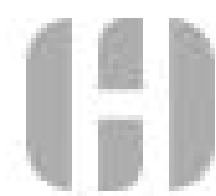


# The Bargaining Battlefield: A Forum

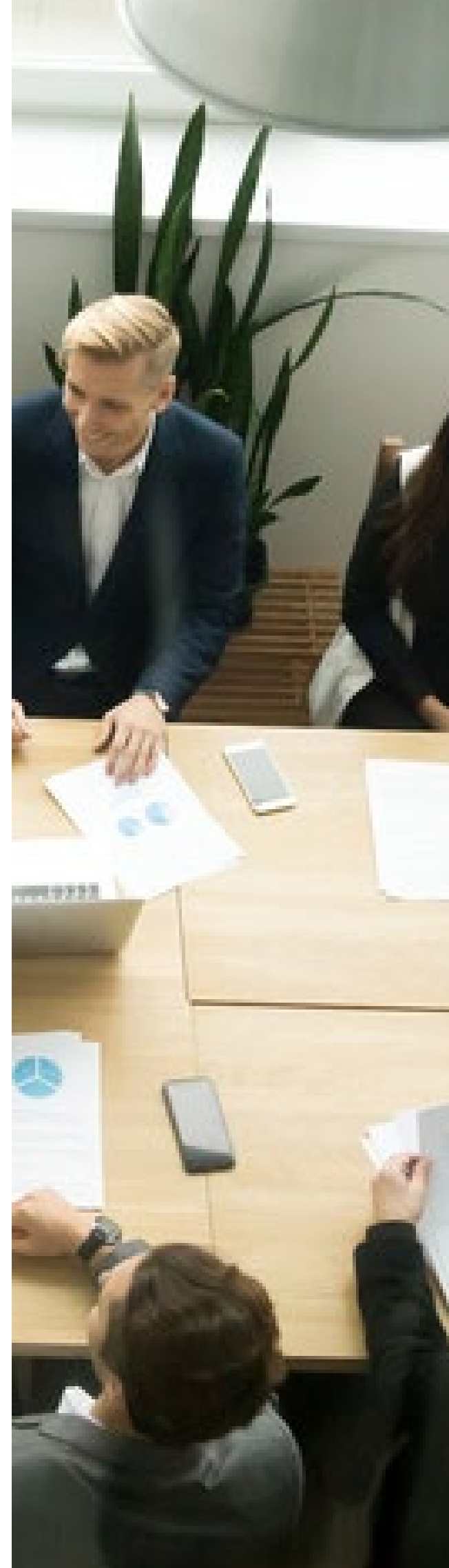
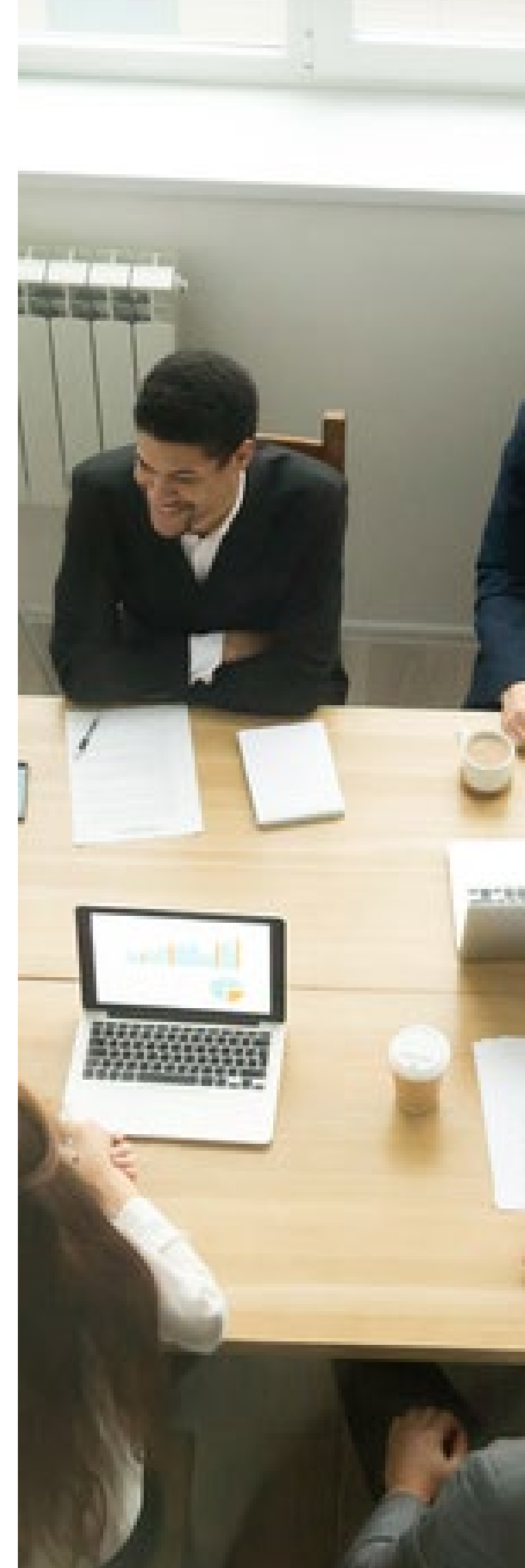
Jamie Carnes | Ionia ISD

