

Frequently Asked Questions: Collective Bargaining – The Basics

(Information here is sourced from the UAW, WA State Legislature, and NTEA Bylaws)

Here are some collective bargaining questions that are frequently asked by NTEA members. We hope that this resource gives you a better idea about the collective bargaining process and your critical role.

I didn't have collective bargaining rights when I worked for my prior employer. What bargaining rights do I have now as an NTEA member?

All employees want good pay and benefits, job satisfaction, a safe work environment, and a voice that will be respected by the employer. Non-unionized employees **do not** have a legally protected process that requires their employer to negotiate work conditions that matter to them.

As an NTEA member, you and your co-workers *can* require management; in our case, the District, to negotiate a binding contract over your wages, benefits, work hours and other work conditions. The District must honor NTEA's bargaining request and negotiate.

Once NTEA and the District reach a Tentative Agreement (TA), our union presents it to **dues-paying members** for discussion, debate and a vote to either accept or reject the TA. If the tentative agreement is approved, it becomes a binding and enforceable contract between NTEA and the District.

Do the union or employer have to agree with the proposals they are given?

No. Labor law doesn't require the union or the employer to agree to any bargaining proposal. The law only requires the parties to negotiate in good faith with a sincere desire to reach agreement.

Who bargains with the employer on behalf of my co-workers and myself?

Our NTEA Bylaws contain language about the formation of the NTEA Bargaining Team. Currently, Article III, Section 1F states that it is the role of the union president to "[n]ominate the chairperson and members of the negotiation team subject to the advice and consent of the Executive Board and approval of the Representative Council." It is this Team's charge to bargain on behalf of you and your co-workers.

Bargaining Team members have a duty to fairly represent you under labor law and union policy. It's a job that they take very seriously - after all, it's their contract too!

I have some ideas about what should be in our next contract with the District. How can NTEA members like me get involved in the bargaining process and have some real input?

Our union's bargaining process starts with a concerted effort to get feedback from you and your fellow members. NTEA may send you a survey to learn about your bargaining priorities, conduct a meeting,

and/or you may be interviewed individually. Additionally, NTEA members are always welcome to reach out to their Building Representatives, Executive Board members, or even to a member of the Bargaining Team to share ideas and/or learn more about the bargaining process.

As a dues-paying NTEA member, in addition to giving your feedback for bargaining proposals, you have a very powerful right to ask questions about any resulting tentative agreement and vote it up or down as you wish with your co-workers.

What does the Bargaining Team do with member feedback?

If a survey has been distributed, the Bargaining Team reviews the results and looks for trends and themes in order to identify interests and issues. Top interests and issues are identified, shared with the District at the start of a negotiation season, and help form the basis of the union's bargaining options to the employer.

What else does the Bargaining Team do to prepare for negotiations with the employer?

With the assistance of your WEA UniServ Representative and often other WEA staff – including experts from the WEA Research and Legal Departments – the following process normally occurs:

- Training may take place to prepare the bargaining committee for negotiations, including how to research the employer or cost a contract proposal
- Member and building concerns, that may even have led to pre-grievance or grievance proceedings, made over the prior contract term are assessed to determine whether contract changes are needed
- A general request for bargaining unit information is sent to our District with a reasonable deadline to respond, normally seeking member seniority, job title, employer finances, and other pertinent information to help inform the union's bargaining proposal and assess our leverage
- Independent research on the employer's finances is done through online and other resources, including federal, state and local government filings, business news stories, and other employer reporting documents
- Union and employer health and safety reports may be examined to determine whether workplace incidents require new bargaining language
- The NTEA Executive Board and relevant standing committees may plan a social media communication program and solidarity activities to keep members informed about what is happening at the bargaining table and how to stand together to show the employer that members support their bargaining team.

The Bargaining Team takes its job very seriously and consults a variety of resources to be sure that it is preparing a comprehensive and relevant union bargaining proposal on your behalf.

Are there any limits on what the NTEA and the District can bargain?

According to the Washington State Educational Employment Relations Act (Chapter 41.59 RCW) there are Mandatory subjects for collective bargaining. Any failure or refusal to bargain over a mandatory bargaining subject violates labor law and can result in an unfair labor practice charge filing.

Mandatory subjects of collective bargaining include:

- Wages (including salary step increases, per diem rate, and benefits)
- Work hours
- Grievance Procedure
- Workplace safety
- Seniority
- Professional Development
- Layoff and Recall
- Employee Discipline Procedure
- Class Sizes and Caseloads
- Almost anything that is connected to compensation

The District and NTEA are *not* required to bargain over issues that do not relate to wages, hours and other work conditions. These issues are known as *permissive* bargaining subjects.

