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Turning the Tables: Participation and Power in Negotiations

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# TURNING *the* TABLES



## Participation & Power in Negotiations

UC BERKELEY  
LABOR CENTER

May 2021  
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# Preface

How unions negotiate is a strategic choice. Negotiations between employers and unionized workers are mostly shrouded in secrecy. Seldom do union members experience the actual process of collective negotiations over issues that are crucial, urgent, and relevant to their own lives. The purpose of this report is to discuss how negotiations can be different—very different—from what has become the norm. Our hope is to start a robust conversation about collective bargaining: how it is practiced, how it can be improved, and how the practice and process of negotiations relate to power, union governance, and democracy. This report is for unionists, future unionists, policy makers, labor academics, and anyone else concerned about rebalancing power and battling inequality.

The typical collective-bargaining process in the United States involves a small committee of mid- to lower-level management and their lawyers negotiating with an equally small committee of workers who are selected to represent the majority. The members of these union committees are typically paid, and they negotiate during the hours they'd normally be clocked in and working. The lead negotiators for the union are either negotiation specialists within the union (this can be worker members or union staff) or, quite commonly, lawyers hired to lead the negotiations with a small committee. Most union committees are not elected, except in the sense that they involve elected union officials or position holders who, per the union's constitution or bylaws, are ex-officio members of the negotiations team. The mechanics of collective bargaining are typically governed by ground rules legally negotiated by the parties. These rules often dictate confidentiality—gag rules—throughout negotiations.

The alternative, exemplified by recent case studies highlighted in this report, is a collective-negotiations process that invites, if not directly engages, the entire unionized workforce. In selecting our cases, we required radical transparency as



the starting point for the negotiations process: this foundational practice can ultimately transform a union and lead to greater overall worker participation in the life of the organization. From the baseline of transparency, we then added other criteria and elements that enhance workers' understanding of what it means to be unionized. We sought unions that hold elections for their negotiations' teams. We looked for unions that have big bargaining teams versus small ones. We sought unions that practice open negotiations, by which we mean open to all workers covered by the collective-bargaining agreement. The seven sets of negotiations discussed in this report were conducted between 2016 and 2019, and involve five unions in which workers achieved breakthroughs of all sorts in their final contracts. These case studies show that even among a smaller set of unions practicing a quite different approach to the closed, top-down version of negotiations, variations exist.

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“How unions negotiate is a strategic choice. The purpose of this report is to discuss how negotiations can be different—very different—from what has become the norm.”

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Obviously, we are presenting only a glassful of examples in a sea of activities. Our cases represent a sliver of unions and union negotiations, and cover workers in the private and public sectors, in education, health care, hospitality, and journalism. The research for this report began before the COVID-19 pandemic, before the murder of George Floyd, and before the insurrection at the U.S. Capitol. But the crises of the past year have made victories won by workers in these five unions—from a healthcare savings fund which provided extended coverage for laid-off hotel workers to greater job security and pay equity for journalists of color—even more vital. Our report's examples and lessons are all the more urgent as workers, unionized or not, literally fight for their lives and battle their personal exhaustion as they collectively battle a billionaire class that cares not about the people producing the profits.

# Glossary

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## **Anti-Union Campaign (also Union Avoidance, Union Busting)**

Umbrella terms for a variety of employer strategies and tactics to undermine workers' organizing rights by discouraging union membership and union activity, in particular during union recognition and contract campaigns. These include anti-union communications, captive audience meetings, retaliation against pro-union workers, and refusal to recognize or bargain with the union, as well as bargaining proposals which would undermine a union standard. Too often, these activities are entirely permissible under current labor law, and companies frequently hire specialized consulting firms to instruct them on how to avoid legal liability for interfering with worker organizing. In other cases, such as explicit retaliation, anti-union tactics may constitute unfair labor practices. Anti-union strategies sometimes produce short-term benefits for non-union workers, as when companies match union wages in order to discourage unionization.

*Case Studies: Einstein; NewsGuild; MNA; UNITE HERE*

## **Article Checklist (also Bargaining Proposal Tracker)**

An informational handout for workers attending bargaining listing each existing or proposed article in the collective bargaining agreement and providing updated information about the status of any proposals related to that article, including any tentative agreements reached and the names of union members working on particular articles. The article checklist should be updated and distributed to attendees for every bargaining session.

*Case Studies: Einstein; NJEA*

## **Bargaining Committee (also Bargaining Team, Negotiations Committee/Team)**

A group of workers, ideally elected by their coworkers, who take leadership in negotiations, including developing bargaining proposals, sitting at the bargaining table across from management, responding to company proposals, and reaching tentative agreements. Under union bylaws or tradition, the bargaining committee often includes designated elected officers or shop stewards.

*Case Studies: Einstein; NJEA; NewsGuild; MNA; UNITE HERE*

## **Bargaining Survey**

A tool for developing and prioritizing issues through solicitation of input from all the workers who are covered by the agreement. Participation in a bargaining survey may serve as a structure test in the lead up to bargaining and the bargaining committee should aim to gather responses from a supermajority of the bargaining unit. Bargaining survey results should also be shared back to members through meetings and/or a written report.

*Case Studies: Einstein; NJEA; NewsGuild; MNA*

## **Bargaining Unit**

In workplaces which are already unionized, or when workers are seeking to form a union, this term defines which types of workers and what job classifications are included, or excluded, by an existing or future union contract. Workers within a bargaining unit must possess certain elements of commonality, as defined by applicable labor law. Who is and isn't included in the bargaining unit is often highly contested between the employer and the union during a campaign to unionize.

*Case Studies: Einstein; NewsGuild; MNA*

## **Bargaining Update (also Bargaining Bulletin, Shop Paper)**

A flyer, email, or other communication summarizing what occurred in a particular bargaining session, including any new proposals that were introduced, any progress made on existing proposals, any tentative agreements, any notable table talk, and any next steps. Bargaining updates should be drafted by the bargaining committee immediately after bargaining and distributed shortly thereafter.

*Case Studies: Einstein; NewsGuild; MNA; UNITE HERE*

## **Big Bargaining**

A form of collective bargaining which emphasizes having large numbers of workers present at negotiations sessions, in particular through the use of large bargaining committees. Big bargaining may also be open bargaining and visa versa; however, the two terms are not synonymous.

*Case Studies: Einstein; NJEA; MNA; UNITE HERE*

## **Biggest Worst**

The largest job classification, department, or area with the least union support and/or the strongest anti-union sentiment. An organizing campaign should focus on identifying and recruiting organic leaders in the biggest worst.

*Case Studies: NewsGuild; UNITE HERE*

## **Button Up**

A high visibility structure test in which workers publicly wear a union button while at work on a set day or days.

*Case Study: NewsGuild; UNITE HERE*

## **Captive Audience Meeting**

An example of a union-busting tactic in which management holds mandatory meetings with workers in order to communicate their opposition to unionization or other union activities. Workers can not refuse to attend because they are on paid work time.

*Case Studies: NewsGuild*

## **Card-Check Agreement**

A binding agreement reached between an employer and a union through which the employer agrees to voluntarily recognize the union upon a showing of signed union cards from a majority of the bargaining unit rather than requiring an election to be held. The NLRB will then certify the workers as an official union.

*Case Studies: UNITE HERE*

## Caucus

A period in a negotiation session during which the union and the employer go into separate rooms in order to privately discuss proposals and formulate responses. Caucuses may range anywhere from a few minutes to several hours in length. Either party can call for a caucus, and the other must agree.

*Case Studies: Einstein; NJEA; NewsGuild; MNA; UNITE HERE*

## Contract Action Team (also Member Action/Member Engagement Team, Mobilization/Campaign/Leadership Committee)

A committee of members who communicate bargaining updates and organize coworkers in their group to take part in structure tests and other coordinated actions around negotiations.

*Case Studies: Einstein; NJEA; NewsGuild; UNITE HERE*

## Delegation (also March on the Boss)

A pre-planned but previously unannounced in-person visit by a group of workers to an employer representative or other person in a position of power in order to deliver a demand, petition, or other message. A delegation is an example of a structure test, with opportunities for workers to participate by attending or speaking on the delegation.

*Case Studies: MNA, UNITE HERE*

## Direct Dues

A form of dues payment in which union members directly authorize the union to charge monthly or yearly dues rather than relying on employer payroll deduction. Direct dues payment requires the union to obtain authorizations directly from individual members but removes the possibility that an employer strategically terminate dues deduction in order to put pressure on the union during a labor dispute. An additional benefit of this approach is that only the union knows who is a member, complicating management's ability to run anti-union campaigns.

*Case Studies: MNA*

## **Elected Officers (also Executive Board/Council/Committee, Unit Council)**

Under a local union's bylaws or union constitution, the elected leadership of the local or a unit of the local. Depending on the union's bylaws and practice, elected officers may automatically serve on the bargaining committee.

*Case Studies: NJEA; NewsGuild; MNA; UNITE HERE*

## **Fact-Finding**

A dispute-resolution mechanism which may be required under public sector labor law if the union and the employer are unable to reach an agreement. During fact-finding a neutral third party reviews the bargaining situation and makes report and recommendation for reaching a settlement.

*Case Study: NJEA*

## **First Contract**

The first collective bargaining agreement reached following union recognition, in which the workers seek to establish core principles such as just cause and union jurisdiction. Under current labor law, workers often face similar union-busting tactics when negotiating a first contract as they do in seeking union recognition. First contract negotiations are often quite lengthy and may fail to result in an agreement.

*Case Studies: Einstein; NewsGuild*

## **Going Public**

In an underground union organizing campaign, the act of publicly announcing that workers are organizing a union. Going public typically occurs only after the union has secured supermajority support and may coincide with a demand for voluntary recognition. Announcing the union campaign and the identities of union leaders provides some protection from employer retaliation and can help bolster public support for workers.

*Case Studies: NewsGuild*

## Ground Rules

A set of rules proposed and agreed to at the outset of negotiations which impose restrictions on the behavior of the union and the employer during the bargaining process. Traditional ground rules often contain provisions which serve as barriers to big, open, or transparent bargaining by limiting who can attend bargaining or limiting what information can be shared from bargaining. Ground rules are not a mandatory subject of bargaining, they are permissive, meaning a union may refuse to negotiate, agree to, or even discuss any ground rules without violating its duty to bargain in good faith.

*Case Studies: Einstein; NJEA; MNA*

## Impasse

A formal declaration or finding that bargaining has ceased to progress. An impasse declaration allows an employer to implement its most recent offer in bargaining. In the public sector, an impasse finding may trigger mediation, fact-finding, and/or contract arbitration.

*Case Studies: NJEA; MNA*

## Information Request

A formal request from the union to the employer for payroll data, hours of work, schedules, staffing, financial data, or other information that may inform the union's proposals and bargaining rationales. A benefit of the legal right to collective bargaining, the employer must comply. If they fail to do so, it is an unfair labor practice.

*Case Studies: Einstein; NewsGuild*

## Jurisdiction

The scope of work which belongs to job classifications within the bargaining unit, as defined in the collective bargaining agreement. Strong jurisdictional language prevents the employer from undermining the union by assigning union work to non-union workers.

*Case Studies: NewsGuild*

## **Just Cause**

As contrasted with the default of at-will employment, just cause requires basic due process before a worker can be fired and prevents an employer from firing a worker for no reason or a bad reason. Just cause is a fundamental protection in a collective bargaining agreement and is typically established in the first contract.

*Case Studies: NewsGuild*

## **Local Union (also Local Association/Guild)**

An affiliate of a statewide, national, or international union consisting of one or more bargaining units in a particular geographic area or under a particular employer. A local union has its own bylaws and elected officials.

*Case Studies: NJEA; NewsGuild; UNITE HERE*

## **Lock Out**

As contrasted with a strike, an employer action to block workers from being able to work.

*Case Studies: MNA*

## **Master Agreement (also Citywide Agreement/Contract)**

A standardized contract agreed to by union employers in a given industry in a particular city. A citywide contract may be reached through negotiations between a union and an industry association acting on behalf of a group of employers, or achieved indirectly through the use of “me too agreements,” or through individual negotiations in which workers insist on reaching an established union standard.

*Case Studies: UNITE HERE*

## **Me Too Agreement**

An agreement by an employer to accept the terms of a contract negotiated by the union with another employer or an industry representative. Me Too Agreements can be used to establish or maintain a union standard in a given market.

*Case Studies: UNITE HERE*



## Mediation

A process through which an impartial third party called a mediator helps the union and the employer to reach an agreement by making suggestions for resolution of contested issues. Mediation may be voluntary or may be required under state or federal law following an impasse.

*Case Studies: NJEA*

## New Organizing

Organizing among non-union workers aimed at achieving union recognition and a first contract.

*Case Studies: NewsGuild; UNITE HERE*

## Ninety-Ten Rule

The employer-driven tradition that ninety percent of proposals in negotiations will happen in the final ten percent of bargaining sessions.

*Case Studies: NJEA; NewsGuild; MNA; UNITE HERE*

## NLRB Election

A process for proving majority support for unionization among workers in a bargaining unit through a secret election supervised by the National Labor Relations Board. NLRB elections are often pursued after an employer refuses to voluntarily recognize the union despite a showing of majority support.

*Case Studies: Einstein; NewsGuild*

## Off-the-Record (also Side Bar)

As contrasted with full bargaining sessions, during which everything said by either party is “on the record” and can be used as evidence for interpreting the contract in the future during disputes and arbitrations, off-the-records are more informal and potentially candid conversations between representatives from the union (typically the negotiator and members of the bargaining committee) and the employer about particular bargaining proposals. This allows both parties to explore settlement options outside of the legal framework of the negotiations room.

*Case Studies: NJEA*

## **On-Call**

A scheduling system under which workers are given minimal advance notice of hours and must wait to be called into work, typically day-of. On-call systems place the risk of unexpected slowdowns in demand onto workers, allowing employers to save on labor costs.

*Case Studies: MNA; UNITE HERE*

## **One-on-One Conversations (also Structured Organizing/Targeted Conversations)**

An approach to organizing centered on motivating worker participation through one-on-one relationship-building and intentional discussion featuring open ended questions, agitation, education, and concrete asks.

*Case Studies: Einstein; NJEA; NewsGuild; MNA; UNITE HERE*

## **Open Bargaining**

Bargaining in which negotiations sessions are open for all workers covered by the contract to attend. Open bargaining is not necessarily “big bargaining” because members may not automatically attend bargaining in large numbers. Open bargaining may additionally include union members from other bargaining units or members of the community.

*Case Studies: Einstein; NJEA; NewsGuild; MNA; UNITE HERE*

## **Open-Ended Strike**

A strike without a pre-defined end date. As contrasted with a short or defined strike in which workers announce that they will strike only for a fixed period of time, for example twenty-four hours.

*Case Studies: UNITE HERE*

## **Organic Leader**

A respected worker who is able to move large numbers of their coworkers to take action. Organic leaders are not necessarily pro-union, as contrasted with pro-union activists. Typically, they have no official title or position.

*Case Studies: Einstein; NJEA; MNA; UNITE HERE*

## Organizing Committee

A committee of workers formed for the purpose of organizing towards union recognition. To be effective, the committee is made up of organic leaders from each work area and/or shift. Standing organizing committees may also exist in already-unionized workplaces and serve a similar role to the Contract Action Team in organizing around workplace issues and contract negotiations.

*Case Studies: NewsGuild*

## Pay Disparity

A marked difference in the wages or overall earnings between workers in the same job classification on the basis of gender, race, or ethnicity. Can also refer to a difference in the wages or overall earnings between two job classifications that cannot reasonably be attributed to differences in job responsibilities or required skills.

*Case Studies: NewsGuild; UNITE HERE*

## Payroll Deduction

A method by which a union relies on the employer to collect dues, fees, and other authorized payments (including for strike or political action funds) directly from workers' paychecks and to remit them to the union on a negotiated, regular basis. Though efficient, employers may unilaterally terminate such deductions upon the expiration of the contract. Employers tend to require no strike clauses in exchange for payroll deduction. One case study, MNA, presents the alternative, direct dues.

*Case Studies: MNA; UNITE HERE*

## Picket Duty

During a strike, a worker's assigned shift on the picket line, which may mirror their typical work schedule. Picket duty may be a requirement for collecting strike benefits from the union's strike fund.

*Case Studies: UNITE HERE*

## **Poker Face**

A rule of the room which conveys that workers attending bargaining should not visibly show anger, surprise, happiness, or other emotions in front of the employer unless the bargaining committee has pre-planned such a response.

*Case Studies: NJEA; MNA; UNITE HERE*

## **Ranking (also Assessment)**

A process for evaluating workers' readiness to strike, or take other actions, based on one-on-one conversation and past participation in structure tests.

*Case Studies: NewsGuild; MNA*

## **Ratification Vote**

A process to formally approve or reject a new collective bargaining agreement through a vote by union members covered by the contract. Union bylaws or tradition may impose particular requirements for successful ratification.

*Case Studies: NJEA; NewsGuild; MNA; UNITE HERE*

## **Rules of the Room**

A set of internal rules established by the bargaining committee that have been communicated and agreed to by all workers who attend negotiations sessions. Not to be confused with ground rules, which are negotiated with the employer and apply to both sides. Rules of the room should include poker face, negotiator as designated spokesperson, and a method for communicating with the negotiator during sessions, such as through passing notes.

*Case Studies: Einstein; NJEA; MNA*

## **Safe Staffing**

As contrasted with understaffing, a term used in healthcare to refer to the number of nurses who should be scheduled in order to promote adequate workplace safety and patient care. The concept directly connects nurses' working conditions with the quality of care they are able to provide.

*Case Studies: MNA*

## Seniority

The amount of time that a worker has worked for a given employer and/or in a given job classification. Seniority is a mechanism to create fairness and constrain employer discretion, and applies to wage increases, layoffs, and opportunities for advancement. Workers, through the collective bargaining process, may decide some benefits should be based on rotation instead of seniority, such as major holidays or vacation scheduling.

*Case Studies: MNA; UNITE HERE*

## Shop Steward (also Building Representative, Delegate)

A union member who has formally taken responsibility for representing their coworkers in grievance proceedings and other union matters. Shop stewards may represent a particular job classification, department, spatial area, or shift within a workplace and may automatically serve on union leadership bodies such as a unit council or bargaining committee. These positions can be appointed or elected, and are typically filled by union activists.

*Case Studies: NJEA; NewsGuild; MNA; UNITE HERE*

## Short Strike (also Defined Strike)

As contrasted with an open-ended strike, a strike whose duration is announced ahead of time to both workers and the employer.

*Case Studies: MNA*

## Staff Organizer (also Field/Guild/Union Representative)

An organizer paid by the members and who work for the local or state/national/international union. Staff organizers work to recruit new organic leaders and ensure majority and supermajority participation throughout the workplace.

*Case Studies: NJEA; NewsGuild; MNA; UNITE HERE*

## Strategic Power Analysis

A means of evaluating how bargaining demands can be won by identifying possible points of leverage over the employer. Strategic power analysis is grounded in an understanding of the power relationships held by workers in the bargaining unit as well as the employer's power relationships.

*Case Studies: NJEA; MNA*

## Strike Authorization Vote

A process for union members in a bargaining unit to vote to approve taking a strike action, often outlined in union bylaws. A strike authorization vote does not bind the union to actually going on strike but gives approval to the bargaining committee or another leadership body within the union to call for a strike. The decision to hold a strike authorization vote should be informed by past worker participation in structure tests and can itself serve as a structure test in building towards strike readiness.

*Case Studies: NewsGuild; MNA; UNITE HERE*

## Strike Fund

A dedicated fund created through regular contributions by union members to provide for pay and additional hardship benefits during a strike. May be supplemented by outside contributions, typically collected from supporters during the strike itself. A healthy strike fund signals to an employer that a union can credibly embark on an open-ended strike.

*Case Studies: UNITE HERE*

## Strike Pay

Payment from a union strike fund to striking workers to partially replace for lost wages. May be contingent on worker participation in picket duty.

*Case Studies: UNITE HERE*

## Strike Support

Financial or volunteer support for striking workers. May include roles outside of picket duty which are performed by strikers, including administration of hardship benefits, maintaining picket signs and equipment, and coordinating food and water for the picket lines.

*Case Studies: UNITE HERE*

## Structure Test

A mass-participation action demonstrating majority support for the union and/or particular bargaining proposals or demands. A deliberate progression of structure

tests which are increasingly public and have increasing stakes allows the union to gauge worker participation and readiness to strike.

*Case Studies: Einstein; NJEA; NewsGuild; MNA; UNITE HERE*

### **Table Talk**

On-the-record conversation at the bargaining table, which may later be introduced as evidence in contract interpretation disputes including arbitrations. Excerpts from table talk may also be included in bargaining updates.

*Case Studies: NewsGuild*

### **Tentative Agreement**

An agreement reached between the union and the employer for language in a particular contract article or articles that is provisionally signed off on by both sides before there is agreement over the contract as a whole. Tentative agreements allow the parties to narrow the scope of bargaining over time.

*Case Studies: NJEA; NewsGuild; UNITE HERE*

### **Third-Partying**

A form of anti-union rhetoric which refers to the union as something that exists separate and apart from workers themselves. Third-partying undermines the idea that unions are collective and democratic organizations driven by their membership, casting them instead as outside service providers who represent workers in exchange for payment. Unions believe each workplace has two parties, workers and the employer, and the workers are the union. As such, there is no third party.

*Case Studies: NewsGuild*

### **Transparent Bargaining**

A form of bargaining in which individual bargaining sessions may be open or closed but where the bargaining committee provides detailed and timely updates about what is happening in bargaining, including the content and status of union and employer proposals, notable exchanges at the bargaining table, and when bargaining is next scheduled to occur.

*Case Studies: Einstein; NJEA; NewsGuild; MNA; UNITE HERE*

## Two-Tiering

A type of contract proposal that would establish multiple classes or “tiers” of workers within the bargaining unit, typically by distinguishing between the existing workforce and any future hires and providing lesser benefits to the second tier. Two-tiering is an employer strategy to divide workers by creating different standards within the workplace and to undermine worker solidarity over time.

*Case Studies: MNA*

## Underground Organizing

The approach in a new organizing campaign of deliberately organizing quietly and out of sight of the employer until a certain threshold of support has been reached in order to delay triggering an anti-union campaign by the employer. During the underground phase of a new organizing drive, workers refrain from discussing the union outside of one-on-one organizing conversations.

*Case Studies: NewsGuild*

## Unfair Labor Practice (ULP)

An act which violates a prohibition under applicable labor law and may result in successful charges against the employer (or the union).

*Case Studies: Einstein; MNA*

## Union Activist

A union member who is an enthusiastic and ready union supporter but who does not effectively motivate or lead their coworkers to take action. As contrasted with an organic leader.

