Preparing the union's initial proposal

The initial proposal sets the tone for negotiations. If the union wants to come to negotiations with a strong position, the union must think beyond the data in the member survey. The union should conduct bargaining research to determine where changes in contract language may be necessary, and to have data to rationalize your bargaining positions. The union should analyze the environment externally (STEP analysis) and internally (SWOT analysis) and incorporate these factors in setting the priorities of the union. Lastly, the union should have a typed initial proposal document prepared for the first or second negotiations meeting.

It is important for the union to have an initial negotiations proposal ready to present to the employer at the very beginning of negotiations. Some locals express frustration or disappointment when an employer is not the first party to present an initial proposal, or does not have an initial proposal. Keep in mind that according to PELRA, the party that wants to negotiate changes to the agreement has to initiate negotiations with the other party. The employer usually has less interest in negotiating a subsequent agreement than the union, because it is not in their interest to pay more in salary and benefits costs. It is up to the union to be mindful of timelines, to do any necessary research, and to come in to negotiations with an initial proposal.

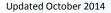## Four steps to preparing the initial proposal:

A) Research

1. In-district Research—Conduct member survey, review grievances over the past two years, review contract proposals from previous rounds of negotiations, Review tentative agreements from previous rounds of negotiations, look up district school finance reports, and request other district employee contracts
2. External Research—Review contract language from comparable locals, School finance reports from comparable districts
3. Education Minnesota resources—Bargaining Alerts, Legislative Updates, CompTracker data requests, Negotiations section of the Education Minnesota website, Sample Member Surveys, Certified Negotiator Program training.
4. Community and parent feedback—Consider connecting with community groups about the positive changes they want to see in public schools. This may include forums, group discussions, or book clubs. This can assist you in developing an issue we can organize around.

B) Analysis

1. STEP Analysis—See Handout 1.1 from LCAT training
2. SWOT Analysis—See Handout 2.1 from LCAT training
3. Power Mapping—See Handouts from Community Engagement Power Mapping training
4. Set up a costing worksheet

1. The self-interest of the community and the school district in contract negotiations
2. Issues that have support with our members
3. Issues that we can build support with the community

D) Writing the proposal

1. Bulleted discussion topics
2. Crafting the desired contract language

Planning and prioritizing issues

When picking our priorities in bargaining, we need to look at which issues are achievable and are going to help build our power as a union. We conduct a SWOT analysis to have a realistic look at the strengths, weaknesses, opportunities and threats to our union. We conduct a STEP analysis to look at the social, technological, economic and political environment. The STEP analysis helps us to identify the self-interest of our community and the school district decision-makers. We do power mapping to determine who has the power to make favorable decisions, and to plot out who has influence with them.

A) Categorizing your wish List

With that in mind, think about the preliminary list of potential issues you developed in the process of conducting your bargaining research, and start to categorize your wish list.

- Do you have reason to believe the district may have the same issue?
- Which issues have the most widespread support among our members?
- Which issues have the most widespread support among our community?
- Which issues can we build the most support among members and the community? (Think about the tenets of picking an organizing issue. A good organizing issue is deeply felt, widely felt, result in real improvement, is winnable, and builds our power.)

Put item on your wish list into three piles: **Pile 1)** 3 or 4 major interests that a settlement should include, including at least one good organizing issue; **Pile 2)** District will agree to this or the district shares the issue; **Pile 3)** This would be nice to have, but this is not a good organizing issue.

B) Finalizing your list of issues

We recommend that you narrow your list to 5 to 10 issues. Keep in mind that the initial proposal sets the tone for negotiations. If you propose too many issues, the union looks unreasonable. It is a cue to the district that you are going to pick apart everything and you are prepared to be adversarial at the table. If you propose only 1 or 2 issues, you can look like a pushover, and you have nothing to trade or leverage if the district comes in with many unreasonable proposals.

If you are having difficulty narrowing your wish list to fewer than 10 issues, completely discard the issues in Pile 2. Remember, our top priorities are issues that are widely and deeply felt by the membership, that make good organizing issues with the community. If they are issues that are nice to have, but are not deal breakers if you can't have them, then they're not priorities to your union.

C) If the negotiations process is your sole vehicle for addressing issues

We know that in some locals, particularly in some smaller locals, the negotiations process is typically the union's vehicle for resolving issues with the employer. This sometimes can have unfortunate results. For example, issues may not be addressed for many months (even years) because negotiations only happens once every two to three years. Also, contract negotiations may become extended because you are addressing all the issues that have come up in the past two years all at one time. If this is true for your local, we would strongly encourage you to work with your field staff. Your field staff can assist you in setting up a union structure that will streamline your negotiations process and enable you to address issues as they happen. Possible structures include regularly scheduled meet and confer meetings, a standing labor management committee, and a grievance committee or member rights advocates (MRA) committee.

