used as the agreement process. Other models allow for traditional caucusing for decision-making. Models that strongly discourage the use of caucuses advise that time apart can create suspicion and distrust and fuel adversarial behaviors. Other models advocate “guilt-free” caucusing, but ask parties to be specific in their time estimates and adhere to agreements on the use of caucuses.

One IBB model suggests an alternative for reaching agreement, the one-text process. This method does not allow the entire group to brainstorm a list of options. Instead, after hearing the interests of both parties on an issue, a subgroup of bargainers fashions a draft of language for criticism by other bargainers. The draft is rewritten as many times as necessary until all interests have been met.

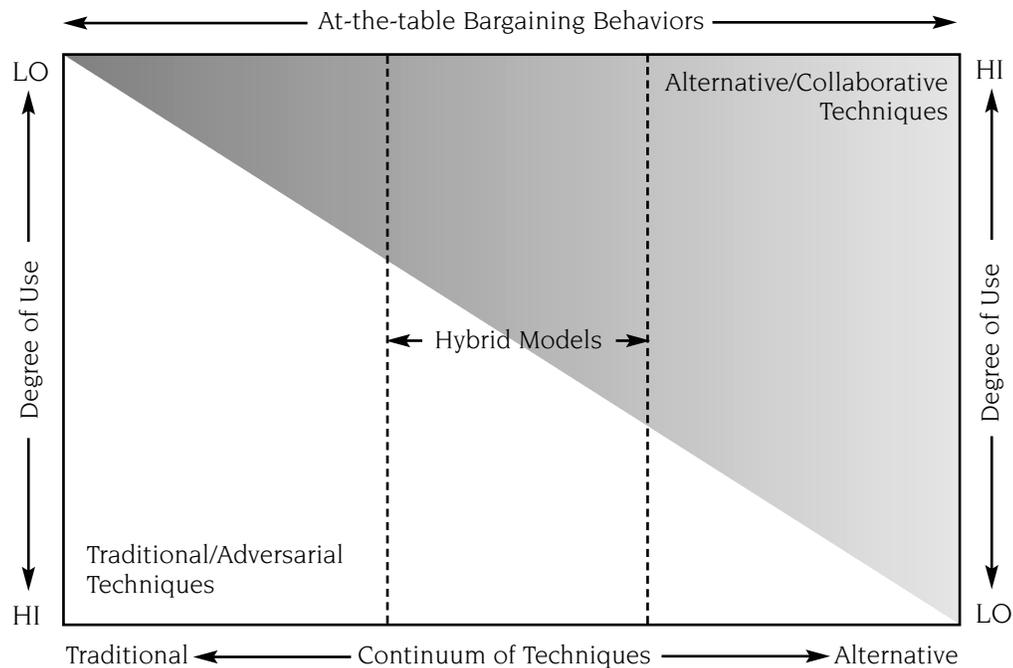
### **Summary of the Current Status of Interest-Based Bargaining**

The most prominent change in IBB philosophy and practice over the past 10 years has been the reassessment of alternative bargaining as a panacea for the ills of traditional bargaining. IBB has not replaced traditional bargaining, nor has IBB disappeared due to lack of use or utility. As bargaining teams have experienced multiple rounds of negotiations using IBB and practitioners have trained in multiple locations, a growing awareness has developed that IBB does not change the conditions that created traditional bargaining tactics. IBB attempts to deal with those conditions in a different way, and in doing so, creates new problems—and opportunities—for bargainers to manage. This

awareness of the limitations of an IBB approach acknowledges that bargaining dynamics, as important as they are, are not the sole determinant of the outcomes of negotiations.

IBB appears to have become more integrated into the larger, existing framework of bargaining practices as a set of techniques not wholly separate from traditional bargaining practices. IBB techniques broaden the array of strategies available to bargainers, rather than replacing all other techniques. Evidence of this integration is the modified or “hybrid” bargaining approaches now appearing, which combine elements of traditional and IBB practice. This is both a “homegrown” phenomenon, occurring organically in local bargaining sites and a purposeful change on the part of providers of bargaining training and assistance who recognized a need for a mixed set of techniques to suit particular bargaining situations. This change acknowledges that IBB and traditional negotiations are not completely separate: IBB techniques can occur in traditional bargaining and traditional techniques can play a role in alternative bargaining. One conceptualization of this notion is depicted in Figure 8.

**Figure 8: Continuum of Bargaining Behaviors**



Wilson, R. 1999. *Negotiators Notebook*. Salem, Oregon. Oregon School Boards Association.

This addition of “mixed” practices may also reflect a more sophisticated understanding of the risks and benefits of choosing an interest-based approach over one based on power or an appeal to rights or use of a third party for resolutions. Bargaining in education is still a relatively young enterprise where few educational negotiators can claim over 30 years of experience. Most of the collective experience has been devoted to learning to use strategies for exercising power or in developing a clear set of rights to appeal to in negotiations. The

past 15 years have provided an opportunity to develop a third set of methods, based on the use of interests (Ury, Brett, and Goldberg 1993).

In laboratory studies of the use of power, rights, and interest-based strategies for negotiations, most negotiators were observed to use all three strategies at some point in the course of a negotiation (Lytle, Brett, and Shapiro 1999). This helps to explain the observation by facilitators that bargainers sometimes revert to a traditional approach during IBB when negotiating wages or other issues that appear to have fewer integrative opportunities. It also helps to explain why bargainers often use an interest-based approach at some point in traditional negotiations. Over repeated rounds of negotiations, the bargaining relationship itself may go through a similar cycle, as it responds to changes in the environment and/or changes in leadership, and reacts to experience with traditional or alternative techniques. Overuse or misuse of one strategy may push a relationship toward the opposite end of the continuum. This opens the possibility that neither traditional negotiation nor IBB can be viewed as a permanent strategy that, if perfected, will satisfy the needs of every bargaining situation. IBB provides a set of strategies that are a particularly effective response to some combinations of situational factors. The range of tools for bargainers is expanded and enhanced by understanding and experience with IBB.

All indications are that IBB will continue to be an effective negotiation strategy in some minority of situations. To become a more predominant mode of bargaining, the organizational relationships and practices that surround collective bargaining will likely have to change in concert with the change in bargaining practice. The three case studies included in this report indicate some of the organizational changes needed to enhance the use of IBB in educational settings. In Medina, Ohio, where the parties have successfully used IBB for more than 10 years, transformation of problem-solving and decision-making structures both within the school and in relationship to the school's environment and its constituents has supported and sustained IBB in collective bargaining. In Casper, Wyoming, as in other states without collective bargaining laws or with "meet and confer" type frameworks, there is often little motivation for school administrations to participate in bargaining. In this case, IBB provided an incentive for bargaining by expanding the bargaining arena to other labor-management forums and into organizational practice to provide the opportunity to solve critical organizational issues. And in small districts with limited time and resources, such as Williamstown, Massachusetts, successful use of IBB meant finding a means to make the bargaining process efficient and effective and still allow for maximum participation.

## Considerations for Bargainers in Assessing the Use of Interest-Based Bargaining

Based on the factors for success and failure of IBB identified by practitioners, a number of questions arise that should be considered by bargainers before engaging in IBB. The discussion of each question can help bargaining teams, separately and together, to decide whether and how to use IBB in their unique circumstance.

### ▶ What is our overall strategy for making progress on problems important to our constituents and to the success of the organization?

- Does IBB fit that strategy?
- Are we prepared to act in other areas to support the use of IBB?
- Do our constituents see IBB as consistent with our overall strategy?

### ▶ Is either party openly hostile to the problems or interests of the other?

- Is either party questioning the legitimacy of collective bargaining?
- Is either party questioning the legitimacy of issues raised for bargaining?

### ▶ Does each party have the authority to bargain or will negotiated agreements be subject to further review?

- Can we bring representatives of authorizing parties into the bargaining committees?
- Do we have a clear and direct means of communicating the difference in the IBB approach and outcomes to other constituents with authority?

