



WHELAN, CORRENTE,  
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# **NEWLY ELECTED LEADERS**

## **ORIENTATION: COLLECTIVE BARGAINING**

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# AGENDA

- I. Guiding Principles
- II. Mandatory, Permissive and Unlawful Subjects of Bargaining
- III. Getting Started
- IV. Negotiations
- V. Tentative Agreements and Ratification/Authorization
- VI. Municipal Collective Bargaining
- VII. Questions & Discussion



# GUIDING PRINCIPLES

- Start by establishing a policy-driven strategy for the term of the CBA and beyond
- Know your current budget: know what things cost and how much the cost of current service levels will rise even without agreeing to salary increases
- Canvas your professional educators at both the school and central office level
- Know your legal responsibilities
- Convert your strategic vision into a tactical plan; your budget and your CBA's are expressions of your policy direction and your priorities
- Know what you can afford and cost out all proposals; By State law, the School Committee cannot request more than 104% of previous year's local appropriation (RIGL § 16-2-21(d)(vi))
- Know your priorities and be ready to communicate them clearly and consistently



# MANDATORY, PERMISSIVE AND UNLAWFUL SUBJECTS OF COLLECTIVE BARGAINING

- **Mandatory subjects of collective bargaining:** “Hours, salary, working conditions, and all other terms and conditions of professional employment” are mandatory subjects of collective bargaining between a school committee and its teachers’ union. (RIGL § 28-9.3-2(a)).
- **Permissive subjects of bargaining:** Either side can propose a permissive topic for negotiation, and the other party can choose to bargain the permissive topic – or not. Neither party can insist on bargaining to impasse on a permissive topic. Examples of permissive bargaining in the education context include bell times, middle/junior high school structure, definition of the bargaining unit, and conditions of employment for management employees – all of which exist in at least one Rhode Island school committee CBA.
- **Unlawful subjects of bargaining:** There are certain topics that, even if included in a CBA, and despite the intent of the parties, are not enforceable. The Rhode Island Supreme Court has explicitly held that language in a teachers’ CBA that is in contravention of established state law is unenforceable, focusing on the lack of authority for a school committee or other governmental body to bargain away its legal responsibilities.
- **Impact bargaining:** It can be challenging to determine the line between a management responsibility and a mandatory subject of collective bargaining. While a municipal body cannot bargain away its legal obligations, it will likely have to negotiate the impact of those obligations in regard to how they may impact “hours, salary, working conditions, and all other terms and conditions of professional employment.”
- **Basic Education Program:** The BEP is a set of regulations, with full force of law, that set forth what a school district is required to provide its students in order that they receive an “adequate” education. It is the most commonly used measuring stick in the battle over whether an education topic is allowed to be bargained or not.



# GETTING STARTED

- **Request for negotiating or bargaining.** The Union serves the request on the school committee at least 140 days before the last day on which money can be appropriated by the city or town “to cover the first year of the contract period which is the subject of the negotiating or bargaining procedure.” (RIGL § 28-9.3-8).
- **First Steps.** The Committee should convene in executive session: to designate a team to conduct negotiations; and to approve a process for review of the current CBA, as well as the budget, budget to actual figures, and the town/committee strategic plan.
- **Costing out a strategy.** Once current service levels are costed out, the committee must develop a negotiations strategy that aligns with its overall cost limitations. Priorities should be discussed, keeping in mind that personnel costs are usually 80% - 85% of the school district’s total budget. Potential changes in available revenue due to fluctuations in federal and state aid and repercussions of CLE and charter school tuitions must also be taken into account.
- **Authorize a negotiating team.** It should be clear to everyone on the committee who will be on the negotiating team, the respective roles of team members, and the mode and frequency of communication between the negotiating team and the full committee.



# NEGOTIATIONS

## Ground Rules

- At the first meeting with the Union, the parties typically establish ground rules, which describe the process – and proscriptions. Note that ground rules are a permissive subject of bargaining.
- In terms of process, proposals fall into two categories: language (operational) and fiscal. It is generally best to begin negotiations with the language/operational issues and then move to the discussion of money to avoid perceived agreement on “solutions” that turn out not to be affordable. The process for making new proposals should also be clear, as well as when the window for new proposals closes.

## Inside the Room

- Spokesperson leads – no jumping in – unless invited.
- Caucus as needed. No gives without strategy and discussion.
- Explain position, provide backup. If tempers are rising, caucus



# TENTATIVE AGREEMENTS AND RATIFICATION

## Tentative Agreements

- Organization is critical. The ground rules should dictate the manner in which tentative agreements are reached – whether in principle or actual language. It is often the case that an agreement in principle will end up impacting more than one section of the CBA. As the parties reach agreement on matters, it is good practice to draft “mini” tentative agreements specific to each affected section. This helps the parties experience the positive experience of progress and helps to prevent regressive bargaining.
- It is ok to condition a proposal on acceptance of another but once a stand-alone TA is achieved, it will likely be considered to be “bad faith bargaining” to pull something from the table that the parties have worked to resolve.

## Ratification and Authorization

- Once the parties have reached agreement through a Tentative Agreement, each brings back to respective body, the Union and the Committee, for ratification and approval.
- For school committees, it is critical to know of any local requirements for involvement of the Town or City Council. State law requires a fiscal impact statement prior to “executing” a CBA with teachers. (RIGL § 16-2-21.6).



# STATUTORY DISPUTE RESOLUTION

- Chapter 28-9.1 – Firefighter’s Arbitration
- Chapter 28-9.2 – Municipal Police Arbitration
- Chapter 28-9.3 – Certified School Teachers’ Arbitration
- Chapter 28-9.4 – Municipal Employee’s Arbitration



# GOOD FAITH BARGAINING

- Good faith bargaining
- Bad faith bargaining
- Surface bargaining
- Piecemeal bargaining
- Failure to provide relevant information
- Role of the State Labor Relations Board



# QUESTIONS AND DISCUSSION



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