Writing the proposal

There are three styles of writing initial proposals.

A) Writing proposed contract language

The most common way of writing an initial proposal is to craft the desired contract language, and ~~strikethrough~~ existing contract language to be deleted, and **bold** or <u>underline</u> language you wish to add.

When is this method beneficial?
This method is beneficial when you are editing current contract language. Grievances frequently occur because of unclear or imprecise contract language. If you wish to make a section of your contract clearer and more concise, it is best to write the new contract language you wish to see in the contract.

B) Topical bullet points

Another way to write an initial proposal is to summarize the topic you wish to discuss in a bullet point. Instead of several pages of rewritten contract language, you present one sheet of paper with a bulleted list of the topics you wish to discuss.

When is this method beneficial?
You may have issues that you think require some significant discussion. Or you may have issues where there are several potential resolutions that would be satisfactory to members. Presenting a proposal in this way encourages discussion, and can lead to collaboration and creative problem solving.

C) A blend

There are no rules stating you have to write your proposal one way or another. If it makes sense to include some of each type of proposal, do it.

Using an Issue Organizers (attached) is one way to organize your proposal. An issue organizer allows the team to simply summarize the topic and issue, the existing contract language (if any), the problem that the proposal aims to address, the goal of the language, and the specific proposal. It also includes a summary of an alternative position and the union's bottom line.

How to Write Contract Language

Drafting strong contract language is a critical piece of the negotiations process. It is important that the drafted contract language achieve the result intended by the negotiators. The language should be written so that an arbitrator will understand the meaning of the contract provision as you have intended it to mean. It may be helpful to use the contract language search tool on the Education Minnesota website for ideas on how to

Be specific

The negotiations team needs to have a deep understanding of what the problem is. Our members may identify problems that need to be addressed like "unmanageable workload" or "not enough mentoring and training." In those situations, we recommend that negotiators get more details from members about what specifically is unmanageable about the workload, and find out if members have concrete ideas that would improve the situation. Using this information, negotiators can flesh out what specifically needs to be changed, and frame contract language so that those changes are enforceable.

When writing contract language, the language should be clear, precise, and mean what it says, and says what it means. Avoid imprecise words like "may," "normally," and "reasonable." These imprecise words give the employers the discretion to determine when they "may" follow the contract and what is "reasonable." Every contract clause and proposal should be scrutinized from the perspective of its enforceability should it someday have to be tested before an arbitrator.

Coordinate the new language with existing contract language and state and federal law

Contract language may take on new meaning in combination with state and federal laws. Additionally, arbitrators look at the contract as a whole when interpreting contract language. It is a good idea to review your contract in the context of the proposed language, to eliminate any conflicts and to ensure that the meaning of your proposed language is not muddied by other existing contract language.

Review the proposal

We recommend that you have several people, including your Education Minnesota field staff, review your initial proposals before presenting the proposals to the employer. The best situation is for all of your reviewers to have the same interpretation of the language as you do. The attached checklist, called "Reviewing your proposal," will help guide the reviewer in providing feedback on the contract language.

Reviewing your proposal

Have someone from your local, other than the author(s), review the language. The following items are suggested to guide the reviewer in commenting on the proposal.

☐ Does the language accomplish the desired purpose?

☐ Is the language clear? Does it say what the author means and mean what it says?

☐ Does the language prevent the inclusion of anyone or anything which should be included?

☐ Does the proposal conflict with any known laws?

☐ Are the words given any meaning other than their normal meaning?

☐ Are there any technical words included that need further definition?

☐ Is the meaning of any words in this proposal different from the meaning of the same words in other sections of the contract?

☐ Are there words which invite varying or conflicting interpretations?

☐ Does the interpretation of the language lead to the desired conclusion?

☐ Are there any listings included in the proposal? And if so:

    ☐ If only specific elements of the class are included, are all elements to be included actually listed?

    ☐ If the list ends with a general "catch-all" phrase, is it too broad?

    ☐ Are the specific elements to be prioritized and if so, is the intended order of priority obvious?

☐ Does the context infer meaning to key words that they are intended to have?

☐ Is the proposal written in as simple language as possible to convey the meaning clearly?