



MASB
MICHIGAN ASSOCIATION
OF SCHOOL BOARDS

Bargaining Basics


Kacie Kefgen, J.D.



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Notice

- These slides present information of a general nature regarding legal standards and legislative developments
- They are not intended as legal advice for specific situations
- Additional facts and future developments may impact the subjects addressed
- For specific situations applicable to your district, consult your legal counsel



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Class Objectives

Participants will:

- Understand the goals and process of bargaining
- Be familiar with key labor statutes
- Be aware of common union strategies

What is a collective bargaining agreement?

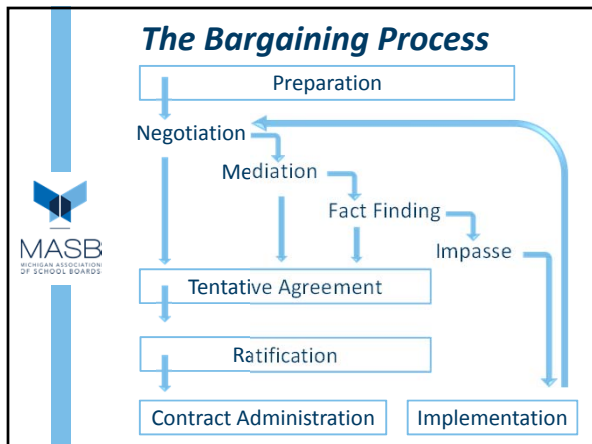
Michigan statute requires that the union and the district “. . . to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or to negotiate an agreement, or any question arising under the agreement, and to execute a written contract . . .”




What is a collective bargaining agreement?

- The contract should **not** spell out all of the employees’ rights and benefits
- Where do employee rights come from?
 - From the collective bargaining agreement
 - From state, federal, and case law
 - From district policy








Preparation - Roles

- Determine board's role
 - Identify chief negotiator
 - Define parameters
 - Stay informed on progress
- Determine administration's role
 - Work with bargaining team to supply needed information
 - Financial
 - Contract Administration
- Understand union's role




Preparation - Research

- Financial Trends and Projections
 - Revenue
 - Expenditures
 - Enrollment
 - Possible Retirements
 - Health Care Costs
 - Infrastructure Costs
- Comparables and Market Trends




Preparation - Research

- Contract Administration
 - What are the teachers saying?
 - What are the support staff saying?
 - What are your principals saying?
 - What is the business office saying?
- Contract Analysis




Preparation - Research

- Where is your board?
 - How do they see the financial situation of the district?
 - How do they perceive their employees' situation?
 - What are their parameters?



Preparation – Set Strategy

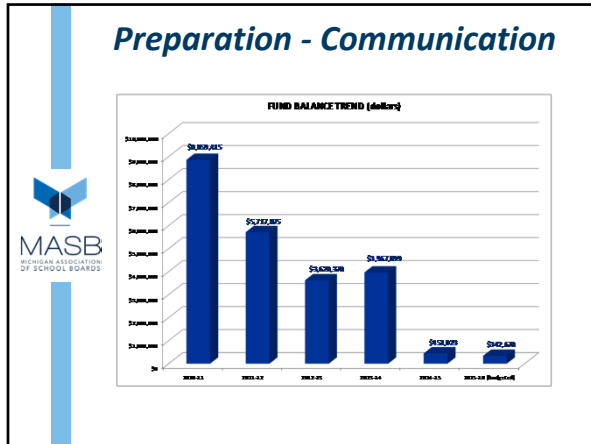
- What are the bargaining team's goals?
- What should the timeline be?
- Develop a first proposal
- Everyone on bargaining team should have a job at the table
 - Who's taking notes?

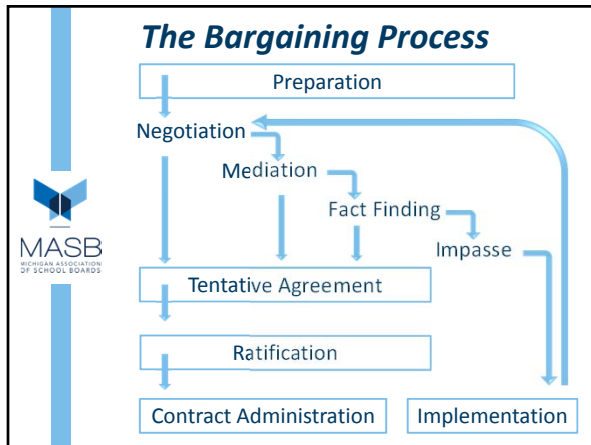


Preparation - Communication

- Communicate Early, Communicate Often
- Goal – Everyone should understand the district's financial situation
- Spreadsheets aren't enough