*Case Studies: Einstein; UNITE HERE*

## Union Density

A measure of how many workers within a given sector/industry in a given market or under a given employer are union represented. Union density is a rough proxy for union power, and higher union density corresponds with higher union standards.

*Case Studies: MNA; UNITE HERE*



## Union Difference

The difference between the union standard and the wages and benefits for nonunion workers in the same industry and sector within the same labor market or employer. Employers may deliberately seek to eliminate elements of the union difference, in particular any wage gap, by attacking the union standard and/or by raising wages for its unrepresented employees in order to discourage unionization.

*Case Studies: MNA; UNITE HERE*

## Union Leave

A right negotiated under a collective bargaining agreement for union members to take protected leave from their jobs in order to temporarily join the union organizing staff and gain additional organizing training and experience.

*Case Studies: UNITE HERE*

## Union Orientation

A session led by shop stewards or other union leaders for newly hired workers conducted as part of the formal new-hire orientation. Depending on the strength of the collective bargaining agreement, these sessions may be employer-paid and mandatory for all employees. Union orientations have gained additional importance in light of the ongoing attack on unions' ability to collect dues because they provide an opportunity for new workers to learn about their rights and sign up as union members.

*Case Studies: MNA*

## Union Standard

A baseline for wages and benefits shared across collective bargaining agreements within a given industry/sector and labor market. A union standard can be established and maintained through citywide contracts, Me Too agreements, or purely through the power of worker organizing.

*Case Studies: MNA; UNITE HERE*

## **Whole Worker Organizing**

An approach to organizing which recognizes that workers experience and are impacted by issues which intersect but extend beyond the workplace, such as access to quality education, housing, and healthcare, and forms of identity-based oppression. Whole worker organizing also rejects artificial distinctions between “workers” and “community” and seeks to use workers’ roles in the community as sources of strategic power.

*Case Studies: Einstein; MNA*

## **Work-to-Rule**

A structure test in which workers follow the existing collective bargaining agreement and other workplace policies or regulations to the letter, doing no more and no less than exactly what is required of them. This could entail a deliberate refusal to commit violations of workplace safety rules or to voluntarily take on additional work, even if such practices are commonplace or expected.

*Case Studies: NJEA; NewsGuild*



## Introduction by Jane McAlevey

Civic participation across all types of organizations is decreasing in the U.S., including among union members.<sup>1</sup> Corporations have been waging—and mostly winning—a relentless war against workers and their unions before and since the passage of the National Labor Relations Act, in 1935. The lopsided class war led by employers has resulted in 11 percent of the workforce overall being unionized, including just 6 percent of workers in the private sector covered by union agreements. In 2012, the United States Supreme Court began delivering one anti-worker, anti-union ruling after another.<sup>2</sup> Given the considerably more conservative dominance on the court today, and of the federal judiciary overall due to the court packing carried out between 2016 and 2020, it's highly unlikely the courts will offer any reprieve to workers. To the contrary, it's likely the Supreme Court will continue to take a battering ram offence to unions as an institution.

Samira Harris, above, a nurse in the Medical Intensive Care Unit, role plays before presenting at contract negotiations.

It's in this context that how the remaining unions conduct negotiations becomes all the more important. Most workers who are in a union today were not involved in the original organizing that produced the first collective-bargaining contract covering the terms and conditions of their employment. This is due mainly

to the growth of the aggressive union-busting operations conducted by law firms and mercenaries, which is why the process of what's called 'successor' union negotiations, meaning negotiations for already unionized workers, is so important. Sadly, negotiations today function a bit like our crippled democracy: people are told that voting every four years in the presidential election cycle is all they have to do in order to live in a democracy. Similarly, workers are mostly given the right to ratify or reject a contract presented to them at the end of lengthy contract negotiations. When workers haven't been deeply engaged in the process, turnout for the ratification votes is minimal. People in the United



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**Negotiations today function a bit like our crippled democracy: people are told that voting every four years is all they have to do.**

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States are learning quickly that simply voting once every four years is grossly inadequate for safeguarding democracy. Union leaders should have learned long ago that voting to ratify or reject a contract settlement offer inside a unionized workplace is equally inadequate to safeguard workplace democracy, as in a union.

Unions negotiate or renegotiate contracts every few years, depending on the union. There are no uniform rules that govern the length of contracts,

although there are many specifics at the federal, state, and local levels in the public sector, as well as various rules in the private sector. Generally, unions directly negotiate the duration of their contracts, not just the contents. In today's extremely hostile climate, where many workers are somehow not even considered to be workers (such as some in Silicon Valley and so-called platform or gig workers), there's been a narrowing in some states about what can be negotiated in public-sector bargaining. Act 10 in Wisconsin, pushed by Governor Scott Walker and passed in 2011, stripped public service workers of the right to negotiate over basically everything except an annual cost of living adjustment. In New Jersey, teachers and other public employees were forced to contend with state legislation backed by Governor Chris Christie which stripped them of the ability to continue bargaining over employer-paid health insurance, the aftermath of which is chronicled in one of our case studies. Despite the ongoing degradation of workplace and civic democracy, most unions can still choose to transform the negotiations process from a closed one with little input into a key lever for rebuilding robust worker participation. The approaches to negotiations in this

report can also serve as a dynamic classroom for workers seeking to unionize. One key overarching rule that covers all negotiations is that each side chooses its own team.

That's right. Unions decide who to send to the negotiations for the union. Moreover, because most workers care deeply about what is in their union contract—not just how much they are paid or what recourses they have for when they are treated unfairly by management but also a wide range of issues, such as health and safety, schedules and hours, whether they may retire, and everything in between—it seems that union-contract negotiations offer a cornucopia of options to develop and build deep and broad solidarity, at a level required to win and to sustain unionization despite the busters often brought to destroy unions during successor contract negotiations. The reason union-busting firms often surface close to a contract's expiration with a hostile employer is due to the byzantine nature of labor law!



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Even after workers win their first union contract, the employer can still try to get rid of the union by initiating a decertification election (commonly called a “decert”). Under labor law there’s a special 30-day “window period” that occurs between 120 days and 90 days prior to a union-contract expiration. The most ideologically anti-worker employers understand that this window provides their best, unofficial chance to get rid of a union. Theoretically, the employer is legally prohibited from initiating a decertification petition, in which at least 30 percent of the workers represented by a union sign a petition to hold an election to decertify (un-elect) their union. But in practice, this happens when an anti-union workers’ committee is formed, generally with expert, covert coaching by a union-busting firm in how to follow the steps required to decertify a union.



Less dramatic than a decertification attempt, but no less dangerous, employers involved in the long game of undermining worker solidarity often propose two-tiering many of the best provisions of a contract. In such a scheme, workers currently covered by the contract will keep all aspects of what they've won, but employees hired after the contract is ratified will be forced to accept cheaper, lesser standards. This practice is deeply corrosive and quickly pits new, often younger, workers against the more senior or tenured employees. Two tiering should never be accepted, but a substantial level of worker power needs to have been built for workers to withstand management and reject two-tiered proposals.

Today's extreme climate of animus and ideological warfare, combined with outdated and dysfunctional labor law, means that what might have been a regular union-contract renegotiation can become a war in itself.

## The High Transparency, High Participation Approach

Although I had worked on contract campaigns and attended many union negotiations as a staff person to unions, as well as having conducted interim memorandum of understanding agreements (MOUs), I transitioned from being primarily a union organizer to primarily leading contract negotiations in 2004. This coincided with my decision to relocate from the northeast to the southwest, which was undergoing explosive population growth. The rules governing unions in the northeast were more worker friendly than those in the south and southwestern states, which fall under a different legal status that was enabled in 1947 with the passage of the anti-worker Taft-Hartley Act. Like dominoes, these states fell to a legal structure known as right-to-work, which unionists prefer to call right-to-work-for-less: less money, less benefits, less rights, less voice. I transitioned from being Deputy Director of the healthcare division of the national Service Employees International Union to become the executive director of a fairly beleaguered union where recent concession bargaining—meaning workers were losing gains they had made previously in negotiations—was the chief reason the executive board went looking for new staff leadership. The national union had an interest in Las Vegas because research showed key national hospital chains had some of their top earnings in these very hospitals (due to the oddities of a tourist economy and the rules of out-of-network insurance payments). Per its constitution, I was the union's chief negotiator. Because the laws of Nevada, where the union was based, don't require that workers pay dues or be a member

of the union that sets their terms and conditions of work, when I first arrived at the union, most workers weren't dues-paying union members.

We set out almost immediately to unionize the entire private-sector hospital industry in Nevada. As we began to win one National Labor Relations Board election after another, there were many first-contract negotiations on my plate. But there were also successor negotiations covering public- and private-sector workers. In all, from 2004 until 2008, I was leading nonstop negotiations with employers large and small, most of them intensely anti-worker and that hired the country's top union-busting firms. (For a thorough version of the story, please read my book *Raising Expectations (and Raising Hell)*, published in 2012 by Verso Press.)



Big and open contract negotiations in the public sector in Las Vegas, NV, 2006.

Because my early observations and experiences of union negotiations were with what is now called SEIU 1199NE—a division of the national union known colloquially as 1199 in the old days—in Connecticut, I had already learned that having more workers in the room was a good idea. It provided efficiencies by enabling real-time fact-checking of management's claims, and having every type of worker and worker classification present allowed for faster, better decision making. If my early training in 1199NE had not predisposed me toward electing big committees of workers, my experience in a right-to-work-for-less state—being the executive director of a statewide union that most workers didn't like—would quickly dispose me to fully open the negotiations process to all workers covered by the contract. My own practice evolved from opening the negotiation room itself to setting a goal of having every worker show up at negotiations at least once, even if only for one hour at shift change.

In Nevada, the method was born out of a desperation to rebuild workers' faith in themselves and their organization. The lack of trust in the very typical negotiations process described above—in which a handful of workers in paid status plus either a lawyer or another staffer negotiates an entire agreement

behind closed doors and simply announce a ratification ballot in which workers vote down or up the settlement reached in secrecy—was palpable and deserved. To quickly reverse course, we opened the negotiations to every worker, and they didn't have to be a member of the union. Expanding the process to nonmembers who were covered by the agreements was especially controversial in the beginning of this completely transparent, high-participation effort. Beyond opening the room up, we targeted the most trusted informal leaders among the workers, many of whom were not union members, and encouraged them to come to see for themselves how their coworkers were building a new union through the negotiations process. One after another, as workers left the negotiations room, they signed up to become union members.

When workers have low trust in their own organization and are invited to take part in the very process at the heart of every union—contract negotiations—they often shift to having immense trust. This can happen in the course of one negotiation session, if not just one hour in a session, when the union goes out of its way to ensure all workers understand the process and dynamics. This is especially true when previously skeptical workers see their employer's often disrespectful behavior in negotiations. In 2016, more than a decade after my Nevada union work, I was hired as a consultant by the state-based independent nurses' union in Pennsylvania to help coordinate citywide negotiations in

Philadelphia and lead negotiations with the employer who had hired a nefarious union-busting firm, IRI Consultants. (The company is currently working with Google management to help dissuade its workers from seeing themselves as workers, or unionizing.) We'd have to bring every lever of power to the contract talks, assuming we could even get to the negotiations. The employer, Albert Einstein Medical Center, had taken the advice that IRI's consultants had given it, which was to file official objections to the NLRB elections where the Einstein workers voted yes to unionizing. This meant that although the workers had voted for the union, the NLRB had not yet legally certified the election.

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“When workers have low trust in their own organization and are invited to take part in the very process at the heart of every union—contract negotiations—they often shift to having immense trust.”

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With a powerful union-busting firm still driving a divide-and-conquer, scorched-earth approach inside the hospital and among the workforce, which it alternated regularly with running an aggressive message of futility (“nothing will change just because you voted to unionize”), relying on a typical union approach to negotiations was the opposite of what workers needed to realize their vision of having a meaningful voice at work. Using Einstein as a prime example, I will next outline the basic process and elements of transparent, big, and open negotiations.

## The Contract Survey as an Organizing/ Reorganizing Tool (and Structure Test)

Many unions, if asked, will say they have conducted a survey of members in preparations for negotiations. For most unions, this means they’ve either surveyed union members through their internal steward structure, or, more likely, have e-mailed an anonymous survey to the members of the union. If asked how many workers or what percent answered the survey, many unions won’t know and won’t seem to care. In New Jersey, as discussed in our case study, organizers with the teachers union found that most members didn’t even remember filling out the union’s traditional bargaining survey—a clear indication that it wasn’t taken very seriously. By contrast, in a contract process truly aimed at reaching supermajority worker participation, the contract survey itself represents the first of what will likely be many “structure tests” in the contract campaign. A structure test is a mini campaign that helps workers identify where its internal structure is strong, middling, weak, or nonexistent.

To make a contract survey function as a structure test, worker leaders in each site or facility unit are responsible for holding one-on-one conversations, or small group meetings, with workers in their area in which they work. Each worker activist is responsible for carefully tracking who filled in the contract survey as they methodically meet their coworkers so that they know whether, or when, they have achieved majority or supermajority participation—or whatever number that achieves a specific, set participation goal, and thus how many workers are actively engaging in the contract survey. Setting the intention of getting to majority or a supermajority, or 90 percent, or some specific goal, is a key step, up front. As discussed in another of our cases, the bargaining committee at the *Los Angeles Times* carefully tracked who had completed the contract survey and did repeated follow-up until they were able to reach supermajority completion.

Though not a hard-and-fast rule, ideally the survey will not be anonymous, because the contract-survey process is an organizing or reorganizing tool that explicitly encourages relationship building among the workers. Structure tests encourage solidarity building—not just structure building—by how they are conducted. They build in permanent two-way conversations between the workers and what becomes the central negotiations team. Conducted this way, worker activists and worker leaders emerge from this structure test—the initial contract survey—better understanding which workers lead which other workers, and which workers rely on and trust which workers. This process is called leadership identification. Relationship building is crucial to every aspect of garnering maximum worker capacity to win a great contract. By contrast, a confidential, online survey denies workers this vital aspect of relationship building on perhaps the most important topic to workers: what they want and need in their next contract.

Finally, contract negotiations are a superb time to recruit the hard-to-recruit workers and those who are newly hired since the last negotiations. The process of persuasion, a key to recruitment, can best—if not only—be executed by first listening to and hearing what the worker with whom you are engaged wants to change about their workplace. Careful listening can happen only if the survey is a conversation tool, a document that one worker fills in while listening to the issues

Sophia Pace (front center) surrounded by fellow coworkers from the Observation Unit during a union caucus.



that matter most to the coworker. The recruitment then happens once the worker activist knows the coworker's top issues, and can walk them through the steps of how their most crucial concerns will be raised in the contract negotiations process, connecting the building of a strong union with robust membership participation to the outcomes that can be achieved in the contract campaign.

## Electing a Big, Representative Negotiations Team

After the conversations in the contract-survey process, the next step is holding rotating site-based or unit or facility-based elections once a majority of workers in a given area have reached the goal of a majority of workers having completed contract surveys. At Einstein, we conducted rolling elections. Once a unit hit a majority of coworkers' having participated in the contract survey process, it could nominate members to the negotiations team. If they were contested (many were),

a secret ballot election was conducted by the site or unit to elect their negotiations team members.



Power is what wins in union negotiations, and in a democracy, participation equates to power.

From the get-go, using this approach strongly reinforces the fact that power is what wins in union negotiations, and that in a democracy, participation equates to power—be it to hold a supermajority strike or to elect politicians who will solve problems to the benefit of the working class.

The rolling negotiations team elections at Einstein—with units announcing the results on simple photo posters with a statement that the worker was ready to go to the contract talks and bring the issues of their work area to the employer—created a friendly but competitive environment. In areas or units where worker activists were struggling to reach majority participation in the survey process, being able to show their coworkers the posters from other units—demonstrating through visuals that others were participating—created a healthy motivation for those units to catch up. They realized that without participation, their unit and their specific issues would fail to have representatives on the negotiations committee.

The size of the official negotiations team depends in part on the size of the workforce. For Einstein, with 1,000 workers in the bargaining unit, workers elected a 60-person committee. All workers were allowed to attend planning sessions and negotiations; the official committee, however, was expected to be at negotiations and fully engaged in the process. In some big departments, workers elected alternate negotiators in case someone couldn't get off their work shift. (In a workplace with notorious short staffing, having alternates to officially negotiate was important.)

At UNITE HERE Local 26, discussed in this report as one of our case studies, the union assembled a negotiations committee that included not only Marriott workers—who would be directly covered by the contract being negotiated—but workers from other unionized Boston hotels because the union planned to extend the agreement to other employers. Workers from every union hotel could and did attend Marriott bargaining.

## Creating Article Committees for Each Article in the Contract

An organizing approach to contract talks means tirelessly looking for ways to get an increasing number of workers involved in the contract process. For the Einstein campaign, we created “article committees,” an even bigger team of workers who get involved based on their particular interest in a particular aspect of the contract. The way I’ve practiced this since the earlier part of this century is by asking each official negotiating committee member, or an elected alternate, to be the chair of at least one article in the contract. Participation on

an article committee provides yet another mechanism for workers to connect the outcome of their issues to their active involvement in the contract campaign.

It also makes for an almost dizzying level of efficiency in the actual negotiations process. When the employer provides counter proposals all at once, workers on the article committees

Article	Nurse Proposal	Management Counter	Name If Interested
Article 10 Holidays	8-17-16 (l) 10-13-16 (c)	10-6-16 (c) 10-19-16 (c)	Trish Brown (PACU), Kerry, Jane Daughtery (MB), Pam Gervasoni (L&D), Stephanie Carter (L&D), Rhonda Ravencel (PCU), Darlene Rivers (PCU); Patty McGee (NPED)
Article 11 Vacation Scheduling	8-17-16 (l)	10-13-16 (c)	Carolyn Wheeler (ED), Pam Gervasoni (L&D), Cathy Vanore (SICU), Christine Tucker (MB), James Trajand (ED), Karen Shipman (ED), Jen Abhamand (CM)
Article 12 Health, Welfare and Pension	9-28-16 (l)		Pat Kelly (MICU), Jerri Menefee (NICU), Pam Gervasoni (L&D), Cathy Vanore (SICU), Trish Brown (PACU), Dortha Landham (OR), Adrienne Flim (SPU), Judy Mancini (CCU), Patsy Mather (NICU), Angela Hunt (NICU), James Trajand (ED)





An article committee works on article 19, “No Strike, No Lockout,” during a union caucus.

can quickly meet and review the changes the management team is proposing. I’ve watched a dozen article committees work simultaneously to read through the union’s proposal, compare it with the employer’s counter proposal, and then have the article-committee members themselves stand up in the larger room, one article committee at a time, to present their committee’s recommendation to the full negotiations team about what to accept, reject, or counter.

## Contract Action Teams

Contract action teams—CAT teams—and similar site-based structure teams that have different names but the same purpose function to ensure two-way dialogue between each work area, worksite, and worker classification and a negotiations committee. Historically, CAT teams have been seen as an important part of bottom-up contract campaigns. Interestingly, in a big and open negotiations process, where a large team of negotiators and alternates are elected, there’s less need for a formal CAT team than in unions with small committees and a more closed process. Negotiations that are big and open create structures that engage every unit and type of worker in direct and indirect ways. CAT teams generally meet with small bargaining teams or negotiators after negotiations sessions. But when the negotiators or their alternates provide that representation, and when all workers are being encouraged to attend negotiations to listen, watch, and participate when planned, the work of the CAT team is functionally being handled.

## The Information Request

Information requests are a formal, legal part of the negotiations process. Workers who have formed a union have the right to essentially all information their employer has on just about any topic or issue area that is governed by conditions

of work. Unionized workers can ask for spreadsheets that show what every worker in the bargaining unit—the workers covered by the collective agreement—is paid, their date of hire, the experience they brought to the job, what benefits or bonuses they are being paid, how many hours of overtime they are asked to work, how many of their work shifts are being cancelled, and much more. The employer is required to provide this information as part of the contract negotiations process.

If the employer fails to provide this information, which is crucial to constructing the demands the workers will put forward, it is considered an unfair labor practice (ULP) under the National Labor Relations Act. While no negotiations committee would release or publish this sensitive data, they can quickly develop a database that allows each worker to see, for example, whether they are being paid under, over, or the same as workers with the same experience and years on the job. This is a key tool used to confront gender-, age-, race-, and ethnicity-based discrimination, as workers at the *L.A. Times* were able to do by using information request data to call out five-figure pay disparities. Wage and benefits transparency is fundamental to the negotiations process. Discussing and sharing the information requests sent to the employer with all workers is one good way to have them understand a right they have relative to not-yet-unionized workers. [See appendix for an example from Einstein]

## The Three Rules for the Room When Management Is Present

Crucial to a big, and especially a big and open, negotiations process is having an upfront agreement as to how everyone on the union side will conduct themselves when the management team is in the room and negotiations are taking place. Over the years, each negotiations team I've had the pleasure of working with has debated, and finally voted to adopt, three simple governing rules for all union participants during active negotiations: (1) workers maintain poker face at all times, (2) no one speaks except the designated negotiator, unless it is planned, and (3) workers send notes to the negotiator anytime they want to talk, let the negotiator know something, or want to take a break and ask the management team to leave the room (known as a caucus in union negotiations). A fourth rule matters, too, which became relevant once cell phones were ubiquitous: absolutely no pictures, no recording, and no phone use when the employer is in the room!

## 3 RULES OF THE ROOM When Management is Present

1. POKER FACE AT ALL TIMES
2. No one speaks except our negotiator *unless planned*
3. Send notes to the negotiator *anytime* if you want to talk or let her know something or request we take a “caucus” (a break where we can ask management to leave the room for private conversation time)

And of course, absolutely NO cell phones, photos, or recording.

The three rules are enforced by workers themselves. The negotiations room stays so silent you can hear a pin drop because workers understand the responsibility they are being given in big and open negotiations. The system we used at Einstein and in many other negotiations is one in which worker activists agree to be stationed near the room entrances. When the door opens, if during actual negotiations, the worker activist will step outside the room with those wishing to enter. They will explain the three rules voted

on by the negotiations committee and ask each worker to sign their name on a sheet stating they agree to abide by the rules. If a worker can't agree to sign, they are invited to attend planning or update sessions instead. In 20 years of big and open negotiations, I've never seen a worker violate the rules. A key reason is the third rule, allowing for notes to be passed at any time from any worker to the chief negotiator. Thus, workers have an immediate outlet to express something they are concerned about even if they cannot speak aloud at that exact moment.) To show how serious we were about the notes being passed in real time, we placed 3 x 5-inch index cards and small pencils on every seat in the negotiations room. This allowed for instant communication and helped people who urgently want to speak out instead channel their thoughts into a note to the negotiator, who could either invite the worker to make the point they are raising, to call out management for something they said that is not true, or to ask for a formal break—a caucus. During the caucus, if a debate or issue is emerging among workers in the room, it can be quickly resolved in private.

