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## Panel: Negotiating Strategies for University Administrators An Alternative Strategy: Interest-Based Bargaining

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**Panel: Negotiating Strategies for University Administrators**

**An Alternative Strategy: Interest-Based Bargaining**

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**Panel: Negotiating Strategies for University Administrators**

**An Alternative Strategy: Interest-Based Bargaining**

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My three colleagues on the panel have talked with you about several important aspects of traditional, adversarial collective bargaining. The general characteristics of traditional bargaining are familiar. Each side develops its positions and then defends them tenaciously while opposing the other side's pre-established positions. The process works in that agreements are finally reached, although the confrontational aspect can be dispiriting and embittering. Mark Twain once observed: "If the only tool you have is a hammer, then every problem will look like a nail." I would like to suggest that Interest-Based Bargaining (sometimes called "Win-Win Bargaining" or "Mutual Gains Bargaining" provides a wholly new set of tools for the process of solving problems or negotiating union contracts. In its broadest sense Interest-Based Bargaining (IBB) rejects adversarial negotiations and proposes instead that participants approach negotiation as partners, first identifying problems or issues and then working together to reach mutually satisfactory solutions. Sound too pie-in-the-sky? Let me illustrate with a couple of examples from my experience at Cleveland State University.

In 1998, Cleveland State University went through the complex process of converting from the quarter system academic calendar to the semester calendar. Naturally, there were a

number of issues surrounding calendar conversion that impinged upon the University's faculty contract with the Cleveland State chapter of the American Association of University Professors. Most of these issues were quite perfunctory: little more than adapting the prescribed timetable for such things as the promotion/tenure process, the sabbatical leave process, and the grievance/arbitration process from quarters to semesters. But one issue loomed large: faculty workload, especially the teaching workload. There was a lingering suspicion among some faculty at CSU that the administration intended to use calendar conversion as a subterfuge for increasing faculty teaching loads, even though both faculty and administration had already agreed that two of the principal goals of the conversion were that students would be held harmless and the impact on faculty workloads would be neutral.

On the basis of these general understandings, the president of CSU-AAUP came to me to suggest that these circumstances provided an opportunity to resolve the issue through Interest-Based Bargaining. It was an offer the administration could hardly refuse, although I must admit, IBB was little more than a vague concept to me at the time. What exactly is IBB?

As labor-management practice, IBB is relatively new, tracing its origin to an academic study published by Richard Walton (*A Behavioral Theory of Labor Relations, 1965*). Much better known is the practical guide to IBB by Roger Fisher and William Ury (*Getting to Yes: Negotiating Agreement without Giving In, 1981*). But from the mid-1960s through the 1980s, IBB existed as little more than an academic theory of labor-management relations. It was only in the late 1980s that the Federal Mediation and Conciliation Service (FMCS) began training and facilitating Interest-Based Bargaining. Here are two short observations about IBB that I think are particularly useful:

Successful interest-based bargaining . . . requires union and management participants to master new skills and techniques. If they fail to do so, they are likely to fall back on the skills and techniques they are familiar with from adversarial bargaining, most of which are incompatible with IBB. (Barrett and O’Dowd, 2005, p.90)

Successful collaborative negotiation lies in finding out what the other side really wants and showing them a way to get it, while you get what you want. (Cohen, 1980, p. 161)

And so we began the IBB process. Everything about it was different. No attorneys were present for either side. A facilitator from the FMCS took both teams together through a 2-3 day training process designed to build trust and to familiarize us with procedures many faculty and faculty-administrators are impatient and cynical about: brainstorming, flip-charting, etc. Other unfamiliar territory was explored during the training process:

- No expressions of contempt, eye-rolling, or other value judgments are allowed during brainstorming. The idea is to get as many options on the table as possible. Non-viable options can be eliminated later.
- No caucuses. If one team feels it’s really necessary to take a brief caucus, then it is obliged to explain the purpose of the caucus to the members of the other team.
- All meals were to be taken together as a further team-building technique (no lunch caucuses).
- No negotiating table. Team members sit interspersed in a circle or at a round table and sit next to different people each day.
- No lead negotiators. All team members are encouraged to participate equally.
- No positions are presented by either side. Problems are identified; subjected to the brainstorming and flip-charting techniques; options are explored and eliminated; and when consensus on a particular issue has been achieved, a combined writing team is appointed to draft proposed contract language, which is then brought back to the entire group for further discussion and refinement. When all are satisfied, the language becomes a tentative agreement, and you move on to the next issue.

- The litmus test for successful IBB is three-fold. Is the solution arrived at feasible? Is it desirable? Is it acceptable to the executive committees/bargaining councils of both sides?

In any case, the issues involved in conversion from quarters to semesters, including the matter of faculty workload, were put to the IBB process. Although the process was *very* time-consuming (a matter I'll come back to in a moment), agreement was reached with a minimum of insults, teeth-gnashing, and backbiting.