### ▶ Are both parties willing participants in the process?

- Is there internal consensus within the union and management to try a different approach?
- Is the other party as unified in this as we are?
- Are there challenges to leadership on either side?
- Will either party employ an advocate as chief negotiator? Is that advocate willing to use IBB techniques?

### ▶ Are both parties willing to share information on current operations and budgeting?

- Can we develop a way to jointly collect and verify information?
- Is there some critical information that will not be accessible to both parties?
- Are there systems in place for generating additional data during bargaining?

### ▶ Is high quality training available?

- Are all negotiators on both teams willing to participate in training?
- Is the training content and style acceptable and appropriate to our situation?
- Will our constituents need training or education to responsibly agree to and participate in IBB?

▶ **How will the process be facilitated?**

- How much control will we allow the facilitator over the process of crafting final agreements?
- Will the facilitator maintain a neutral stance on the substance of the agreement?

▶ **Are the parties' expectations for IBB reasonable?**

- Are there a large number of issues to be negotiated?
- Do we have additional means of resolving issues not completed in bargaining?

▶ **What will we do if highly conflictual interests surface?**

- What are mutually acceptable behaviors in that instance?

▶ **Is there sufficient time to finish IBB negotiations before a contract deadline?**

- Can we set an early deadline?
- What will we do if negotiations fail to produce an acceptable agreement before the deadline?

## SECTION 4: SAMPLE DOCUMENTS

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### Non-Compensation - Issue Submittal\*

**ISSUE:**       #           (Numbered and titled descriptor)

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**ISSUE STATEMENT:** (Non-leading question that provides for multiple solution possibilities)

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**ISSUE FOCUS:**           (The Who, What, Where, When that raised the issue)

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**INTERESTS:**           (Why the issue is a problem; use bulleted statements)

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\*Developed by Steven Loeffler when employed by the Federal Mediation and Conciliation Service.

**Example of Non-Compensation - Issue Submittal\***

**ISSUE:** #8 'Vacancy and Transfer' of elementary staff

**ISSUE STATEMENT:**

How can we develop and improve the manner in which vacancy and transfer is administered in the elementary schools of this district?

**ISSUE FOCUS:**

In recent years morale has plummeted among our elementary teachers in regards to a few isolated cases of what the teachers perceive as an abuse of management discretion in the assignment of staff to vacant positions. Management claims qualifications determined the outcomes and that the 'best qualified' teachers got the assignments in question. The resultant feeling on behalf of staff was that a more senior qualified individual was passed over for 'other' reasons. This allegedly occurred at Winston, Salem, and Brookline elementary schools. The article(s) and/or section(s) of the contract that governs such topics are Article VI, Section 5.8.

**INTERESTS:**

- ▶ Staff morale depends on a perception of fairness
- ▶ Seniority or length of service needs to be recognized
- ▶ Staff like to be assigned to the school nearest their home
- ▶ Staff like to know they can have earned a choice of assignment when possible
- ▶ Teachers find they teach a certain age or grade level best
- ▶ The ability to move every once in awhile is healthy
- ▶ New positions and challenges improve the educational system

\*Developed by Steven Loeffler when employed by the Federal Mediation and Conciliation Service.

## Example of Economic Package Submittal\*

**ISSUE:** #17 Economic Package

**ISSUE STATEMENT:**

The following economic topics need to be addressed in the upcoming negotiations:

- ▶ Base Salary Article XXX, Section 1, Appendix 'A'
- ▶ Index Article XXX, Section 5, Appendix 'A'
- ▶ Supplemental Salaries, Appendix 'C'
- ▶ Substitute Salaries and Guarantees Article XXX, Section 9
- ▶ Severance Pay Article XXXII, Section 2
- ▶ Health Insurance Dental Coverage Article XXXV, Section 4, Explanation of Benefits Handbook, page 12
- ▶ Tuition Reimbursement Article XLII, Section 1
- ▶ Duration of Agreement Article XLV

\*Developed by Steven Loeffler when employed by the Federal Mediation and Conciliation Service.

## The OEA-OSBA Nontraditional Bargaining Model Sequence of Events\*

The OEA and OSBA bargaining coordinators determine if there is an interest in nontraditional bargaining from both parties in a school district. After determining if the interest is coming from authorized representatives of the parties, they then assign facilitators to make the initial presentation to the school district. (These facilitators are not necessarily the same facilitators who will facilitate the nontraditional bargaining process if the parties actually engage in it after going through the preliminary steps.)

### ***First Meeting—The Initial, Introductory Presentation***

Two facilitators meet with representatives from both parties in a school district where interest has been expressed in exploring the nontraditional bargaining process. The purpose of the meeting is to briefly outline the OEA-OSBA Nontraditional Model, answer questions about the process and give the parties an idea of how each phase is to be implemented.

### ***Second Meeting—Assessment***

Prior to this meeting, the members of each bargaining team must be appointed, and all must be present at this second meeting. The facilitators will convene a meeting of all representatives from both parties and will outline the nontraditional bargaining process for them. The facilitators will then conduct separate assessment meetings with each party. The purpose of these meetings is to assess the parties chances of success if they engage in nontraditional bargaining and for the facilitators to make recommendations and/or describe to the parties their strengths and weaknesses for embarking on this style of bargaining.

### ***Third Meeting—Joint Information Session***

If the parties have determined that they are going to go forward with the OEA-OSBA Nontraditional Bargaining process, all members of the parties will be called together for the joint information session. The purpose is to instruct the members about what will occur in each phase of the process, give them tips for success, confirm their commitment to the process, and make assignments for the fourth meeting. One assignment will be to have all members read Fisher's *Getting to Yes* prior to the fourth meeting.

### ***Fourth Meeting—Joint Training Session***

All members of both parties meet together to role play and receive training about what is expected of them in each phase of the process. They will, for example, practice talking with each other on the basis of interest, rather than positional, bargaining. Assignments will be made which must be completed prior to the first weekend session. They include developing and adopting ground rules and preparing questions reflecting interests and issues to be discussed during the first weekend.

\*Reprinted with the permission of the Oregon Education Association and the Oregon School Boards Association.

**Develop Ground Rules**

Representatives from each party meet, without the facilitators, to develop ground rules to take back to each side for adoption.

**Adoption of Ground Rules**

The parties meet separately, without the facilitators, to adopt the proposed ground rules.

**Develop Interests and Issues**

The parties meet separately, without the facilitators, to develop questions centering on interests and issues they want to discuss and resolve during bargaining.

**First Weekend Bargaining Session**

All members of both parties meet together with the facilitators for the first bargaining session. During this weekend, the parties engage in interest bargaining where they discuss all the interests brought in by both sides. Each side displays its list of questions on sheets of newsprint on the wall. There is no limit on the discussion time of each question. Each issue is discussed until no one has anything further to say about it. The only limit is the closing time. The meeting typically begins on Friday evening and continues until the end of the day on Saturday. Before the parties leave, they assign the issues into sub-committees, assign team members from each party to serve on sub-committees, and receive instruction from the facilitators about the sub-committee phase. (This is mainly "reminder" instruction, because it is the intent of the facilitators to spend intensive time during the earlier training session on the sub-committee phase.)

**Sub-Committees Meet**

Over the course of four to six weeks, the sub-committees meet to attempt to hammer out as many tentative agreements on issues assigned to them as possible. The facilitators will periodically check with representatives from the parties to ascertain whether or not the process is working as it is intended. The facilitators may be called in to facilitate a sub-committee meeting if the parties deem it necessary.

**The Second Weekend Bargaining Session**

The facilitators convene all members of both parties together to attempt to reach a total contract agreement. Each sub-committee reports, both verbally and in writing, on issues assigned and lists are made of tentative agreements and areas that still need to be agreed upon. With all members and facilitators present, the parties then attempt to discuss all issues still in dispute and reach agreement on them. The second weekend typically begins with breakfast on Saturday and continues until the end of the day on Sunday, or until there is a contract agreement.

**Ratification**

The parties take the tentative contract agreement back to their respective constituencies for ratification.

**Debriefing**

The facilitators may convene the parties for a debriefing session to ascertain where the process could be improved and to assure that a working relationship continues to develop within the school district. The facilitators may recommend that the parties read Fisher's *Getting Together: Building a Relationship That Gets to Yes*.