## No Ground Rules, Ever

Much like the importance of the negotiations committee's three rules, having an agreement up front on the union side about ground rules for negotiations is essential. I've never had employers not present ground rules, and they are often put forth as if they will simply be agreed to by the workers. And most workers who have been in negotiations believe they have to discuss and agree to some

form of ground rules. This is not true. Under labor law, there are two types of subjects in negotiations: permissive and mandatory—those two words are straightforward enough. Agreeing to even discuss ground rules for negotiations is a permissive subject of bargaining. In practice, “ground rules” have essentially been weaponized by management to create confidentiality and gag rules, to prevent discussions about negotiations with other workers, the media, and the

community, and to infix a seemingly infinite list of other repressive measures. When I was trained in negotiations, I was told to never accept or set any ground rules. And I never have. Half the case studies in this report rejected ground rules outright, and in the case of the New Jersey educators, they took a clever approach of getting around some restrictive language by simply making the entire workforce the negotiations team!



In practice, “ground rules” have essentially been weaponized by management to create confidentiality and gag rules.

## Planning Where to Hold Negotiations

Labor law stipulates both parties must agree on where and when negotiations take place. If the employer has a space big enough to accommodate your committee’s size and the negotiations involve a single facility or single employer, then conducting the negotiations on site works well and provides several advantages. Many workers visit the negotiations room on work breaks, be it having lunch in the negotiations room (adhering to the three rules) or using a 15-minute break when it is important for a particular worker to join the session—for example, if the employer had earlier in the session brought up or misrepresented an issue that the on-break worker knows about and can address. Most employers facing big and open negotiations will try to make negotiations as inconvenient as possible for the workers. Obviously, if workers want many coworkers to participate, then getting the negotiations as close to the facility, or as central or convenient as possible for multisite negotiations, is key.

In the Einstein negotiations, like most negotiations I had been involved in, we used community institutions close to the facility, or central to most workers, depending on the scenario. Ideally, as part of the contract campaign, workers have already charted one another’s connections to their own community institutions.





Einstein nurses preparing for contract negotiations taking place at Mt. Airy Church of God in Christ in Philadelphia.

This is a key mechanism, enabling workers to bring their own community's concerns and issues into the process. It's also a terrific way to find free or very affordable locations for bargaining. For example, at Einstein we held negotiations in a nearby church that was powerful in the community and city politics. We decided to hold our negotiations there once we realized the church represented power and workers in the hospital were already members of the church. The workers made the connection to the church leaders, opening a pathway not just to a good site for negotiations but also to drawing on and reinforcing an organic relationship between the workers and the pastors and congregation.

## Training, Role Playing, and The Opening Session

Whether you choose traditional small committees or big ones—but especially if you choose big and open negotiations—conducting ongoing trainings in negotiations basics, starting with the three rules, is essential. It is important to role play. For example, in a mock negotiations session we had some people who acted as the management team behave in utterly charming and utterly rude ways, trying to get the committee to break any of the three rules. Certainly, when workers are preparing to speak in negotiations, having them role play in front of their coworkers and practice what they plan to say helps get the nervous jitters out of the way, at least in part.

In big and open negotiations, it's a great practice to have the entire negotiations team and even key worker leaders who are not formally on the committee make an opening presentation to the management team on all the subjects they will



The negotiations room stays so silent you can hear a pin drop because workers understand the responsibility they are being given in big and open negotiations.

address in negotiations. This presentation can include areas in which the workers believe there is a common interest with management. In the Einstein campaign, that included the workers' being able to create outstanding patient-care outcomes. The presentation can include the results of the majority contract survey, with data and statistics about the key issues that workers will bring to the negotiations themselves. Having the committee plan this presentation by having a slide for each topic or issue, and having workers plan who will do the presenting and in what order, can get negotiations off to a roaring start. It will send a strong signal to management that workers are in control of the negotiations. [See the appendix for the opening slide show from Einstein negotiations.]

## **Making it Easy for Workers to Stay Informed When They Do Show Up**

In order for workers to get engaged in negotiations, they need to know the context of what's happening in the room when they show up. If they are simply sitting as unknowing observers, they can get bored quickly. One easy tool to use is an article checklist. It tracks which negotiating side made what proposal and whether the other side presented a counterproposal, with a simple summation of the status of each article, created for each negotiations session. [See the appendix for an example from Einstein.]

## Negotiations Bulletins—Simple and Published before the Employer’s

When you have a big committee present, and many additional workers attending negotiations, there’s a vast, built-in volunteer corps filled with the talents needed to bargain and to do such things as write the negotiations bulletin—as the negotiations are taking place! Worker volunteers are asked to take key notes, and to capture the energy by taking photos of one another and workers who showed up to present, or to witness, or to participate in any other way—all during breaks in the negotiations, of course. These materials can be turned into a flyer within minutes of negotiations wrapping up for the day. In a big team, some members volunteer to go to a copy shop and make dozens, hundreds, or thousands of

fliers, while others wait at the facilities, ready to place the news into the halls of the workplaces immediately. In this way, the workers have framed the events of the day before the management team has even had a chance to sort through their often legalistic approach to communications. [See samples of Einstein updates in the appendix.]

These process mechanisms are tools that transform a union from low participation to high participation by way of contract negotiations. High participation has an effect on everything: winning better contracts, building or maintaining high membership, unionizing more workers in a union’s industry or more unions in a geographic area, and developing a robust political mobilization structure so workers can get more from elected politicians than the corporate class does. Because negotiations are about power—and many good unionists often express that winning at negotiations is what you do *away* from bargaining tables—the processes described in this report connect the power of the workers directly to the negotiations and the outcomes of the negotiations.

# EINSTEIN NURSES’ NEGOTIATIONS BULLETIN

AUGUST 18, 2016 • ISSUE #1



We got off to a great start at negotiations yesterday! We began with a big presentation to educate the management team about what matters most to us in these first contract negotiations: improving staffing so we can improve patient care. Management came to the negotiations table with a two-part proposal for a new four (4) tiered Per Diem system and we got right to work discussing how we, the bedside and staff nurses, see some ways to make their proposed plan more effective. They paired their proposal with an offer to give all of us the 150 years one (1%) bonus. We will take this up again at our next negotiations session.

In addition to making an opening presentation, we made proposals on everything from nurse-to-patient staffing ratios to scheduling, vacation and more. See any of the negotiations team members to hear and learn more about our opening negotiations session!



“It was exciting sitting here for the first time across from management and their representative. I felt they were listening, but they were surprised how detailed and serious of a presentation we gave about the issue of staffing. We’re hoping that they’re taking us seriously, and respecting our positions at this time.”  
**Joyce Rice, L&D** (far left)



“I found it very empowering to sit at the negotiations table after such a long time. I’m optimistic that we’ll get most of the things we want. The safety of our patients is the most important goal.”  
**Carolyn Perry** (far left)



“It was awesome to finally sit down at the table and enlighten management about all of our concerns.”  
**Margie Cistone, Stress Lab**

“There was a huge turnout of support, and the nurses did a great opening presentation.”  
**Peg Lawson, ED**



“We really have taken control of our futures.”  
**Jyll Kurczewski, ED**

“It’s a historic moment. Nurses and upper management finally face to face, deciding our future.”  
**Beth Bowman, Tower 7**



For more information, call 610-567-2907  
PENNSYLVANIA ASSOCIATION OF STAFF NURSES AND ALLIED PROFESSIONALS





Contract talks don't happen in a vacuum. They are set in the real world, in communities big and small, with workers considered harder-to-replace and those considered easier-to-replace. To win in any setting, against any employer, it's crucial to prepare a power-structure analysis of the employer—not only a traditional corporate analysis but a more robust analysis that helps workers understand the employer's relationship to the geographical arena in which the negotiations take place. Who holds power in the area? Which is the employer connected to, and how? Once the workers' internal structures are strong enough to be strike-ready, it's essential to engage with workers about all the people they know in the community. By directly engaging the workers in the process of charting their own connections to local power structures, they can collectively bring those connections into the collective-bargaining process for maximum power and public-interest outcomes. There's simply no way to bring the broader community's interests to bear in negotiations unless and until the workers' power itself is at the highest possible level. This dynamic in negotiations—the interplay between workers, their community, the power structure, and checkmating the employer—produces the kinds of gains that lead more workers to be willing to overcome the employer's often brutal tactics in unionization campaigns.

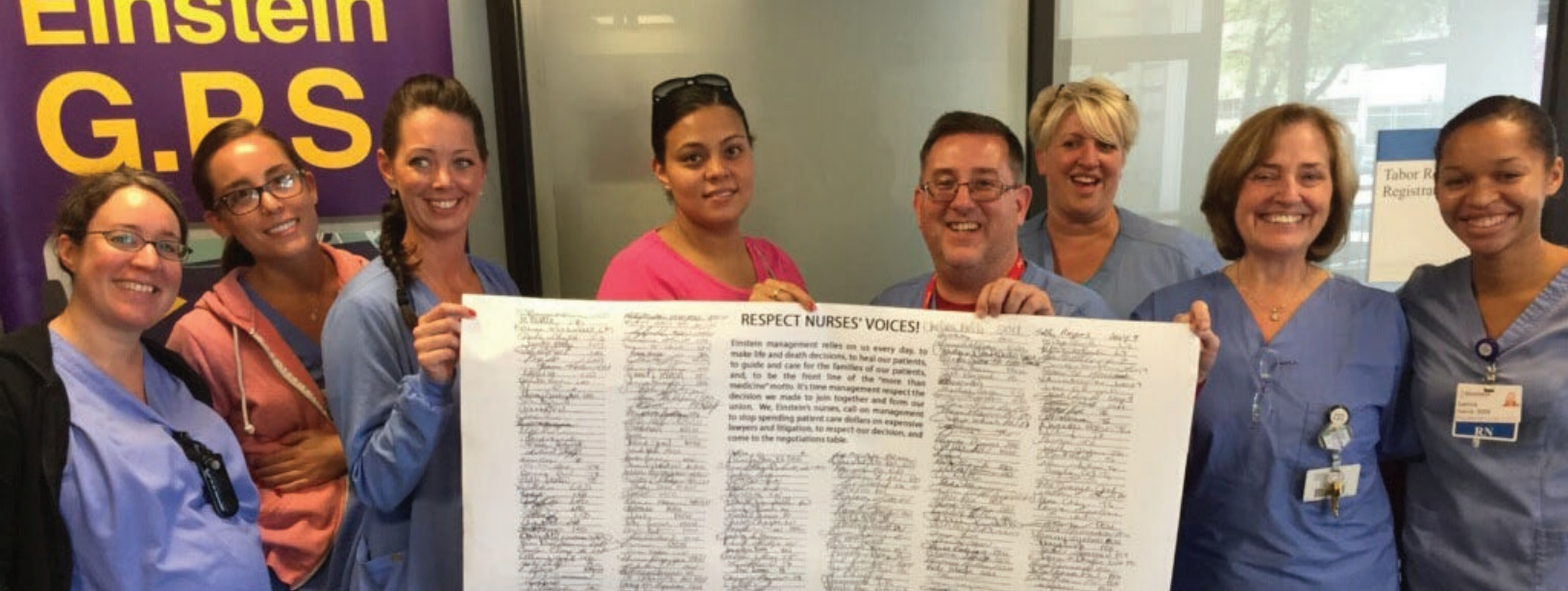


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**The interplay between workers, their community, the power structure, and checkmating the employer produces the kinds of gains that lead more workers to be willing to overcome the employer's often brutal tactics in unionization campaigns.**

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In the Einstein negotiations, once workers had elected their full negotiations team and achieved majority participation in structure tests across the hospital, they turned to systematically charting their connections to the power structure in the city of Philadelphia. On the first day of this worker exercise, dozens of power connections between the workers and the power structure were revealed. The connections soon yielded an outpouring of organically generated support. The power of just one of the 1,000 Einstein nurses—Joyce Rice—produced a sternly worded letter from an alliance of some of the most powerful Black churches in Philadelphia to the CEO of the hospital. In turn, that allowed major politicians to



Nurse leaders preparing to deliver a majority petition to the hospital CEO.

be more secure when they demanded the CEO settle a fair contract: they stood not only with the workers but also with powerful faith leaders.

This report covers public- and private-sector workplaces in small towns and big cities. It covers single employer negotiations and multi-employer negotiations. It spans workforces that have high levels of ethnic, racial, and gender diversity, and others that are less diverse. Some of the unions are wall-to-wall units, meaning all the workers are in the union except those in management (referred to as an industrial approach), and the report also covers negotiations involving only a portion of the workforce, such as nurses or teachers (known as craft unionism). In these case studies, some workers strike to win negotiations demands; others took strike votes and won their demands on the power of a strong strike vote.

A common theme in all these case studies is the absurd cost of employer-based health care and how these costs severely limit what else workers can win. The role of venture capital and mega corporate mergers has been even more profound. Largely unaccountable private equity firms directly affected several efforts, in particular those of the *Los Angeles Times* and Boston hotel workers. But indirectly, the unchecked power of Wall Street, big banks, and the acquisition of once locally-owned companies by mega corporations has had a devastating impact on workers and their communities. Similarly, the imposition of new technologies, and an explosion of nefarious surveillance of workers' every move that often accompanies these technologies, suggest that new levels of worker power will be required to avoid workers being replaced by, or treated as, robots or machines. Despite these tremendous challenges, the workers in this report won, and won significantly. By approaching each contract campaign as an opportunity for maximum worker participation and deep community engagement, unionized workers still can win big. And these substantial wins are a beacon for workers everywhere.





## Case Study

# New Jersey Education Association

Photo: Ken Karnas

## A PUNCH IN THE FACE

In a 2015 interview with CNN, New Jersey Governor and Republican presidential candidate Chris Christie told a national audience what educators in New Jersey had known for years—that he believed the teachers’ union deserved a punch in the face.<sup>3</sup> Since first running for statewide office in 2009, Christie had made a political brand out of bald-faced contempt for New Jersey’s public employees and their unions, targeting particular animosity towards the state’s nearly 200,000 New Jersey Education Association (NJEA) members. Christie’s relentless efforts to dismantle benefits for K-12 employees, slash education funding, and expand charter schools in a largely pro-union blue state had propelled his rapid rise within the Republican Party.

A crucial early salvo in the war between Governor Christie and the NJEA came with the passage of Chapter 78 in 2011. The legislation tied the amount that public employees were required to pay towards their health insurance premiums to a percentage of their salaries and the overall premium amount, phased in steeply over a period of four years.<sup>4</sup> By design, Chapter 78 severely weakened

**NJEA:** The New Jersey Education Association, a statewide affiliate of the 3-million-member National Education Association (NEA), represents over 200,000 teachers and educational support professionals with local associations in every K-12 school district in New Jersey. The NJEA also has affiliates at New Jersey's county and state colleges. [www.njea.org](http://www.njea.org).



the union's bargaining position on health care and imposed the exorbitant costs of coverage that were all too familiar to so many private sector workers onto public sector workers as well. For many contract cycles, NJEA members had prioritized fully employer-paid health insurance premiums over wages and other benefits in their contract negotiations. With the stroke of Christie's pen, they were a thing of the past.

Over the next several years, as collective bargaining agreements for local school districts expired, triggering the bill's phase-in, teachers and other school district employees began to see the salary increases they had negotiated wiped out by state-mandated health care contributions. Karen Burke, a school nurse who had worked in the Mercer County Special Services School District since 1999, went from paying no monthly premium for her family's health insurance to over \$1,000 per month in the span of just a few years. Chapter 78 also required both public employees and the state to contribute more to the pension system. But while Burke and other NJEA members met their pension obligations, Christie quickly reneged on the state's funding commitment.<sup>5</sup> New Jersey's pension system dropped eight credit ratings to become the worst in the nation.<sup>6</sup>

New Jersey teachers refused to let political grandstanding destroy the top-ranked public education system and good jobs they had fought to build. By the time Christie termed out of office in 2018 with the lowest approval rating in state history,<sup>7</sup> NJEA members were headed back to the negotiations table to contend with the financial mess and legacy of bad faith he had left behind.

## **BARGAINING TO BUILD POWER**

As members across the state began to feel the full financial impact of Chapter 78, NJEA field representatives Jennifer Larsen and Alex DeVicaris knew that the local associations they worked with would need to build power to take on school boards emboldened by Christie's governorship. At the same time, association



members, the source of that power, were less engaged than ever. “People were really overworked and isolated and didn’t understand why they were being asked to come out. They didn’t know what they were fighting for,” said DeVicaris. Both former association presidents themselves, Larsen and DeVicaris had been trying to encourage the locals they worked with to do more rank-and-file organizing. After hearing about open bargaining during a session led by Jane at their union’s 2017 Collective Bargaining Summit, they realized that it could provide the catalyst for greater member involvement and enable locals to build the power they would need to overcome the financial and political setbacks of Chapter 78. “[Bargaining] is something that every association does that all members have an idea about. They understand that bargaining happens. They can wrap their heads around it and can see a pretty quick benefit of being more open and transparent in that process,” DeVicaris said. Getting directly involved in negotiations would remind members what the fight was about and show them how to win.



**[Bargaining] is something that every association does that all members have an idea about.**

Larsen and DeVicaris put together a detailed presentation on what they saw as the core elements of an open bargaining campaign: a Member Engagement Team (a form of Contract Action Team) made up of rank-and-file leaders with relationships covering the entire workplace; one-on-one “targeted conversations” between members leading up to and

throughout negotiations; regular communication from the negotiations team about what was happening in negotiations; and negotiations sessions that were open to the entire membership. With sign-off from “two of the most conservative labor attorneys we knew,” Larsen and DeVicaris began pitching local presidents on the new approach, focusing on associations with a history of distrust between members and leadership or a particularly contentious relationship with their school board. As staff support coming in from the statewide union, Larsen and DeVicaris weren’t dogmatic about how local associations approached the change. The elected leadership of the local associations could “take it to whatever extreme they’re ready to go,” as long as they were transparent, communicative, and prioritized one-on-one organizing. Soon Burke’s local, the Mercer County Special Services Educational and Therapeutic Association (MCSSETA), the Watchung Hills Regional Education Association (WHREA), and two other local associations were signed on to try open bargaining for the first time. Another



local, the Readington Township Educational Association (RTEA), decided to move forward with transparent bargaining, agreeing to radically increase communication around negotiations though keeping the sessions themselves closed.

## LET'S DO IT

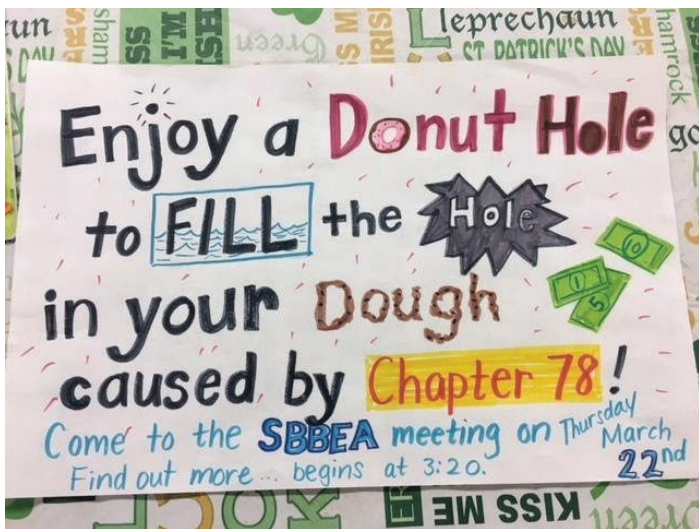
Leah Pray was settling into her first term as president of MCSSETA when DeVicaris broached the idea of opening up the association's negotiations to members. A self-described pessimist, Pray was willing to try something new but worried about her coworkers actually showing up. Turnout from the association's last contract ratification vote—a mere 26 people out of a membership of nearly 400—still loomed large in her memory. “When you talk to presidents from other districts, the ratification meeting is the largest meeting they have in their district. It's the one meeting you can get people to come to.” In Pray's district, members weren't even showing up then.

MCSSETA is made up of certified staff (teachers, therapists, nurses, and child study team members), classroom assistants, and crisis intervention staff. The district is wholly dedicated to children and young adults with disabilities and serves over 500 students with significant educational access needs, not only from Mercer County but from districts across the state and even nearby Pennsylvania. The school district's three-building campus sits less than ten miles from the Governor's office in Trenton.

### Contract Action Team

A committee of members who communicate bargaining updates and organize coworkers in their group to take part in structure tests and other coordinated actions around negotiations.

Pray had been around the association for a long time—her mother had served as president for 16 years, and Pray had worked in the district for the last 13—and she recognized the need for change. “We were coming off a time where everything was very hush-hush. You were not supposed to talk about things, and there was a lot of distrust between my members and the executive board and the negotiations team.” Something needed to happen to build trust and get more members involved. Pray also felt strongly that being the elected president of the association didn't make her its sole decision-maker. “I don't want that kind of responsibility,” she said, tongue-in-cheek. She liked the idea of having more people be a part of bargaining and brought the idea of opening it up to her nine-member negotiations team.



Sign advertising an NJEA local association meeting to discuss organizing in response to Chapter 78.  
Credit: NJEA

Keith Whitacre, Pray’s co-chair for the negotiations and a high school classroom teacher (now happily retired), had been through so many MCSSETA contract campaigns that he’d started to lose track (six or seven?) and served in the co-chair role for the last four. Whitacre also recognized the distrust among members but had always thought that closed bargaining was the association’s only option. “For as long as I was involved in the negotiations, that was the way that it was,” he said. When DeVicaris explained open bargaining, Whitacre was taken aback: “We were always told it had to be private!” But Whitacre, the optimist to Pray’s pessimist, thought it was worth a shot.

“This was an opportunity to put it all out there and give everyone an opportunity to truly be a part of the process...What if it works?” Whitacre, Pray, and the other members of the team said, “Let’s do it.”

At WHREA, the negotiations team and the executive committee were similarly ready to make a change. A 250-member local made up of teachers, secretaries, bus drivers, security, and maintenance personnel serving the Watchung Hills Regional High School, the association was also under relatively new leadership. Listening to Larsen present the idea of open bargaining, President Ken Karnas recalled, “I think we all secretly, without wanting to jump the gun, were like, ‘We want to do this, we want to do this right now.’” Like Pray, Karnas was headed into his first negotiations as president. He and other district employees had long been frustrated by the lack of transparency and communication from their school’s administration, and Karnas didn’t want his coworkers to feel the same way about the association. “It was important to us to say [to other members] that we know that you’re not getting transparency elsewhere and we’re going to be transparent with you.”