Jeff Crouse | SET SEG

Kara T. Rozin | Clark Hill



**Clark Hill**



# Today's Presenters



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# Agenda

- Prohibited subjects
- Bargaining preparation
- Finance office and board communication and roles
- Understanding and communicating the district's financial position and projections
- Setting financial parameters and priorities
- Financial communications – prior to, during, and after negotiations
- Preparing for change and trends – PA 152 changes, negotiating all benefits, and long-term affordability



# What's Old Becomes New Again...

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**Boards, Superintendents and Negotiators see a landscape that takes them back decades to when these were mandatory subjects of bargaining:**

- Collection of union dues
- Merit Based Compensation
- Teacher Placement
- Teacher Layoff-Recall
- Teacher Discipline & Discharge
- Intergovernmental agreements
- Third Party Contracting for Non-Instructional Services
- Educator Evaluation (some aspects)



# What Did We Retain...at least for now?

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- A “not arbitrary or capricious” standard in the Tenure Act
- PA 152 (Hard Cap / 80-20)
- PA 189 (unprofessional conduct disclosure)
- Medical Benefit Policy Holder
- “Some” aspects of educator evaluation, tenure and probation
- First Day of School for Students
- School Improvement Committee Composition
- Schools of Choice
- PSA Authorization
- Use of Volunteers
- Experimental and Pilot Programs, use of Technology
- Strike Penalties



# Preparation for Bargaining is Essential...

- Recruiting your team
- Scouting the landscape and probable issues
- Check-in with “owners”/officials pre-game
- Know your data analytics
- Develop a “game plan” and equip your team to be ready to execute that plan
- “Half-time adjustments” update your Board and know
- Sportsmanship matters



- Who is best to contribute in each role?
- Anticipate your opponent’s strategy
- Is your Board aware and on-board?
- So much data available
- Set priorities and limits and revisit them
- As the process progresses, does your strategy still place you in the best position?
- Be clear and transparent, staying focused on long-term relationships



# Preparation is Essential...

- **Negotiating team make-up**
- **Financial projection and scenarios** - data that tells your story
- **Board preparation and parameters**
- **Total CBA reviews** - identify needs, clean-ups, priorities (high/low)
- **Contingency planning** - what are big “gets” that you’d potentially consider in exchange for one of their priorities, if any?
- **Communication planning**