## Trainer's Guide: 3-Day Joint Team Training

National Education Association/North American Association of Educational Negotiators

### TRAINING OVERVIEW

#### Day 1

Simulation: Left-handed Windshifter (Exercise to give participants personal experience of the choices and dilemmas in problem solving and negotiations strategies)

Interest-based strategy: attitudes, behaviors, and components (Presentation on interest-based strategy and the principles that make it effective)

Introductions (Exercise to introduce participants and build a learning community)

Simulation: Wally Weatherford (Exercise to give participants practice in working with the components of an interest-based strategy for problem solving and negotiations)

Consensus and Closure (Presentation of principles and techniques for reaching agreements)

#### Day 2

Check-in process and team building (Presentation and exercise on basic team building principles and their effect on group working relationships)

Exercise: Communications Styles (Instrument and exercise to help participants understand different communications styles and their effect on how groups work together)

Constituencies and communications (Presentation of the nature of constituencies and the dilemmas of representing and communicating with constituents in interest-based problem solving and negotiations)

Exercise: Lunch Date [dialogue and discussion] (Exercise to help participants understand the nature and effect of assumptions on group communications and problem solving)

Simulation: Another Day, Another... (Exercise to give participants experience with all aspects of an interest-based strategy for problem solving and negotiations)

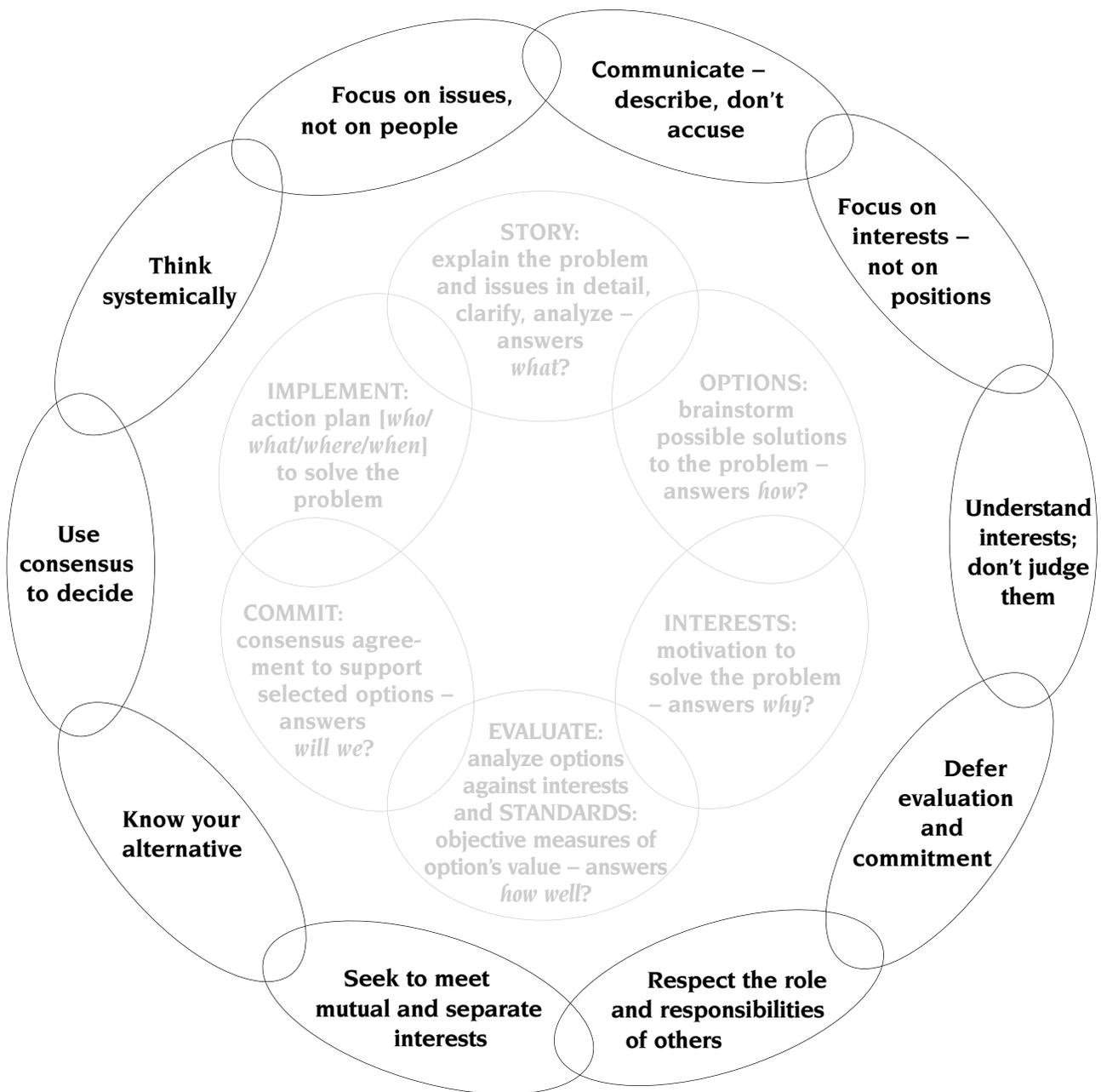
#### Day 3

Check-in

Relationship Principles and strategies (Presentation of the nature and principles of an effective workplace and/or negotiations relationship)

"Back at the Ranch" and next steps (Actual planning session for implementation of an interest-based strategy in the workplace Reflection and Check-out)

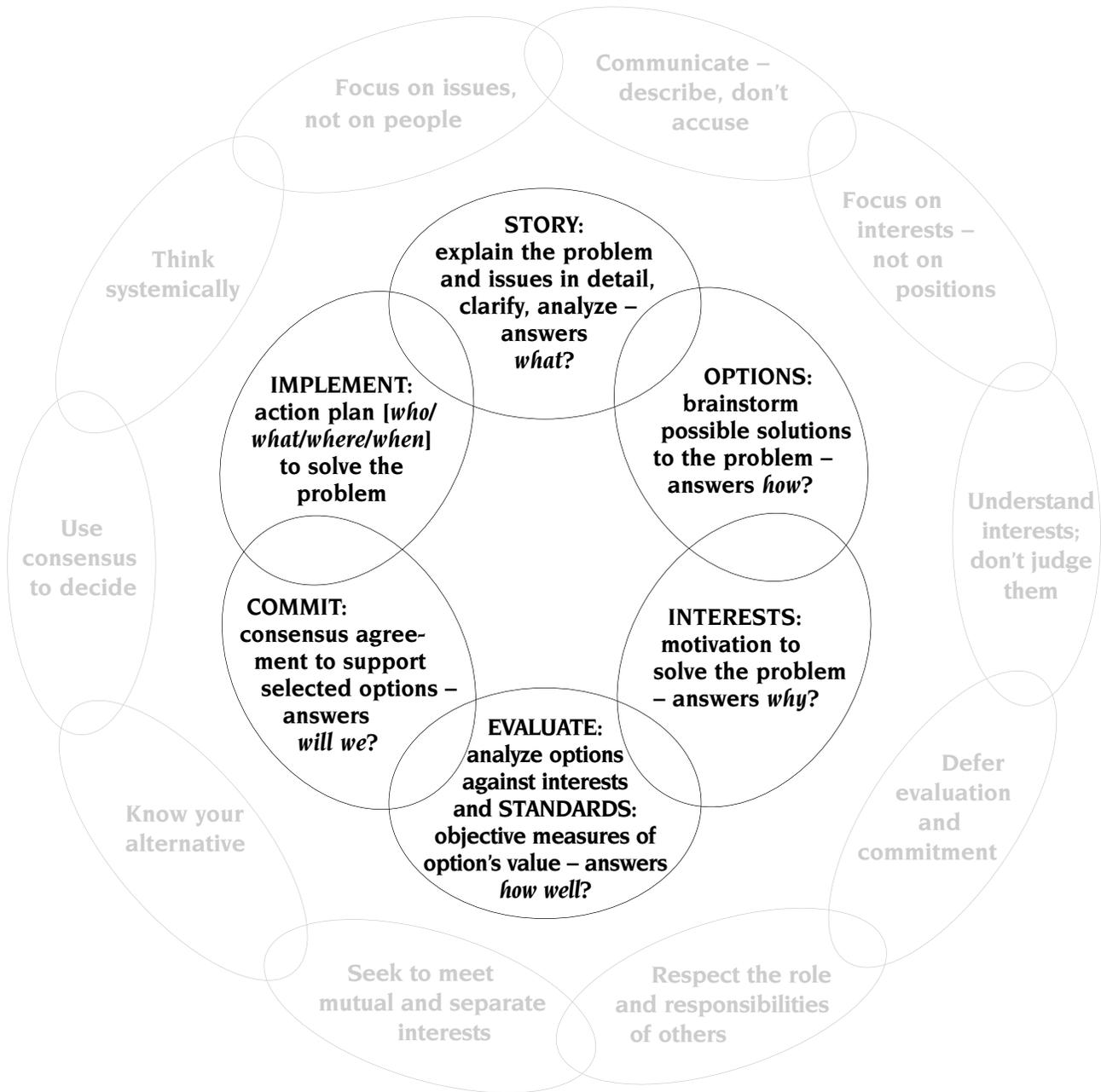
**Attitudes and Behaviors in an Interest-Based Strategy\***



