

Effective Negotiation Strategies for Salary/Benefits Issues

Robbins Schwartz

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NEGOTIATING STRATEGIES AND TECHNIQUES

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Bargaining Teams – Legal Constraints

- Negotiation team membership
- Authority to reach tentative agreements

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Bargaining Teams – Management Tips

- Limit number of board members
- Include Human Resources Director and/or Business Manager
- Designate Superintendent as a resource
- Identify chief negotiator

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Ground Rules – Key Points

- First proposal – complete proposal
- Union submits first proposal
- Limited number of language proposals
- Delegate “housekeeping” language to committee
- TA’s reduced to writing
- No media releases until final offer or union files strike notice

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Strategic Considerations – Pre-Negotiations

- Solicit administrators’ feedback
- Identify significant contract language problems
- Develop financial parameters
- Prepare scattergram – share with union

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Strategic Considerations – Pre-Negotiations (cont.)

- Prepare 5-year financial projection
- Review and determine board priority issues
- Research and analyze comparables:
 - Salary schedules, health insurance, retirement benefits, work day, other benefits

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Strategic Considerations – Table Strategy

- State consistent rationale to support proposals and responses
- Emphasize board priority issues
- Restrict table discussion on “one employee” issues
- Avoid unneeded language changes – “sleeping dogs”
- Recognize “sacred cows”
- Use timing and leverage based upon BATNA

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Strategic Considerations – Negotiation Techniques

- Submit precise and targeted proposals to change existing language
- Share cost analysis and comparability data with union
- “Package” all economic proposals and key language proposals
- Clarify union proposals, counters and rationale
- Sidebar with key union team members
- Consider option of “supposal” or non-binding proposal

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Strategic Considerations – Interest-Based Bargaining (IBB)

- Recognize pros/cons of IBB
- Factors to consider:
 - Board team negotiation experience
 - Key board priority items
 - Relationship with union
 - Number of language issues
 - Necessity for salary and benefits concessions

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Strategic Considerations – Mid-Term Negotiations

- Duty to bargain during contract term
- Mid-term bargaining subjects:
 - RIF to reduce costs
 - Subcontracting
 - Health insurance plan modifications
 - Teacher evaluation plan procedural changes

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Strategic Considerations – Mid-Term Negotiations (cont.)

- Procedural steps
- Limitations:
 - Contract language changes
 - “Zipper” clause

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QUESTIONS?

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APPROACHES TO ADDRESSING
SALARY AND FRINGE BENEFITS
ISSUES

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Salary and Salary Schedule Trends

- Introduction – The Effects of the Financial Downturn: Is “Step” Dead?
 - The Step system’s justification.
 - Years of experience = excellence
 - Most schedules reflect some modifications of this concept.
 - Saw-toothed schedules at the bottom to lengthen the schedule for teachers with more education
 - Question: Do schedules with 20+ steps actually correspond to increases teacher performance over time?

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- Benefits of a Step schedule for unions
 - “Built-in” pay raises which become the starting point for negotiations.
 - At the ratification stage, “hidden” Step costs allow a union to sell the package to the rank and file by arguing that Step increases are real pay raises which must be considered in evaluating the financial package.
 - A salary schedule with steps usually has limits on the years of previous experience the district may grant. This cap tends to limit the mobility of more veteran teachers who may then be forced to stay at a lower-paying district and fight to improve the scale.

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- Benefits of Step to employer – not many
 - Employer is able to downplay the cost of the total package by not including the Step cost.
- Structural disadvantages
 - The cost of Step may commit a disproportionate amount of available dollars to teachers on the schedule. This may leave little or no money to teachers at the bottom of the schedule.
 - Sometimes Step exceeds the amount of available dollars.

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- Options when Step is greater than - or only slightly less than - the available Total New Money (“TNM”)

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- Hard freeze – no Step, no across-the-board increases.
- No across-the-board increases – allow only Step.
 - If Step is only slightly less than the available TNM, teachers at the bottom of the scale will get either no raise or a minimal pay raise.
 - If Step is greater than TNM then
 - All the values on the salary schedule will decrease
 - The starting salaries on the schedule will decrease from year to year

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- No Step – allow across the board increases.
 - Straight dollar increases
 - Percentage increases
- Creation of half steps
- Off-schedule, one-time payments
 - Example: \$2,200 for each full-time teacher which is not reflected on the salary schedule.
 - Issue: Delivering pay increase in ensuing years on the schedule may be difficult.
- Step in contract hiatus period

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Note: Holding employees on Step over time tends to erode the integrity of the schedule. Consider the case of the 5th year teacher who is still on Step 1 vs. the new hire.

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- Abandon the Step schedule – establish a salary range.
 - Establish a salary range with a base and a top salary. The range may also provide additional pay for –
 - previous years of service
 - educational achievement such as a BA, BA+15, MA, MA+15, PhD

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- Differentiated schedules based on date of hire.

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- Considerations in determining pay increases based on CPI-U.
 - Which CPI-U to use?
 - The then current CPI-U?
 - The “Tax Cap” CPI-U? (18 month lag)
 - Establish maximums and minimums (“not less than x%, not greater than y%).

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- Reopeners
 - ▣ Automatic upon an agreed upon event?
 - ▣ Only upon demand within a time period after a specific event (example: passage of Illinois Pension Reform)?
 - ▣ Will all the terms of the Collective Bargaining Agreement become open or only select terms, such as pay and insurance?
 - ▣ Will the no strike clause be reopened?