*“If we fail to plan, we plan to fail...”*

# Who is Responsible?

## What is the Role of the Business Office?

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- Legal Responsibility
- Financial Responsibility
- Educational Responsibility
- Parent Responsibility
- Employee Responsibility
- Board of Education Responsibility
- Community/Stakeholder Responsibility
- What is the union responsible for?
- ITS MEMBERS = Getting the biggest “bang for OUR buck”





# Collective Bargaining Process

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- The process of collective bargaining remains the same = a multi-faceted, multi-phase process
- Effectiveness turns on each major actor performing its role with diplomacy and skill; knowledge of the law, the contract, bargaining history, contract administration and interpretation within your district
- Effectiveness requires management of conduct at the bargaining table & away from it
- Purpose of bargaining is to achieve a mutually satisfactory agreement through the use of fostering (and if necessary) forcing strategies that promotes educational excellence and opportunities for students and staff and that maintains fiscal health and stability
- Preparation – now more than ever – is the key to success
- Everyone plays a role – at the table and away from the table



# Effective Negotiations Occur When...

- Planning and preparation take place early and often
- Realistic assessment of needs and goals is completed
- Cohesive strategy determined involving Board, Central Office, Building Administrators
- Framing of issues that resonates with parents, staff and community
- Experienced negotiators & informed team at play
- We know what to expect and expect the unexpected
- Proactive vs. Reactive Communications are understood





# Preparing Your Team for Bargaining



# Preparation is Key

## *(and More Important than Ever!)*

- **Who is on your bargaining team?**
  - What is their experience? Pre-2011? Pre-2024?
  - What is their relationship with EA?
  - What is their personality? Relationship with union?
- **Everyone plays a role: HR, Business, Superintendent, Other Admin (at and away from table)**
  - Admins away from table may now be more important than ever
- **Knowing who is on the union's team is also key preparation**
- **Trust between team is crucial; trust (actual and perceived) between team and Board is crucial**
- **Early, consistent and timely communication** – between team members and between team and Board
- **Trust with Union? Do you have it? Consistent and honest communications? Snags this year? Earlier years?**
  - Consistent messaging between union and Administration is key



# Before You Get to the Bargaining Table

- In the wake of all the “un-reform” legislation, what do you need to do to prepare for bargaining?
- Review your BOE policies/AGs
- Look at your pre-2011 teacher CBAs. What was the old language re: prohibited subjects?
- Look at your current teacher CBA
  - What is the current language, if any, re: ancillary staff and prohibited subjects?
  - Do you have any “left over” prohibited language that applies to all?
  - What has been your “practice” in application of prohibited subjects across all employees covered by CBA?
  - Review Grievance Procedure – consider impact of grievances on any new language.
  - Review Management Rights.

# Before You Get to the Bargaining Table



- Identify trifecta of priorities for your bargaining team
  - **RED**: Hard “No” language issues
  - **YELLOW**: Areas of caution, but can work with
  - **GREEN**: Low risk areas, can concede
  - United front/strength in numbers
- Is the Board in line/agreeable on the bargaining team’s priorities?
- How will your stakeholders see your priority list?
  - Ex: teacher discipline standard
  - Ex: teacher placement



# Preparing Your Board for Bargaining



# Expected Board Dynamics During Bargaining

Want to solve the teacher shortage? Start with increasing salaries



Board Members with EA support? PTA?