**An interest-based strategy relies on 10 key attitudes and behaviors, identified in the outer ring.**

\*Reprinted with the permission of the National Education Association/North American Association of Educational Negotiators.

**Components of an Interest-Based Strategy\***



**Attitudes and Behaviors in an Interest-Based Strategy**

\*Reprinted with the permission of the National Education Association/North American Association of Educational Negotiators.

## SECTION 5: CASE STUDIES

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### **Medina City Schools and the Medina City Teachers Association (MCTA)**

*Medina, Ohio*

#### **Interviews with Bargaining Committee Chairs:**

*Tom Lehrer, Assistant Superintendent*

*Jeanne Pritchard, MCTA Past President*

#### **Background**

Medina is a rapidly growing suburb of Cleveland with more than 7,200 students and 800 employees. From 1975 to 1990, the district engaged in traditional bargaining. Though negotiations sometimes caused acrimony, the teachers union and administration tried to keep the effects of bargaining separate from their efforts to build a collaborative relationship between certificated employees and the administration through a labor-management committee. Contract negotiations in 1990, however, caused everyone to reevaluate their strategy for change. Faced with rising health care benefit costs and a poor economic climate, the negotiations began to fall apart over the introduction of co-pays on health benefits. The teachers union issued a strike notice. The misalignment between the contract negotiation process and the day-to-day efforts to create shared leadership and collaborative relations became clear to everyone. With bad economic times ahead and a need to tackle tough problems, the parties reexamined their entire labor-management relationship and took steps to create processes that would allow them to work together in all areas of school operation.

The district began using interest-based bargaining in their 1990 negotiations, with training and assistance from the Federal Mediation and Conciliation Service, and has continued to use it through three cycles of bargaining, most recently in 2002. The union and the administration also created a labor-management governance committee in 1990, now called the Shared Leadership Team, to provide a formalized structure for overseeing collaborative labor-management efforts on an ongoing basis. A variety of other mechanisms have been put in place over the years to support effective IBB use and imbed the labor-management commitment to effective problem solving in day-to-day operations.

#### **The Interest-Based Bargaining Process**

Prior to negotiations, the union and the administration gather a list of concerns and problems from their constituents to bring to the table. The negotiating teams consist of

five or six administrators and five or six teacher union representatives, including the Ohio Education Association (OEA) labor relations consultant, and meet regularly over a three to six month period. The bargaining teams have negotiated contract language that provides for the formation of special labor-management committees to work on issues that are too lengthy or complex for contract negotiations. The committees work by consensus and have balanced membership, providing an additional avenue for the union to spread involvement in bargaining beyond the bargaining committee. The committees are given clear guidelines for their work, including a deadline and a scope of authority. Their recommendations are sent back to the bargaining committees for negotiation and ratification. Examples of committees formed during negotiations include a sick leave bank committee and a teacher evaluation committee.

There is also a permanent labor-management committee, in which all employee unions participate, to monitor health care insurance trends and look for ways to keep costs as low as possible. Insurance consultants brief the committee once a month on health care trends and issues. The committee has been able to negotiate more effectively with health care and insurance providers by bidding out insurance policies at every renewal and making wellness services and other preventive health care available to district employees. The committee has also helped to bring a more informed perspective to discussions on health care at bargaining. As a result, the district has been able to keep its health care benefits at a maximum at the lowest possible cost.

Wage negotiations have tended to be more positional than that of other issues but have been aided by monthly information sharing of financial information throughout the life of the contract. At negotiations, the district's treasurer and the OEA labor relations consultant both produce analyses of the financial situation and report them to the negotiations committees. The information helps to greatly narrow the range of initial proposals, quickly flesh out areas of disagreement, and reduce suspicion and game playing. Whatever the ultimate agreement, neither party walks away able to say they "put one over" on the other side.

After negotiations, the Shared Leadership Team may be called upon to clarify contract agreements and ease their implementation, and issues raised in the Shared Leadership Team may be sent back to the bargaining committees if they are negotiable items. For instance, the Shared Leadership Team worked on a policy for dealing with a complaint against a teacher, which was sent to the negotiating committees. It was accepted there without change because the interests of both parties had been considered and met. The guidelines and operations of the Team are reevaluated every two years, when both parties renew their commitment to the concept.

### **Benefits of Interest-Based Bargaining**

From the beginning, negotiators found IBB to be useful for delving deeper into issues to understand the causes of problems and the concerns underlying issues brought to the table. A "fair share" agreement came out of early IBB negotiations, which both union and

district leaders attribute to the IBB process of understanding and exploring interests. A new disciplinary policy that all find fairer and easier to administer for both the union and the district also came out of IBB discussions. Labor and management agree they would not have been able to discuss these issues in the past. One party or the other would not have allowed them to be on the table for long.

Teacher union and district leaders report that in general the outcomes of issues negotiated with an IBB process are better and more creative than would be the case in traditional negotiations and have led to what is considered a benchmark contract in the state.

The average teacher salary is in the top percentages in the state, and employees still make no contributions to the health care plan. To control class sizes, teachers are paid extra if the numbers of students exceed the agreed limit of 25.

The biggest benefit to the IBB process however has been the building and maintenance of a positive relationship. Problems no longer fester, and new issues can be taken on more easily. There is a spillover to other problem-solving efforts, and an interest-based approach is often used on noncontractual issues. IBB has helped to build union involvement in educational policy and day-to-day operations. For the administration, IBB has bolstered their efforts to engage the community and the public in supporting and participating in the district.

### **Factors for Success**

Union and district leaders report that to maintain a good bargaining process, the ongoing relationship between union and management requires “care and feeding”. From the union, this requires active participation of members in union work. A high degree of member involvement makes the labor-management relationship more vital and active, which builds a sounder base for negotiations. The administration must provide constant and open information and look for ways to engage in collaboration at all levels of the district.

The stability of district personnel has also aided success of IBB. The district’s superintendent and assistant superintendent both have long histories in the district, and teacher and employee turnover tend to be low. As new members come into the union and the superintendent and assistant superintendent prepare for retirement, the bargaining committees are working with their constituent groups to create continuity with the next generation of bargainers.

The district and union have found that they do better with IBB when they have a facilitator in the process, especially when dealing with thorny issues. The facilitator also helps to keep the bargaining process moving more efficiently. In addition, the initial training in IBB and facilitation of the first attempt at using IBB was essential to begin the process. The refresher training before each round of negotiations has been important to give new bargaining committee members an opportunity to learn about IBB and provide continuity in the bargaining process.

