


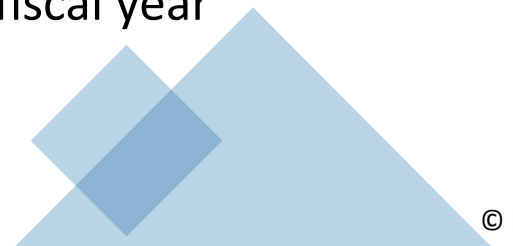
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# COVID-19 and Its Impact on Collective Bargaining

How the Global Pandemic  
May Change the Bargaining  
Process in the Short and Long  
Term




## Some Sobering Statistics (as of May 4, 2020)

- Health:
    - 1.18M confirmed cases in the US
    - 68,500 deaths in US
  - Economy:
    - Dow Jones down 18.5% from January (up from a 30+% decline)
    - Over 30M Americans have applied for unemployment since late March
    - Center on Budget and Policy Priorities concluded states could be facing more than \$500 billion in shortfalls nationwide due to the coronavirus pandemic.
      - Michigan - \$1 to 3B shortfall this year and \$1 to 4B more in 2021
    - Michigan funding is estimated at \$250 to \$650 per pupil reduction in funding for the 2020-21 school fiscal year
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# So What Does This Mean?!?!

- It is hard to say for certain, but we can anticipate significant changes to the world around us in many ways:
- Serious economic concerns – including a reduction in nearly all types of tax revenue
  - Even property taxes
- Based on the experiences in other countries, there is likely to be another spike once things open back up
  - So, concerns will likely continue into fall and beyond
- Social distancing has brought many new changes to the way we view society, teaching, and the usage of technology



## How Will This Change Bargaining?

- It is hard to review collective bargaining modifications on a national scale
- So much of collective bargaining is based on state law
  - What can/cannot be bargained
  - What forms bargaining may
  - The effect of expiring contracts
  - Remedies at impasse
  - Etc.
- But the basic premise is that employers must bargain wages, hours, and working conditions



# How Will This Change Bargaining?

- Because of these regional differences on labor law, it is difficult to get overly technical relative to bargaining
- As a result, today I want to focus on:
  - Topics to consider in your collective bargaining;
  - Potential/likely union responses;
  - Strategy considerations

# First, A Bit About Bargaining Philosophy

- Prepare, prepare, prepare
  - It is important to know what you want and what your goals are for your upcoming contract – and to know, before you get to the table
- “Everybody’s got a plan until they get punched in the mouth.”
  - Mike Tyson
    - Understand that bargaining is not usually going to go the way you want
    - Know what are the items you *want* and which are the items you *need*
    - Try to be flexible *to the extent possible*
    - Keep a positive attitude – especially as the chief bargainer
- Keep lines of communication open – with everyone

# Bargaining with Social Distancing

- Tips for bargaining on video conference
  - I do not generally recommend written ground rules, but given the newness of this process, it would be good to have agreement on a few topics
  - Make sure everyone is on camera
    - You need to be able to see reactions (and know if they are texting each other)
  - Best to exchange proposals electronically in advance
  - If medium you are using allows parties to record, make sure everyone is in agreement on whether or how that function will be used
  - Unfortunately, no matter how much they annoy you, do not unilaterally mute the other side of the table



# Bargaining Wages

Dealing with the Difficult  
Bargaining of Declining Funds



# It's All About the Benjamins!

- Bargaining contains many topics – but cash is always king!
- That can make for difficult bargaining when finances are declining and/or unknown
- Planning is crucial to consider how to address such difficult financial considerations
- Must be prepared for all possible outcomes and have strategies to address concerns

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# Understanding The Financial Picture

- A solid and open financial understanding is imperative to bargaining success
- Work through every aspect of the financial numbers
- Analyze internal and external data on salaries, benefits, etc.
  - Current and projected budget, student counts, possible areas of financial danger, etc.
  - Union will know the numbers, you should too!



# Understanding The Financial Picture

- Know what portion of the budget a bargaining unit represents
- Set financial parameters and make them well-known
  - Consider Board policy or resolution requiring a specific fund balance
    - Doing so sends a clear message of expectations
    - Makes life easier on the bargaining team – “My hands are tied!”