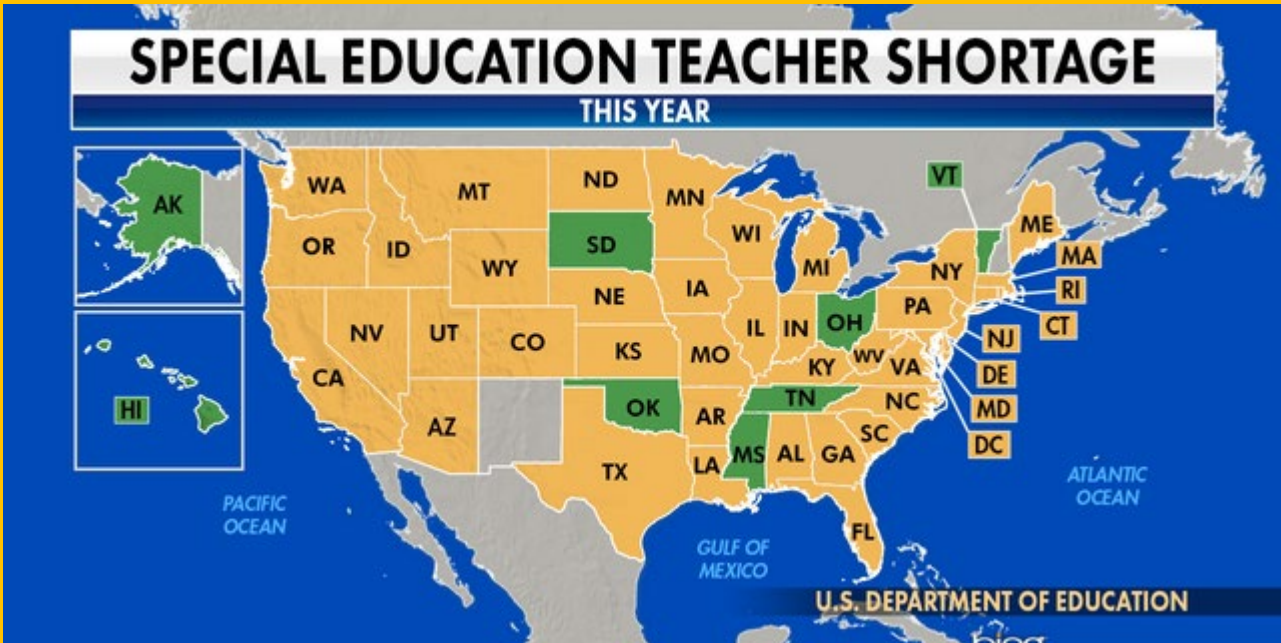
Education lawyer claims teachers are turning to OnlyFans to supplement low salaries



Districts facing shortages in substitute teachers



Parents feeling strain of special education teacher shortage





# Five Basic Steps of Working with the Board for Bargaining

01

Review the District's needs and the Board's overall goals

02

Review the current environment in which negotiations will occur and ensure the Board understands the legal, financial and other practical matters that may impact negotiations

03

Establish with the Board financial parameters for bargaining as well as a Communication Plan

04

Review with the Board the union's bargaining strategy and tactics during negotiations to prepare the Board and Administration to respond

05

Establish a regular procedure to update the Board on the progress of negotiations

Educate the board and  
review the district's needs and the  
board's overall goals



# Board Education

- Educate your BOE members – especially new BOE members – about the changes in legislation as well as continuing legal authority/requirements (TTA, MRSC, PERA).
- Does the Board view the bargaining team's priorities as their own?
- What questions does the Board have about collective bargaining?
- What type of communication does the Board want from the bargaining team?
- How often does the Board want communication from the bargaining team?
- What “rumblings” are Board members hearing?
- What are Board member concerns?





# District's Needs and Board's Goals

- District Administration should take the lead in reviewing the District's needs/goals during negotiations
- Ask the Board what, if anything, does it hope to accomplish during negotiations?
- Fund balance goals. Board Policy minimum? Board goals for fund balance?
- Consider changes/issues since last negotiations (i.e., grievances, language disputes, legislative changes, etc.)
- Develop priorities for bargaining team vs. what we expect priorities will be for union team. *Quid Pro Quo* items



Review the current environment in which negotiations will occur

Ensure the board understands the legal, financial and other practical matters that may impact negotiations



# What's the Current Negotiation Environment?

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- Discuss with the Board any external or internal factors that may impact negotiations
- New Legislation!!
- ESSER \$\$/One-time \$\$
  - What happens after the cliff?
- Comparable Districts/External Factors
  - Local Settlements
  - Wages/Benefits/Hours = apples to apples?
- Bargaining Trends?
- What is the current relationship between Administration and local leadership? How is the relationship and/or personalities involved, likely to impact negotiations? (Who are we bargaining with at the table?)