**Difficulties with Interest-Based Bargaining**

Managing constituent relationships is an important part of maintaining the IBB process through successive rounds of negotiations. This task has been more difficult for the teacher union representatives than for the district administrators. Teacher leaders have to demonstrate to their members that they are strong advocates for their interests, even though they are not engaging in traditional, positional negotiating behavior. The outcomes of the IBB process have been the primary evidence that has maintained support for IBB. District administrators have learned to appreciate the difficulty of being a teacher union leader, as it bears some similarity to their own situation. For their part, they must maintain the confidence of the school board that a respectful, collaborative labor-management relationship and good salaries and wages for district employees are in the best interests of the district and the community.

The amount of time that IBB requires can be problematic, both because of the financial costs and because it is hard on teachers who have to be out of the classroom for many days. The 2002 negotiations required the equivalent of four work weeks at the table. While it might be assumed that in a mature negotiating relationship the list of issues for negotiation would be progressively shorter, ongoing change in the district has meant that new problems are always arising.

**Interest-Based Bargaining in the Future**

After more than a decade of experience, union and administration leadership expect IBB to continue in the district but recognize that a change in leadership on either side resulting in an insistence on using a more traditional negotiations process is always possible. The choice of a new superintendent is therefore critical to the continuance of IBB. Also critical is the involvement of younger union members in negotiations. As they replace the union leaders who chose an IBB strategy after organizing the union and bargaining using traditional means, they too will have to judge its utility for solving the problems of the future.

## Shared Leadership Team (SLT) Organizational Guidelines

Medina City School District  
2002-2003

### 1. MEMBERSHIP

- A.** The membership of the committee will be balanced between MCTA and school district administration and have a maximum size of 12 members. At the present time, there are 10 members, five from MCTA and five from the administration.
- B.** Membership

<b>MCTA</b>	<b>Administration</b>
Jo Ann Shire, Ch.	Tom Lehrer, Ch.
Inez Bracy	Charlie Irish
Simon Spelling	Linda Ocepek
Erin Simpson	Karen McGInty
Dave Steirer	Mike Pallini

- C.** Quorum: A quorum will exist when at least three members are present from each area represented.
- D.** Visitor policy: No visitors (outside observers) will be permitted to attend the SLT meetings. MCTA or the administration may choose to include a nonmember at a meeting for purposes of clarification of an agenda item. Inclusion of that person would be indicated at the point of the exchange of agendas two weeks prior to the meeting, if possible. In any case, the inclusion of a nonmember at an SLT meeting would only be permissible if mutually agreed upon by both MCTA and administration members.

### 2. TIMING CONSIDERATIONS

- A.** Frequency: Meetings will be scheduled once per month at a minimum.
- B.** Dates: Established dates so far include:

<b>9 - 11 AM</b>	<b>1-3 PM</b>	<b>4- 5:15 PM</b>	<b>12:30 PM</b>
8/27, 11/19, 1/8,4/24	9/25, 2/27	10/23, 3/25	5/20

- C.** Length: Meetings will run for a maximum of two hours.

- D. Time: Meetings will be scheduled at times that vary from meeting to meeting so as not to be disruptive to any member's schedule.

### 3. GROUND RULES

- A. SLT organizational guidelines will be distributed and reviewed by SLT membership no later than the second SLT meeting.
- B. Active grievances are not proper SLT topics.
- C. Any issue that would require a change in contract language is not a proper SLT topic.
- D. Nothing stated in a meeting or in the minutes can be used by either party in a grievance hearing or any other legal procedure.
- E. The party submitting an agenda item should provide a brief explanation of the item.
- F. Decisions or projects coming out of the committee belong to the committee and not to either labor or management.
- G. Minutes are taken and published.
- H. Problems within the control and jurisdiction of a supervisor must have been discussed with said supervisor prior to being placed on the SLT agenda.
- I. A request to FMCS for facilitation of complex/sensitive issues must be a joint decision.
- J. SLT decision making shall be by consensus.
- K. Confidentiality: The sharing of individual opinions shall remain within SLT.

### 4. AGENDA CONSIDERATIONS

- A. Exchange/Timing regular items: Regular agenda items will be exchanged one week prior to the meeting date. Agendas will be provided to committee members as soon as is practicable after the exchange of items and in advance of the regular meeting date.

Agenda items not completed at a meeting will be resubmitted and considered anew against newly submitted items. These items will be considered to be "new business", "old business," or "tabled."

- B. Exchange/Timing emergency items: Emergency items can be added to the agenda at any time prior to the meeting with the mutual consent of both MCTA and administration.

- C. Format: Agenda items must be accompanied by a brief and clear description of the problem. Agenda items need to be classified as (1) information (a) seeking (b) sharing, (2) problem solving (a) input (b) recommendation (c) decision/authority.

## 5. CHAIRPERSONS

Both MCTA and the administration will be represented by designated chairpersons, but the chairing responsibility for the meetings will be assumed by each member as his/her name appears in alphabetical sequence. The first person to appear on the list will be the first meeting's chairperson. The note taking responsibility will be assumed first by the last person on the list and will then proceed in alphabetical order to the first person on the list. The chairperson for the first meeting, then, will be the note taker for the second meeting.

## 6. MINUTES/WORKING PAPERS

- A. Format: Minutes should be a maximum of two typewritten pages and should be of a summative and objective nature.
- B. Notetaker: See above.
- C. Approval procedures: The notetaker should submit a draft of the minutes to the MCTA and administration's designated chairs prior to the formation of the agenda for the next meeting. The final draft will be prepared for duplication after both chairs have mutually agreed on the contents of the minutes.
- D. Method of dispersion: Minutes of the SLT meeting will be distributed to all certificated employees and school administration via Groupwise.
- E. A distinctive logo is to be developed and used on the masthead of the distributed minutes.

## 7. COMMITTEE EVALUATION

- A. The committee evaluation will be conducted by FMCS during the April 2004 meeting and will be summarized for the regular June meeting.

## 8. PURPOSE /GOALS STATEMENTS

- A. The SLT, a group of professional educators representing the certified teaching staff and the administrative staff of the Medina City Schools, formed for the enhancement of education and the environment in which it occurs, seeks to provide leadership that will evolve in shared problem solving and decision making based on trust and mutual respect.

## Natrona County School District and Natrona County Education Association

Casper, Wyoming

### **Interviews with:**

*Jim Lowham, Superintendent*

*Alice McManee, President, Natrona County Education Association*

### **Background**

In the Natrona County School District, the use of interest-based bargaining techniques extends well beyond contract negotiations. Over the past two years, the district's unions, administrators, board members, and parents have been using an "Interest-Based Agreement Process" (IBAP) to solve problems, create policies, plan changes, and govern a new set of relationships and decision-making mechanisms known as the "Compact."

The change comes after a long history of contentious bargaining, high grievance levels, and a culture that assumed adversarialism between unions and administrators and the board of trustees. An experiment with IBB training in the early 90s did little to affect bargaining or the overall labor-management relationship, nor did extensive experience with site-based decision making.

The turning point came when negotiations with the teachers union fell apart in the spring of 2001. The board of trustees voted to terminate the employment agreement. (There are no bargaining rights for school employees in Wyoming, and school districts must voluntarily recognize and bargain with school unions.) While the agreement could not formally be rescinded until its expiration in the fall, the union fought back with a media battle and strong community opposition. By one estimate, one in every 10 houses in the district that summer had a yard sign supporting the teachers. In the ensuing months, state funding was released, and the board made decisions on how to allocate it to salaries. The union tried to rally its members but found they were satisfied with the salary increases and tired of fighting.

The teachers union president began to have informal talks with a few board members about how to restart negotiations. Together, they investigated the experience of other school districts with IBB, and in September of 2001, decided to bring in two facilitators from the National Education Association/ National Association of Educational Negotiators partnership (NEA/NAEN) to provide training in IBB for the certificated employees union, classified employees unions, principals association, parents, administration, and board of trustees.

After two half-day sessions of training, it became clear that it would be too difficult to employ IBB in the current climate. The training stopped, and instead, the NEA/NAEN trainers facilitated a day and a half of structured dialogue about the relationship. At one point in the discussions, a participant commented, "I'm going to give up all hope of improving the past"—a statement that captured the group's growing desire to work on a radically different future. During the course of IBB training and contract negotiations, a consensus

developed to explore ways to fundamentally restructure relationships and to prevent themselves from returning to the patterns that had produced their dysfunctional state.