	Sampleville Fund Balance
2010-11	\$8,859,415
2011-12	\$5,717,875
2012-13	\$3,638,378
2013-14	\$3,967,099
2014-15	\$451,023
2015-16 [budgeted]	\$342,678





- ### Negotiation
- Ground Rules?
 - Explain district's situation as the team sees it
 - Share and explain data
 - Share and explain proposals
 - Invite questions

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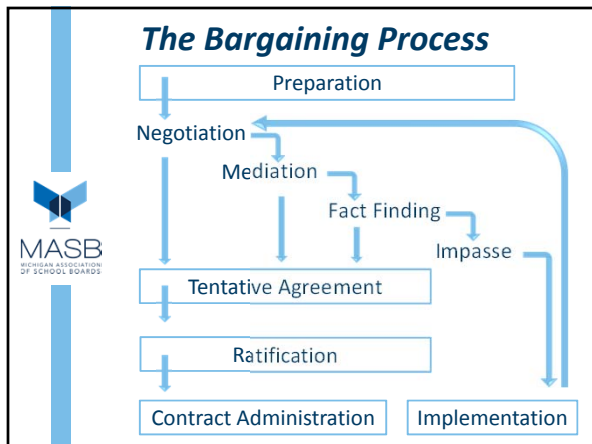
Negotiation

- Consider proposals from union with an open mind
 - Understand the other side's interests
- Develop counter proposals that strive to address other side's interests while still meeting district's goals
- Think creatively to find win-win solutions

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Negotiation

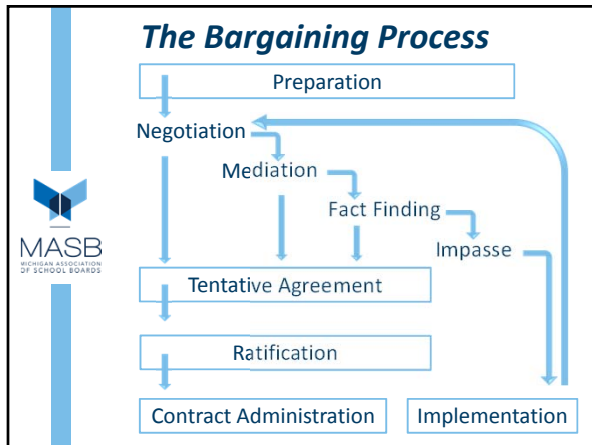
- Communication
 - Do communicate with public
 - Do not negotiate away from the table
 - Share proposals with union before sharing more widely
- Roles
 - On your team
 - On their team
- Document proposals clearly



Mediation


- MERC supplies a neutral third party to hear both sides out
- The mediator will facilitate conversation between the parties to attempt to settle issues
- The mediator may make non-binding recommendations

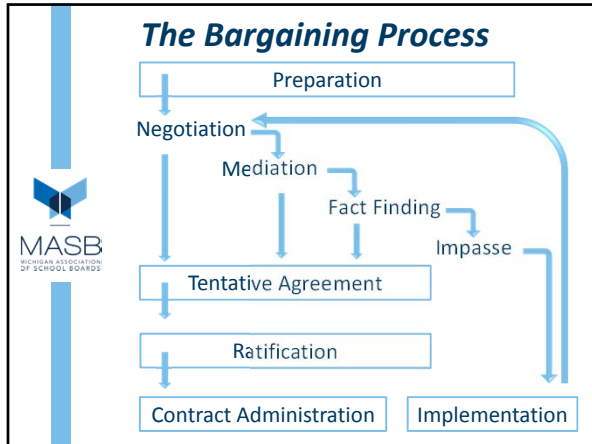




Fact Finding

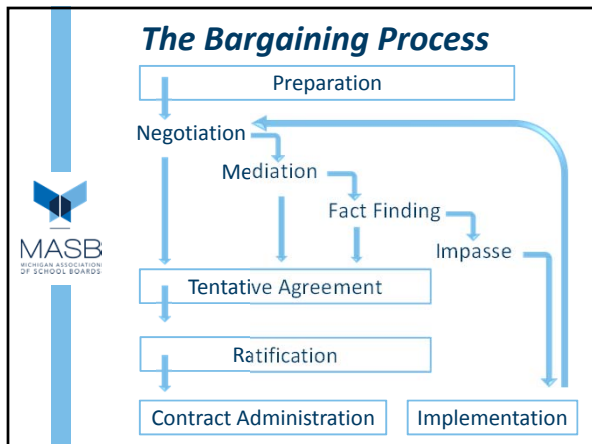
- State-appointed, neutral third party
- Conducts a quasi-judicial public hearing
- Parties present data-driven arguments
- Fact-finder releases a non-binding, public recommendation





Impasse


- Point at which further negotiations would be futile, based on the situation
- Factors:
 - Extent of bargaining / bargaining history
 - Statements and understandings of the parties
 - Use of Impasse procedures (Mediation and Fact Finding)
 - Business necessity / exigency