# What are the Financial Considerations?

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- A solid financial understanding is imperative to bargaining success
- Increase/decrease in school funding
- ESSER funds – what are your projections?
- How does the District's salary/wages and insurance compare with other similar area Districts?
  - Understand key labor costs = on schedule (carryover) vs. off schedule
  - MPSERS: Usually shocking for people to learn the % cost for each dollar of salary spent, that must be paid to state retirement system, by law, and this is not negotiable!
- What is the District's current GFB% (and/or GFB trend since last contract) and how will that impact bargaining? ISDs: Different funding systems and limitations on spending (GF, SpEd, CTE)
- Any non-Schedule A/insurance items that will impact overall spending? (leave provisions, extra duty pay, Schedule B, planning time, longevity, etc.)



# Understanding Budget Drivers

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- Union will know your numbers, you should too!
- Main source of revenues = per pupil funding
- Primary cost = labor
- Know what portion of the budget a bargaining unit represents
- What happens when contracts are settled using fund balance vs. increases in ongoing revenues?
- ESSER \$\$ - did you put it on or off schedule?
- Board requires specific fund balance? Board policy? Resolution?
  - Can send a clear message up front; can help bargaining team



# What are the Practical Considerations?

- How well has the labor contract been working for the District? What recent experiences or challenges has Administration had enforcing the contract? (Admin survey)
- What is Administration's relationship with local union leadership?
- What is the internal "climate" of your District going into negotiations? (surveys, morale, burnout, etc.)
- Realistic evaluation of the time, financial and human resources that will be need to be allocated towards the District's bargaining efforts.
  - Include preparations before the teams "hit the table running?"
  - Likely more time, money and/or resources than prior years
- Will Administration need to engage legal? At table? Behind scenes?





Establish with the board financial parameters for bargaining as well as a communication plan





# Setting Financial Parameters Early

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- Begin with a clear picture of the District's current financial situation, and how this is likely to change given future expectations
  - Spreadsheet summarizing revenues, expenses, key labor-cost variables (total salary/wages, health insurance costs, step increase costs, retirement contributions, etc.)
- Review financial projections (recent school year = actual data or latest audit)
- Then, next school year and “rinse and repeat” with assumptions/projections
  - Assumptions must be made because we negotiate when we don't have all of the information and we cannot provide retroactive increases
  - “Plug and Play” various contract settlements to determine impact
- Short-term cost vs. long-term impact on fund balance given that on-schedule increases and increases in premium costs continue each year and salary increases impact MPERS cost



# Setting Financial Parameters



- Important that bargaining parameters are set in BROAD terms, rather than a specified \$\$ amount. (e.g., up to X% over 2 years, GFB must stay above X% after 2 years)
- Board should allow the District bargaining team the flexibility to negotiate within the parameters at the bargaining table
- It is CRITICAL that the Board understands what changes in terms and conditions of employment can realistically be accomplished through agreement with the union and within the Board parameters



# Strategic Consideration for a Communication Plan

- The decision to establish and implement a plan for communications during negotiations should consider past practice, bargaining goals, school and community climate, etc.
- If a school district sometimes communicates and sometimes does not, employees become suspicious or cynical of employer's motives.
- The union always wants to control the message = reactive. The District needs to frame the issues = proactive.