The result of the exploration was a written “compact” that defines standards, goals, principles, and decision-making processes for the labor-management relationship as well as the relationship between staff, students, parents, administrators, and the community. Based on the Baldrige principles, the Compact agreed to during negotiations framed a new set of decision-making forums, each of which uses IBB as their agreement process. Three committees are designated in the agreement:

- ▶ The Steering Committee, which is responsible for finding ways to imbed IBB methods in the district and provide training and support of those efforts;
- ▶ The Problem-Solving Committee, which resolves non-contractual issues that arise from buildings and that do not have districtwide implications; and
- ▶ The Compact Issues Committee, which meets quarterly to deal with districtwide issues.

The two-year Compact agreement does not replace union employment agreements, which are included in the document, but does make salary and benefit negotiations an annual event. The employment agreement and the full Compact were ratified by 94 percent of the members of the Natrona County Education Association and, subsequently, by each of the other unions in the district.

### **The Interest-Based Bargaining Process**

Though all the committees use an interest-based process for reaching agreements, each serves a different purpose. The Compact Issues Committee makes a wide variety of decisions, under the auspices of the board. The committee has 22 people, including representatives from the certified unions (teachers, nurses, psychologists, and counselors), the principals association, central office administration, and unions representing the custodians and transportation employees and secretarial and food service staff. They meet quarterly to address issues and also renegotiate salaries and benefits annually after state monies have been allocated to districts. Salaries and fringe benefits for all employees are addressed at the same time, and full disclosure of all information “from superintendents to sweepers” is provided to the committee.

The Problem-Solving Committee is similar to a traditional labor-management committee by providing a districtwide forum for addressing non-contractual issues that cannot be solved at a local level. Additionally, the Problem-Solving Committee allows for the appeal of issues that would normally be considered part of the administrative prerogative.

The Steering Committee plans and implements IBAP training and other professional development activities to support the overall change in culture and decision making specified by the Compact. Training opportunities include a basic two-day workshop in the IBB process, and a follow-up two-day workshop on the concepts of learning organizations

and school cultures. There is also a three-day program on facilitation skills and a five-day train-the-trainer workshop on all these skills. Since March of 2002, more than 700 employees and parents have volunteered for basic training. More than 30 district employees have been trained as facilitators, and parents will soon be able to take facilitator training. Facilitators may be called upon to assist groups at the building level or to provide help at large group events involving the community.

District employees must be Association members to participate in training, and for every 15 hours of training or 15 hours of facilitation, they receive one credit on the salary schedule. The training can also be used to attain graduate credits from the University of Wyoming. Employees are paid for one day of the training and contribute a weekend day for the second half.

Each of the committees uses an Interest-Based Agreement Process (IBAP) to examine issues and interests, develop options, and reach consensus agreement. The IBAP may be used in small group settings in schools to work on particular issues or to develop new programs. It may also be used to structure large group processes that bring in stakeholders from the community, and even students to participate in making decisions on issues such as the transition of staff and students from a school that will be closed while under renovation or the selection of a new superintendent.

A wide variety of issues has been tackled in the committees using the interest-based process, including:

- ▶ Determination of the size of elementary schools
- ▶ Long-term capital improvements
- ▶ Conversion of junior highs into middle schools
- ▶ Specialist schedules e.g. art, music teachers
- ▶ Bus schedules
- ▶ Closure of a school
- ▶ Distribution of Title funds
- ▶ Co-curricular salaries and activities
- ▶ Elementary school size
- ▶ Elementary staffing

The interest-based agreement process is complemented by other mechanisms to increase involvement such as a “future search” process, which brings together stakeholder groups to envision a set of goals or outcomes and plan a process for implementing them. For example, 64 people from the community and the district came together recently in a future search conference on the issues of how to best serve at-risk children. Three committees are now working on implementing the results of the conference.

Each union, according to its own by-laws, elects representatives to participate in the three Compact committees along with administration representatives. In the certificated

employees union, members directly elect representatives to the Compact Issues Committee from each level of schools, and the president and vice president are permanent members.

### **Benefits of Interest-Based Bargaining**

From the perspective of administration, the experience thus far of implementing the principles and practices of the Compact has been “liberating.” Full information sharing and involvement of every appropriate stakeholder group in decisions has meant there are “no more secrets,” and problem solving has become the primary focus, rather than guarding the status quo. Open discussion of goals and concerns has raised the level of trust in the process and outcomes of agreements made on committees and in buildings. The interest-based process has increased the time and number of people involved in decision making but has greatly improved the speed and ease of the implementation of decisions. Staff time and talents are more effectively utilized in developing workable solutions to issues, rather than fighting solutions that did not take their needs into account.

From the perspective of the union, the Compact and the use of IBAP has meant more influence in decision-making at all levels of the organization and more direct involvement in educational policy. This increased involvement has led to a stronger sense of ownership of decisions at all levels of the organization. The outcomes of agreements reached using IBAP have tended to be more likely to include mechanisms for ongoing involvement of teachers and other district employees in how agreements are implemented and improved.

The use of IBAP and the implementation of the Compact have also begun to change the culture inside the union. In the past, few union members wanted to be on negotiating teams; union negotiators felt that no matter what outcome they achieved, their efforts were defeated by member anger against the administration. Under the Compact, union representatives are involved in problem solving at all levels and in a wider scope of issues. This requirement for direct participation in creating new agreements and operating principles has meant that more members are more active in representing the needs of their constituents. Membership in the Association went down soon after the Compact was ratified, but it is now increasing as teachers see the outcomes of agreements arrived at using IBAP.

One other indicator of positive change as a result of the use of IBAP is the reaction of the community. Parents are increasingly active in the district, volunteering for the IBAP training and participating in problem solving and planning opportunities.

### **Factors for Success**

Both union and administration leaders report that the two critical factors in initiating the change in the district were a strong motivation to change and leaders from the teachers association, administration, and school board who were willing to be driving forces for change. Combined, these factors provided a sense of confidence and hope that the situation could be improved and fueled a search for the means to do so.

Also important has been an ability to reflect on the process of change as it is unfolding and learn from each experience. The existence of the Compact committees affords the opportunity to change relationships but does not guarantee that they will be successful. The implementation of the Compact has been fluid and dynamic, requiring flexibility and constant readjustment. The massive effort to provide training has been important in carrying out the goals of the Compact to change the power structures and distribute the task of making change in the district to all constituent groups.

### **Difficulties with Interest-Based Bargaining**

The continuation of the Compact must be renegotiated every two years. With that in mind, change in leadership in the teachers association and the board of trustees will be key events. Union and administration leaders also note that the job of changing the culture of a large district with more than 40 buildings, each with its own culture, requires more than a few years. While IBAP has now been used extensively at the district level with good results, there has been some resistance from principals and staff who do not want to use it on building-level committees or councils.

It can be more difficult to be an Association leader when the role of the union is not limited to fighting a common foe. While the existence of the Compact committees provides some institutionalized involvement for the union, it does not ensure that the committees will work effectively on behalf of members. This means that union leadership has had to be more attentive to member involvement and discussion of union goals and concerns.

For the union, there is also a fear that if the Compact is successful, members may think they no longer need an association. Though the Compact requires that those involved in committees be Association members, the union will have to continue to demonstrate that an improved relationship does not negate the need for due process and advocacy for individual rights and collective employment agreements.

### **Interest-Based Bargaining in the Future**

The experience of writing and implementing the Compact encouraged all parties involved to look more deeply and systematically at the effect of educational models, school culture, and organizational structures and systems on labor-management relations, student success, and stakeholder involvement. Union and administration leaders agreed that the old system of “factory” education with its strong hierarchy for decision making had gone as far as it could in dealing with the challenges facing public education. The resulting labor-management relationship did not respect employees, and the planning and problem-solving systems excluded key stakeholders. While they are optimistic that their efforts to radically change these relationships will improve their ability to deal with both forced reforms and a changing external environment, they assume that these are fluid changes, which will need to be constantly reexamined. Their ultimate measure for the success and continuation of the Compact and IBAP will be the effect it has on the contracts for employees and the success of students.

