Journal of Collective Bargaining in the Academy

Volume 3 *Upheaval and Challenges Continue* Article 6

February 2012

Negotiating Within a Shared Governance Format

Suzanne C. Wagner
Niagara University, scwagner@niagara.edu

C. Henrik Borgstrom
Niagara University, hcb@niagara.edu

Negotiating Within a Shared Governance Format

Suzanne C. Wagner[1] and C. Henrik Borgstrom[2]

Research on collective bargaining has shown that faculty attitudes were negatively correlated with salary, age, involvement and unionism (Bigoness, 1978). The two largest correlates of voting for a union are positive attitudes toward unions and peer preferences for a union; surprisingly, sense of community, sense of autonomy, trust in management, work environment, self-efficacy, equity sensitivity and attitudes toward pay had no effect (Liao-Troth, 2008). Can success be gained by working together?

In 1975, the faculty at Niagara University reacted against an administration, which they saw as overly authoritative and impenetrable, and unionized under the title Niagara University Lay Teachers Association (NULTA). The newly created union was certified by the National Labor Relations Board on April 27, 1978 and underwent contentious negotiations with administration ultimately resulting in a collective bargaining agreement (CBA). This agreement set the standard for establishing written policies and procedures regarding faculty concerns. The act of unionization created a sense of unity among the faculty, to be sure, as they now had an elected representative body through which to communicate their collective concerns with the administration. Nevertheless, the CBA did little to mitigate tensions between the two sides. A faculty strike nearly occurred in 1994 by means of faculty approval to strike conditional upon the lack of a contract settlement. An agreement was signed at the last minute before the start of classes.

Although both the administration and the faculty believed they had the university's best interests in mind, contract negotiations continued to be contentious and adversarial. Contract negotiations that occurred in 2000-2001 were among the most contentious taking place at the same time as the arrival of a new president. Since the negative negotiations process left faculty and administrative relationships ill at ease, the president of the union and the university president met determined to stop the cycle of divisiveness. As a starting point, a group of faculty and administration agreed to attend a program on negotiation offered through Harvard University.

[1] Suzanne C. Wagner is President of Niagara University Lay Teachers Association (NULTA), Chair and Associate Professor of Computer and Information Sciences at Niagara University, New York.
[2] C. Henrik Borgstrom is Associate Professor of French and Chair of the Department of Modern and Classical Languages at Niagara University, New York.

Journal of Collective Bargaining in the Academy, Vol. 3, December, 2011 ISSN 1941-8043

Union representatives and administration members attend the conference together to learn about mutual gains bargaining, the fundamental basis for the negotiations process at Niagara University. The basic tenet is the building of the whole rather than "fighting" over the parts. Knowing that both sides at the negotiating table have the desire and need to improve the university establishes common ground and common interests. These include: student success: strong academic standards: financial stability; superior facilities; academic freedom; and professional recognition and growth. These commonalities are considered to be the foundation of the process of negotiation, a significant difference from typical negotiation scenarios consisting of opposing teams.

The ability to agree and institute clearer understanding between two parties improved the relationship between faculty and administration, although negotiations were still conducted in a relatively hostile environment. In 2002, there was a significant change in the negotiation process. Faculty and administration cultivated a positive working relationship that led to a realization that mutual planning for negotiations could produce quality change without the antagonistic aspects of the relationship dividing their interests. The resulting contract was more robust addressing issues with specific language set to create standards in process and procedures and to foster understanding between the parties. Expectations were explicitly stated, and procedures became better defined. The realization of a commonality of interest began to emerge.

The current bargaining process has evolved from the last three contract negotiations in 2002, 2004 and 2007. The process begins with the identification of the negotiating team members from both sides. Administration selects a team of negotiators that typically includes the executive vice president/vice president for academic affairs, the vice president for administration – business affairs, the associate vice president for academic affairs – programs and policy, the associate vice president for academic affairs – operations and outreach, and the director of human resources. The union negotiating team typically consists of the officers, namely the president, vice president, treasurer, and secretary, and others have been added or substituted based on expertise. There is a mutual understanding that all members of the negotiations teams will attend the Program on Negotiations for Senior Executives, part of the Program on Negotiation at Harvard Law School (The Program on Negotation at Harvard Law School, 2010). The negotiating teams mutually identify the key areas to be addressed in the current negotiation period. Critical areas that are most common are compensation and benefits, faculty evaluation, and workload. Special topic areas have included intellectual property, chairperson workload, and salary equity. Once the teams agree on areas of mutual interest and importance, joint work groups are established. The work groups are made up equally of faculty and administrators devoted to investigating a particular negotiation topic area. Each working group is co-chaired by a member of each of the negotiations teams (one union representative and one administrative member). A planning meeting is held for all members of the working groups to identify the charges of each joint work group and to set the timetable for the negotiations process. A typical timeframe has been for joint working groups to work in the spring semester with negotiations following in May through June or July with a new contract start date toward the end of August.