In Readington, association president Kevin Meyer also saw greater transparency as a way of distinguishing the association from the school board. A middle school special education teacher, Meyer felt strongly about encouraging both teachers and students to advocate for themselves. “Prior to this process, none of what was happening on either side—in our case the board of education and the association—none of what their goals were for what they wanted was discussed with our constituents, our teachers, our members...Their bargaining

team shared only with their board, and they only reported out to the public once there was something final. So all these stakeholders want a say in these things and to be represented, but they have no idea what’s going on.” The 300-member local included teachers, secretaries, paraprofessionals, clerical aides, guidance counselors, nurses, media specialists, child study team members, and maintenance and custodial staff serving K-8 students. Meyer wanted to make a change, but he and the rest of the association’s executive council were also worried that without a history of one-on-one organizing, the association lacked the foundation it needed to effectively transition straight to open bargaining. Instead, he committed to take the first step of having transparent negotiations.

## Part 1: MEETINGS WITH THE MET

Though NJEA locals had utilized a bargaining survey in the past, Larsen and DeVicaris were adamant that as part of the shift to open bargaining, member input should be solicited through what they called “targeted conversations”—structured in-person one-on-ones—rather than a written questionnaire. “We’ve had people come back and say, who’ve been a member for 20 years and been through four or five contract cycles and done the paper survey every time and yet when we go and do [targeted conversations], they come back and say, ‘No one

ever asked me my opinion before,’” said Larsen. “They never equated completing a survey about bargaining to being asked their opinion on what was important at the bargaining table.” Gathering survey responses, keeping members engaged throughout bargaining, and organizing workplace actions would be the work of the rank-and-file leaders who made up the Member Engagement Team, nicknamed the “MET.”

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“We were always told it had to be private!”

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When Marisa Walsh signed on to be a part of the negotiations team for WHREA’s 2018 bargaining and heard the roadmap for member engagement, she thought she knew what she was getting herself into. A high school biology teacher, she had worked for Clean Water Action after graduate school and gone door-to-door doing one-on-one organizing around environmental issues. After seeing prior negotiations play out, she was “familiar with how it feels” to go through a closed process and liked the idea of a “grassroots” approach with greater transparency and member involvement. As part of the MET (in Watchung Hills, a combination of the negotiations team and the executive council), Walsh took responsibility for a dozen of her coworkers—some of whom she knew, others

she didn't—and got to work building relationships with her group. By taking assignments to organize coworkers they didn't already know, Walsh and the rest of the MET hoped to grow the universe of people who were receiving regular updates about the contract campaign to include the entire bargaining unit.



All these stakeholders want a say in these things and to be represented, but they have no idea what's going on.

Still several months out from the start of negotiations, Walsh and her fellow MET leaders didn't go straight into talking about bargaining priorities. Initially, they would stop by coworkers' classrooms or work areas with a "fun fact"—something about the union or the existing contract. It was cheesy, but soon coworkers were asking Walsh when she'd have another fact for them. She started getting to know the coworkers she'd been assigned outside

of her own hallway—coworkers who weren't classroom teachers. Eventually, she transitioned into more structured conversations to ask directly about what they wanted to get out of negotiations.

Larsen and DeVicaris framed the targeted conversations around three open-ended questions: 1) What do you like about the contract and working here? 2) What would you change about working here, or what would you like to see added to the contract? and 3) Who do you like or respect in the building—who do you go to? The team used the third question to continue recruiting other leaders to the MET from outside the existing building representatives and elected officers of the association. "It's a different kind of job than being on the bargaining team or being the building rep where people are in trouble," said Larsen. "It attracts a different kind of person."

School nurse Burke was one such leader in the Mercer County Special Services School District. Burke had been involved socially in the association but had always been reticent to get in the middle of workplace grievances, a central part of the role of a building representative, NJEA's version of a shop steward. After years of being on the periphery, Pray convinced her to chair the association's MET for the 2018 contract negotiations. The member engagement role played to her strengths. With a self-described style that was assertive and funny, Burke wasn't afraid to be direct with her coworkers. Over the years, she had seen her share of staff representatives from the statewide association and felt she could do a better job in getting her coworkers to care about what was happening in negotiations.

When she couldn't find someone in person, Burke would use the school's PA system to track them down.

For all of the local associations Larsen and DeVicaris worked with, targeted conversations between leaders on the MET and their group of assigned coworkers in the lead-up to negotiations was the foundation for everything that followed. "When we're doing [conversations] around bargaining, we almost get 100 percent input," said Larsen. "We created a paper to hand to members that asks them what they're comfortable doing and how they'd like to be involved. So we're trying to build a database of how we can get each member involved in some way in the association." The conversations were a means of gathering input but also served the crucial functions of developing relationships between members, laying a groundwork of trust and communication not only for open bargaining, but for the ramped-up workplace actions that would accompany it. The conversations also identified new organic leaders to bring into the organizing efforts.

## Part 2: OTHER PEOPLE'S WORLDS

After the targeted conversations with their coworkers, MET members from across departments and buildings gathered to debrief their experiences and tally the issues that came up most often. Then, the association held an event called the "World Café," which brought together the MET and the broader membership to talk through bargaining priorities. Pray had found in the past that with a paper survey "there was lots of conflict and misunderstanding about why issues got prioritized." The World Café gave association members the opportunity to come together and set the priorities themselves.

"We sat down and talked about the issues," said RTEA President Meyer. "We started by BS'ing a little bit and seeing the really outrageous things that we heard from our members and the really consistent things that we heard and the things that none of us had thought about ourselves. And we did it in a social way and then we started looking at it categorically. What things were related to time? What things were related to professional development? Health benefits? Compensation? And then from there we really dwindled it down to a prioritized list which allowed us to make the most effective group of proposals that we wanted to go to the board of education with."

During World Café meetings, members spent time in small groups, each one assigned to a contract issue. The small groups rotated through three prompts: 1) What information or evidence would you share with someone at the local



who doesn't understand why this issue is important that explains why it should be a proposal? 2) What evidence or information can you give to the board of education to explain why they should adopt this proposal? and 3) Assuming we go to impasse, what evidence or information would you give us to help explain to the public—parents and taxpayers—why we're holding out over this item? At MCSSETA, as small groups discussed bargaining topics, Whitacre and the other members of the negotiations team monitored the conversations "to get information to help us explain to the board about why this was so important."



We've had people who've been a member for 20 years and been through four or five contract cycles and done the paper survey every time and yet when we go and do [targeted conversations], they come back and say, 'No one ever asked me my opinion before.'

Pray had started her career as a classroom assistant before becoming a teacher and recognized the value of the World Café in allowing members to understand each other's experiences. "You're meeting with the whole building and people are talking with each other, not at each other...and you're explaining why [certain issues] are important," said Pray. "Everyone gets to hear what is happening in other people's worlds." MCSSETA brought certified staff, classroom assistants, and crisis employees together in one association but under three separate salary guides. For classroom assistants, the salary guide topped out at \$40,000 per year while the certified staff guide started at \$62,000, creating an economic gulf between members. For WHREA, the bargaining unit included secretarial, security and custodial staff, and bus drivers. "Things happening with the secretaries, the aides, the security people, the nurses, I wasn't really as aware of their day-to-day issues, so that was surprising, knowing what they were dealing with," said biology teacher Walsh.

Members left the World Café with a better understanding of their coworkers' issues. The negotiations team left with a clear sense of members' bargaining priorities and with butcher paper full of notes on how to best explain proposals. The meeting placed rank-and-file members in the shoes of their coworkers on the

negotiations team, preparing them for what actual negotiations sessions were going to look like. “It starts to show the other members that it’s really difficult to come up with an explanation that’s not just ‘it should be that,’” said Larsen. “They start to recognize it’s really not easy to be at the table negotiating against their bosses,” said DeVicaris. “They’ve never thought of it that way. The team gets a lot more respect after that.”

## Part 3: AN OVER-CAPACITY BARGAINING COUNCIL

Closed negotiations had long been the practice in NJEA locals. In order to open up negotiations sessions, field representatives Larsen and DeVicaris decided they didn’t need to pick a head-on fight with the school districts over changing ground rules that local associations had agreed to in the past. The rules allowed the association to pick its own bargaining council. There was nothing preventing that bargaining council from being the entire membership.

### Ground Rules

A set of rules proposed and agreed to at the outset of negotiations which impose restrictions on the behavior of the union and the employer during the bargaining process. Traditional ground rules often contain provisions which serve as barriers to big, open, or transparent bargaining by limiting who can attend bargaining or limiting what information can be shared from bargaining. Ground rules are not a mandatory subject of bargaining, they are permissive, meaning a union may refuse to negotiate, agree to, or even discuss any ground rules without violating its duty to bargain in good faith.

At MCSSETA, the negotiations team had worked to set clear expectations for members about how to behave while they were in the bargaining room with management. “Everyone had to be quiet, no grunts, no ‘Hey, what do you mean?!’ We had to keep it under control,” said negotiations co-chair Whitacre. “And everyone was fine with that, they were just excited to be there and to be a part of the whole process, especially because they felt like they had been a part of putting together the contract proposal, that they were really a part of that, so they felt good about being there.” Bargaining was scheduled for four o’clock in the afternoon, after the close of the school day, and Pray made sure there would be food. “Educators are always hungry,” she explained. After all of the groundwork laid by the MET, 86 members filled the school library for the first session, more than three times as many as had participated in the association’s last ratification vote. “It surprised the crap out of me,” said Pray, though sharing the board’s opening proposal in advance—including a wage proposal “TBD”—no doubt helped to drive turnout. “The board’s opening proposal showed them that the board has absolutely no respect for what we do as teachers. [Members] were really, really mad, and that helped to get a lot of people involved.”



MCSSETA members in negotiations in the school library with Leah Pray, Alex DeVicaris, and Keith Whitacre at the bargaining table (right to left). Credit: NJEA

Pray and Whitacre were at the bargaining table along with the rest of the negotiations team and DeVicaris, with rows of members behind them. “The power dynamic felt absolutely different,” said Pray. “We were all sitting there and I was astonished at how many people had shown up and I had a big old smile on my face. I was watching as the business administrator walked in, saw all the people, and quickly turned around to walk back out the door. I was like, ‘Ooh, she’s nervous.’ That just kinda glided me through, because I knew they were not happy at all that we were doing this.”

## Article Checklist

An informational handout for workers attending bargaining listing each existing or proposed article in the collective bargaining agreement and providing updated information about the status of any proposals related to that article, including any tentative agreements reached and the names of union members working on particular articles. The bargaining handout should be updated and distributed to attendees for every bargaining session.

As negotiations progressed, the team continued to make adjustments to accommodate the expanded bargaining council. After the first night in the library, later sessions had to be moved to the school gym as attendance grew to as many as 150 members. “One of the things we realized as more people came in, it got harder and harder to hear the discussions,” said DeVicaris. “So we started to bring microphones in. And the other side would hate that and they wouldn’t speak into the microphone. So we would start repeating what they were saying so that people could hear. And then the members started asking like, ‘You’re talking about proposal B.4, what is that? I’ve never heard of that.’ So we started developing handouts for them that had all of the proposals on it in plain language and we update that after every meeting and have it for the next meeting and it has all



the proposals—which ones have been withdrawn, what the modifications were, when we agreed to things, so that everyone who comes to a session gets the most up-to-date information right there that they can follow along as they’re sitting there.” The negotiations team also passed out three-by-five index cards to the members in the room so that they could give input to the team at the table in real time. “We would have a runner that would collect them and bring them up to the table. The board a lot of times isn’t honest with the rationale behind something they were saying and at any given point 100 flash cards might come flying up to the table,” said Larsen. “We’re just picking up the cards and incorporating them into what we’re saying and it’s very intimidating [to the board] because essentially you know right away you’re being called on the card because what you said is just not accurate,” said DeVicaris.

During caucuses, “people are running back and forth with microphones so we can hear,” said DeVicaris. “When we caucused, the lead team would talk a little bit about what they counterproposed, and then we would turn around and talk to the membership...It was very helpful,” said Whitacre. “It was helpful for the membership to give information, it was helpful for us to feel confident about what we were thinking of doing, if they were supporting it. We knew where they stood on a certain issue. Because things may change as you go along, you may not get exactly what you initially asked for but you’re adjusting. Having them there gives you information and feedback and you can ask questions. It made the lead team feel a little more confident about the decisions you were making...and it was immediate.”

WHREA members crowded in the original conference room selected by the school district with Jennifer Larsen (center, in purple) and Ken Karnas to her left. Credit: NJEA



In Watchung Hills, Larsen used a pre-bargaining ground rules session with management to let them know that they would need a bigger room for negotiations. “They didn’t like it at all. They couldn’t fathom why you would



**The power dynamic felt absolutely different.**

have this many people,” said local president Karnas. The board refused to move the bargaining location, so when the first negotiations session came, the WHREA negotiations team filled the school conference room exactly to capacity—25 members—while over 50 members waited outside the room. When the school board president and the district’s negotiations team arrived, they refused to enter, claiming it would violate the fire code. “It was clear the board knew that’s what was going to happen and they’d looked up the capacity

of the room,” said Karnas. The association asked just enough members to join the larger group outside so that the district’s negotiators would at least enter the room, but the board still wasn’t ready to begin bargaining. They aired every possible objection to open bargaining: “that this is going to take forever, that you’re not going to be able to caucus effectively, that it’s going to be disruptive.” They refused to hand over proposals. The district’s lead negotiator called the NJEA office and complained about Larsen’s representation. But Karnas and the rest of the negotiations team stuck with their plan. With clear expectations for the association’s side that had been communicated through the MET, they were confident that their expanded bargaining council would be disciplined and be able to get things done. Eventually, they got the district to hand over its proposals. And they got a bigger room.

“The fact that we had communicated so much with the member engagement team made sure that people were not out of line,” said Karnas. “We had plans in place that if someone did step out of line and say something in a meeting, we would escort our own person out.” Walsh noted, “Everybody was really eager to be at those meetings. People really didn’t know what negotiations looked like and wanted to see what they looked like and show the board we were serious about what we were asking for...Everybody that showed up at the meetings was really happy to be there and definitely they saw the adversarial position of the board and the pettiness of some of the board members. To see that, they understood what we were working with there.”

As bargaining progressed in both Mercer County and Watchung Hills, the expanded bargaining councils were faced with crucial strategic decisions. Did

MCSSETA members need Chapter 78 relief in the form of reduced health care premiums? Or did they want to focus on salary increases that were substantial enough to outpace the increased monthly costs? In Watchung Hills, the board of education had proposed that negotiations focus exclusively on wages and benefits and to leave non-economic language unchanged from the prior agreement. Then they passed an above-average wage proposal across the table. Were members on board with an economics-only approach? And were they ready to take the board's initial offer?

Pray caucused with the over 100 MCSSETA members that were in the gym and decided to move off of the association's Chapter 78 proposal. It was a risky move. "In order to do to that, we needed to get a certain percentage [salary increase]. So I really needed people to stick around, because that was the only way we were going to get the salary increase we needed to not make less money," said Pray. "I think people realized that if we were going to do this then they all needed to help us do it. And they did, they were phenomenal." Because members had been in the room since the beginning, they understood they would need to keep the pressure up on the school board in order to win the raises they needed.



MCSSETA members in negotiations. Credit: NJEA



At WHREA, Karnas and the negotiations team put the school board’s proposal to move forward solely on economics to a vote of the 85 members in the room. The members decided that non-economic issues could wait for the next contract cycle but also that the district’s “let’s get this over with” wage proposal wasn’t enough. They’d continue to fight for more money.

## Part 4: NEW FACES

As bargaining progressed, the MET continued to meet face-to-face with their assigned groups to share information out from bargaining. “When there’s information coming out from the bargaining team, it goes straight to the [MET] so it can get to the members and they know,” said DeVicaris. “Whether it’s open bargaining or transparent bargaining, we don’t have rumors going on in any of the locals where we bargain because everyone knows the information. And they know if they have a question or concern or they heard something they’re not sure about, they know who they can go to to ask that question and they know they will get an answer back quickly.”

With many more members in the room, the MET had less work to communicate out the message of what had happened in bargaining. “People can’t say they don’t trust you because you are literally sitting in the room with them while they are going through this process. And it definitely makes disseminating the information easier. There’s no ‘We have to wait until the email server is up and running or the printer has ink.’ You don’t have to do that because they’re right there,” said Pray. Instead, the challenge was how to channel the increased interest and involvement of hundreds of members into pressure on the board of education. “Once all those people got involved, we realized we needed to do more.” They’d succeeded in getting the board president to show up to bargaining—something that hadn’t happened in many contract cycles—but even having her in the room didn’t seem to be enough to get things moving.

MCSSETA decided to take their fight to the decision-makers behind their local school board. Because they worked for a special services school district, the board of education and the superintendent were appointed by the county executive rather than directly elected, as was the case for other school districts in the state. Brian Hughes, the county executive and son of a former governor, had been in office since 2004 and had tremendous power over the board. “I have never spoken to him, past presidents have never spoken to him...so we needed to voice our frustration to someone. And the people who are supposed to oversee the things

he is doing are the county freeholders,” said Pray. MCSSETA members decided to go to freeholders’ meetings every month to update the freeholders and the (absentee) county executive on what was going on in their district. “The first few times, we didn’t have that many people, but as we progressed into the second year of negotiations, and we were still not getting anywhere and we were still not getting a response from the board, that’s when we really started packing



People can’t say they don’t trust you because you are literally sitting in the room with them while they are going through this process.

the house,” said Pray. Members gave testimony about the administrative disarray in the district and the personal impact of taking home less pay every year. They also met other community members who had no idea that the special services school district existed in Mercer County. Burke and others explained the work they did serving high-needs students and families and their struggle to win a fair contract. Soon, onlookers began signing up to give public testimony in support.

After months of freeholders’ meetings and no sign of Brian Hughes, Pray was ready to publicly call him out. It was a packed night, with both NJEA members and members from the correctional workers’ union, there on a separate issue, filling every seat and then some. Sitting in overflow, waiting for her turn for public comment, Pray saw an unfamiliar face. “I’m staring at the TV, my VP is sitting next to me, and I’m like, ‘Is that him?’ And she’s like, ‘I think it is!’” Hughes had finally made an appearance. “So within seconds I had to change how I worded my speech. Instead of asking the freeholders where [Hughes] had been throughout the years, I got to ask him.” Pray’s question was not well received. “He did not respond. He did not even look at me. When I said I was the president of the union, he turned his chair and faced the wall...But I asked him where he was. And you could hear the cheers coming from downstairs [in the overflow room] all the way upstairs. Because I think everybody would have liked to know the answer to that question.”

Hughes may have been unhappy with being called out, but it was also election time, and New Jersey Democrats couldn’t afford to treat the state’s teachers the same way Christie had. MCSSETA members had stuck through negotiations and continued demanding real salary increases for nearly two years. Per the state’s public sector collective bargaining rules, they had entered into state-mandated

fact-finding and were headed towards formal mediation. NJEA President Marie Blistan made a call to Christie's replacement, Democratic Governor Phil Murphy, and soon Blistan and Hughes had a meeting set. A week later, MCSSETA members had the deal they needed.

At RTEA, where negotiations sessions were limited to the five-member negotiations team, greater transparency and communication led to increased militancy among the association's membership. Members gathered for meetings after every negotiations session and the 20-member MET also communicated bargaining updates one-on-one. The association also reported out to the community, holding joint member-parent meetings an hour before district school board meetings, and the MET encouraged both teachers and parents to stick around and testify before the board itself. For one meeting with 150 members present, school district employees lined the sidewalk and hallway into the board offices wearing matching t-shirts. As school board members arrived, RTEA members clapped to show their collective power. Later in the school year, the association escalated to a work-to-rule action. "We were congregating outside of our entrances, entering school at the same time, leaving school at our contractual hours," said Meyer. Teachers updated their email signatures with their hours of work and set auto-replies to respond to emails received outside of the school day.



As we progressed into the second year of negotiations, and we were still not getting anywhere and we were still not getting a response from the board, that's when we really started packing the house.

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For Meyer and the MET, organizing the work-to-rule action was "100 percent easier" because of transparent bargaining. "If we had passed out that directive or instruction association-wide midway through the process with people like, 'oh yeah, we know we're negotiating,' but having it the back of [their] minds, had we sprung that on people we wouldn't have gotten nearly the engagement." Knowing what was going on in bargaining gave members a sense of why they needed to take action.

## Part 5: WE GAVE UP NOTHING

Early on into bargaining, the president of the Mercer County Special Services School Board had requested to meet one-on-one with MCSSETA President Pray. Pray took the request to her members, who vetoed any closed sessions. But after Blistan’s meeting with Hughes, they gave her the go-ahead. Pray and Whitacre sat down with the board president and the board’s attorney while the bargaining council, still over 100 members strong, gathered in the gym. “We said, ‘Our members will be here, we’ll come in and talk with you but if there’s anything we have to discuss with our membership, we’ll go back with them and discuss it,’” said Whitacre. Going into the meeting, the board’s offer on salary increases had long been stuck at a 1.25 percent. Exemplifying the ninety-ten rule that ninety percent of movement in negotiations happens in the last ten percent of negotiations sessions, the board suddenly came back with an offer of 3 percent. Then, with the board’s business administrator on the phone to the superintendent and Whitacre and Pray coming back and forth from the gym, the board came back with a proposal that would get MCSSETA members to a 3.9 percent salary increase by year three of the contract.

“In the past they could hold out as long as they wanted and we would do job actions and go to meetings and stuff but slowly we would lose momentum and it’s almost like they knew they could wear you down a bit and go for something that was less than you wanted,” said Whitacre. “This time they knew we were still there and the whole membership was there and we were unified and we continued to say, ‘This is what we need.’ It didn’t look like we were losing our momentum.” DeVicaris echoed the impact of open bargaining on helping associations stay strong even years into negotiations. “The biggest thing I’ve found [with open

MCSSETA negotiations after the location moved to the school gym to accommodate more people. Credit: NJEA







Once we started communicating everything with everyone, now that's the norm so people expect that now.

bargaining] is that it really gives the bargaining team the courage and the power to hold out for a better deal. It's not even just that it intimidates the other side or forces the other side to take concessions. It strengthens our own side, our own membership.”

