



## PROPOSALS

### How To Develop Them and What To Do With Union Proposals

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### EXCHANGE OF PROPOSALS

- **Union Proposal**
  - Basis for it? (where does it come from?)
  - Is it a legal topic?
  - *Cost involved?*
  - Importance to Union membership?
- **Board Proposal**
  - How develop?
  - Draft it
  - Is it administratively feasible?

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## BOARD PROPOSALS

- Board's expression of the **changes** it needs (or wants) **in terms and conditions** of employment
- Board proposals should reflect:
  - *Bargaining goals that are connected to larger district goals*
  - *Contractual provisions that are **needed** to support district's ability to achieve its **short-term and long-term** educational and operational goals*



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## BOARD BARGAINING GOALS

- Include the board's bargaining needs
- Include the board's bargaining wants
- Include the board's bargaining parameters on the union's issues
- Incorporate the board's desired tone and atmosphere for negotiations



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## THE BOARD'S BARGAINING WANTS/NEEDS

Are identified and established by the full board **after**

- Reviewing the board's goals
- Assessing program needs (particularly new or changed programs)
- Considering each board member's concerns
- Receiving administrative input



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## THE BOARD'S BARGAINING WANTS/NEEDS

Are identified and established by the full board **after**

- Analyzing the expired agreement
- Reviewing the grievance file
- Considering the want/needs not satisfied in the last round of bargaining



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## THE BOARD'S BARGAINING WANTS/NEEDS



- Determine what the board's initial proposals must seek
- List could be very long and include items which are very important as well as those that are relatively insignificant

***No need to waste time on items that will not go to the bargaining table***



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## A CHECKLIST FOR EACH PROPOSAL

- Understand the board's wants/needs
- Check the entire agreement for all provisions that may have impact
- Obtain information about relevant practices and procedures – check with the administration
- List all aspects that should be addressed in the proposal



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## KEYS TO DRAFTING PROPOSALS

- **Prepare in advance**
- **Analyze in relation to all other provisions in the agreement**
- **Identify all hidden costs in the drafted proposal**
- **Review language as to its legality**



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## KEYS TO DRAFTING PROPOSALS

### GET A 2<sup>ND</sup> OPINION

*(and perhaps a 3<sup>rd</sup>)*

- Have another team member review the draft
- Have the administration review the draft

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## DRAFTING PROPOSALS

### DO'S & DON'TS



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## DRAFTING PROPOSALS

DO

- Observe the rules of contract language interpretation
- Keep it simple and avoid legalese
- Check language – get a 2<sup>nd</sup> opinion
- Be consistent in the use of terms



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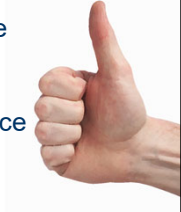
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## DRAFTING PROPOSALS

DO

- Watch obstructive language
- Prepare a checklist
- Prepare language in advance
- Keep on file
- Save room for movement



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## DRAFTING PROPOSALS

DON' T

- Depend on legal counsel to write the contract – have counsel review draft
- Use ambiguous terms
- Depend on examples
- Paraphrase the law
- Agree to philosophic goal statements



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## DRAFTING PROPOSALS

### DON'T

- Incorporate detailed implementation procedures
- Ask for what you already have absent a compelling need
- Personalize an issue
- Word negatively, if avoidable



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## INTERPRETATION RULES

Seek help in drafting proposals that:

- Are clear and unambiguous
- Are not adversely affected by other provisions or past practice
- Ensure the Board gets what it bargained for and only gives that which it intended to give



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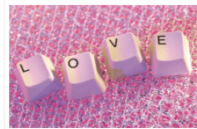
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## DO NOT FALL IN LOVE WITH INITIAL PROPOSAL

- Always keep in mind the Board's real wants and needs
- Avoid pride of authorship



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## ORIGIN OF UNION PROPOSALS

1. Membership needs
2. Organization and leadership needs
3. District experience
4. Comparability goals
5. Bargaining strategy



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## THRESHOLD LEGAL ANALYSIS OF NEGOTIABILITY

1. Intimately and directly affect work and welfare;
2. Not preempted by statute or regulation;  
AND,
3. Must not significantly interfere with managerial prerogative to determine educational policy



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## ASSESSING IMPORTANCE TO THE UNION

- Look at membership and leadership
- Review district records
- Look at negotiations/grievance history
- Consult with administrators
- Use communications skills



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## BOARD'S ANALYSIS OF UNION PROPOSALS

1. Threshold legal analysis
2. Importance to the Union
3. Economic implications
4. Non-economic implications
5. Possible ambiguities



**Board's Position Based on Analysis**



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## DEVELOPING THE BOARD'S POSITION ON UNION PROPOSALS

- Not formal
- Internal determination
- Break down into components
- Overall reaction
- Continually reassess



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## UNION PROPOSAL (*Hypo*)

### Personal Leave (*new*)

*Each Teacher shall be granted, with full pay, up to four (4) personal leave days of absence. Teachers shall not be required to state a reason for these leave days. Any unused personal leave days shall be added to the Teacher's sick leave account at the end of the year.*



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## COMPONENTS OF UNION PROPOSAL: PERSONAL LEAVE

1. "Shall" be granted
2. Up to 4 days
3. Full pay
4. No stated reason
5. Conversion to sick days



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## ASSESSING A UNION PROPOSAL

<u>Components of Proposal</u>	<u>Board Position/Response</u>
1. "Shall"	1. No (needs discretion)
2. Up to 4 days	2. No (staffing problems)
3. Full pay	3. Maybe (Cost dependent)
4. No stated reason	4. No (too costly)
5. Conversion to sick days	5. Maybe (cost dependent)



**Board's position on general concept of personal leave:**  
**"Maybe"**



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## PURPOSE OF COUNTERPROPOSALS

- Explore possible areas of acceptability
- Satisfy Union needs while protecting Board interests
- Assist Board to give as little as necessary to settle the issue
- Move the parties toward agreement



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## DEVELOPING COUNTERPROPOSALS

- Identify aspects of proposals that are acceptable
- Eliminate aspects which are unacceptable
- Modify aspects to increase acceptability
- Add aspects to protect Board's interests
- Develop proposals incrementally, leaving room for movement



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## COUNTERING TO UNION PROPOSAL

### • Status Quo (no to proposal)



- Initial counterproposal
- Interim counterproposal
- Interim counterproposal
- Interim counterproposal

### • Bottom Line Counterproposal



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## THE BOARD SHOULD:

### A. Analyze the union's proposal

- legality
- importance to union
- economic cost
- non-economic implications
- ambiguities in wording

### B. Develop its position:

- which aspects are acceptable
- which aspects are unacceptable
- add protective language

### C. Draft counterproposals

- bottom line first
- initial counter next
- interim positions leaving room for movement



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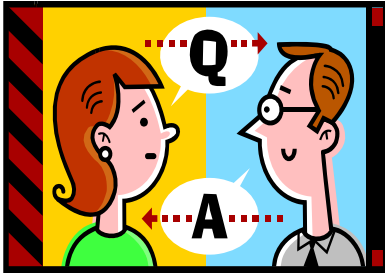
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## QUESTIONS?



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