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Managing Internal Tensions in Contract Negotiations: A Perspective from the Academic Union's Side

John B. Allison & Jonathan P. Blitz¹

Introduction

Academic collective bargaining, like all collective bargaining, presupposes conflicts between goals of the administration and the academic union. The represented parties on both sides, as well as the general public, typically perceive conflicts in collective bargaining in that way. However, both the administration's and union's bargaining teams must substantially resolve internal conflicts among the teams' own represented parties before the teams can hope to achieve an acceptable collective-bargaining agreement (i.e., a binding contract). After briefly addressing the very real strengths of academic unions in collective bargaining, we will at greater length explain the origin, nature, and usually imperfect resolution of conflicts arising within an academic union.

One of the greatest strengths of most academic bargaining teams is that the teams can rely on a large organizational structure to provide strategic, financial, and, if required, legal support. At the level of a particular college or university, this organization often includes the following people: a union president with long-time institutional history and bargaining experience; a chief-negotiator and team members who have been recruited for their diverse talents to create a balanced group; a grievance officer who confers with the union president and bargaining team about possible administrative violations of the bargaining process (e.g. bad faith bargaining, regressive bargaining, or bargaining without decision making authority); an executive board, and, in some cases, a core group of activists who provide strategic support; and ideally the combined support of all members of the bargaining unit, which in most cases includes many hundreds of highly educated faculty and academic-support professionals. Beyond this internal organization, there may be a state-wide local with a president and board that can draw on resources of other colleges and universities, militancy funds, public-relations networks, and legal counsel. In addition, the local may be able to draw on the vast resources of such affiliates as other state-wide unions and national organizations such as the National Education Association (NEA) or American Federation of Teachers (AFT), which is affiliated with the AFL-CIO. In our

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experience, the university administration and university–union teams conduct nearly all of the bargaining. The state-wide organization remains informed and in some cases provides advice and at times assists; the national organization is not involved except in rare circumstances.

Ideally, all the layers of organization and individuals within them will be in perfect agreement about aims and strategies for a bargaining team to pursue. This ideal, like most, remains forever out of reach because human beings invariably hold differing views of their interests and how best to pursue them. Consequently, union leaders must recognize and address inevitable, internal conflicts before, during, and after negotiations. In truth these internal conflicts are often the thorniest.

Recognizing and Addressing Conflicts Before Bargaining

Prior to identifying and addressing conflicts before bargaining, it is worth noting differences in administrative and union organizational structures and the impact those differences have in the process. The administration side is a vertical organization with a well-understood hierarchy which does not need to tolerate much dissent. The union side is a much “flatter” organization. While the administration side ultimately answers to one person, the university president who works at the pleasure of a small board of directors; the union side is answerable to all of its bargaining unit members, often numbering in the hundreds, with a wide array of interests. It is thus of primary importance that the union side understands the diversity of those interests, and of equal importance that it is *perceived* to be aware and taking all opinions into consideration. This simple fact dictates quite a bit of union behavior from the choice of bargaining issues to be addressed at the table to the choice of bargaining team members.

In our opinion the single most important factor to minimize internal conflict is the proper choice of bargaining team members. Such members should be representative of a broad range of constituent groups while retaining a manageable size. These members should have personality attributes conducive to bargaining, such as patience, a willingness to put the bargaining unit’s interests ahead of their own, a skill set that contributes to the effort in one or more ways, and of course a willingness to invest the time to perform the service. Out of the oftentimes many hundreds of bargaining unit members, a surprisingly small number meet these requirements!

At the same time or immediately after a bargaining team is chosen, a series of steps are embarked upon to reduce conflicts at the outset. Union leaders can begin by recalling interests and conflicts that were not resolved after ratification of the current contract. To do so, current and former officers and team members meet to consult their own memories, minutes from previous negotiations and general-membership meetings, and members of the bargaining unit. Early in this information-gathering process, the president and bargainers/prospective bargainers

can convene a negotiation-agenda committee, whose scheduled meetings remain open to any bargaining-unit members who want to attend. This group, which can be chaired by the president, the chief negotiator, or a range of appropriate individuals, should probably meet at multiple sites on campus to increase the likelihood that members from all of the departments and offices can easily participate. At these meetings, someone should take minutes that reflect not only general agreements about the union's goals in upcoming bargaining but also the inevitable disagreements about those goals. During and following the meetings, a smaller group can construct a general membership survey to help identify degrees of support for what is often a considerable range of goals. The results should be available to all members of the bargaining unit in the interest of openness and transparency. Openness and transparency tend to reduce conflicts about the central goals for bargaining.

We want to stress two things here. First, officers and bargainers who attend negotiation-agenda and other meetings should clarify that no team can ignore legally recognized "managerial rights" during negotiations. In other words, the membership needs to understand that not all things are possible. It is important to avoid afflicting a team and membership in the unenviable role of seeking to achieve an impossible dream. Everyone should know the basic mandatory subjects of negotiations: compensation, workload, and working conditions, as well as the basics of managerial rights. Second, and this is just as important, the process we described in the preceding paragraph will not eliminate conflicts about goals. During negotiations, it is highly likely that some people will be determined to steer negotiations their way. These people should not be ignored. If the aims of such members are reasonable, the team should address them during negotiations and, when appropriate, report to the membership about the progress of negotiations. Although we are getting ahead of ourselves, the leadership and bargainers should at all times anticipate future outcomes, including conflicts, and proactively address them.

