

Procedures for Interest-Based Bargaining

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Amy Joyce and Patrick McPartland, the two chief negotiators for the Parkway School District and the Parkway National Education Association, will discuss their experiences with the interest-based bargaining process. The speakers will share their approach to interest-based bargaining and the best practices they used before, during, and after the IBB process to ensure the negotiation process concluded with a contract that met the needs of both management and the association.

Attached below are the basics of the interest-based bargaining process used by the Parkway School District and the Parkway NEA. More information about interest-based bargaining and further training opportunities can be obtained through the FMCS. See, fmcs.gov, or contact the St. Louis Regional Office at 314 576-2738.

A Different Way to Negotiate

Known by many names and practiced in many variations and settings: Win-Win Bargaining, Mutual Gains, Principled or Interest-Based Negotiation, Interest-Based Problem Solving, Best Practice or Integrative Bargaining. No matter which variation is used, Interest-Based Bargaining (IBB) may offer parties more flexibility than traditional bargaining, not locking them into predetermined issues and bargaining positions. Instead, the process begins with understanding the problem and identifying the interests that underlie each side's issues and positions.

When everyone understands the interests and concerns that lead a person or group to take a position on an issue, they often find that some of those interests are mutual, that both sides at the table are trying to achieve the same goal, just taking different approaches. And they frequently discover that what at first appear to be competing interests are not really competing at all. Dealing with each other in this way makes it possible to generate and consider options to satisfy particular interests that may never have been considered before.

The Principles of Interest-Based Bargaining

Parties who participate in IBB have learned that agreements tend to address issues in more depth than those reached using traditional techniques because they are the result of a process aimed at satisfying mutual interests by consensus, not just one side's interests at the expense of the other. And because negotiators are dealing with each other on a different level, the results usually go beyond immediate issues to address longer term interests and concerns.

Interest-based bargaining is a process that enables traditional negotiators to become joint problem-solvers. It assumes that mutual gain is possible, that solutions which satisfy mutual interests are more durable, that the parties should help each other achieve a positive result.

In the collective bargaining context, it assumes that negotiation, like other aspects of the collective bargaining process, can enhance the labor-management relationship, and that decisions based on objective criteria obviate the need to rely only on power. IBB captures some of the highest principles originating, but not always practiced, in traditional distributive bargaining, and makes those principles consistent parts of the process:

- Sharing relevant information is critical for effective solutions.
- Focus on issues, not personalities.
- Focus on the present and future, not the past.
- Focus on the interests underlying the issues.
- Focus on mutual interests, and helping to satisfy the other party's interests as well as your own.
- Options developed to satisfy those interests should be evaluated by objective criteria, rather than power or leverage.

Where IBB Works Best

Interest-based bargaining is not -- nor should it be -- a universal replacement for positional or distributive negotiating. In an appropriate setting it offers an alternative with certain advantages. Outside that setting, IBB will probably fail. The parties will switch back to traditional bargaining, but with increased suspicion and distrust, and their relationship may suffer additional damage. Some of the necessary components which increase the likelihood of successful IBB negotiations are:

1. In a collective bargaining environment, evidence of labor-management cooperation during the past contract term.

2. Sufficient time remaining prior to contract expiration to complete the sequence of decision-making about IBB, training and application of the process.
3. Willingness of the parties to fully share relevant bargaining information.
4. Willingness to forgo power as the sole method of "winning."
5. Understanding and acceptance of the process by all participants and their constituents.

The Nuts and Bolts of IBB – Initial Preparations

The first step for the parties to make after they have agreed to use interest-based bargaining is to decide on a facilitator/mediator. They also need to agree up front on how they will handle impasse. They need to get a meeting place large enough to fit everyone and set a meeting schedule, preferably four or five consecutive days. They should also designate someone to keep a record of the meetings. Last but certainly not least in importance, they must prepare statistical data for the meetings. Accurate data is indispensable to the process. Representatives from both parties should meet together to prepare the data they anticipate will be needed at the meetings. All relevant data must be shared and validated by both parties before the meetings to avoid wasting valuable negotiations time.

Preparing with Constituents

Each party must prepare extensively with its members, because most people are accustomed to the traditional process. Changing to IBB may cause the members of the union, in particular, to become wary of their leaders, believing that non-adversarial negotiations is the

equivalent of selling out. It is important that the leaders of both parties educate their constituents to the change, and what may be expected.

Most importantly, in actual preparation for IBB, the leaders must work closely to help the members identify and define the issues. They should be discouraged from preparing a "wish list," as in traditional negotiations. Instead they should think in terms of problems that need to be solved, rather than proposals (solutions) to be made. Those problems should be identified from situations that have arisen since the last negotiations, and should be stated in terms that will define the problems clearly.