# Presenting the Financials to the Union

- Best to present to the union the District's full financials prior to making a financial proposal
  - In writing and orally
  - I like to do this on the very first meeting
- Be sure to explain all of the assumptions those numbers are based on and why you used those assumptions
- Be willing to answer questions in an honest and open fashion

# Don't Be Afraid to Get Creative!

- Bargaining tends to follow old patterns, but in times of difficulty creativity is often needed
- Use a short-term extension to try and buy time
- Consider using if/then or trigger language to determine financial consequences
- Modify pay scale calendar – move to calendar year vs. school year

# Sample Trigger Language

- Contract had basic salary step schedule with 16 steps and 3 lanes
- 2017-18 School Year
  - All teachers hired prior to the 2017-18 school year take a full step at the beginning of the second semester.
  - If the 2016-17 blended student count and the 2016-17 per pupil funding amount equate to a loss/gain of more than \$375,000 in revenue under/over the 16-17 budgeted amount (which is based on a projected blended student count of 10,619 students and a per pupil foundation allowance of \$7,738), then the teachers will have a .5% off-schedule pay cut/increase for every \$375,000 to be capped at 1.5%. This off-schedule reduction or increase shall effect and be considered part of each member's yearly salary for that school year.
- 2018-19 School Year
  - All teachers hired prior to the 2018-19 school year take a full step at the beginning of the second semester.
  - The full salary will be restored to the on-schedule rate if any off-schedule cut or increase was experienced in the previous year. If the 2017-18 blended count and the 2017-18 per pupil funding amount equate to a loss/gain of the more than \$375,000 in revenue under/over the 17-18 budgeted amount (which is based on a projected blended student count of 10,410 students and a gain of \$50 per pupil funding in addition to the previous year), then the teachers will have a .5% off-schedule pay cut/increase for every \$375,000 to be capped at 1.5%. This off-schedule reduction or increase shall effect and be considered part of each member's yearly salary for that school year.
  - The above triggers for up to a 1.5% gain/loss will be eliminated on August 15, 2019 and salary will be restored to the on-schedule rate.



# Bargaining Concessions

- If finances are bad enough, you may need to bargain a decrease in wages
- Be prepared to implement wage concessions across the board – including management
  - Consider tying management decreases to teacher decrease
- Know what the rules/laws are in your state
  - Implementation at impasse?
  - Binding arbitration?
  - Are strikes illegal? To what result?
- Prepare everyone for what is at stake and what to expect

# What to Expect During Concessionary Bargaining

- Unions typically have three common attacks:
  - Attack the School Environment
  - Attack the School Leadership
  - Attack the School Board



# How to Respond

- Clear, concise, and consistent communication is key
- Prepare School Board and administration for what may be coming
- Understand what your message is and develop a communication plan
  - Message should not be long and complicated
  - 2 or 3 points to communicate the District's message
  - Think about how you will communicate that to community and the remainder of the bargaining unit not at the table
- Continue to be in contact with the Board throughout the process
- This may not solve all concerns, but will go a long way
  - This is a fight for hearts and minds – you must sell the purpose of your position



# Other Issues at the Table

New and Heightened  
Concerns from the Pandemic

# Health and Other Insurance



## **Nothing like a pandemic to make people think more about health insurance**

Employees that have insurance may want better insurance to protect them during times like these

Employees that have not had or accepted insurance in the past may be looking to add onto insurance

- May be time to review pay in lieu



## **Other insurance products**

Short-term disability and long-term disability insurance

- May be a means to get away from a sick bank
- Life Insurance

# Health Leave

- Federal EPSLA and Emergency FMLA leave are available until December 31, 2020
- Pandemic may cause employees to rethink the usage of their sick days
  - May be able to capitalize to lower absenteeism rates
  - Incentivize employees not using sick time
  - Concurrent use with other leave time (ability to require is limited)

# Concepts to Consider

Issues Raised by the  
Coronavirus – Now May  
be the Time to Address  
New Topics



# Act of God Language



Think of need to expand language beyond standard weather or physical plant emergencies




Use of distance learning to account for such days



Determine how any other extended shutdowns effect pay



# School Calendar

- While rules on calendar vary from state to state, consider how your calendar may need modification for next year or beyond
  - Is an earlier start date possible for next school year
  - Is a shift toward balanced calendar a possibility
    - Now may be a time to begin such a conversation
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# Technology in the Classroom

- Distance learning into the future
  - Staff are often leery of having cameras in the classroom
  - This may be an opportunity to reach more kids more often by allowing for distance learning when a student is absent
  - Will need to consider how this may affect contract
  - Teachers often do not like cameras in classroom because they are concerned footage could be used for evaluation purposes
  - Will need to be prepared



# Thank You!



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