Although it may not be appropriate, it is a fact that the majority of union members judge the success or failure of a contract negotiation by the percent across-the-board salary increase. To avoid problems and to ground the membership and bargaining team before, during, and after negotiations, a salary analysis should be conducted. Bargaining-unit members' salaries by rank and discipline can be compared to salaries of employees at similar institutions. This kind of an analysis can expose issues such as salary compression and inequities by discipline. This information can be used to create a compensation package that addresses real problems. More to the point for our purposes here is that such an analysis provides *justification* to the bargaining team and bargaining unit for the approach taken. Most will accept an outcome that can be rationally justified. The team can draw on the computational skills of faculty and other members of the bargaining unit, perhaps forming a subcommittee on budget and salary analysis.

Recognizing and Addressing Conflicts While Bargaining

Discussion of conflict-management at this stage could, has, and will comprise many pages beyond the scope of our essay. Reasons are easy to enumerate—great differences in approaches to bargaining, myriad circumstances in particular cases of bargaining, variations in labor law, and labor relations over time. We will restrict ourselves to two foci of internal conflict that will surprise few who have bargained on an academic-union team: internal factions and competing demands.

Sometimes factions develop within bargaining teams, factions often buttressed by legitimate special interests that are representative of the bargaining unit as a whole. Team members usually strive to satisfy all such interests only to learn that it is impossible to insist on what the administration will perceive to be an unreasonable list of demands or a position that they cannot accept. Unfortunately, the team can't follow Yogi Berra's eternally comic advice any more than Oedipus could: "When you come to a fork in the road, take it." The team has to decide which path to follow. This reality means conflict will arise that is best managed at the bargaining-team level. A bargaining team member must subjugate their special interest in the interest of the larger nascent agreement. For some, this is a bitter pill to swallow which, in our experience, may not go down at all well. This is where the careful choice of bargaining team members matters most. When the reality of dissent within the bargaining team is used to cause a rift among bargaining-unit members as a whole, who will ultimately vote to accept or reject an agreement, union leaders and team members must address the problem. We have used a couple of routes to do so, neither of which is a stairway to heaven but may pave the way to the ultimate goal, a ratified agreement.

One way to address the problem is to present bargaining-unit members with another, shorter survey to determine which competing interests enjoy greater support, especially if considerable time has gone by since a survey before bargaining began. But doing that probably won't be sufficient. As an additional step, the union president, chief negotiator and others may have to "sell" an approach or position, a step that, however unavoidable, can be contentious. Whereas union leaders understand that all interests cannot be satisfied in a negotiated agreement, that reality must be gently and convincingly conveyed to those not used to the process. Nevertheless, minimizing the number of bargaining-unit members displeased with the compromises inevitable to a negotiated agreement is a primary goal. Also, the administration might decide to exploit tensions to steer the process one direction or another. In any case, the leadership should schedule multiple meetings to accommodate members' differing schedules. When tensions are going to be considerable to begin with, leaders may decide to hold a survey after a series of meetings. If it is clear significant tensions will linger or prevent ratification, leaders might decide to request mediation, bargain for a sunset clause, and/or dig in their heels.

Addressing Conflicts After Negotiations

Once negotiations end, the leadership and bargaining team members will present a proposed contract to the membership for ratification. Of course, at this stage negotiations could begin again if the membership rejects the contract, if the higher, local leadership and union board rejects it, or if the administration and/or administration's board of trustees rejects it. In any case, the leadership and team will present a proposed contract, and the membership will vote it up or down. In rare cases, the leadership and team may themselves throw cold water on the contract, stressing its disadvantages and arguing that "no contract is better than a bad contract." We will assume the more common case, that the leadership and team want the contract to be ratified and that some members of the bargaining unit will object to portions of or the whole of the contract. The situation calls for preparation, clarity, and persuasion.

In our experience, the chapter president, chief negotiator, and bargaining team present the contract and respond to members' questions and concerns. Leaders will have met before general membership meetings to strategize about how to present the contract as a whole, explain any complex contract language, and respond to anticipated concerns or objections. When responding to objections, the presenters should be respectful toward every person who raises an objection. If they are lucky, they will be able to satisfy most concerns by clarifying the practical outcomes of the contract's provisions and the contract as a whole. Presenters can also stress that no contract is perfect, hence the need for future negotiations. In times of severe financial distress, presenters should stress preservation of gains hard earned over the course of many past negotiations.

By emphasizing the contract as a living document conserved and improved over time, gradually resulting in a better college or university for students and employees, the leadership and the team can often persuade otherwise reluctant members to approve the contract and continue to improve it again during the next cycle of negotiations.