Opening Statements

An opening statement can help set the tone for the negotiations. The statements should contain their expectations for the meetings, why they have agreed to participate in the process, and their expectations regarding their relationships.

List of Standards

The first step in the process is for the parties to develop a list of standards together that they will use to evaluate each of the proposed solutions, to eliminate the unacceptable, and to find the acceptable solution. Developing the list helps the parties get accustomed to brainstorming and it helps them understand each other's perspective. Also, consolidating each other's standards into the final list is good training for attaining consensus.

Some groups have used the following standards:

- meets employee expectations
- meets employer expectations
- is equitable
- improves labor/management relations
- is fair
- is affordable
- is reasonable
- meets legal requirements
- is acceptable to our constituents

This list of standards should be printed on poster paper or newsprint and posted on the wall for reference throughout the meetings. The proposed solution that satisfies most of the standards should be the acceptable solution. How that measurement may be made is different for each group. Some may use a numerical rating system, others may use consensus. Sometimes the solution is obvious.

Identifying the Issues

At the first IBB meeting the parties present their issues, one at a time, alternating between union and management. There is no debate over the validity of the items; they are accepted as presented.

The issues are listed on poster paper or newsprint, numbered, and put on the wall for easy reference. One item at a time is selected from the list to be resolved. Usually, it is important that a non-controversial one is selected first, to help the parties get familiar with the process. That issue is taken through the IBB process before another is brought forth for solution. The selected issue is phrased in question form. Properly expressing the question will make solving it easier. The parties should be patient, and not rush at this point. They should define the issue clearly to get to the essence of the problem.

As the process continues, each item is discussed and defined, and as interests are offered, the need for resolution of any item will surface. The proposing party, however, may remove any item from discussion at any time.

Identifying the Interests on Each Issue

Interests are what each party obtains from solving the problem, their concerns in doing it, and the parameters that they set for the solution. They share their interests with each other by listing them on the flip chart. The parties will be better able to find solutions after they have made their interests known to each other. They will be able to find solutions more successfully, because they have shared their needs and their limitations.

Developing a List of Options for Each Issue

Using brainstorming techniques, the parties offer possible solutions to each issue. The facilitator goes around the room permitting each person to offer ideas until they run out of suggestions. All suggestions are accepted and listed without comment.

Identifying the Acceptable Option

Each option is measured against the list of standards. The measuring method varies with each group. The option that meets most of the standards may be the acceptable solution. Sometimes the parties may find the acceptable solution intuitively, because they understand each other after having shared their standards, interests and

concerns earlier. The parties should be free to adopt any method that works for them.

Accepting an Option as a Tentative Agreement

The accepted option is written as a tentative agreement, either in concept or in final contract form, and signed by the parties. All tentative agreements are set aside until all issues are completed before they are presented for ratification. Sometimes, the parties may not reach agreement on some issues. Those should be set aside to be discussed later. If they remain unresolved, only those issues will be submitted to the traditional impasse procedures. The agreed issues will remain as tentative agreements as in traditional negotiations. As each issue is resolved, it is crossed off the posted list, and the parties move on to the next issue until all are resolved.

Skills Needed

There are no special skills or characteristics needed that are exclusive to IBB. Skills such as strong advocacy, experience, creativity, verbal skills, and ability to take risks will help the process. The participants must never forget that they are representatives of their constituents, and that the tentative agreements must be accepted by their members. Strong advocates usually can anticipate their members' needs. Creativity is one of the primary characteristics of good negotiators, no matter what process they use. It is essential for IBB, because innovation distinguishes it from traditional bargaining. The teams also should have some risk takers who can consider non-traditional solutions to collective bargaining problems.

Creative risk takers who are strong advocates are ideal IBB participants. Good verbal skills are also essential. Those who can express themselves clearly and effectively enhance the process. Experience in negotiations is helpful but it is not critical for all team members to be experienced.

Checklist for Preparing for IBB

1. Employer and Union representatives meet to agree to use IBB.
2. They meet with their members to inform them about IBB.
3. They meet to select a facilitator.
4. They each obtain training from their advocacy organizations or from the facilitator if none is available otherwise.
5. They meet with their members to discuss issues for bargaining.
6. They mutually prepare the statistical data they anticipate they will need.
7. They select a meeting place, and schedule meeting dates.
8. They arrange for refreshments and meals to be provided at the meeting site.
9. They arrange for two easels, markers, masking tape, and poster paper or newsprint.
10. They decide who will be responsible for each arrangement.
11. They decide who will be the note takers at the meetings, and who will prepare the tentative agreements for signatures.
12. They decide impasse procedures.