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Negotiations 101: Preparing for Productive Negotiations in Good Times and Bad

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NEGOTIATIONS 101

PREPARING FOR PRODUCTIVE NEGOTIATIONS
IN GOOD TIMES AND BAD

CARL LEVINE, LEVY RATNER, P.C.

THE UNION’S VIEW

1. Establishing the negotiation team:
   • Selecting the team
     o method of selection
     o size of the team
     o need for expertise and information
   • Roles
     o Lead Negotiator: primary spokesperson in negotiations and for communications from the negotiation team
     o Recorder: takes notes to create bargaining history, as well as ensuring that all issues are addressed
     o Role for lawyer(s), if any

2. Gathering information
   • Financial status of employer
   • Formal requests for information
   • Differences in access to information between public and private institutions
   • Terms and conditions of employment of members of other bargaining units and non-represented employees of employer
   • Terms and conditions of employment of similar employees at other comparable employers
   • Review problems, grievances and issues that arose during last contract period
   • Evaluate employer attitudes
   • Review negotiating notes of previous negotiations
   • At public institutions – review political situation
3. Establishing union objectives and bargaining positions
   - Survey membership to determine which issues are of most concern to them
   - Consider proposals that will address problems that arose during previous contract period
   - Select collective bargaining priorities
   - Understand which issues are mandatorily negotiable and which are not

4. Higher Education Issues
   - Reappointment and Tenure
   - Rights of Part-Time Faculty
   - Faculty Governance
   - Intellectual Property
   - Free Speech and Academic Freedom

5. Drafting Proposals

6. Computing of the costs associated with bargaining proposals and contract terms
   - Determine actual cost of current agreement to create a baseline for comparison
   - Consider annual and multi-year costs
   - Consider projections for changes in number of employees
   - Calculate total cost of each proposal

7. Formulation of bargaining strategies
   - Determine management objectives and bargaining positions
     o Management economic and non-economic priorities
     o Level of resistance to proposals
     o Develop counterpoints
     o Use management priorities to union’s advantage
   - Political strategies
   - Public Opinion
     o When to maintain confidentiality and when not to
     o Building public support
8. Additional considerations

- Good faith bargaining and bargaining impasse
- Unfair Labor Practices
- Contract Bar and Waiver
- Additional state law issues at public institutions
  - Right to strike
  - State mandates
- Nature of relationship
  - Adversarialism
  - Repeat player principle