Pray and Whitacre walked back to the gym and told their coworkers the latest offer of 3.9 percent. Some couldn't believe it. They'd gotten the district to offer up the kind of raises they needed. “We walked into the gym, told them the amazing deal, and they were all like, ‘Yeah!’ So then we

walked back in and shook hands and walked away,” said Pray. The power dynamic with the district had finally shifted. “They're always trying to take things away. We pay a ton for Chapter 78 relief...and they want us to take lesser health benefits and get rid of things and get rid of longevity, and they don't want to give you a salary increase.” But this time around, “we gave up nothing.”

The agreement was quickly ratified. Whitacre wasn't sure if many people would show up for the ratification vote because unlike in past years they already knew exactly what was in the agreement. But over 100 members turned out. “I felt like they really wanted to see it through, the final product that they had worked for this whole time by going to these meetings and doing job actions...it was the culmination of everything and they wanted to see it finished.”

For Pray, the ratification came just in time. After nearly two years of late nights spent in the school gym, she could focus on her upcoming wedding, just three weeks away.

## EXPECTATIONS SET

Larsen and DeVicaris had approached open bargaining with the theory that they could revamp how associations functioned to become more open and member-driven, and that these benefits would outlast the contract campaign. So far, the theory seems to be bearing out.

“Once we started communicating everything with everyone, now that's the norm so people expect that now,” said Pray. “People are automatically more involved, it's just something that happens when you do this kind of process.” But higher

expectations for communication and transparency were also coupled with greater understanding and respect for members who had taken on union leadership.

“There were quite a few times when people would come up to me and say, ‘I can’t believe this is what you guys do. I had no idea this is what you do.’”



**Open bargaining ties you together and knits you together as a community and you all feel invested in the success of the educational community and your contract.**

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At RTEA, where the local is now in its second contract campaign since shifting to transparent bargaining, the change has also altered how the school board approaches negotiations. This time around, Meyer is taking the lead as negotiator rather than NJEA staff. And the board is negotiating without an attorney present. WHREA member Walsh has seen a similar shift in the relationships between teachers and the school district. “It’s creating transparency not just in our association but in the school district as a whole...It’s face-to-face, person-to-person, there’s no separation of screen or title, or someone that we’re paying to be our representation like a lawyer in a court case,” said Walsh. “It’s down and dirty conversation.”

Seeing coworkers take a leadership role in the MET and bargaining encouraged other WHREA members to get more involved in their union. Karnas described a teacher in the district who decided to run for the executive board for the first time because he wanted to play a role in organizing his coworkers and do the work he’d seen the MET undertake. For other leaders, the relationships they built through the MET have continued. “I’m still in contact with [my] member engagement team list,” said Walsh. “Some of the security guards that I wouldn’t have otherwise talked to, we see each other and chit chat, ‘How’s your daughter doing?’ that kind of stuff. It’s not the relationship I had before, so that’s really nice,” she said. “Open bargaining makes the membership who isn’t really engaged day-to-day in the union more engaged and a part of it. It ties you together and knits you together as a community and you all feel invested in the success of the educational community and your contract. So it does a lot for the school too, that you’re all together.”

“More than anything, it reinvigorated the idea of what it feels like to be in a union,” said Walsh.

# Case Study

## NewsGuild-CWA



Photo: Kent Nishimura

## A FLOOD OF FIRST CONTRACTS

Jon Schleuss has a problem other union presidents would be happy to have: more first contract negotiations than he can handle. As newly-elected president of the NewsGuild-CWA, Schleuss took office after a hotly contested recount in December 2019 and on a wave of new organizing in the journalism industry that included his own workplace, the *Los Angeles Times*. With the international union adding just shy of 1,500 new members in both 2018 and 2019, and another 1,350 in 2020, Schleuss's "number one goal" since taking over leadership of the union has been to build capacity for bargaining at new and existing shops. Though Schleuss's ambition to transform the NewsGuild into an organizing union—one shared by a growing number of leaders within the union—is not limited to collective bargaining, the demands of negotiations have created particular urgency around building the capacity of Guild members to win great contracts.

It's an uphill battle. The very public influx of new members from prominent media outlets has brought new energy to Guild locals and the international union, but dwindling advertising revenue and the near-complete takeover of the



# NewsGuild-CWA:

The NewsGuild-CWA represents more than 25,000 journalists and other media workers at 200 print and digital media organizations in the United States and Canada. Founded as the American Newspaper Guild in 1933, the NewsGuild merged with the Communications Workers of America (CWA) in 1995. [www.newsguild.org](http://www.newsguild.org)



industry by vulture capital have led to shrinking and shuttered newsrooms and stark financial realities for many represented shops. The remaining Guild members are the ones who have hung on through rounds of layoffs and buyouts. Guild shops are spread thin in small and scattered newsrooms across the country.

Despite the overall state of the industry, the NewsGuild's newest members have been winning

at the bargaining table. Indeed, the union need look no further than some of its own first contract campaigns for examples of highly transparent member-led bargaining producing huge victories. At both the *L.A. Times* and digital media company Law360, bargaining committees of rank-and-file members have used structures built through new organizing to move newsrooms of in-person and remote workers to take increasingly militant workplace actions. Though neither local practiced “big” bargaining, high transparency and largely open negotiations sessions helped to maintain momentum from organizing drives through long campaigns to win life-changing collective bargaining agreements.

## HORRIBLE BOSSES

In 2016, the *L.A. Times* ownership company revealed its dramatic rebrand: instead of Tribune Company, it would now be known as Tronc, short for Tribune Online Content. “It’s about meeting in the middle, having tech startup culture meet a legacy corporate culture and then evolving and changing. And that’s really the fun part,” said the company’s Chief Digital Officer in an introductory video to employees that seemed custom-designed to be mocked on Twitter. The new name wasn’t the only shakeup. Tronc brought in new leadership and proposed to dramatically boost revenues through automating the production of video content, the latest and greatest “pivot” for print newsrooms. The technological side of the proposal was vague, but its underlying ambition was clear: to produce more and more easily shareable online content while employing fewer and fewer journalists.

The Tronc rebrand was just the latest in a long slew of upheavals at the company. Since leaving family ownership in 2000, the *L.A. Times* had gone private through a leveraged buyout, declared bankruptcy, emerged under yet another set of owners, spun off as a publishing-only company, and went public once again. Caught

## First Contract

The first collective bargaining agreement reached following union recognition, in which the workers seek to establish core principles such as just cause and union jurisdiction. Under current labor law, workers often face similar union-busting tactics when negotiating a first contract as they do in seeking union recognition. First contract negotiations are often quite lengthy and may fail to result in an agreement.

between a legacy corporate culture with a storied history of anti-unionism and a tech startup culture that glorified doing more with less, the staff at the *L.A. Times* began to organize. “We had the dictionary definition of horrible bosses,” said Anthony Pesce, a former graphics and data journalist at the *Times*. “Just cartoon character evil overlords.” Galvanized by severe pay disparities, decades of layoffs that had brought the newsroom down to 400 from a peak of 1,200, and deeply unpopular management, workers were ready to fight for greater stability and a voice in their work. Carolina Miranda, an arts writer (now arts columnist) who had been at the *L.A. Times* for three years, had previously taken buyouts at two prior media outlets. “It just became so clear when taking those buyouts how critical union representation is. I looked at my *L.A. Times* contract when I was hired by Tribune and it was at-will employment. There were no guarantees of anything.” Miranda, Pesce, Schleuss, and others started secretly talking to their coworkers about organizing. After a majority had signed up in support of the union, they presented Tronc with a demand that the company recognize their union in the fall of 2017.

Tronc refused to agree to voluntary recognition and made it very clear through captive audience meetings and all-staff emails that management vehemently opposed the campaign. But they were too late to slow the organizing efforts already underway. Convinced by that point that they needed new ownership in order to achieve any of their goals in bargaining, the organizing committee focused in on getting rid of Tronc. Putting their reportorial skills to work, they wrote and released a report detailing the exorbitant compensation paid to Tronc executives. In the context of the company’s financial troubles and cuts to the newsroom, the report was a powerful indictment of the paper’s prioritization of short-term profits over real investment in quality journalism. Soon after, the newsroom filed for an NLRB election. In the week before the vote, the paper’s top editors wrote to the newsroom in an attempt to third-party the union, framing a vote in favor of union representation as a loss of worker agency: “The question to

you is do you want to preserve your independence and the independence of the *Los Angeles Times* or do you want someone else negotiating on your behalf?”

In early January 2018, *L.A. Times* reporters, data journalists, copy editors, photographers, videographers, web and audio producers, page designers, librarians, and other workers voted 248 to 44 to join the NewsGuild. The unit included not only the main newsroom in downtown L.A., but community newspaper offices throughout the region and scattered remote workers. Through



We had the dictionary definition of horrible bosses.

bargaining, it would later grow to include the paper’s Washington, D.C. bureau. A month after the election, and on the heels of revelations that Tronc had been setting up a “shadow newsroom” to replace unionized employees with new non-union hires employed by a separate business entity, the company announced it was selling the paper to a new owner. Management’s anti-union email had presented a false choice. By organizing, the newsroom had been able to regain its independence from Tronc. And the newly-minted *L.A. Times* Guild members would be heading to the bargaining table to negotiate for themselves.

If the Tronc era at the *L.A. Times* showed the strains of a 140-year-old print newspaper transitioning to a modern media company, Law360 represents a new model. A subscriber-only newswire with legal news and analysis for practitioners founded in 2004, the company quickly grew and was acquired by LexisNexis, a subsidiary of RELX, “a global provider of information-based analytics and decision tools for professional and business customers.” On the one hand, the newsroom seemed stable and well-funded, buoyed by a much larger business enterprise. On the other, Law360 reporters, editors, and news assistants faced managerial practices unheard of in traditional newsrooms. For Jody Godoy, a general assignment reporter who came to Law360 after several years working in journalism (and has since moved on to Reuters), “Just right from the jump the conditions there weren’t that great.” She had come to expect extreme penny pinching from media companies. But Law360’s corporate approach was next level, with strict productivity requirements and legally-questionable overtime restrictions. General assignment reporters faced four-story-a-day quotas, while editors were expected to review 15 to 20 stories a day. “They had the day divided up into basically two-hour increments, two hours for each story,” said Juan Carlos Rodriguez, another general assignment reporter. “And it didn’t matter if the story was just a short little press release or a 75-page opinion from an appeals





L.A. Times Guild members wearing union t-shirts to work personalized with the bargaining demand they cared most about. Credit: L.A. Times Guild

court. You had the same amount of time. You had to crank out 500 words.” While Tronc had envisioned a future in which video production could be automated, the journalists at Law360 were already being treated like robots. Claiming overtime was not only highly discouraged but also financially penalized, with the company adopting a “flexible workweek” approach that meant employees were paid a *lower* rate the more they worked rather than earning time and a half. For Godoy, who had relied on overtime at past journalism jobs to achieve what felt like reasonable take-home pay, the situation at Law360 left her fuming. “The idea that you would do work and not file for overtime was just something that I couldn’t stand for because even though in the past I had been paid less than I thought I was worth, at least I was making overtime so it sort of made up for it.”

The problems bubbling under the surface came to a head in 2015 when management bucked industry practice and moved to enforce a noncompete agreement against a former employee who had left to take a job at Thomson-Reuters. The reporter, Stephanie Russell-Kraft, was promptly fired from her new job. “That made everybody really mad in the newsroom,” said Rodriguez. “A lot of us have worked other places. A noncompete in journalism is just not a thing. Law 360 required them, usually they gave it to you when you started at the company and they told you, ‘Oh yea, don’t worry about that, that’s just for the tech side,’ or whatever. Nobody really thought about it...until [Russell-Kraft] got fired.” Rodriguez and his coworkers realized the issues they were experiencing in the

Law360 newsroom could follow them even if they tried to move on to another news outlet. “It was just a mess,” said Godoy. “Once we started talking, we realized we were all suffering because of the practices there.”

The Law360 newsroom began to organize and started reaching out to unions. With the help of the NewsGuild, the New York Attorney General launched an investigation into the company’s noncompete policy. In June 2016, workers scored their first victory as Law360 agreed to discontinue the use of noncompetes. A month later, the organizing drive went public. Despite a concerted anti-union campaign, the newsroom voted overwhelmingly, 109 to 9 in an NLRB election, to join the NewsGuild that August.

## TRANSPARENT TRANSITIONS

It was a new day at the *L.A. Times*. The paper had been sold to a local owner—a billionaire bioscientist named Patrick Soon-Shiong. And the newsroom was finally union for the first time in its long history. But as the now-official L.A. Times Guild geared up for negotiating their first contract with unfamiliar management, they faced an immediate dilemma. “It was simpler in a way to run



Once we started talking, we realized we were all suffering because of the practices there.

our campaign against Tronc because it was this big national news chain that wasn’t invested in our newsroom and didn’t have our best interests at heart,” said Matt Pearce, a political reporter and member of the original bargaining committee. As the campaign transitioned from a fight for recognition to a fight for a first contract, they couldn’t just beat up on Tronc anymore. “We got this new owner

who was signaling that he wanted to invest in the newsroom and had a long-term interest in seeing the paper survive and have people work there. That checked a lot of boxes for us for some of the demands for why we formed a union.” The interim executive council, made up of members put forward by the organizing committee and elected by acclamation, were nervous about striking the right tone for their coworkers and their new management. “Tronc was a great bad guy that you could pin all sorts of stuff on because they were just so awful. And this new owner we didn’t know as well,” said Miranda, the arts writer. “So we couldn’t just go attack him. But we also didn’t want to roll over. There were certain things we were working towards with our contract, so how do you strike that balance?”



At Law360, the organizing committee faced a similar dilemma. The noncompete policy, an early motivator for unionizing, had been eliminated before the union had even been formally recognized. Nonetheless, support for continuing the union drive stayed strong, with many in the newsroom seeing a collective bargaining agreement as a way of addressing problems endemic to the journalism industry. “I’ve been in media for a while and I know the precarity of it,” said Braden Campbell, a senior reporter covering labor and employment issues who later served on the unit council, the elected leadership group for the Law360 union. “I was at a newspaper before and survived a few rounds of layoffs and then I was at a website before Law360 where I got laid off. Thankfully, Law360 is a very stable and thriving place, but I have a good sense of the importance of having our own say in matters [and] the ability to not be purely at the whims of management.” A contract would allow workers to have a say and ensure that the stability they felt would be lasting.

Indeed, at the *L.A. Times*, it didn’t take long for the newsroom to be reminded they were still at the whims of their boss. As his first act as owner, Soon-Shiong called a town hall and announced that the company’s offices would be moving from downtown L.A. to El Segundo, 17 miles further south and west on traffic-choked freeways. The *L.A. Times* no longer owned its historic downtown offices—the valuable real estate had been sold off during the bankruptcy—but the company had still leased the building. Soon-Shiong wanted out of the exorbitant rent and for the newsroom to move into a building he already owned. Guild members were caught off guard and they weren’t happy. Members tried to bargain

The *L.A. Times* bargaining committee at the negotiating table, including from left to right, Matt Pearce, Kristina Bui, Anthony Pesce, Carolina Miranda, and Alex Wigglesworth. Credit: Jay L. Clendenin



over the change—first over location, then over the open-plan layout of the office—and got nowhere. “For a lot of people that was the moment where we realized, oh, he’s going to be really helpful for us, he’s going to do a lot of the financial stuff we want him to, but also he’s still a billionaire and is going to do billionaire stuff and make decisions that people don’t think are desirable,” said Pearce. “You still want to have a seat at the bargaining table for exactly this kind of thing.”

With new ownership, new management, a new office, and negotiations still on the horizon, the organizing committee saw their role as an important source of openness and information about what exactly was going on. “We had been dealing with a company that was so used to doing things behind closed doors and

then at the last minute announcing these *fait accompli* to the staff. So for us it was important to operate as transparently as we could as a union,” said Miranda. As the Tronc era came to a close, the L.A. Times Guild took an important step in signaling both what and how it would be fighting in negotiations. In anticipation of negotiations, the unit had filed an information request for detailed pay data for bargaining unit members. They had publicized their bosses’ compensation as part of the organizing drive. Now, they were going to publicize their own. Spearheaded by Pesce and other data reporters, the organizing committee performed an analysis of pay within the newsroom by gender, race, and ethnicity, releasing the results in a detailed report to the entire unit and the public at large. The findings were striking: not only were women and Black and Latinx reporters underrepresented in the newsroom, but they were paid significantly less than their white male counterparts. The median gender gap was \$14,000 while the gap between white journalists and journalist of color was \$19,000.

## Information Request

A formal request from the union to the employer for payroll data, hours of work, schedules, staffing, financial data, or other information that may inform the union’s proposals and bargaining rationales. A benefit of the legal right to collective bargaining, the employer must comply. If they fail to do so, it is an unfair labor practice.

The Guild’s public transparency reaped new rewards when, soon after taking over as owner, Soon-Shiong went on a hiring spree. The bargaining unit grew by around 100 new workers, many of whom had been following the union campaign and were eager to get involved. “We were concerned that we were going to have to reorganize all these new employees to get on board with the contract campaign but ironically what we found was a lot of our new employees were super excited about the union...because our campaign, our organizing campaign had been so public that the public had been educated about our drive. A lot of the other professionals in our field were kind of excited about what we were doing and wanted to be a part of a newsroom that was very active,” said Pearce. “We basically organized them before they came in the door.”



## — First Contract Fights —

### Part 1: STEERING THE PROCESS

Danielle Smith had been at Law360 as a news assistant for just over a month when the unionization campaign went public. The news assistant position was her first job out of college and she wasn't sure what to expect. But when she saw her coworkers organizing it was clear to her that she should get on board. "It was very much a well-organized movement that I wanted to be a part of," she said. Seeing the company's anti-union campaign only made her more invested in the fight. Just five months later, following their overwhelming vote to join the NewsGuild, she accepted a nomination from her coworkers to join the Law360 union's unit council, a group of 31 leaders from throughout the newsroom of about 140. As the contract campaign progressed, Smith also joined the diversity committee, the environmental committee, and the socials committee, with the union's organizational structure growing to engage more members in more ways. Other coworkers from the unit council including Juan Carlos Rodriguez formed a bargaining committee, which also included Godoy. "We had a court reporter, a couple of senior reporters, a couple of general assignment reporters, a copy editor, and a news assistant," said Rodriguez. "And we had four women and four men... Diversity and inclusion was always a huge issue to us from during organizing and that's reflected in the makeup of our unit council and our bargaining committee." The newsroom also formed a mobilization committee, a form of contract action team, to develop workplace actions as part of the contract campaign.

Law360 union members during a walkout outside the company's New York offices. Credit: Law360 Union





At the *L.A. Times*, the outgoing organizing committee put together a slate of candidates to form what they called an interim executive committee, like Law360’s unit council, to help lead the unit through its upcoming negotiations. “From the beginning I would say it felt like an organizing drive where our newsroom was setting the terms for the union itself, not just the employer,” said Pearce. “So when we were organizing the contract campaign we went through it with a very similar attitude I think which is that we always from the beginning assumed that our members were going to be steering the process and were going to be the ones in charge.” The interim executive committee was affirmed by acclamation and included Pesce and Miranda as co-chairs, along with Pearce, coworkers Alex Wigglesworth and Kristina Bui, and others. The executive council in turn assembled a nine-member bargaining committee that would be in charge of negotiations. “It was really important to us that we have a really diverse bargaining committee,” said Pearce. “We wanted to have a very wide array of jobs represented at the bargaining table. We also wanted to have a diverse group by age, race, and gender.”

By having the executive council select the bargaining committee, Pearce and others hoped to avoid having a committee “loaded with reporters,” far and away the biggest group in the newsroom. In particular, they were anxious to include a photographer as that department had been the “biggest worst”—the most challenging area of the newsroom to organize during the union’s initial campaign. Fortunately, Jay Clendenin had emerged as a leader and agreed to be a part of the team for negotiations. “It was very important that Jay be on the bargaining committee to send a message to the photo department that their interests were going to be literally represented at the bargaining table,”

said Pearce. “One of the concerns that we were dealing with was that the reporters are just going to gang up on the photographers and take things away...we felt like if we didn’t have a photographer on there we would lose a lot of credibility.” In addition to the bargaining committee, other members of the original organizing committee formed a campaign committee, their version of a contract action team, to plan workplace actions.

The first task for the newly-formed bargaining committee was to conduct a unit-wide bargaining survey. The committee opted to go deep, with a seven-page online survey containing detailed questions about bargaining priorities as well as detailed demographic information, including age, race,

## Biggest Worse

The largest job classification, department, or area with the least union support and/or the strongest anti-union sentiment. An organizing campaign should focus on identifying and recruiting organic leaders in the biggest worst.

ethnicity, tenure at the *L.A. Times*, length of journalism career, and job title. The survey also included space at the end for members to flag other issues. Delegates from throughout the newsroom were charged with distributing the survey and having departmental follow-up meetings to go over the responses and identify any issues that weren't captured in the survey results. "We did it pretty methodically," said Bui, a copy editor who served on both the interim executive council and the bargaining committee. "We set up a Google folder where everyone could drop their notes from those department meetings and we set up a spreadsheet where we could track 'Have you gone to this person and asked them to do the survey? Have they confirmed that they did their survey?'" The multi-step process took a few weeks, but all of the follow up paid off. By the end, a supermajority of the bargaining unit—289 out of 380 people—had completed the seven-page survey. The bargaining committee compiled the results into a report and shared them back with the rest of the membership. "A lot of people's relationship with data collection is you ship it off to some crazy corporation and you never see it again," said Pearce. "Our attitude was if you're going to give us data, we're going to collect it and we're going to give it back to you so that you can see where you stand and you can see what other people's priorities are. Because we had a lot of people with a lot of different jobs and a lot of different life situations and it was important to us that people understood that their own situation may be dramatically different than others."

At Law360, the bargaining committee and mobilization committee worked together to encourage their coworkers to fill out a similarly extensive bargaining survey. "Just like in organizing, we reached out to every single person in the unit at least once for a one-on-one conversation," said Rodriguez. "Everyone had an ask from someone on the bargaining committee or the mobilization committee to fill out the survey." After the survey was complete, the bargaining committee



How do we take some of these very complicated, very arcane issues we're discussing in the bargaining committee and translate them into something understandable to someone who's not following them blow by blow? And not only translate them, but make them care?

digested and shared the results in two meetings made accessible to the company's remote workers. Rodriguez as unit chair and the Guild's representative, Susan DeCarava, held two zoom sessions to walk the unit through the results and an outline of bargaining proposals. Some broad priorities had clearly emerged, including raises, fixing the overtime system, and establishing just cause protections, which would prevent the company from firing workers without any justification. But some job-specific issues rose to the fore with particular intensity as well, including the need to reimagine the role that news assistants

played in the newsroom. In an industry which relied heavily on unpaid internships to credential early career journalists, thus limiting career opportunities to those who could afford to work for free, the news assistant role was a too-rare paid entry-level opportunity to get a foot in the door by doing background research for stories. But the way the position was currently structured, it was difficult for news assistants to then move up into other roles. "They were forced into these just mind-numbing jobs of scrolling through court dockets and other news websites looking for stories to pitch for other people to do. They got paid \$40,000 per year in New York City, and they were never given an opportunity to write their own stories," said Rodriguez. "There were maybe 15 of them...But it was important to the bargaining committee to make sure that they were placed at the same level in terms of their priorities as the senior reporters or the senior editors."