## Selected Sections of the Natrona County “Compact”

### I. PREAMBLE

The Natrona County Education Association (NCEA), Natrona County Association of Educational Office Professionals (NCAEOP), Service Employees Independent Organization (SEIO), Natrona County Association of School Executives (NCASE), Natrona County School District Cabinet, which includes the Superintendent (Cabinet), herein after, collectively referred to as recognized employee organizations, and Board of Trustees of Natrona County School District No. 1 (Board) agree to adopt this Compact. In adopting this document, the recognized employee organizations and Board intend to establish a compact of trust that will govern their relationship during the term of this Compact. The Board and recognized employee organizations wish to structure the District’s decision making so as to assure that all major decisions impacting students are reached through a consensus of the Board, the recognized employee organizations, parents, students, and the community.

### IV. GOVERNING INTEREST-BASED AGREEMENT PROCESS COMMITTEES

In order to facilitate the operations of the District using a consensus decision-making process, three standing committees shall be established. The three committees shall be: Interest-Based Agreement Process Steering Committee, Problem Solving Committee, and Compact Issues Committee.

Each committee shall be composed of individuals who have been trained in the Natrona County School District #1 Interest-Based Agreement Process (IBAP). These committees shall use the Interest-Based Agreement Process in all decisions.

#### INTEREST-BASED AGREEMENT PROCESS STEERING COMMITTEE:

The Steering Committee shall be established to provide for continuation of the Interest-Based Agreement Process and shall serve as the keeper of that process. In order to achieve these purposes, the Steering Committee shall:

- A. Facilitate a systemic, phased implementation of the Interest-Based Agreement Process;
- B. Oversee integration of the Interest-Based Agreement Process into building/district committees;
- C. Plan and schedule Interest-Based Agreement Process training opportunities for all stakeholders;
- D. Communicate, both internally and externally;
- E. Facilitate building-level problem-solving efforts;
- F. Meet monthly with additional meetings scheduled as needed.

The minimum membership on this committee shall be comprised of at least one (1) representative from each of the following: Board of Trustees, Cabinet, Natrona County Association of School Executives (NCASE), Natrona County Education Association (NCEA), Natrona County Association of Educational Office Professionals (NCAEOP), Service Employees Independent Organization (SEIO), and Parent and Community Advisory Council (P/CAC).

**PROBLEM SOLVING COMMITTEE:**

The Problem Solving Committee shall be established to provide triage/assessment of issues before they become full problems beyond the building level. The Problem Solving Committee shall:

- A. Hear and act on appeals to the actions/decisions of any building, committee, or subcommittee;
- B. Hear and act on matters of appeal involving internal administrative practice and personnel issues;
- C. Have the authority to access/draw on all resources—time, people, and funding—necessary to work on solving a particular issue;
- D. Meet monthly with additional meetings scheduled as needed.

The minimum membership on this committee shall be comprised of at least two (2) representatives from each of the following: Board of Trustees, Cabinet, Natrona County Association of School Executives (NCASE), Natrona County Education Association (NCEA), Natrona County Association of Educational Office Professionals (NCAEOP), Service Employees Independent Organization (SEIO), and Parent and Community Advisory Council (P/CAC).

**COMPACT ISSUES COMMITTEE:**

The Compact Issues Committees purpose is to monitor, amend, and/or clarify this compact, formulate policy, and resolve issues. The Committee shall meet annually to deal with all employee salary/benefits issues.

These annual meetings shall take place following the legislative session beginning as soon as feasible after the District receives an estimate of general fund revenues for the next school year with the intent that meetings conclude before the end of that same week. Annual meetings shall utilize two mutually agreed upon out-of-district facilitators who are trained in the Interest Based Agreement Process.

In addition to the annual meeting, this committee shall meet once during each of the three remaining quarters with two mutually agreed upon out-of-district facilitators who are trained in the Interest-Based Agreement Process to:

- A.** Function as the final decision-making level on controversial issues;
- B.** Deal with issues appealed from either the Steering Committee or Problem Solving Committee; and
- C.** Hear and act on unforeseen, time-sensitive issues.

The members of this committee shall be recognized as the authorized agents for their constituents, and the decisions of the committee shall be binding on all participants. The committee is free to access additional personnel to act as resources to focus on a specific problem.

The membership on this committee shall be comprised of the following: Board of Trustees five (5), Cabinet three (3), Natrona County Association of School Executives (NCASE) three (3), Natrona County Education Association (NCEA) six (6), Natrona County Association of Educational Office Professionals (NCAEOP) three (3), and Service Employees Independent Organization (SEIO) three (3).

## **Williamstown Public Schools and Williamstown Education Association (WEA)**

*Williamstown, Massachusetts*

### **Interviews with Bargaining Committee Chairs:**

*Rose Ellis, Superintendent*

*Chad McCarthy, Co-president, WEA*

### **Background**

Williamstown is a small community in western Massachusetts, home to Williams College, an elite liberal arts college. The Williamstown district has one building for its 550 students in pre-K through grade six. Students continue on to a regional high school that combines three districts from neighboring towns. The district's reputation for high quality education attracts students from other districts, who under Massachusetts' "school choice" provision bring tuition dollars with them, helping to make ends meet in Williamstown. Teachers' wages however have remained just below the county average, causing a pervasive sense of being undervalued by the community and the administration.

Bargaining in the district had traditionally been acrimonious, and by the time a new superintendent came to the district in 2001 and prepared for upcoming negotiations, it was clear that the labor-management relationship was strained. The last round of collective bargaining had been particularly negative, and morale in the school was low. After attending a workshop on contract negotiations and hearing about other districts that had used IBB, the superintendent invited the union to explore the use of IBB. The district had tried the process many years ago but had returned to traditional negotiations. The Williamstown Education Association, representing employees in the district in its three units, was looking for a way to improve the labor-management situation and to involve the school board in understanding the association's concerns. All agreed that IBB might help to create a more open forum for discussing and dealing with the issues facing the school.

### **The Interest-Based Bargaining Process**

In early 2002, the district and the union together hired an outside facilitator to train and facilitate negotiations. The school paid 75 percent of the cost, and the union raised money from its members to pay the remaining fee. The training provided experience with the IBB process and an opportunity to discuss concerns about upcoming negotiations. It also provided an opportunity to assess the utility of IBB for the district before agreeing to use the process in negotiations. Teachers, paraprofessionals, buildings and grounds employees, administrative staff, and school committee members were all in attendance. By the end of the training, WEA and the school committee agreed to use IBB to negotiate all three of the expiring contracts for the district.

As part of the IBB process, negotiations employed a "retreat style" of bargaining, where advance preparation and exchange of information allows negotiating sessions to be compacted into a few intensive periods, typically weekends. Prior to the first session, the parties developed their list of issues and interests, gathered data on wages and benefits, and created an agenda for bargaining sessions. This allowed face-to-face bargaining sessions

to be devoted exclusively to discussing interests and developing solutions. During negotiations, after each issue was discussed and options were developed, two representatives from the school committee and the union were tasked with leaving the room to write tentative language to bring back to the full committee. In addition, substantial time was spent in the evenings to cost out proposals that had financial implications. The first full bargaining session began on a Friday night and continued through Sunday afternoon. Three weekend sessions were conducted in all, over less than a two-month period.

As in the past, negotiations began with the teachers unit and were immediately followed by bargaining for the other unit contracts. However, this time negotiators from the two nonteacher units observed the teachers negotiation so that the data on wages and benefits would be shared openly with all in the district. The composition of bargaining teams was also different from the past. The administration's negotiating team expanded to include more members of the school committee, five in all, in addition to the superintendent. The teachers' committee had nine members, including a representative from the Massachusetts Teachers Association. Representation from the other two units combined brought the total in attendance at bargaining to more than 20 people.