So . . . how did we handle the teaching load issue? Under the old quarter system, the “normal” teaching load for faculty productive in research and service was two 4-credit courses per term. Under semesters, most courses are 3-credit courses. It became apparent that many faculty were daunted at the prospect of having, under semesters, to teach three 3-credit courses during at least one of the semesters; the extra course preparation was viewed as an increased workload. Gradually, our discussions shifted from number of courses per semester to number of credit hours per semester. And eventually, through brainstorming, flip-charting, multiple drafts of potential contract language, and several pointed reminders from our FMCS facilitator about the concept of partnership, we arrived at a formula involving a combination of 4-credit and 3-credit courses that proved reasonably satisfactory to everybody. Faculty were pleased that they could preserve a two-course-per-term teaching load. The administration was pleased that faculty credit-hour (revenue-generating) production remained equivalent in the new semester system. The agreed-upon workload formula takes up about four closely-printed pages in the faculty collective bargaining agreement, but the language met the IBB criteria: feasible, desirable, acceptable (CSU Agreement, 2003-2006, pp. 32-36).

Were there any downsides? From my perspective, although the bargaining proved to be collegial and collaborative, it took an incredible amount of time to reach tentative agreements on the few issues connected to semester conversion. Including the 2-3 day training period, the two teams were at it for nearly a month. This very slow pace is quite typical and is one of the standard criticisms of the IBB process (Roche, 2002. Barrett and O’Dowd, 2005, p. 26).

You can imagine my chagrin, therefore, at contract negotiating time when our outside attorney (who was expected to be the University’s chief negotiator in a traditional bargaining process) suggested that the administration propose to the union that the entire contract be negotiated using the IBB process. After all, he said, you’ve got experience, and you know it works. I was very reluctant. If it took a month to deal with one issue, how long would it take to deal with an entire contract? I girded my loins for a year or more. But we made the proposal; the AAUP accepted; and we set to work with an FMCS facilitator. To my absolute amazement and delight, we evolved a kind of modified IBB process that shortcut some of the lengthiest procedures and completed the bargaining process in two and a half months. Incredible! Our history showed that it usually took 6-9 months to bargain a contract using traditional adversarial negotiation. Yet, using IBB, we were finished in considerably less than half that amount of time including the development of some nifty innovations with regard to such things as merit salary increases, professional development funding, and the like.

How ironic that, last fall at contract renegotiation time, when the administration proposed that we again employ the IBB process that had worked so expeditiously in 2003, the union flatly rejected it in favor of returning to the traditional adversarial process. Bargaining began in October 2006. Five months later, impasse was reached on several key issues; mediation failed to

produce an agreement; fact-finding ensued; and I learned that just last week, tentative agreement had been reached on all issues, although the proposed contract has yet to be ratified by union members and the University Board of Trustees.

What does the Cleveland State University case history tell us about the possibilities for Interest-Based Bargaining in higher education? For one thing, the CSU situation clearly illustrates the principal risks of IBB for both the union and the administration. For management, IBB can prove to be a very slow and tedious process. Therefore, change also can occur only on an extended timetable. Also problematic for management is the substantial investment of administrators' time in seemingly endless training exercises, meetings, and bargaining sessions. The risks of IBB for faculty unions, however, may be even greater. The process of partnering with the administration may create the impression among the union rank-and-file that their leaders have been co-opted by the administration. (Barrett and O'Dowd, 2005, p. 20. My communications with colleagues at Florida Gulf Coast University and Florida State University, who also have experience with Interest-Based Bargaining, indicate that they also experienced similar kinds of risks and challenges.) It's clear to me that this latter concern was at work at Cleveland State; the AAUP Executive Committee's decision to reject IBB in the recent contract negotiations was taken in order to reconnect with its base constituency and to dramatize the continued need for a faculty union willing to confront the administration.

On a much more positive note, the Cleveland State experience with IBB shows that it is possible to forge partnerships with a faculty union and to create mutually beneficial solutions to problems, even difficult and potentially divisive issues like workloads, merit salary increases, and professional development funding. As Dr. Hudson Rogers, Associate Provost and Associate

Vice President for Academic Affairs at Florida Gulf Coast University, observed in a recent email message to me. “From the [FGCU] management team’s perspective, we find the process a bit slow, but overall it has been very informative as it brings to the discussion ideas and options that otherwise would not have surfaced. As such, it provides greater insight into the motivation behind some [union] requests.”

I think we can conclude that Interest-Based Bargaining is not likely to be successful in an atmosphere of mutual suspicion and mistrust between negotiators or where senior administrators and union leaders can offer only tepid support for the process. In those circumstances, substantial time will need to be devoted to building relationships. (Barrett and O’Dowd, 2005, pp. 12-18). However, IBB can be confidently recommended where the bargaining agenda harbors opportunities for “win-win” solutions and where the relationships between faculty and administration are strong enough to sustain such an approach to collective bargaining.

### Sources Cited

- Agreement between Cleveland State University and American Association of University Professors CSU Chapter.* August 16, 2003 - August 15, 2006.
- Barrett, Jerome T. and O'Dowd, John. *Interest-Based Bargaining: A Users Guide.* Trafford, Meath, Ireland: OD Books, 2005.
- Cohen, Herb. *You Can Negotiate Anything.* Secaucus, NJ: Lyle Stuart, Inc., 1980.
- Fisher, Roger and Ury, William. *Getting to Yes: Negotiating Agreement Without Giving In.* New York: Penguin Books, 1981.
- Roche, W.K. "Whither Partnership in the Public Sector?" *Administration*, vol. 50, no. 4 (2002).
- Walton, R.E. and McKersie, R.B. *A Behavioral Theory of Labor Relations.* Boston: ILB Press, 1965.