## Just Cause

As contrasted with the default of at-will employment, just cause requires basic due process before a worker can be fired and prevents an employer from firing a worker for no reason or a bad reason. Just cause is a fundamental protection in a collective bargaining agreement and is typically established in the first contract.

## Part 2: CONSTANT COMMUNICATION

As the L.A. Times Guild got into bargaining, the interim executive committee was determined to keep the level of communication high. Miranda and Pesce had originally planned to divide their co-chair responsibilities so that Miranda would handle day-to-day unit issues while Pesce led negotiations. But Miranda quickly saw that her strengths as a communicator were needed to keep members engaged with negotiations. It was a decided challenge: "How do we take some of these very complicated, very arcane issues we're discussing in the bargaining committee and translate them into something understandable to someone who's not following them blow by blow? And not only translate them, but make them care?" Miranda began attending every negotiations session so she could help better communicate what was going on.

After each session, the bargaining committee would stay in the room to draft a bargaining bulletin. “We would all be caucusing after the meeting and someone would start a Google doc and just start writing,” said Wigglesworth, another committee member who started out at the *Times* as a digital editor before becoming a reporter. The bulletins were detailed, including proposal language, excerpts of table talk, and context from other Guild agreements. “I think we constantly went back and forth with ‘Are we bombarding them with too much information. Are we boring them to tears with the minutiae of this article? Are we being transparent?’” said Miranda. “It took us a little bit to figure out that when we sent our updates, we would send a few brief bullet points up top. That way if all the person read was those bullet points, they’d at least have a sense of where we were. Then we would do a more detailed updated below. There were people that never read past the bullet points, then there would people who read every word and send us questions about what we were doing about x and y. But even if

people didn’t access the information, they knew that it was there and I think that was important.” Because not everyone in the bargaining unit worked out of the same El Segundo office, the emails were an important backstop for people who didn’t have stewards checking in on them in person. Drafting immediately after negotiations made for some late nights, but it was worth it. “Even when we were there until like two o’clock in the morning, we were still trying to do a memo because we felt it was really important to bring people along with us and let them know what was going on,” said Wigglesworth.



Even when we were there until like 2 o’clock in the morning, we were still trying to do a memo because we felt it was really important to bring people along with us and let them know what was going on.

The bargaining bulletins weren’t the only emails members were getting straight from the bargaining room. Though members could generally attend bargaining on request and there was broader turnout for some sessions, the bargaining committee were often the only members in negotiations. When the bargaining committee needed to consult with the broader membership, they would send a “quick check” out over email to the newsroom. “Quick checks were typically an email poll. Sometimes we would send out an email poll and then the stewards

would go around and nudge people to say go check your email,” said Bui. “We generally had a good sense of where people were, but sometimes issues would move quickly enough that we thought we had to do another check in.”

At Law360, the bargaining committee fell into a similar pattern of drafting a shop paper, called *The Amicus*, after every session. “We went into great detail about what we had done, what we had accomplished, what we still had to do, the positions that we were being met with from the company,” said Godoy. “We spent a lot of time on that after each bargaining session...It was a bit of a running joke because we had gone through such a hard day of bargaining and then we had to sit down and write a shop paper.” The work of reporting was never ending, but for Godoy it was also a personal point of pride. “It was really important for us and for me in particular to strike the right balance between motivational language and making sure people understood the stakes and making sure that things were fact-based and that they were getting the information they needed.” The bargaining committee encouraged members to contact them with any questions and feedback and would bring concerns to the next negotiations session. Later on in negotiations, the committee also began recording Facebook Live updates during caucuses or after bargaining to post on the newsroom’s internal Facebook group, another way of making sure that the unit’s remote workers were still being engaged.

### Part 3: MAINTAINING MOMENTUM

The Law360 union had already done away with noncompetes before ever sitting down with management. And for a while negotiations seemed off to a smooth start, with members scoring an early victory when the company agreed to do away with the quota system. “We felt like we were making progress and then all of a sudden we realized we were being slow rolled by management,” said Rodriguez. “We were starting to quibble over words in proposals or having philosophical arguments about whether it was appropriate to include a particular provision in the first contract, things like that.” Things really ground to a halt when it came time to discuss jurisdiction—the scope of work that would be covered by the union contract. Strong contract language defining the union’s jurisdiction was important to ensure that supervisors or subcontractors didn’t start to carve away at what was “union work,” reducing the size of the union over time or preventing the union from growing alongside the company. After months of back and forth to get the company to move off its initial position—no jurisdictional language whatsoever—the mobilization committee stepped into action.



What started with Union t-shirts, signs, and buttons soon escalated to using bargaining updates as a workplace action. For 15 minutes, everyone in the newsroom would come to the front of the office or the kitchen to hear a bargaining update from the bargaining committee. Eventually the update moved to the sidewalk in front of the office. Union members had embarked on their first walkout. The next time they left for half an hour. The gatherings served a dual purpose: “It’s an action showing everyone standing together but at the same time everyone is being informed and then it’s also a public forum where they can ask questions and have things answered,” said Smith.

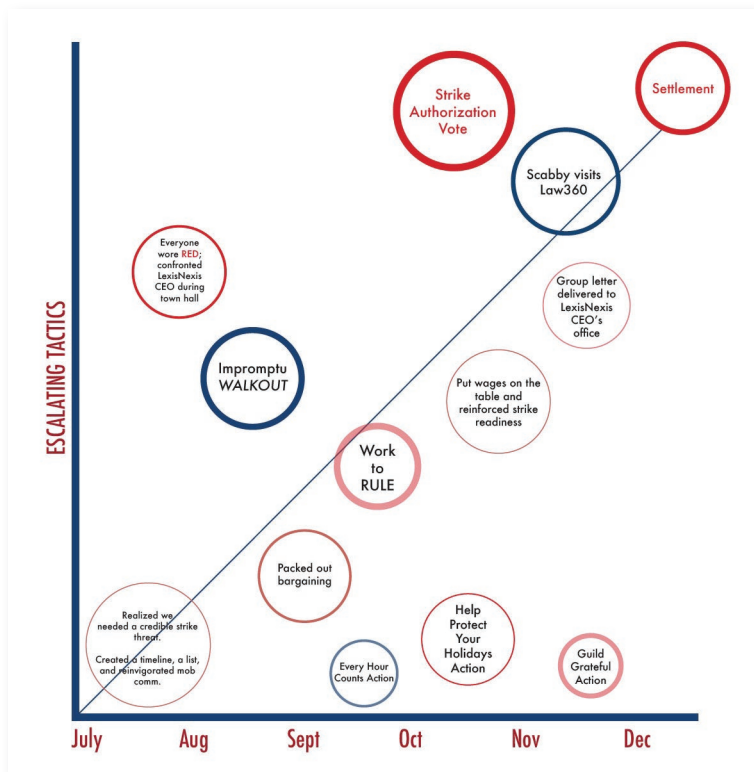
## Structure Test

A mass-participation action demonstrating majority support for the union and/or particular bargaining proposals or demands. A deliberate progression of structure tests which are increasingly public and have increasing stakes allows the union to gauge worker participation and readiness to strike.

Looking for a way to include remote workers in the escalations, the mobilization committee decided on a work-to-rule action that would be kicked off by a sign-off email at the end of the scheduled workday. “It was a reply-all to the entire company, including managers,” remembered Rodriguez. Even though the committee had worked up to the action through escalating structure tests and felt like their coworkers were ready, it was still a scary moment. “That was a risky move because we didn’t know how many people were going to do it. That was one of those moments where you had to roll the die...you needed people who were working remotely by themselves in Michigan or in a group in D.C. or L.A. to also do it. Everyone in New York had to do it.” But the bargaining unit proved ready, and managers’ inboxes were flooded with emails from over 100 workers, a strong majority of the bargaining unit, signaling their refusal to take on voluntary overtime.

As workplace actions intensified, the bargaining committee quickly realized that these actions were the only real way to get the company to move at the bargaining table. “I had to be convinced to go along with some of the more militant stuff as we built up,” said Stewart Bishop, a senior reporter who served on the bargaining committee “Seeing how the company reacted to some of the smaller actions we took helped persuade me that the bigger stuff was good.” The newsroom was in motion, but things in negotiations were still dragging on, with wages and other economics still outstanding. As the contract campaign approached the two-year mark, they realized they needed to escalate further. The unit council decided to call for a strike authorization vote.

At the *L.A. Times*, the bargaining committee also grappled with the slow pace of negotiations. After carrying momentum through a year-long organizing drive,



A timeline of escalating structure tests by Law360 union members in the lead up to their strike vote.  
Credit: Law360 Union

the L.A. Times Guild had managed to keep their campaign going even after the advantageous ownership change. Another double-edged victory came when that new owner immediately put significant wage increases on the table. “We were in this weird position where upfront they were being a little more forthcoming with money than I would guess most employers would be and that created a strategic problem for us because that meant that we had to be much better at communicating with people,” said Pearce. The bargaining committee leaned heavily on their communications plan but also turned to the campaign committee to keep the newsroom engaged in the fight.

The campaign committee developed a timeline of escalating actions to accompany negotiations—a mix of internal and public-facing, fun and more confrontational. “Sometimes we would use

caucus time to bring [the campaign committee] in and explain where we were in bargaining and where we thought the pressure points were and then they would come up with an idea for how we could press those points,” said Bui. “Towards the end the committee started coming up with job actions on their own to keep the pressure up and they would come in to let us know what they were thinking and did this make sense in parallel with what we were working on at the table.” Members wore Guild t-shirts. They changed their company Slack avatars to the L.A. Times Guild logo (nicknamed the bananaeagle). They tweeted coordinated messages about issues on the table in bargaining.

As time progressed, the bargaining committee recognized that there was a disconnect between the company representatives negotiating, including lawyers who had negotiated Soon-Shiong’s healthcare contracts, and the editors and other managers who better understood newsroom issues and were more directly being confronted by workplace actions. “I think they were trying to play an ‘out-of-mind out-of-sight’ attitude towards it and we needed to make it their problem to help us get this contract wrapped up. To make it clear that ‘if you’re

not going to help us get this thing done, so we can go about our lives, we're gonna make you miserable until then, so please come in the room with us and look us in the eyes," said Pearce. "We really wanted our managers who understood our work and a lot of the reasoning behind our proposals because they're also journalists—we wanted them in the room," said Bui. The campaign committee strategized on how to get their managers to engage with bargaining. "When managers would have a meeting every day—it was like a budget planning meeting that they would have in an open area on the fifth floor—we would have members come out in t-shirts and sit and kind of have a stare-down because there are booths all around it. And it would escalate so that one week we would just sit there and stare at them and then one week everyone's phone alarms would go off at the same time and then we had one where we all got up at the same time and marched around and then went outside the building," said Wigglesworth. "Having that messaging, letting people know that that's how things were and then having those actions, it let them feel like they were helping to put pressure on management to hurry up and get furious about their proposals. I think it was helpful because we had the messaging and then we had an outlet."

The stare-downs worked. Editors started to attend negotiations. And members turned out en masse to fill the other side of the room. According to Pearce, "We would have these very impressive bargaining sessions where we would have the entire masthead of the newspaper sitting on one side of the room and this

Law360 union members posing with Scabby the Rat as their first contract campaign approached the two year mark. Credit: Law360 Union



huge mass of reporters and other visual journalists on the other side of the room as the bargaining teams are sitting at the table talking to each other.” Once everyone was in the bargaining room together, the Guild finally began making new progress. “For us it was important to drag the managers into the room too because I’m sure they would have loved to be insulated from the process and have lawyers deal with their problems for them. We had this long contract campaign and things really didn’t get moving until we started demanding that our editors get directly involved.”

## Part 4: GOING PUBLIC...AGAIN

The fight for union recognition at the *L.A. Times* had been very public: “One of our strategies was to turn our company and our newsroom into a fishbowl and tweet about it and use our unique visibility as journalists to have our independent means of expression on social media to outline all the crappy stuff the company was doing,” said Pearce. But with a more sympathetic owner in place and general

reservations among many members about relying on outside support, the first contract campaign had largely remained internal to the newsroom itself. “There are a lot of guardrails around the idea that if you’re a journalist you’re objective and you don’t make yourself part of the story,” said Bui. “We knew that there would be a lot of resistance from the newsroom to trying to engage with the labor movement around collective bargaining just because a lot of journalists have very conservative attitudes about maintaining our independence,” said Pearce. When the unit did do public facing actions in



As the campaign went on and people saw what those public-facing actions could look like, they warmed up to them just by participating in them a little more.

the leadup to negotiations, they had taken pains to deliberately frame them in positive and supportive terms. They held a bakesale for members of the newsroom impacted by the move to El Segundo. Later, they held a drive to urge new readers to subscribe to the *Times* in support of the Guild. “Every time we went to the public with some kind of ask, it took a lot of conversation with the shop,” said Bui. “When we did anything like that it was talking to membership and letting them know that we felt like this was something that we needed to do in order to build pressure and how could we do it in a way that wouldn’t make their jobs harder.



But as the campaign went on and people saw what those public-facing actions could look like, they warmed up to them just by participating in them a little more.”

It took a slow build throughout the negotiations process and an unexpected skirmish at the bargaining table for the unit to decide to go public once again in a big and confrontational way. The Guild had made what they thought was a straightforward initial proposal on intellectual property that addressed the rights of union members to individually profit from their work, including through book publishing and film rights. “The company came back with this completely retrograde thing basically saying we guarantee nothing and saying we not only own the rights to your work, we also own your name and the right to your image,” said Miranda. “They basically wanted a blanket release for everything so that if

some company approached them about making a podcast or movie, they would already have sign-off from us.”

For members of the bargaining committee, the issue was far from abstract. Pearce had spent years on the ground reporting on Black Lives Matter protests in Ferguson, Missouri. What if he also wanted to publish a book based on the reporting he had done? Without strong IP protection, the *L.A. Times* could claim total ownership over his later work. The issue was also strategically important because it resonated with more senior reporters in the newsroom who made more money and had generally been less invested in the campaign. The Guild

drafted an open letter to *L.A. Times* management signed by over 75 percent of the bargaining unit. Then members of the newsroom began tweeting publicly about the company’s proposal. Like the issue of noncompetes at Law360, the issue soon gained broader attention. The Guild’s escalation was strategically timed



## Do you own your work at the L.A. Times?

The Los Angeles Times has proposed rules on intellectual property that would mark a new low for the newspaper industry.

### CURRENT/INDUSTRY STANDARD



### WHAT THE L.A. TIMES WANTS



Articles we write for the L.A. Times



Books inspired by articles we write for the L.A. Times



Movies or TV shows based on those books



Fictional use of employee biography and likeness



Our moral rights (which protect the integrity of our work in other countries)

A graphic created by L.A. Times Guild members to explain the company’s counterproposal on intellectual property. Credit: L.A. Times Guild



to coincide with the *L.A. Times* Festival of Books, a flagship event for the paper, and generated its own media coverage and significant social media attention. The L.A. Times Guild was back in the public eye, and the open letter and the Festival of Books action worked. The bargaining committee was able to reach a tentative agreement on contract language that would protect book rights for *L.A. Times* journalists. And renewed public attention to the ongoing union fight at the newsroom would continue to be helpful as negotiations moved on to the topic of job security.

## Part 5: THE BEST THING

As the two-year anniversary of their successful NLRB election came and went, and under the banner “Two Years Too Long,” the Law360 union voted overwhelmingly in October 2018 to authorize a strike. The next day, 30 members in red t-shirts turned out to negotiations at the NewsGuild of New York offices to present their wage proposal to the company. Smith, the news intern who by that point had been able to move into a reporter role and who had sat in on many sessions, found the moment particularly moving. “All of us being there and them seeing that and how much we cared about this...I think it really did have an impact.” Following the strike vote, the mobilization committee kept the pressure up, delegating the offices of the LexisNexis CEO, erecting an inflatable Scabby the Rat outside of the Law360 newsroom, and holding an hour-long picket in the middle of the day. The company quickly caved on wages, and with a strike looming, the contract as a whole was settled in six weeks. After negotiating late into the night, the bargaining committee sent an early morning *Amicus* announcing the settlement.

After collecting and responding to questions through a Google form and spreadsheet and holding two newsroom meetings to review the tentative agreements, the bargaining committee held an email ratification vote. On December 18, the contract was ratified unanimously, with virtually the entire newsroom participating. “It’s hard to even sum it up,” said Godoy. “The immediate and tangible quality of life increase for the entire unit in the form of an average of 20 percent raises—it’s the best thing I’ve done in my life. That’s not hyperbole, it’s the best thing I’ve done for anyone, anywhere, anytime to be involved and help that come to pass.” The contract also memorialized the end of noncompetes and the quota system. And it included successorship in case the outlet was sold as well as strong protection from subcontracting, provisions that are particularly challenging to win in a first contract. News assistants were

bumped up to a starting salary of \$50,000 and were granted the right to receive reporter training and to begin writing stories after being at the company for six months.



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At the *L.A. Times*, with the number of issues dwindling and contract negotiations approaching 15 months, the Guild took stock. “We made a list of the remaining issues and the bargaining committee took a full day caucus. We went into a room and sat down and did a grid of where we stood on the six outstanding issues,” said Miranda. “We held membership meetings and sent out more email blasts and talked about it in our Facebook group and said, ‘these are the things that are remaining, here’s how we view our priorities.’ As things wound down, it came to the point of ‘here’s what the membership is telling us, here’s where we think they’re willing to give in order to get a victory elsewhere.’ It was a lot of listening to people and having these meetings and being available for calls and sending the delegates out to do some of the survey work,” said Bui. Finally, in October, the bargaining committee felt like they’d gotten where they needed to—with “bulletproof” jurisdictional language to prevent the “shadow newsroom” that had loomed under Tronc.

“We sent out the full contract but we knew that people would probably not read all those pages. So we also put together a summary kind of breaking the contract up into the highlights,” said Bui. The election committee held an online vote. Out of 480 members, the unit voted 388 to 3 to ratify the contract, which included average raises of over \$11,000, detailed wage scales addressing pay inequity, and just cause protection. The contract also enshrined the *L.A. Times* Metpro training program, which offered fellowships to early-career journalists from diverse backgrounds and provided fully-paid positions within the bargaining unit. As with the improvements to the news assistant position at Law360, the *L.A. Times* Guild had been able to win contract language impacting not only the workplace conditions for journalists, but also the conditions under which aspiring journalists could gain entry to the industry.

## BUILDING BEYOND BARGAINING

In the year and a half since their contract was ratified, the members of the L.A. Times Guild bargaining committee have been busy. Schleuss ran and was eventually elected the President of the NewsGuild-CWA. Pesce ran and was

elected the president of the newly formed Guild local, the Media Guild of the West. After Pesce left the *L.A. Times* for a job at the *Washington Post*, Pearce took over as head of the new local, which has grown to include members at the *Arizona Republic*, *Pop Up Magazine*, and *Voice Media*. Wigglesworth stepped into the role of chief steward, leading a steward network including Miranda, who is now also an officer-at-large in the Guild local. Bui took a buy-out from the *L.A. Times* to join the NewsGuild organizing staff.



Law360 union member and reporter Danielle Smith with local representative and now-President of the New York NewsGuild Susan DeCarava at a Labor Day parade. Credit: Danielle Smith

In New York, Juan Carlos Rodriguez continues to serve as unit chair for the Law360 union. A year after winning their first contract, Rodriguez, Smith, and Godoy joined their guild representative, Susan DeCarava, in running to take over leadership of the NewsGuild New York on an organizing-focused platform. At the end of 2019, DeCarava was elected President and Rodriguez, Smith, and Godoy now serve on the local's executive committee. The union is currently in first contract negotiations at *The New Yorker*, *Pitchfork*, *BuzzFeed*, *New York Magazine*, and several other newly organized publications.





## Case Study Massachusetts Nurses Association

### RADICAL ROOTS

Greenfield, Massachusetts, is a small rural town with a proud union history. Once the “tap and die capital of the world,” workers in Greenfield played a central role in the growth of American manufacturing during the early twentieth century, making tools which were essential to the precise, standardized production of the literal nuts and bolts used in everything from household appliances to military munitions. During World War II, Greenfield Tap and Die (GTD) was so essential to the wartime supply chain that the federal government installed an anti-aircraft gun outside the company’s Sanderson Street campus near the center of town.<sup>8</sup>

GTD’s plants were strategically important for American manufacturing and the wartime economy and no less so for industrial organizing efforts. Beginning in the 1920s, Greenfield became a stronghold for the famously rank-and-file-led United Electrical, Radio and Machine Workers of America (UE), who organized the town’s tap and die plants wall-to-wall. Following World War II, during the peak of red-scare attacks on more radical unions within and without the Congress of Industrial Organizations (CIO), GTD and other UE shops fended off numerous

**MNA:** The Massachusetts Nurses Association is the largest union of registered nurses in the Commonwealth of Massachusetts and the third largest in the United States. An independent statewide union, the MNA represents 23,000 nurses and health professionals at 85 healthcare facilities, as well as schools, visiting nurse associations, public health departments, and state agencies. [www.massnurses.org](http://www.massnurses.org).



raids from the rival International Union of Electrical Workers.<sup>9</sup> By the late 1950s, however, overseas competition and a series of mergers and acquisitions shrank the size of GTD’s workforce from its peak of 4,000 employees to less than 100, still represented by UE Local 274.<sup>10</sup>

The legacy of rank-and-file-led industrial unionism exemplified by the UE has, at least in Greenfield, outlasted the industrial economy itself. Today, the healthcare sector dominates

the region.<sup>11</sup> Baystate Franklin Medical Center, just on the other side of Sanderson Street from GTD’s main campus, is now the largest employer in Franklin County, and is owned by Baystate Health, one of the largest health systems in New England.<sup>12</sup> The old GTD headquarters now house Baystate’s administrative offices, with “Greenfield Tap and Die Corp.” still engraved above the door. But while care work has replaced manufacturing as the main driver of region’s economy, Baystate Franklin has become its own epicenter of militant union organizing. Nurses represented by the Massachusetts Nurses Association (MNA) have used collective bargaining open not only to nurses but to the broader community as a tool to strengthen rank-and-file leadership within their union and to keep Greenfield’s strong labor tradition alive.