In another departure from past negotiation practice, economic issues were addressed at the beginning of negotiations instead of at the end. Early tentative agreement on a wage and benefit package allowed the parties to address other issues on their own merits, without concern about whether they would be changed later or removed from the table as part of last minute trading to reach an agreement on wages. In preparation for wage negotiations, both WEA and the district researched wage and benefit packages for districts in the region and presented their analyses to each other. Each had reached the same conclusions: teacher wages were in the mid or low range for the area and substantially lower than wages for high school teachers, whereas support staff compensation generally ranked among the top percentages. A common interest was then developed: equity with surrounding districts to attract and retain the best employees.

The town manager was brought into the negotiations as a resource to talk about the town's overall budget picture. In Massachusetts, the school district is a department of the town, and while the school committee has final control over designing the school budget, the town finance committee can veto the total amount, requiring the school committee to then present the budget for a vote at a town meeting. This can make budget passage more difficult, providing an incentive to agree on a wage agreement that will be acceptable to the town finance committee. In addition to providing clarity on the town's concerns and parameters for financial decision-making, the town manager also participated in subgroup sessions with WEA and the school committee to cost out wage package options as they were being developed by the larger negotiating committees.

The teachers final wage package included a substantial salary increase over the life of the contract to put their compensation more squarely into the mid-range for the region. Other agreements provided more time and money for professional development and mentoring.

Wage negotiations for the paraprofessionals utilized the same basic interest of equity but resulted in a more difficult outcome. One group of paraprofessionals' compensation was increased substantially to bring it into range with similar districts, while another group's wage increase was low, based on equity considerations. Subsequent negotiations on other issues were more fractious, and the committees had trouble keeping to an interest-based approach. The facilitator assisted through the negotiations with teachers and paraprofessionals, while the final negotiation with the remaining Association unit was self-facilitated, using IBB, with teachers participating.

### **Benefits of Interest-Based Bargaining**

As the union negotiator noted from experience, the range of acceptable outcomes is often apparent to both parties at the outset of negotiations. In traditional negotiations, where the emphasis is on withholding agreement until the very end, it can be difficult to get to the point where both parties can acknowledge and agree on that range. In a small town like Williamstown, where the finances are well known and the effort of the staff is easily seen and acknowledged, IBB can offer a distinct advantage by helping the parties to move quickly to the acceptable range of agreement. The process provides the opportunity to surface concerns and needs immediately, without having to spend substantial time demonstrating dissatisfaction with the status quo through disagreement.

For the school committee and the superintendent, the IBB process provided a more optimistic experience where the parties were able to focus on improvements for the future in a respectful manner. Discussing interests and sharing information made it easier to express a willingness to talk and look for ways to change. For both parties, the negotiation process established an atmosphere of respect and listening that extended to the overall labor-management relationship. The learning that occurred during negotiations provided a better understanding of day-to-day issues, resulting in a less defensive and reactionary atmosphere.

### **Factors for Success**

The training in IBB and the use of an external facilitator helped the negotiation process in two ways. The training experience helped to sow the seeds for a more respectful and optimistic relationship by providing experience with listening and communication skills and by clarifying the IBB process and procedures. The facilitator's presence as an unbiased third party also allowed the enforcement of agreements about ground rules and use of time without suspicion or hard feelings. Because both parties shared the cost of training and facilitation, they were equally motivated to use their time efficiently and to use the facilitator to best advantage.

From the union's perspective, the change in the make up of the school committee and administration was a particularly important factor for success during negotiations. IBB would most likely have failed under the previous administration. Additionally, negotiating the primary economic issues at the outset of negotiations helped to ease the tension that might have otherwise surrounded noneconomic issues. Early agreement on the financial

package built a base of confidence that other issues would not be used as bargaining chips by either party.

The inclusion of the town manager as a resource in negotiations not only provided perspective and information, but also helped with constituent relations by educating the town finance committee on the school bargaining process and their considerations in creating a budget.

### **Difficulties with Interest-Based Bargaining**

While all found the small number of intense bargaining sessions to be useful in maintaining continuity and allowing full participation by a larger number of constituents, it was also a stressful process. It required a large amount of time for chief negotiators in addition to regular sessions to generate information, check financial implications, and create tentative language. Given the need to negotiate three contracts in succession, this required a substantial commitment for school committee members, the superintendent, and teacher negotiators.

For the union, the experience of linking wage negotiations to a primary interest of equity created some dissention. Paraprofessionals felt that the increases given to teachers required them to sacrifice at their own expense.

### **Interest-Based Bargaining in the Future**

There is no clear commitment to use IBB in future negotiations by either party, though both are confident that in this circumstance it was the appropriate negotiation strategy. Given that the state and the district's financial situation will likely be worse in the next round of negotiations, it is not clear to negotiators whether IBB will necessarily help to deal with the inevitable disagreements about how to divide a shrinking pool of money. However, given that economic dilemmas are always present, ideally the parties would like to build a collaborative relationship before negotiations to enable them to work together with the town to find the best possible solutions in difficult financial times. If the collaboration were to extend to a joint search for additional resources, increased communication with the community around financial dilemmas, and better involvement of taxpayers, especially retirees who have moved to the area, IBB might provide a useful mechanism for discussion and innovation. In a small district, the time, energy, and motivation required to build and sustain such an effort can be difficult to find.

## Ground Rules for Interest-Based Bargaining Negotiations

*Williamstown Public Schools and Williamstown Education Association*

1. IBB session is closed (to others than bargaining teams). If either party wishes to bring an expert into negotiations, then the parties must agree.
2. Session needs to begin and end on time. The parties may mutually agree to extend the session.
3. Either party may call a caucus at anytime, but they must agree to the length of time.
4. No press releases will be issued during the IBB process.
5. All TAs (tentative agreements) are tentative subject to ratification of the agreement.
6. Exit Process – parties must mutually agree to retain the TA.
7. All discussions are confidential and will remain in the room.
8. Elephant Rule.
9. All issues must be presented by 10 a.m. on January 26th unless mutually agreed.

### **IBB process review:**

- ▶ Issues
- ▶ Interests tell the stories of why the issues are brought to the table
- ▶ Options
- ▶ Standards to evaluate the options
- ▶ Commitment—once we are committed, then the language will be drafted for the contract. Once the drafted language is written, then we all come together to agree that the language is what we want. We initial it, date it, and then we have a tentative agreement.

## Issues List

*Williamstown Public Schools and Williamstown Education Association  
Teachers Negotiation*

### 1. Salary and benefits

- ▮ Salary
- ▮ Health insurance
  - Cost
  - Language
- ▮ Stipends
  - Additional duties
  - Band
- ▮ Teaching
- ▮ Insurance options
  - 403 (b)
  - Cafeteria plan
  - Pre-tax
- ▮ School nurse
  - Non-nursing clerical issues
  - Salary

### 2. Work load/scheduling

- ▮ Time on learning/scheduling
  - Number of hours compliance
  - Disruptions
  - Non-instructional activities
- ▮ Workload
  - Prep time
  - Duty free time/week
  - Lunch/pay missed
  - Committees
  - Additional duties
- ▮ After school meetings
  - In-school meetings
  - Who/when
  - Work load
- ▮ After school work
  - Band
- ▮ SPED workload
  - Assessment
  - IEPS
  - Testing
  - TEAMS
  - Scheduling
  - Testing children who are not students enrolled in school
- ▮ Prep time
  - Number
  - Number that are duty free

### 3. Professional development

- ▮ Professional development
  - Schedule/quality
- ▮ Tuition reimbursement
  - Language caps

### 4. Job Sharing

### 5. Leaves

- ▮ Personal leaves
  - Subs
  - Blocks of time
  - Use
  - Language
- ▮ Leaves
  - Sick leave-language
  - When/how taken
  - Bereavement leave
  - Language
- ▮ Child rearing leave

**6. Just cause clause**

- ▶ Language

**7. Procedural changes at school**

- ▶ Communication process
- ▶ Discuss a forum for discussing morale issues

**8. Housekeeping**

**9. Duration of contract**

- ▶ 1, 2, or 3 years

**10. Teacher facilities**

- ▶ Computers

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**NOTES:**

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