The statute covering K-12 certificated bargaining (Educational Employment Relations Act Chapter 41.59 RCW) states that while the union and the district can bargain over these issues if they want, it is not a labor law violation to refuse to bargain or stop bargaining over permissive bargaining subjects, which include:

- Bargaining “Ground Rules”
- Job Qualifications
- Who should be in the union bargaining unit

There are also some *illegal* bargaining subjects. These are issues that the parties are not allowed to negotiate, and if they do, any resulting agreement on that issue cannot be enforced. Illegal subjects include:

- Any provisions that discriminate against bargaining unit members based on race, sex, national origin or another protected classification

What happens if the employer refuses to give the union requested information or doesn't even want to bargain fairly?

We have a legal right to bargain, so we have legal remedies to compel the employer to follow the law and honor our rights. When an employer won't bargain fairly or provide information we've requested to help us bargain in good faith, we can file unfair labor practice charges with the Public Employees Relations Commission (PERC). The WEA Legal Department provides advice on unfair labor practice charges and represents the union when requested.

Employers sometimes take a hard line at the bargaining table **to test our resolve and solidarity**. For that reason, it is extremely important for us to participate in solidarity actions and stand together. Once the District realizes that we cannot be divided, they get back to negotiating a fair contract.

I asked one of our local union bargaining committee members what was happening at the bargaining table and she wouldn't give me any real details. I

was very frustrated and felt she was hiding something. Now, I hear that this is standard operating procedure. Why all the secrecy? Don't I have a right to know what's happening with my contract?

The give and take that occurs at the bargaining table requires negotiators to remain nimble and ready to move on issues that were not in play the day before or even the hour before. **Negotiators also keep bargaining deals close so that rumors don't spread in the worksite** (where supervisors also work!) **and sensitive strategies remain protected to get the best tentative agreement for members.** You can imagine the chaos and loss of union bargaining leverage that could result with a rumor mill in high gear filled with stale information because things change so quickly during the negotiation process. That's a divide-and-conquer dynamic where only the employer wins.

However, our NTEA Bargaining Team works as soon after a bargaining session as possible to share bargaining updates so that members have general, but accurate, information about what is happening at the bargaining table. Sometimes updates are posted using some secure electronic means or conveyed in a meeting. If you and your co-workers aren't getting any bargaining updates, please contact your Building Representative or NTEA President.

Our bargaining team just notified us that they reached a tentative agreement with our District and there is an NTEA meeting scheduled next week so we can discuss and vote on it. What does all of this mean? Once the bargaining team and district reach an agreement, isn't that the end of the bargaining process?

It is not the end of the process. Our union lets the employer know throughout the bargaining process that there is no final voluntary contract unless and until our dues-paying members **vote to ratify** the Tentative Agreement.

While local unions across the State may use one of a couple different ratification processes (like a ratification meeting in which members must attend in order to vote, NTEA currently uses the following process to get the TA to a ratification vote (from NTEA Bylaws Article XV):

- As soon after agreement is reached with the District, an electronic version of the TA will be made available to all NTEA members and at least a week before the first Zone Meeting is held.
- Dates and times for three Zone Meetings (held at each of our three comprehensive high schools) are set so that as many members as possible can hear about the TA gains and ask clarifying questions.
- The tentative agreement is the only agenda item.
- Bargaining Team members present the agreement and answer member questions.
- Because of the high stakes involved in ratifying the agreement, the tone of the meeting can be very dynamic and passionate
- After the three Zone meetings have been held, ratification voting - via secret ballot - will open and be available to members.

As with any vote, these are the possible outcomes: acceptance, rejection and tie. If there is a tie vote, a recount is normally conducted to be sure that the vote is really tied. Additional explanation and a revote may occur at the same meeting, or another meeting may be held to revisit and resolve the reasons for the tie. If the tentative agreement is rejected, the union and the District may resume

bargaining to resolve the issue(s) causing member rejection, a strike might be considered, or a re-vote could occur – all with the goal of reaching a voluntary binding contract.

I've known some unions to take labor actions, up to and including a strike, when contract negotiations don't go well. Under what condition(s) would NTEA call for a strike?

The most important thing to remember is that a strike is a LAST RESORT. One of the purposes behind organizing solidarity enhancing activities during the bargain is to convince the District not to push the Union into a position where a strike would be contemplated. Should those efforts fail, and a satisfactory TA cannot be reached, there are a number of options short of a strike available to NTEA.

Before striking, NTEA can (and should) attempt a number of different actions to pressure the District into agreeing to a fair contract. For example, the Union can attempt other negotiation procedures such as mediation or arbitration. As an alternative to (or in addition to) further negotiations, labor actions ranging from something as simple as sign waving to something just short of a strike, such as a rolling sick out, can be taken.

NTEA will make every effort to follow the guidance and procedures advanced by WEA when contemplating, organizing, and executing a strike and is committed to the idea that a strike is only acceptable after the NTEA has exhausted every other tool available to convince the District to come to a fair agreement.

###