Implementation

Prior to Impasse

- Maintain status quo following expiration of CBA
 - Exception: emergency or necessity
 - School calendar
- BUT: the MERC has stated that an operating deficit is not an emergency justifying implementation absent impasse




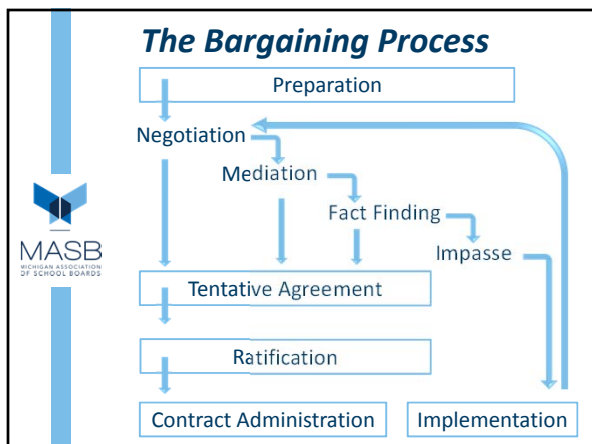
Implementation

After Impasse

- 60 days after issuance of Fact Finder's Report
- Board may implement its last offer
 - Entire offer or portions thereof

Note: Duty to bargain remains following implementation








Tentative Agreement and Ratification

Tentative Agreement

- The final form of a proposed contract that the bargaining teams agree to present to their members for a vote.


Ratification

- Formal vote by the members of the union
- Formal vote by the board




Key Statutes

- Public Employment Relations Act (PERA)
- Right to Work (mostly within PERA)
- Health Insurance Caps (PA 54)
- Wage and Insurance Freezes (PA 152)



The Public Employment Relations Act - PERA


- Defines the playing field upon which negotiations occur
- Sets legal framework “with respect to wages, hours, and other terms and conditions of employment...”
- Requires public employers to bargain in good faith with union representatives



PERA

Classification of Bargaining Subjects

- Mandatory
- Permissive
- Illegal
- Prohibited




PERA

Mandatory Subjects of Bargaining

The public employer and the Union must meet at reasonable times to confer in good faith with respect to **wages, hours and other terms and conditions of employment**


- Example - salary schedule, step increases, health insurance, grievance procedure
- Parties do not have to agree to a proposal or make a concession



PERA

Permissive Subjects of Bargaining


- Subjects that are neither mandatory, nor illegal/prohibited are permissive
- These subjects **may** be bargained, but are **not required**
- Example - benefits for retirees, hard cap vs. 80/20, ground rules
- Caution: Don't make the mistake of agreeing to a ground rule about not communicating with the public on status of negotiations



PERA

Prohibited Subjects of Bargaining


- PERA includes certain subjects that are “within the sole authority of the public school employer to decide.”
- Found at MCL 423.215



PERA


Implications of Prohibited Subjects of Bargaining - PSBs

- Parties to negotiations may discuss a PSB, but neither party may require bargaining of a PSB
- A public employer may act unilaterally with respect to a PSB without bargaining



Unfair Labor Practices (ULP's)


- An employer or union acting in violation of PERA
- Most commonly alleged employer ULP's
 - Bargaining in bad faith
 - Refusing to bargain
 - Interfering with union members' protected rights



Insurance Caps

Public Act 152 - The Publicly Funded Health Insurance Contribution Act

- Covers medical benefit plans
 - Medical benefits
 - Hospital and physician services
 - Prescription drugs
 - Related benefits
- **Excludes** - vision, dental and life coverage




Insurance Caps

Hard Cap Default

- Caps annual employer payments:
 - \$5,992.30 x single subscribers
 - \$12,531.75 x individual and spouse subscribers
 - \$16,342.66 x family subscribers

Percentage Alternative


- 80/20 maximum
- Requires yearly vote by board



Wage and Insurance Freeze


Public Act 54

- Freezes step and lane movement on the salary schedule at contract expiration date
- Mandates employee pay any insurance cost increases occurring after contract expiration and prior to ratification of new contract



Right to Work

- No union dues or fees collection in the CBA or administered through the school district
- No union membership required to keep a job



If things don't go well,

The union may use a variety of tools away from the bargaining table, including:

- Wearing same color at school/events
- Attending or picketing board meetings
- Enlisting parents or students to speak at board meetings
- Filing many grievances and ULP's
- Working to rule



Take-Aways

The best approach to negotiations and Labor Relations:

- Know the law and the process
- Be transparent – open and honest communication
- Show respect and expect respect in return
- Support proposals with data
- Develop a culture of problem-solving with union leadership
- Start early and always be prepared
- Consult professionals when needed



Questions?
Kacie Kefgen
517-325-5914
kkefgen@masb.org