# Communications – Legal Parameters

- Employer may provide factual report on status of negotiations directly to employees and by making public statements
- Employer may not engage in communications designed to erode support for the union or to bypass the union
- Employer may communicate proposals it has already made to the union (and union has had reasonable time to consider) but it may not directly convey to employees proposals that have not been made to the union
- Do not agree (or insist) on “gag order” for negotiations as precondition to bargaining
- “Ground Rules” – cautious to agree/limit your options





# Legal & Legislative Requirements

- Utilize PA 106 to get new options on the table
  - Affordable and comparable with recognizable carrier/network
  - Leverage it the way it was intended – don't just check the box
- Utilize PA 579 to gather claims data and understand your health care spend
  - It could be a signal that you might be a candidate for self-fund your insurance
  - Be transparent with de-identified claims data with bargaining influencers
- Utilize plan design options (deductibles, formulary, copays, etc.) Don't just take the off-the-shelf plan design
- Protect the district from possible legislative change to PA 152, cap % changes (90/10) or re-indexing of the cap.
  - Get dollar amounts in the contract
  - Equate a 10% cap change to a percentage of wages for union understanding.





# Monetizing and Benchmarking

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Storytelling and recruiting/retention tool – Per member cost equivalency. Every item (Life, Dental, Vision, LTD, LTC, etc.)

Include wellness efforts or pair your plan with a wellness plan. Consider EAP – but not all are equal!

Understand the cost of “extras” in your plan like massage or other elective treatments.





# Monetizing and Benchmarking *cont.*

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- Collaborate with districts in your region or ISD to benchmark coverage and employee costs. Know where you are to leverage the conversation.
- Publish the cost of various healthcare items or Rx costs for awareness.
- Understand the ratio of pay to benefit for the group bargaining.
- Benchmark to other employers (local, regional, national) – include private employers





# Encourage Engagement

- Provide a healthcare plan that rewards engagement in lower premium co-pay.
  - Annual physicals, BMI, age or risk-based screenings
- Educate users to be good consumers
  - Shop, ask, trial, and appropriately utilize primary, emergency or telemedicine
  - Insurance 101 outside of CBAs and renewal process to reduce “tension” that comes from bargaining
- Dispel coverage myths
- Bring outside independent experts to the table
- Have Health committees as a part of the bargaining process so there is a voice to the value





# District Management

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Hire experienced benefit managers or share them regionally

Encourage professional learning in the HR and Business Office

Utilize industry professionals

- Independent or broker-level insurance consultants
- Partner and share professionals if budget doesn't allow for own
- Leverage your consultant to insulate the administration from educating union groups on benefits
  - Allow them to be the “bad cop” if needed, but act more as a neutral third party