## CONSOLIDATING CARE

By way of personal introduction, Donna Stern, a psychiatric nurse at Baystate Franklin, readily declared, “My philosophy is really like the old CIO model. I believe in wall-to-wall unionization.” Stern, a former social worker and longtime member and leader in the MNA, a nurses-only union, was clear: “I don’t like craft unions.” For her, hospital- and sector-wide organizing were both a necessity and an inevitability. “All healthcare workers should be under the same umbrella, but we’re not there yet.”

Page 83 photo: The BPMC bargaining committee celebrating their contract victory, including Dana Simon (back row left), Donna Stern (back row third from left), Suzanne Love (front row third from right) and Rudy Renaud (front row right). Credit: MNA



While community hospitals throughout Western Massachusetts have been brought under shared control over the course of more than three decades of acquisition and consolidation by Baystate Health, the system’s workers remain largely fragmented. MNA isn’t the only union at Baystate Franklin—nurses are represented alongside small bargaining units of security guards and operating engineers. But the majority of the hospital’s 1,150 employees,<sup>13</sup> and the vast majority of Baystate Health’s 12,000-person staff, including nurses at the much larger Baystate Medical Center in Springfield, are still without a union.

## Union Difference

The difference between the union standard and the wages and benefits for nonunion workers in the same industry and sector within the same labor market or employer. Employers may deliberately seek to eliminate elements of the union difference, in particular any wage gap, by attacking the union standard and/or by raising wages for its unrepresented employees in order to discourage unionization.

What was then called Franklin County Public Hospital first organized in 1970 following passage of a state law which authorized nurse collective bargaining (and during a period in which the Taft-Hartley Act’s exclusion of nonprofit healthcare workers from coverage under federal labor law was still in effect). In the 1980s, Baystate took over the hospital, inheriting the nurses’ unit. Though it took two decades before Baystate Health became actively involved in the day-to-day operations in Greenfield, corporate cost-cutting began to surface in the early 2000s for both Baystate Franklin nurses and patients. “They realized they could make a ton of money,” said Stern, “no different than any other area in the capitalist system.” The fact that Baystate Health was, on paper, a nonprofit hospital, didn’t seem to change the company’s behavior.

A small craft union faced with the corporatization of healthcare, MNA used open bargaining at Baystate Franklin to build broad support among nurses and the community to win common-good bargaining demands and improve their quality of work and the quality of care for Baystate Franklin patients. After a bitter contract fight lasting over two years, including two 24-hour strikes followed by two employer lockouts, Baystate Franklin nurses were able to maintain the union difference within Baystate Health and win detailed contract language addressing the profound staffing crisis at the hospital.

## DRAWING A LINE

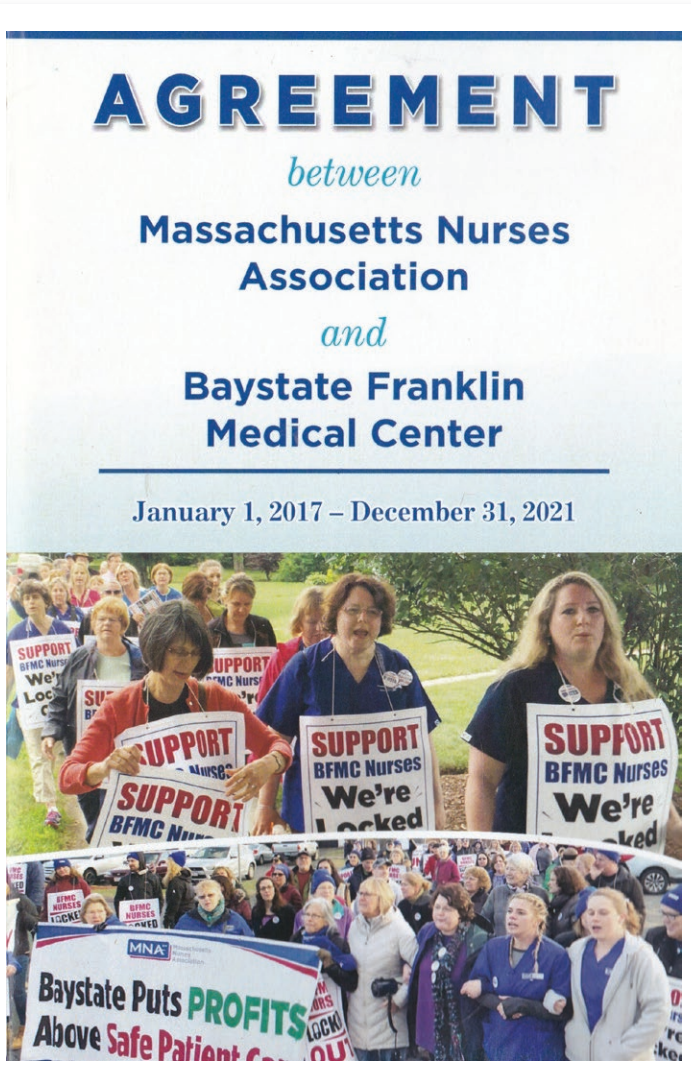
When asked about the most recent contract campaign at Baystate Franklin, which began in 2017, Stern and her coworker Suzanne Love both insisted on first talking about 2012. For Stern, a bedside nurse for 15 years, the 2012 contract campaign

was when she really came into her own as a leader in the union. “I was not born a union leader. I became a union leader because of circumstances and because of the nature of what is happening and what has been happening in healthcare and the corporatization of healthcare and how that impacts not only our working conditions but how it impacts patients’ safety,” she said. Stern was “thrown right into the fire” as union co-chair for the 2012 bargaining, a role she would reprise in 2017.



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MNA members were a small minority of Baystate Health’s overall nursing staff and the lack of density showed. Baystate Franklin nurses had lost their traditional pension plan and accepted a two-tiered leave system. Going into 2012, the hospital appeared hopeful that it could eliminate altogether the union difference between the wages and benefits at Franklin and what Stern and others referred to as “the mothership”—Baystate Health’s non-union flagship hospital in Springfield. “You could see the writing on the wall that Baystate was inching its way towards making it so what’s the point of even having a contract. If you have what everyone else has, why do you even need a union?” said Stern. Stern and her coworkers realized, “They’re just going to keep taking and taking and taking and taking and taking, unless we draw a line in the sand.” Rather than accept concessions as inevitable under the circumstances, they decided to fight back. “It was the first time we’d ever taken a strike vote. It was the first time we’d ever gone on strike. It was 44 negotiations sessions. It was almost two years of a bruising battle.” It was also nurses’ first time deliberately framing their contract campaign in terms of issues impacting patients and the broader community, highlighting Baystate’s growing practice of sending Greenfield patients to Springfield for treatment by demanding the company “keep care local.”



Front cover of the final CBA, featuring photos of Donna Stern and Suzanne Love on the picket line. Credit: MNA

For Love, an emergency room nurse for 11 years, 2012 marked the beginning of her serious involvement with the union. As membership chair, Stern had been the one to present Love’s union orientation when Love first started at Baystate Franklin, fresh from a student nurse apprenticeship program. These orientations were important for new nurses to learn about their rights under the union contract, but also because MNA did not rely on employers to collect union dues through payroll deduction. Instead, the union signed up new members to pay dues directly, taking away any power an employer might have to strategically terminate dues collection during a contract dispute. Love found Stern’s orientation rap appealing. “I thought it was interesting—I like being involved in processes and organizations and volunteering,” she said. But she was also consumed with schoolwork, still attending classes on her way to earning her associate degree and later a bachelor’s degree in nursing. Love resisted urging from a coworker that she become the ER shop steward. But the coworker saw Love’s natural leadership and never gave up. After three years, Love was out of excuses. “She came back to me and said, ‘Oh, okay, I see you

graduated now.’” Soon, Love was regularly attending negotiations sessions for the 2012 contract and getting more involved.

Nurses had long practiced open bargaining at Baystate Franklin, the legacy of former MNA organizer Mike Fadel who shared Stern’s CIO predilections. The openness allowed members like Love to see right away what the union was all about. “I got pulled in that way, by being at the sessions and seeing what it was like,” Love said. “We could really stand up for ourselves as a group with a collective voice.” Not only that, but she genuinely enjoyed being in the negotiating room with her coworkers. During caucuses, the mood was casual and

social, and there was always food. “It struck me as a good way to get to know people who I work with who are outside my department, because it can become very isolated,” said Love. Working in the ER, Love and her coworkers often suffered the downstream consequences of problems elsewhere in the hospital. With the hospital constantly running short staffed, the medical-surgical unit and other departments would often refuse to accept patient transfers from the ER, leaving them stranded. In the past, Love would get frustrated with the “med/surg” nurses when patients began to “back up,” overwhelming the ER nurses. But talking with them during the downtime in negotiations, Love realized, “maybe there’s other stuff going on behind the scenes that we in the ER don’t know about.”

The 2012 contract campaign gave Stern and Love a first taste of what it meant to fight back against Baystate—and to win. After two years of bargaining, a strike, and an impasse declaration from Baystate, nurses won wage increases, improved healthcare benefits, and a new overtime system they hoped would force the hospital to increase staffing. Later that year, Baystate Health broke ground on a new surgical center in Greenfield, signaling that the company had reversed course and was investing in providing more services locally.

Up until 2012, “Many of the nurses hadn’t worked anywhere else...and they still thought their employer gave a crap about them,” said Stern. After that contract fight, they realized, “You work in the same building that you’ve always worked in, but you don’t work for Franklin Medical Center anymore, you work for Baystate.”

The 2012 contract had been radicalizing. Open bargaining brought in new leaders like Love and showed them what it took to win a non-concessionary contract. Still, nurses hoped that after such a long and drawn-out campaign that their next negotiations would be more straightforward. “I think everybody was hoping and praying that this contract would not be like the last contract, and we couldn’t have been more wrong,” said Stern. “It was brutal.” When the new overtime language failed to fix Baystate’s chronic understaffing problem, nurses geared up to place safe staffing levels at the front and center of their next negotiations campaign.

## Safe Staffing

As contrasted with understaffing, a term used in healthcare to refer to the number of nurses who should be scheduled in order to promote adequate workplace safety and patient care. The concept directly connects nurses’ working conditions with the quality of care they are able to provide.



## Part 1: PUTTING TOGETHER A PLATFORM

In early 2016, nine months before the expiration of their hard-won contract from 2012, the MNA bargaining committee gathered at outgoing co-chair Linda Judd’s farmhouse outside of Greenfield. The 15-member group had been formally elected at the unit’s annual business meeting and consisted of one shop steward from each department along with the unit co-chairs, treasurer, and secretary. Stern was returning as senior co-chair and was joined by a new junior co-chair, Jillian Sicard, who would be taking over for Judd. Love had also joined the bargaining committee for the first time after officially becoming the shop steward for her coworkers in the ER. The gathering was MNA negotiator Dana Simon’s first time meeting the committee. Like his predecessor, he was committed to open

bargaining, and wanted to get a sense of key issues from the leaders on the bargaining committee before drafting a bargaining survey.



MNA member and BFMC ER nurse  
Suzanne Love. Credit: Tom Goldscheider

The backyard meeting that night lasted three hours and was just the first of several the committee would hold to focus and tailor the survey before it went live to the whole membership. Finally comfortable that they were asking the right questions—both to solicit meaningful input from their coworkers and to draw them into the negotiations process—the bargaining committee took responsibility for distributing it to everyone in their “turf” and collecting responses from a majority of the bargaining unit. But the survey wasn’t simply one-and-done. After collecting majority input, the committee shared the survey out a second time, this time with a narrowed list of priorities for members to rank from one to ten. “Everyone could see what everyone else wanted to focus on,” said Love, “and then the top points are what we then bargain over.” The committee also pulled together membership meetings to discuss the survey results and give other members

space to bring forward any issues that had not been adequately captured through two rounds of surveys, followed by open meetings to review concrete proposal language, during which draft proposals underwent further on-the-spot edits.

The lengthy, iterative process for developing bargaining proposals produced clear consensus around high-priority issues like understaffing and healthcare





It's special considerations that can get written into a contract that really can make bargaining worthwhile. It can make your work situation a little more easy and gracious.

benefits which impacted nurses hospital-wide. But it also allowed more nuanced departmental issues to rise to the surface, including downsides of the union's seniority system. Under past contracts, requests for summer vacation were granted based on seniority. While the system worked well in most departments, in one department the two nurses who had been at the hospital the longest each regularly requested five full weeks of summer vacation. With only one

nurse granted vacation at a time, this meant that none of the other 12 nurses in the department—many of whom had school-age children—could take time off during those ten weeks. They brought the issue to the bargaining committee and came up with a proposal to cap summer vacation requests to a maximum of two weeks. The new system would still give priority to the nurses who had been there the longest but would also give other nurses the opportunity to take some time off while their kids were on summer break. It was a fair solution that didn't fundamentally undermine the bargaining unit's longstanding seniority structure. But it was also unavoidably disadvantageous to the two most senior nurses. Knowing that the proposal had the potential to cause conflict in the department that might boil over into negotiations, Stern went to them and explained where the proposal was coming from. "Because we did the background work and paid them the respect of talking to them directly first about why we're making this proposal, I think they accepted it more readily than if we had just done it without involving them in the process," said Love.

The existing collective bargaining agreement showed clear evidence of past proposals stemming directly from nurses' on-the-ground experiences, many of which further strengthened the value of seniority. MNA had bargained that nurses who had been at the hospital for 12 years or more would no longer be required to take on-call shifts, which required that they be able to arrive at the hospital within 45 minutes, rotate to the night shift, or have their days off moved. "It's those tiny details that really show something's been bargained over," said Love. "It's special circumstances, it's special considerations that can get written into a contract that really can make bargaining worthwhile. It can make your

work situation a little more easy and gracious.” And according to Love, “it’s that room for input that allows for details to come out of what individual departments would benefit from.”

With a suite of proposals hashed out through meetings, surveys, and more meetings, the bargaining committee was ready to start negotiations. They had a clear set of big-picture priorities as well as a sense of the more tailored departmental issues that nurses wanted to address in negotiations. “We went into bargaining with a platform,” said Simon, the negotiator. “We could go out to our membership with, ‘Here’s the platform we’re running on.’” With that platform came an open invitation, and express encouragement, for members to come to negotiations and be a part of making the platform a reality.

## Part 2: MAKING THE CASE

The 2017 contract campaign wasn’t the first attempt at open bargaining for the committee or for Simon. In his experience, members came to negotiations with one of three motivations: super militant members who were eager to speak in favor of the union platform; a “great middle” who wanted to see the negotiations firsthand but would much rather observe than participate; and the fence-sitters who “aren’t quite sure they think the union’s particularly smart.” One of the virtues of open bargaining was that the third group couldn’t stay on the fence for very long. “If you have a room full of everybody and management’s as bad as Baystate, that last category, boy that takes one meeting for them to say, ‘Oh my god...I’m so glad I’m on the right side.’”

Indeed, it didn’t take long for the Baystate management to begin organizing nurses against them. At the table, the company proposed to reclassify nurses who worked 32 hours or fewer as part-time employees, a change that would increase the rates they paid for health insurance and reduce their paid time off. Nurses had long had the choice of working three 12-hour shifts, a total of 36 hours per week, or four 8-hour shifts, a total of 32 hours per week. But the year before negotiations, the hospital had started encouraging nurses to take the 32-hour schedule, claiming shorter shifts would promote patient safety. Many nurses had agreed to make the change, including Love, though she soon switched back. The part-time proposal made it instantly clear what had actually been motivating management to push nurses towards shorter shifts. “I think it was a setup that they were trying to get most of us to move,” said Love. When nurses realized exactly what the company was trying to do, “the room just exploded...I had to

tell everyone, ‘Just wait ‘til they’re all out of the room before you say something,’ because people were so mad.”

As a general rule, the bargaining committee told other nurses in the room to keep a blank face and not show any reaction to the company’s proposals. But there were exceptions and this was one of them. When the company left to caucus in another room, the union formulated its response. “People were really mad, and Dana [Simon] is a believer in, ‘Well, let them see that you’re really mad and that they’ve gone too far with the proposal,’” said Love. “As we’re doing this heated discussion amongst ourselves, he said, ‘This is great, capture that.’” When management walked back into the room, nurses were ready. “Instead of just one or two people talking, we went down the length of the table and everyone in the bargaining committee told the chief nursing officer what they thought of the proposal.” The strategy worked. “They took it off the table right away,” said Love. “I’ve never seen it happen so quickly. Within an hour, they had taken away that proposal.”



Instead of just one or two people talking, we went down the length of the table and everyone in the bargaining committee told the chief nursing officer what they thought of the proposal.

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With as many as 75 members in the room at a given time, caucuses provided an important space to plan for the presentation of the union’s proposals as well as how to respond to management’s proposals. Indeed, the bargaining committee often turned to other coworkers in the room to provide further explanation or rationales for particular items. For the significant number of nurses who wanted to watch but were reluctant to speak in front of management, caucuses gave them the chance to build their confidence by pre-planning who would speak in what order and going through practice role-plays with Simon. “I like to have people give their rap of what they’re going to say and then I play the boss and I just cut them to ribbons,” said Simon. “And sometimes it’s funny because it’s just so disingenuous the bullshit that comes out of me. And sometimes it’s very helpful, too, because you realize ‘Did you see what you walked into? I saw you coming a mile away. Don’t do that. That second argument you made? That one’s the

money.” By taking the time to think through arguments and make a plan for the bargaining table, members felt more confident and prepared to speak directly to management.

As safe staffing continued to be the central demand in negotiations, nurses spent significant caucus time brainstorming all of the ways they could demonstrate to management how the issue impacted both nurses and patients. In one caucus, conversation shifted to the frequency with which nurses were called at home to come back into work: during days off, vacations, and even the middle of the night. They realized that working for Baystate, even their time off was never truly theirs. But how to convey that feeling to management? Bargaining co-chair Sicard remembered that most of the call-in requests she’d received from the hospital had been via text message. She pulled up the texts on her phone. “Things like, ‘We desperately need help. Can you come in right away? We’re dying here. We’re drowning,’” said Simon.

Sicard spent an evening at home transferring all of her text messages into a word document. The bargaining committee printed them out—12 single-spaced pages. At the next negotiations session, Simon nonchalantly passed the document across the table and then read sample texts from each page. “Management was horrified,” said Stern. “They couldn’t hide anymore...You could say, ‘Oh, maybe nurses are exaggerating,’ or ‘Maybe it’s not as bad.’ And managers are trying to protect themselves so they’re minimizing the problem. But then when the evidence is in front of them, you can’t minimize it.” Later, the HR director told Simon it was the worst moment of her professional career. Sicard’s idea had had a huge impact at the table. “The process of talking and talking and talking about these issues and having large groups of people, it becomes a competition for who can be more productive and come up with the next best idea,” said Simon. “It creates a culture that if I come up with this idea and I come up with the goods, it will immediately be used and be really gratifying.”

### **Part 3: A COMMUNITY CONTRACT**

Sicard’s text messages were a perfect encapsulation of the impact that understaffing was having on nurses at Baystate Franklin. But from the beginning nurses realized it would be important to also demonstrate what understaffing meant for patients. As they had for past contract campaigns, the bargaining committee decided to open up negotiations sessions to the broader Greenfield community.





UE Local 274 retiree and community member Dave Cohen speaking in support of Baystate Franklin nurses.  
Credit: Judy Atkins

Dave Cohen and Judy Atkins, longtime residents of the Greenfield area and retirees from the UE, had been involved in supporting MNA members for the last three contract cycles, beginning when Baystate Franklin bargaining had coincided with Occupy Wall Street protests on the Greenfield Common. Cohen and Atkins were dedicated leftists and fixtures in the Greenfield labor movement. They were also Baystate Franklin patients. Cohen had recently undergone treatment for prostate cancer but had been unable to get the care he needed locally. “I had to get radiation treatment, but they wouldn’t do it here in Franklin County and so I had to drive every day to Springfield for eight weeks during the winter. That wore pretty thin, having to drive 45 minutes for 10 minutes of treatment and then drive 45 minutes back home,” Cohen said. “And when I’d get there, there’d be a room full of people from Franklin County.” According to Atkins, Baystate offered bus service to and from its hospitals in Greenfield and Springfield, but the bus only made one roundtrip per day, leaving patients who needed transportation waiting for hours before they could return home. When MNA campaigned to “keep care local” in 2012, the demand resonated beyond the union’s membership. “There was a real fear that Baystate’s real intentions were to shut down Franklin Medical Center or just make it into an emergency room over time,” said Cohen. After the 2012 contract victory and Baystate’s subsequent groundbreaking on a new surgical center in Greenfield, it was clear that the combined pressure from nurses, patients, and other community members had kept the company from pulling up stakes.

Though not all open bargaining campaigns necessarily bring in community members from outside the bargaining unit, MNA had seen that it was a strategy that could work for them. Cohen remembered that when he and Atkins first met with nurses about getting community members more involved during the Occupy days, they were apprehensive about asking for help. Good jobs were few and far between in the hill towns surrounding Greenfield, and nurses at Baystate Franklin were better off than a lot of their neighbors. “They thought they made too much money and people would hate them because they made too much money,” said Cohen. But Cohen and Atkins knew from their experiences in the UE that good jobs could be a source of community pride rather than resentment. “We spent a lot of time talking to them, saying, ‘No, this is a good union area, if you put out the issues, people will understand and won’t hate you because you’re earning a decent living.’” It didn’t take long for nurses to see that their fears were unfounded. “Of course the community loves nurses, and they realized that quickly,” said Atkins.

Over the last two contract cycles, nurses had continued to develop relationships with community members and organizations and to build public awareness about the impact of healthcare consolidation on nurses and patients. In 2017, with help from Cohen, Atkins, and a committee of other local community leaders, nurses hoped to focus public pressure around the issue of safe staffing, another common good demand, by once again bringing community members into bargaining.



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Baystate tried to block the move, proposing conventional ground rules that would limit negotiation sessions to Baystate Franklin workers. But Simon and the bargaining committee said no. Ground rules may have been conventional, but they weren’t required. “These rules are so old,” said Love. “It was like they were written on an old mimeograph machine. One of the rules is no smoking at the bargaining table. That’s a pretty old set of rules.” Because the existence and content of ground rules are a permissive and not mandatory subject of bargaining, the union wasn’t obligated to negotiate over them.

## Whole Worker Organizing

An approach to organizing which recognizes that workers experience and are impacted by issues which intersect but extend beyond the workplace, such as access to quality education, housing, and healthcare, and forms of identity-based oppression. Whole worker organizing also rejects artificial distinctions between “workers” and “community” and seeks to use workers’ roles in the community as sources of strategic power.