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- Other salary and pay considerations
 - ▣ Six percent (6%) retirement increases.
 - ▣ Automatic employer pick-up of “full” TRS contributions for employees.
- Slowing horizontal movement
 - ▣ Hard freeze
 - Consider how teachers will move when freeze is lifted.
 - ▣ Limit one lane per year
- Classified staff.
 - ▣ Penalties for failing to provide “Affordable Care” effective January 1, 2014.

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QUESTIONS?

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HEALTH INSURANCE

Health Insurance – Preparation Before Bargaining

□ Issues:

- Costs
- Changing benefit levels/plan design
- ACA compliance – Cadillac Tax

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Health Insurance – Preparation Before Bargaining

□ Items to review:

- How many employees participate in the plan?
- What is the breakdown between coverage tiers?
- When is the last time you made changes to the plan, and what were those changes?
- What would changing certain elements of the plan do to overall plan costs?
- What are the historical trends with respect to overall health plan costs at your workplace?

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Health Insurance – At the Table

- Health insurance is part of the compensation package
- Address health insurance and wages together
 - Avoid separate TA's

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Health Insurance – At the Table

- Consider Union's view of the health insurance:
 - Generally not considered a compensation item
 - More often viewed as an entitlement (e.g., similar to a grievance process)
 - Generally resistant to any perceived "give backs"

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Health Insurance – At the Table

□ Strategies:

■ Traditional Group Plans

- Cap the employer contribution
 - Maximum \$\$ paid instead of % of premium
- Cost sharing formulas
 - Share burden of cost increases
- Modify benefits/plan design
 - Deductibles and Co-pays

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Health Insurance – At the Table

□ Strategies:

■ Alternatives to Traditional Group Plans

- Health Savings Account (HSA) with high deductible plan
 - Employer and Employee can contribute
 - Contributions generally are pre-tax
 - Distributions generally are pre-tax
 - Employee keeps \$\$ in HSA – no use it or lose it

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Health Insurance – At the Table

□ Strategies:

■ Alternatives to Traditional Group Plans

■ Health Benefit Cooperatives (collective risk pools)

- Increased size + better diversity of risk can reduce costs

■ Caveats:

- Risks – loss of control, underfunding of claims, difficulty withdrawing
- Bargaining obligations – change in carrier, plan design, or provider network

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Health Insurance – At the Table

□ Affordable Care Act Issues:

■ Definition of “full-time employee” or “eligible employee” (compare CBA to ACA)

■ Cadillac Tax

- Monitor premium costs & reduce if necessary
 - Current thresholds: \$10,200 single/\$27,500 other

■ Contract Re-opener

- To allow changes mid-term to avoid ACA penalties

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Health Insurance – At the Table

- Contract Language Tips
 - Avoid language that may lock Employer into higher rates
 - Retirees on employer plan
 - Note: IMRF employee rights
 - Avoid payment of 100% of premium
 - Want employees to recognize value/cost of plan
 - Want employees to have vested interest in plan costs
 - Seek fixed \$\$ contributions (instead of %)
 - Address future increases with cost sharing formulae
 - Consider language to allow adjustments during the agreement to ensure ACA compliance.

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RETIREMENT BENEFITS

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Retirement Benefits

Six percent retirement incentives have become a popular replacement for the former 20% bonuses that were commonplace in the past. For some school districts these 6% incentives, coupled with exorbitant TRS penalties, are becoming costly fringe benefits of employment themselves. School districts must consider whether they should adopt methods for controlling their exposure in these areas.

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Positive Effects of Retirement Benefits

- To provide for better personnel budget planning.
- Deficit reduction measure – entice highly paid employees to retire without replacement.
- To allow replacement of highly paid employees with entry level employees.
- Serve as important fringe benefits of employment in order to attract and retain good employees.

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Elements of Retirement Benefit Programs

- Retirement benefit programs must operate as an incentive instead of a bonus.
- Who qualifies for the incentive?
 - Full-time versus part-time.
 - Length of service.
- How is the incentive to be computed and paid?

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Elements of Retirement Benefit Programs

- Maintaining or adding additional duties during the pre-retirement incentive period.
- Life changing events.
- Expiration of the program.
- Not available in conjunction with the board-paid ERO penalty.

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Early Retirement Option

- ERO was extended through June 30, 2016, but eligibility is now determined locally by each school district.
 - Increased penalties for both the employer and the employee.

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Early Retirement Option

- Common criteria to consider including:
 - Length of service at the district.
 - Notice requirement.
 - Number of eligible participants in any one year.
 - No TRS penalties may be incurred – employee who receives greater than 6% raise in final years of service would not be eligible.
 - Employees not eligible to participate in school district's retirement incentive program.
 - Employees responsible for making their own ERO contribution.

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Negotiating District Pre-Retirement Benefits

- Six-percent retirement incentive bonus payments – 6% of what?
- Sick leave day grants.
- District Options:
 - Delete existing retirement benefits entirely.
 - Consider language to address contingency situations, such as the teacher's revocation of their retirement notice

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Negotiating District Post-Retirement Benefits

- Post-retirement severance payments.
 - ▣ How computed?
 - ▣ Timing of payment.
 - ▣ Restrict participation in ERO.
- Payments of teacher-retirees' health insurance premiums.
 - ▣ Require participation in the TRS health insurance program, rather than continuation on the school district's health insurance plan.

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Additional Employer Options for Negotiations in Difficult Economic Conditions

- Resist pressure to make non-economic language concessions.
- Duration - Be Flexible!
- Consider effect of re-opener language and application of "no-strike" clause.
- Consider backloading.
- Step increases.
 - ▣ Vienna School District No. 55 v. IELRB, 162 Ill. App. 3d 503, 515 N.E.2d 426 (4th Dist. 1987).

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