The primary purpose of the joint working groups is for faculty and administration to research and brainstorm solutions to issues in a key area in an open forum without restraint. This allows for the groups to approach issues from an “ideal” perspective without the constraints that will be imposed when evaluating the bargaining issues collectively. The pressure and “trade-off” that occurs during negotiations can be ignored to this point so that the area can be investigated and solutions proposed relating solely to the area itself. The cost/benefit analysis is still important but, again, is limited to the area at hand. This process also allows for the members of the joint work groups to invest in the solution together. Working groups are tasked to write a report of recommendations regarding their topic areas. These reports provide potential solutions, with associated research and rationale, to support the recommendations and are created jointly with limited constraint. Since the working groups are not operating in a negotiating mode but rather as cooperative problem solvers, their recommendations emerge from an open environment without much of the negativity and criticism that often typifies negotiation processes. There is also an expectation that the “solutions” will be adopted as presented. However, this often is not the case.

Another important part of the process is that the union and the administration agree that the results from the joint working groups will establish the starting point of the negotiations. These reports are presented and discussed among the working groups in a meeting prior to the start of negotiations. This allows individuals to ponder and highlight the critical issues and talk about potential implementation strategies. The final stage is negotiation. Negotiation teams meet to establish a timetable working backward from the contract expiration date taking into account time for the membership to review, ask questions, discuss and vote.

Negotiations commence as a series of planned, relatively short (two hours) meetings of both negotiating teams. The areas of the contract are reviewed to prioritize the items that the teams agree can potentially remain as is and to determine the content that needs to be changed. Typically, the issues that are non-monetary are targeted first. The recommendations from the working group reports are appraised for viability. If the recommendation appears feasible, the language is examined for clarity, understanding, and directive or instructive content. Drafts are developed and formally agreed upon with the understanding that the issue may be revisited at a later point in the process. Time permitting, the meetings continue and issues such as faculty evaluation, chair workload, and intellectual property are analyzed, discussed and revised. While there are certainly areas of contentious debate, the teams recognize the inherent value of the individuals at the table allowing for honest open discussion and shared resolution.

The success realized during the early stages of the negotiation process drives the team forward to take on what are traditionally problematic issues such as benefits and compensation. Although challenging, the faculty realize that the financial success of the institution is vital and the administration recognize the impact of faculty on all aspects of the university. This does not mean that both teams don't have targets and goals that are adversarial, but the recognition of others' needs demands respect and understanding as a foundation for mutual benefit.

Many contracts were successfully negotiated using the mutual gains approach involving faculty and administration. In 2007, the university faced significant rising costs in healthcare and asked the faculty to consider moving from a choice of several health care providers to a single health care provider. Negotiations took various twists and turns but ultimately resulted in the acceptance of a single provider to reduce university costs and a significant change in faculty workload—a reduction in annual course loads from 4/4 to 3/3 over a four-year period. While it was not a simple one-to-one trade-off, the ability to work together in preparation; research and analysis; problem solving and mutual gains bargaining in a faculty and administration shared governance format, allowed for the generation of a unique solution with significant mutual gain.

References

Bigoness, W. J. (1978). Correlates of Faculty Attitudes Toward Collective Bargaining. *Journal of Applied Psychology , 63* (2), 228-233.

Liao-Troth, M. (2008). Correlates of Faculty Unionization Voting Behavior. *Journal of Collective Negotiations , 32* (4), 305-315.

The Program on Negotation at Harvard Law School. (2010). Retrieved November 12, 2010, from The Program on Negotiation at Harvard Law School: http://www.pon.harvard.edu/