Create regional benefit user groups

- Listserv for questions, monthly/quarterly “issues”, Zooms or live meetings

Engage professional associations – MASPA, MSBO, SHRM



# Bargaining Trends





# Bargaining Trends

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## PA 152/Insurance

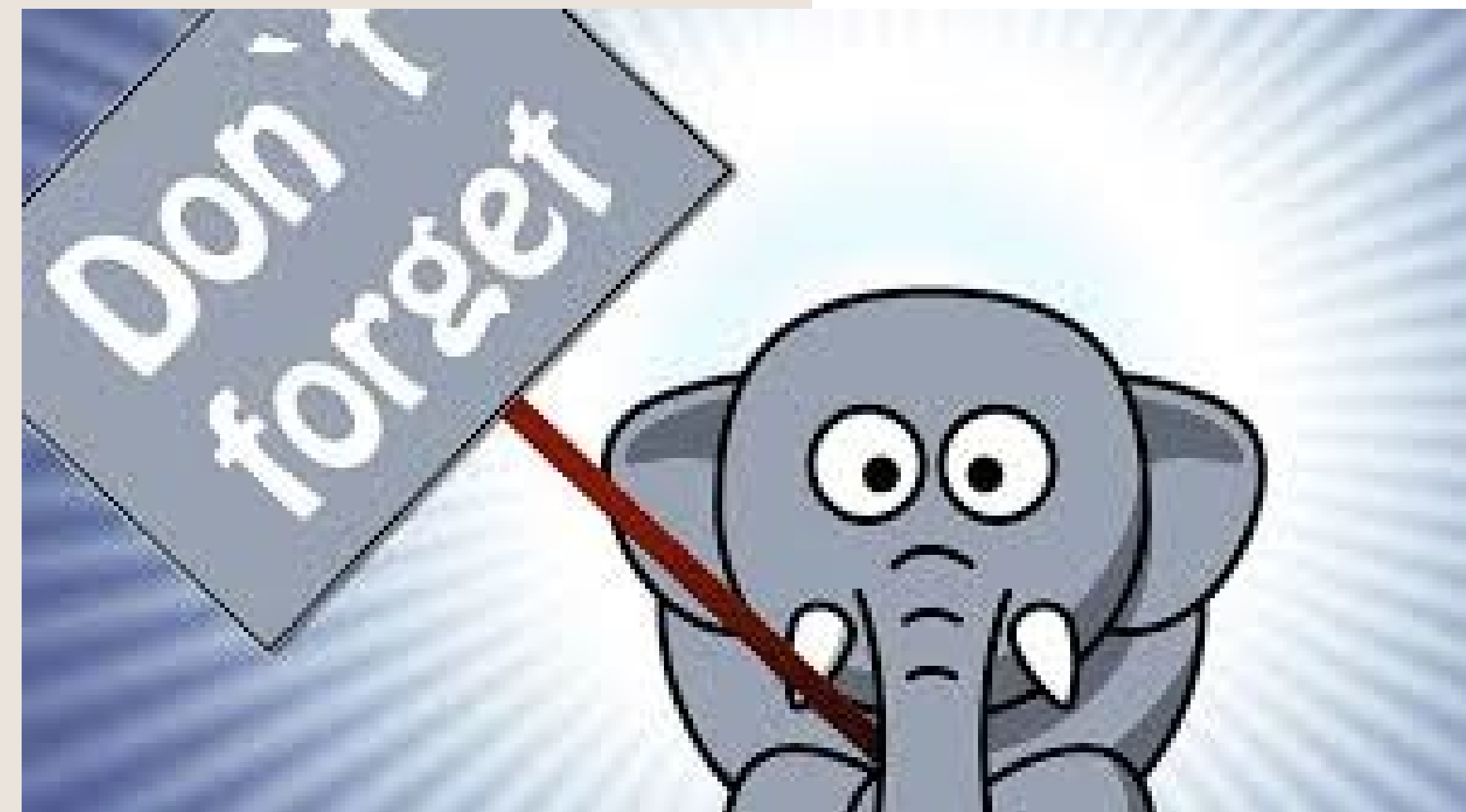
- PA 152 not eliminated/changed (yet)
- Remember, PA 152 is a ceiling, not a floor
- 2025 Treasury Index 0.20% after one of the biggest adjustments in 2024
- 80/20 vs. Hard Cap is permissive subject of bargaining, but “intended to be left solely to employer” “All for all”
- If considering changing insurance, issue should be raised with union prior to getting to table (especially if trying to move away from MESSA)





# Remember...

- Why you are doing this
- Who you are doing this for
- Do your homework and be prepared
- Stay focused and consistent on the District's priorities
- It's bargaining – you will not “win” every battle/issue (and for some, remember, it may actually be “ok” to concede vs. fight)
- Don't take attacks personally; you will still work with the people across the table when all said and done





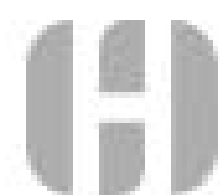


*“Bargaining is persuasion. The goal is to convince another party that proposals make sense and are achievable. By contrast, table pounding is not persuasive; it’s just loud.”*

- Michigan Bar Journal, November 2016
- Collective Bargaining: The Four Essential Questions by Mark H. Cousens



# Thank You!



Clark Hill

