

COLLECTIVE BARGAINING: WHAT IT IS AND HOW IT WORKS

Collective bargaining gives educators a voice. Through collective bargaining, NEA members negotiate for more than their own economic security. They are also winning victories for students to improve student learning and development, like smaller class sizes, increasing real learning time by reducing the number of standardized tests, and more recess time. The collective bargaining process enables educators to work together so that everyone connected to a school benefits – students, educators, administrators, parents, and the community as a whole.

A SHORT HISTORY OF BARGAINING IN THE UNITED STATES

The National Labor Relations Act (NLRA), first passed in 1935, guarantees the right of private sector employees to organize and collectively bargain. The NLRA only covers workers in the private sector.

In the decades following the NLRA's enactment, many states passed similar laws to regulate organizing, bargaining, and settling disputes for working people in the public sector, including public education employees. The nation's first collectively bargained agreement with public school teachers was signed in 1962 in New York City. Currently, teachers in 34 states and the District of Columbia have the legal right to bargain; education support professionals in 31 states plus D.C. have that right, as do some higher education faculty in 28 states plus D.C. In many other states that do not have collective bargaining statutes, limited bargaining takes place in some or all categories of education employees. Bargaining in public education is prohibited in only seven states.

COLLECTIVE BARGAINING IS GOOD PUBLIC POLICY

Collective bargaining in education offers an organized and transparent system to improve student learning and the overall environment in public schools, and helps ensure that educators receive a professional level of pay. When educators and management can come to agreement on salary, benefits, and working conditions – while also improving teaching and learning conditions – everyone benefits. And in the healthiest education environments, positive union-management relations is a continuous process – often carried out monthly through a joint labor-management committee.

In states without collective bargaining rights, education employees and their associations can still collaborate with school districts, and advocate at the state and school district level for improved student learning conditions and educators' professional growth.

THE BENEFITS OF BARGAINING/ADVOCACY

Collective bargaining gives educators a voice in their workplace. It helps assure fair wages and benefits, improving teacher recruitment and retention. Educators also negotiate better teaching and learning conditions. That means that everyone connected to the school – students, teachers, education support professionals, administrators, parents, and taxpayers – benefit from it. Specifically, collective bargaining:

Improves teaching and learning. Teachers' working conditions are students' learning conditions, so by addressing school and classroom issues, everyone gains. Educators and their unions are leveraging their collective power in new ways to implement educator-led solutions that work for all students. Educators are bargaining on issues that go beyond salary, benefits, and working conditions. They are bargaining over class size limits, increased time for teachers to share effective classroom practices, guaranteed recess periods, induction and mentoring, professional development, restorative practices, and school-related health and safety issues. Even in a non-bargaining setting, associations can collaborate with school districts to meaningfully address these issues.

Ensures fair employment procedures. A collectively bargained contract ensures that all employees are treated fairly because both parties have discussed and agreed upon rules and procedures for the workplace. Employees and managers understand what steps will be used to resolve employee grievances, lay off workers, or settle disputes. Contracts and/or state laws may also set forth processes and principles for conducting teacher evaluations that are comprehensive, meaningful, and fair, and improve both teacher practices and student learning.

HOW DOES COLLECTIVE BARGAINING WORK?

Bargaining: step by step

Collective bargaining is a process through which the employee union and employer representatives exchange ideas, mutually solve problems, and reach a written agreement. The resulting approved contract binds both groups. Each round of successor negotiations affords the parties the opportunity to revisit existing agreements.

While there are many local variations, here is how the collective bargaining process typically unfolds in public education:

1. **Preparing for bargaining.** Both sides form bargaining teams and gather information. The union's team usually is selected through a process outlined in the union's constitution and/or by-laws, while the management team is designated by the employer. The union leadership meets with its constituents and/or conducts surveys to identify and then prioritize issues. During this assessment phase, each team also analyzes the current collective bargaining agreement to identify areas they want to improve, including concerns that have surfaced through the grievance process. The local will hopefully reach out to community partners, including parents, to seek input on some proposals.
2. **Conducting negotiations.** At the beginning of bargaining, the teams agree on ground rules, meet at an agreed upon location, and start negotiations. Some contract provisions remain the same from contract to contract. The parties may modify other sections and either side may propose a new bargaining topic. State law and court cases determine the mandatory, permissive, and prohibited subjects of bargaining.
3. **Ratifying the contract.** When the union and employer teams have reached a tentative contract agreement, they review the proposal with their respective constituency groups.

The union holds a ratification meeting where employees – typically dues-paying members only – have the opportunity to ask questions and offer opinions on the tentative contract agreement. Individuals are then asked to vote, usually by secret ballot, on the tentative agreement. Absentee ballots may also be available so that everyone has an opportunity to vote. A majority of votes determines if the contract is ratified or rejected.

The management team generally seeks approval from the school board.

If the tentative agreement is ratified by both sides, then the parties have a new (or successor) agreement. If the tentative contract agreement is not ratified – by either party – the teams usually go back to the bargaining table and continue negotiations. They negotiate until they are able to bring back a new tentative agreement for a vote.
4. **Resolving a contract dispute.** If the parties are not able to reach an agreement, state law generally specifies how the dispute can be resolved. Usually the parties can use mediation, arbitration, and/or a strike or lock out to reach an agreement. Strikes are unusual in public education but are allowable in a number of states.
5. **Changing or clarifying the contract.** With the agreement of both parties, any section of a ratified contract can be revised during the term of the contract. In many districts, labor and management representatives meet regularly during the term of the contract to talk about and resolve issues of mutual concern, often through an established joint labor-management committee. In addition, either at the bargaining table or during the life of a successor contract, the parties can create Memoranda of Understanding (MOU) related to a specific issue. The benefit of the MOU is that it gives the parties an opportunity to reach a temporary agreement on an issue that is important to both the union and the employer.

THE UNION IN YOUR SCHOOL

1. **Meet your Association/building representative (AR).** If your local Association is not part of the school orientation, the Association will often have a table at the meeting. Meet your Association representative/steward, who works in your building. Make sure you have that person's contact information, as well as that of the the state affiliate's staff person, often called a UniServ, who provides support to the local membership.
2. **Contact your AR if you need assistance or have a question.** If you have a concern, contact your AR as soon as possible. She/he may be able to answer your question, resolve your concern or, if necessary, refer you to the local president or the UniServ for further assistance.

3. **Read your contract and understand your rights.**

Read your collective bargaining agreement or, in states without bargaining rights, your relevant policy guidelines. Be aware of your rights. If you have questions, ask your Association representative or more experienced colleagues. Attend local Association meetings.

The Association exists to help you and your students – and is stronger if you are involved!