Moreover, with management refusing to pay nurses on the bargaining committee for lost time spent in negotiations, a common incentive for unions to consider ground rules, there was no reason to. “We just held the line and refused to agree.”

Love had been shut out of negotiations when she tried to attend MNA negotiations for nurses at another hospital. Because of restrictive ground rules, she and other union and community members who didn’t work at the hospital were only allowed in the room during caucuses. “There was someone sitting outside with her seven-year-old and they would not let the child in the room for bargaining because she’s not a nurse at the hospital.” Love wanted her own family and other members of the community to be involved in the negotiations process. “My husband is interested in this stuff. He might want to come and be a part of it. We have many supporters that would want to be a part of it. Not only because of the strong labor history in Greenfield, but also the community has a vested interest in the community having enough nurses.” The exclusion of outside nurses and family members from negotiations sessions underscored the artificiality of distinguishing between “union members” and

“community members.” Nurses were workers. And they were also community residents who, along with their families, neighbors, and friends, relied on the hospital as a healthcare provider.

The lack of ground rules at Baystate Franklin negotiations facilitated participation by Cohen, Atkins, and others, as did their location: two churches in the heart of downtown Greenfield, including St. James and Andrew Episcopal Church. “It’s a church that is known as an activist church...and it was right next to our office, which is also right next to places that people hang out,” said Rudy Renaud, a city council member who left her day job at another union to join the MNA staff and be a part of the Baystate Franklin fight midway through the 2017 contract campaign. The church also happened to be her church. The bargaining committee tried hard to advertise that their negotiations were open to everyone through copious food and welcoming signage. “People would feel like it was a place to stop in and even just grab a cookie and a coffee,” Renaud said. Many were familiar faces. “We were sort of like a mini drop-in center for some of the patients who were really high risk who needed food or a snack or whatever,” said Stern. “Sometimes they would stay and listen to negotiations, too. But it’s building trust with the community. It’s not just about the contract.”



Having patients and other community members in the room gave nurses the confidence and credibility to talk about the broader impacts of staffing shortages on patient care. Love remembered one particular session devoted to discussing safe staffing where the church was packed. “It was great to see these nurses who were there feeling the safety of numbers,” she said. One nurse told management about a patient who had stuck with her: a 78-year-old man who had gone four days in the hospital without getting his face shaved because none of the nurses could take the time away from other patients to help him. “That’s all about patient dignity,” said Love. The presence of patients in negotiations, particularly patients who relied on the hospital’s mental health care and emergency services, underscored that nurses were fighting not only for themselves but for the people they cared for. “You have one co-chair in the emergency room who literally sees everybody who comes in off the street and then you have the other co-chair who’s a psych nurse,” said Stern. “There were a lot of our patients that were also involved in supporting because they were saying, ‘This is not okay. I’ve been taken care of by these nurses and I can’t believe you’re making them work how many hours in a week?’”

In Stern’s eyes, by advocating for nurses, patients were also advocating for themselves. They too were coming to see the impact of Baystate’s profit-driven decision-making on the quality and availability of healthcare. “They only care about certain patients, and I think that really came out,” said Stern. “They care about certain patients, patients with the right health insurance...the ones that go into the surgical building or the ICU or go in for colonoscopies and other outpatient procedures, because those are the moneymakers.” In a rural community with high rates of drug addiction and mental illness, the patients most dependent on access to community healthcare were being left behind.



**You have a soul contract and then you have a contract with management...How do you negotiate both of those contracts?”**

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For Stern, negotiating a contract was about improving her working conditions but also about ensuring that she and her fellow nurses would be able to provide for their patients’ needs. “I always look at the contract as two parts. There’s the nuts and bolts, what’s the health insurance, the raises, those things are important...







It takes asking the hard question: ‘Are you going to vote yes? Are you going to vote no?’ Because you never want to go into a strike vote not having a pretty good sense of what your numbers are going to be.

lowest common denominator of boring,” said Simon. Coming up with an action as a group resulted in actions that were both more strategic and more fun for the members participating in them.

“You always start off slow, right?” said Stern. “You know, you start off with pickets, local pickets, and then you start to crank it up and then you start talking about, ‘You know, these pickets aren’t seeming to do it.’

So now we’re heading towards

strikes. And in addition to strikes, we’re going to start taking the show on the road and we’re going to start targeting the mothership. And also we’re going to start targeting the board members of the Big Baystate,” the larger hospital system. One day in negotiations, Renaud had the idea to purchase a 12-foot-tall inflatable fat cat. Soon the fat cat was popping up outside of the hospital’s executive building and outside the offices of board members. After another brainstorming session, a “Support Baystate Nurses” sign appeared at the top of the Poet Seat Tower landmark overlooking downtown Greenfield. “In the middle of the night, I don’t know who did it, but some crazy kids went up there,” joked Renaud. Nurses went to the Veteran’s Day Parade. The Franklin County Fair. The hospital’s annual “Wheeling for Healing” event. They put ads on local radio. “Just everything we could do to just constantly hit at them and give them PR everywhere we went,” said Renaud.

Though many voices participated in brainstorming new ideas, it was ultimately up to the bargaining committee to decide if a given tactic would help or hurt their bargaining position. “We are deciding what we’re to be arguing for in bargaining and how far we want to take outside actions,” said Love. But buy-in from nurses and community members gave the committee the backup they needed to stand tall against any blow-back from the boss. After deciding in a caucus to distribute flyers about the hospital’s “dealing and stealing” at the Wheeling for Healing fundraiser, it was Stern as co-chair who took the heat. “The doctor who oversees the event, basically lost his, excuse my French, but he lost his shit in the cafeteria with me. And I turned into Daenerys from Game of Thrones. He basically ended

up having to apologize to me because he was so out of control,” said Stern. It hurt not being able to get along with everyone in the hospital. But Stern also saw the attack for what it was—a sign that management felt their power being threatened. “There’s still this thing between nurses and doctors, there’s still this old school belief that you nurses should know your place, and how dare you challenge.”

## Part 4: ONE-TO-ONE; ONE THROUGH FIVE

Stern had learned a lot about how to organize from Fadel, the former MNA organizer, in the 2012 contract fight: “The old school model of one-to-one communication,” as she described it. But direct communication came easily to her. “It kind of goes along with the philosophy of nursing, which is you include your patient in the process,” she said. Why should organizing her coworkers be any different? Throughout bargaining, Stern and the other members of the



Facebook is helpful. Email is helpful. Texting is helpful. But there’s still nothing that beats that one-to-one communication and your coworkers seeing you showing up at like two o’clock in the morning to have a conversation with them.

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bargaining committee communicated with their coworkers through as many methods as possible, but in-person communication remained paramount. “Facebook is helpful. Email is helpful. Texting is helpful. But there’s still nothing that beats that one-to-one communication and your coworkers seeing you showing up at like two o’clock in the morning to have a conversation with them,” she said.

The bargaining committee worked to continue to engage members even after they had completed the bargaining survey process and announced their platform for bargaining. They made sure the date and location of each bargaining session was posted on Facebook and on the MNA bulletin boards in each department’s breakroom. At the end of every bargaining session, members would stay in the room and draft a detailed bargaining leaflet to distribute in the shop the next day.

The text of the leaflet would then get posted on the Baystate Franklin MNA closed Facebook group. Sometimes Simon or the MNA communications staff would make adjustments to the final leaflet overnight based on questions or comments that came through the Facebook group. Though MNA had been hesitant to make use of Facebook in the past, Stern, Love, and the other bargaining committee members helped to set the tone to keep the group productive. “We had discipline of message,” said Stern. “Discipline, discipline, discipline. Because I had already gone through a bruising contract before, I knew the key was discipline of message. I also reinforced over and over and over again, you don’t get into power struggles and fights on Facebook...If someone has questions, it’s always face-to-face.”

After a dry run online, the final leaflet would be printed the next morning and distributed by the committee to their coworkers via rounds through the hospital. The leaflets helped fill in the gaps for members who weren’t able to attend bargaining, but also gave members who had been in the room a jumping off point for talking to their coworkers. “When you get over the course of months a majority of the bargaining unit having at least borne witness to a few bargaining sessions, when you put out a leaflet, they’ll really read it because they’ve decided they can also tell their coworkers, ‘This leaflet that you just read, it’s not telling the half of it. I was there. They’re being diplomatic,’” said Simon. The bargaining committee also continued to hold regular membership meetings to discuss bargaining as a group.

## Ranking

A process for evaluating workers’ readiness to strike, or take other actions, based on one-on-one conversation and past participation in structure tests.

Though the committee provided detailed leaflets, the best communication came from open bargaining itself. Towards the end of the campaign, management released its own flyer claiming that the union had turned down a 23 percent wage increase. “We had a small minority, but a very worried minority overnight that was saying, ‘What the hell? Really, we turned down 23 percent? What the hell?’” said Simon. The bargaining committee was quickly able to put out its own leaflet which laid out the facts of what had happened—but more importantly could be backed up by the supermajority of workers who’d seen the bargaining session firsthand. The worried minority quickly turned sheepish that they had fallen

for the boss’s messaging. “If you try to do that and they haven’t been there and you tell them that management’s lying, you’re in a he said, she said, ‘I just feel as a union member, I feel caught in the middle.’ We didn’t have any of those people because it was open bargaining,” said Simon.



A year into bargaining, with little progress at the table, the bargaining committee decided to move forward with a strike authorization vote and communication among the membership began to intensify. “We realized we were just at a standoff, we’re not getting anywhere,” said Love. “And so we spent a lot of time going to the hospital, going around to departments, talking to members. We had open meetings. We also would reserve a room in the hospital, the conference rooms. And we members of the bargaining committee took turns being there for like a 15-hour, 18-hour time period so that everybody at every shift timeframe would have a chance to come in and talk to us about why we think we need to go on strike.” The bargaining committee had recommended a 24-hour strike, but the hospital had made it clear that they would be locking out nurses for an additional three days. So Love and Stern prepared their coworkers for being out of work for a total of four days. “It takes going from unit to unit, unit to unit, one to one, one to one,” said Stern. “It takes asking the hard question: ‘Are you going to vote yes? Are you going to vote no?’ Because the thing that I learned about the first time is you never want to go into a strike vote not having a pretty good sense of what your numbers are going to be.” The committee went through a list of coworkers and ranked everyone based on their support for the strike. When the time came to vote to authorize the strike, they knew they had the votes. “We held it over two different dates and times so that there was as much opportunity for people to vote,” said Stern. In the end, over 80 percent of the unit turned out, many of them driving over 30 miles on their day off to participate. The strike was officially authorized.

## Part 5: ALL ON THE LINE

Nurses at Baystate Franklin had struck for the first time in 2012. But they had never been locked out before—in fact the Baystate lockout was the first in the history of MNA. Management thought they could lure the union into a misstep by instituting the lockout twelve hours before the strike was scheduled to begin. By law, the union had to give ten days’ notice of the start of their strike and picket. In starting the lockout early, management hoped to trick nurses into picketing before the time they had officially noticed, triggering an unfair labor practice. The plan backfired. Instead of nurses walking off the job, they were being shut out of the hospital, an even worse optic for Baystate.

At precisely their noticed hour, Baystate Franklin nurses began to picket. Being locked out “just pissed nurses off,” said Stern. “The lockout just enraged them.” The lockout had also galvanized the broader community. “The turnout from the

community and organizations was ginormous,” said Simon. “We had students coming in from UMass Amherst, like 45 minutes away, and from all over the place. All sorts of community people were populating the picket line.” Atkins and Cohen were there with other UE members and retirees, as well as members of Franklin County Continuing the Political Revolution, an organization they had founded to carry forward organizing that had started under the auspices of the Bernie Sanders campaign. Renaud’s city council colleagues and her old union, SEIU, had also turned out along with local firefighters and several other local unions. And many nurses had brought their family members. Love’s husband struck up a picket line conversation with Atkins and Cohen about their experiences in the

Greenfield labor movement.

Two years later, he would publish an article on the history of the UE at GTD.

After four days, nurses went back to work. But progress at the bargaining table was still slow. A second strike and lockout followed six months later, further solidifying community support for the nurses and distrust of Baystate Health.



Bargaining co-chair and BFMC psychiatric nurse Donna Stern speaking at an MNA informational picket at BFMC. Credit: MNA

When Stern tried to go into the hospital shortly before the second lockout was scheduled, four Greenfield police officers blocked her from entering and physically pulled her away from the entrance. The incident was caught on video and published by the Greenfield Recorder. “That did not play well,” said Stern. “Police officers putting their hands on a nurse who literally was just trying to get into a building legally before lockout began.” The incident was especially galvanizing for nurses themselves. “There were a couple of baby nurses and it was really funny, they said, ‘We had no idea you were so bad ass.’ And I never thought of myself as bad-ass or that anyone was paying attention. But I realized that it actually motivated them to show up for the action. You know, those moments of bravery that you don’t really think of yourself as brave. You just think this is the right thing to do. They do make a difference.”

After the second strike and lockout, the hospital finally began to make movement towards settlement. Another run-in between Stern, co-chair Sicard and the

police as nurses tried to re-enter the hospital only further lowered management's stock with community members. MNA had also filed 23 unfair labor practice charges against Baystate, many stemming from management's response to the strikes. Baystate decided to clean house, getting rid of the president, the director of nursing operations, and the head of HR. And they hired a new advertising agency. "It's all these little cumulative things that are not so little," said Stern. "It's accumulation of action, action, action." According to Love, a month after the second strike, nurses went into bargaining and management just caved. "They said, 'Well, we think that we can settle something today...We'll meet all of your concerns and we can get this thing settled today.' We were so shocked. I don't know what changed other than they got sick of it." Nurses won back a health plan that the company had previously eliminated, a 7.4 percent wage increase, and a ratification bonus. But finally addressing the hospital's short staffing through staffing grids was far and away the biggest victory.

## SAFER STAFFING SECURED

In 2012, nurses had won contract language that incentivized hiring more staff, but the 2017 contract in effect required it, specifying the minimum staffing levels for each department and each shift. It was an amazing victory, forcing the company to hire and immediately expanding the bargaining unit by nearly 10 percent. "I think the thing that made me happiest is not seeing my coworkers

have to work thousands of hours of overtime in any one calendar year," said Stern. "And not seeing my patients be put at such high risk." After some hesitation, the bargaining committee scheduled the ratification vote and the victory party back-to-back. They didn't want to seem presumptuous, but they also knew their coworkers were similarly thrilled about everything that had been accomplished in the contract. Both the turnout and the yes vote were overwhelming, as was the celebration that followed.

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“ I don't know what changed other than they got sick of it.

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Though Baystate Franklin nurses had won huge staffing improvements at their hospital, the issue remained a priority for MNA statewide. Almost immediately, Stern, also a member of the union's board of directors, pivoted into campaigning for a ballot question that would fix nurse-to-patient staffing ratios in state law. Legislating staffing ratios would ensure safer conditions for nurses and patients regardless of whether

a hospital was unionized. It would also eliminate a key incentive for companies like Baystate Health to fight nurse unionization. In November 2018, six months after the contract victory at Baystate Franklin, the initiative was defeated, with MNA being outspent two-to-one statewide by the Massachusetts Health and Hospital Association, an industry association led in part by Baystate Health's CEO. But Franklin County was a bright spot on the electoral map, posting some of the only positive margins in the state. Years of relationship-building between nurses and their community, against the backdrop of Greenfield's long labor history, showed plainly at the ballot box.



## Case Study

# UNITE HERE! Local 26



## THE NEW BOSS IN TOWN

Richie Aliferis has staffed the front door of the Omni Parker House Hotel in Boston for 44 years. His tenure as a door attendant has spanned most of his life and a full quarter of the Parker House's history as the longest continually operated hotel in the United States. Since he began working at the Parker House while a student at nearby Suffolk College, Aliferis has seen the hotel industry change from small, local and regional family-owned businesses to global, publicly-traded hospitality behemoths. "When I first started in the hotel, individuals and families owned the hotels. They weren't these big corporations. When I started it was the Dunfey Hotel and it was an Irish Catholic family from New Hampshire." That Irish Catholic family from New Hampshire, a pillar of Democratic politics in New England, would eventually become the owners of Omni International Hotels, before selling the company to a Texas-based billionaire who'd made his money in oil and gas.

The growth of Omni from a New England company with a family face to part of an international conglomerate with an inscrutable name, "TRT Holdings," paled in comparison to the trajectory of another hotel company founded by a family.

**UNITE HERE:** UNITE HERE represents 300,000 hotel, gaming, food service, and other hospitality workers as well as textile, distribution, laundry, and transportation workers across the United States and Canada. The union was formed out of the merger of the Union of Needletrades, Industrial and Textile Employees and the Hotel Employees and Restaurant Employees Union in 2004. [www.unitehere.org](http://www.unitehere.org)



Unlike the Dunfeys, this family was 2,000 miles away, but like the Dunfeys, this family had religious roots, too. A Mormon family from a town in Utah that bears their name, the Marriotts opened their first hotel in Arlington, Virginia in 1957. The company grew rapidly over the course of just two generations to become the dominant global hotel operator and brand. By 2016, Marriott International achieved the status of largest hotel company ever in existence with its acquisition of Starwood Hotels

and Resorts. Marriott's merger with Starwood brought together 30 of the most publicly-recognized hotel brands in the world, including Westin, Sheraton, Ritz Carlton, St. Regis, W, Renaissance, Courtyard, Aloft, Moxy, and many more, under the Marriott umbrella. Though the Omni Parker House remains the oldest hotel in Boston, Marriott is now far and away the biggest game in town, operating three of the city's largest 800-plus room hotels and continuing to develop properties under its newest brands.

Aliferis had closely watched the changes to the hotel industry in Boston not only as a career hotel worker but as a member of the executive board of his union, UNITE HERE Local 26. The local had consistently organized to keep up with the booming hotel industry, going from nine unionized hotels at the start of Aliferis's career to thirty-four by the time the Marriott-Starwood merger came about. In 2008, Local 26 successfully locked in a citywide contract just before the market crash sent hotel revenues south. Despite the Great Recession's impact on the hotel industry, the union continued to grow rapidly, and the 2012 hotel contract, negotiated citywide with the city's hotel association, established the union's pension plan and its strike fund for the first time.

In the past, UNITE HERE had often focused in on pressuring a particular company to set the citywide standard. Aliferis was used to it not being his employer. "They only have 55 hotels, so they're not a real big player." One contract cycle had focused on Starwood; another on Hilton. Though Marriott was already the second-largest hotel company before the 2016 merger, decades of successful

union avoidance meant the company had far fewer union properties than its closest rivals and it had stayed out of the negotiations hot seat by virtue of its low union density. But that was about to change.

Marriott's acquisition of heavily unionized Starwood not only made it the largest hotel company in the world but meant that the company was suddenly operating a significant number of union hotels for the first time. In Boston, Marriott now employed nearly 40 percent of Local 26's hotel worker members, far more than Omni or any other single company. And unlike Starwood, Marriott couldn't be expected to agree to a contract negotiated with another company or with the citywide hotel association. "Marriott doesn't play nice in the sandbox. They like to do their own thing," said Ian Seale, a banquet server at the Boston Park Plaza owned by Highgate Hotels, another smaller player. Seale had started his career working in hotels in Barbados, but, like Aliferis, had now spent four decades in the industry in Boston. Though neither worked for Marriott, they knew that negotiations with the company would have major implications for what workers would ultimately be able to win at the other unionized Boston hotels. Because a key feature of Marriott's union avoidance strategy had been to match the union wage in major hotel markets, a strong contract would likely also mean improved standards for the many Marriott workers in Boston still without a union.

## HISTORY MADE AT HARVARD

The Marriott-Starwood merger raised important strategic questions for hotel workers looking ahead to their next contract negotiations. But first, the local had to get through negotiations for 750 members who worked in dining services at Harvard University. Local 26 members at Harvard had been fighting for many years to get the university to address the financial impact of long summer layoffs. In 2016, after intense deliberation over bargaining demands, the bargaining committee decided on a new approach. They reframed the issue as one of annual earnings, rather than year-round work, and demanded \$35,000 per year for all dining services workers. When the University, a 40-billion-dollar institution, refused to agree to their eminently reasonable demand, the workers embarked on the first open-ended strike in Local 26 history. After three weeks, in the middle of the Fall 2016 semester, they won.

"The Harvard campaign was proof positive that [Local 26] can pull off a big action and strike and assert the power of the union," said John Flannery, a door attendant at the Fairmont Copley Plaza. Flannery had once been a skeptic of the union's elected officials, at one point running for union office against its





John Flannery, Local 26 member and door attendant at the Fairmont Copley Plaza, showing support for strikers at the nearby Westin Copley Place.

eventual president, Brian Lang. But he'd seen the local's steady growth under Lang's leadership, and stayed involved as a shop steward. "We were more thinking in the present before. Since 2011, 2012, we started thinking more about the future as far as our union and what it could be and what it should be," said Flannery. The union established a strike fund and a pension plan, set ambitious new organizing goals, and started to do more community-oriented organizing. The victory at Harvard showed Flannery and others that the new approach was working, with dining services workers pulling off a successful strike and winning broad public support.

## STICKING WITH WHAT WORKS

Like Flannery, Aliferis and other members of the executive board took a number of lessons away from the Harvard contract victory. After decades

of being a local that threatened to strike, Local 26 had become a union that had struck one of the wealthiest and most powerful institutions in Boston and won. But building the internal organizing structure to support an open-ended strike hadn't been easy. Moreover, the formulation of an easily-communicated, common sense demand—\$35,000 per year for all dining hall workers—had taken months of discussion and deliberation among dining services members. Looking ahead to citywide hotel negotiations, union leadership hoped to replicate what had worked so well at Harvard. In order to fuel the kind of mass participation they would need for a successful strike, the union planned to have a large negotiations committee with leaders from hotels across the city and negotiations open to all hotel members. To pull it off, they would need to start planning right away.

## Part 1: CITYWIDE CONVERSATIONS

In early 2017, just a few months after the Harvard settlement, Boston hotel workers came together to start identifying key issues for their own negotiations. The Local 26 leadership wanted to leave plenty of time for hotel workers to



deliberate over demands and develop a strategy for dealing with Marriott’s new dominance. Organizers convened a series of meetings for all union hotel workers in the city—34 properties in all—to begin discussing goals for the contract. The meetings, held over the span of two weeks, drew in 2,000 of the local’s 5,000 hotel worker members.

Maryann Silva had worked as a banquet server at the Ritz-Carlton Boston for 17 years. While Ritz-Carlton had once been a standalone hotel company, it too had been acquired by Marriott. Silva had always been a union supporter: “I didn’t shy away when my brothers and sisters might need me to stand behind them or



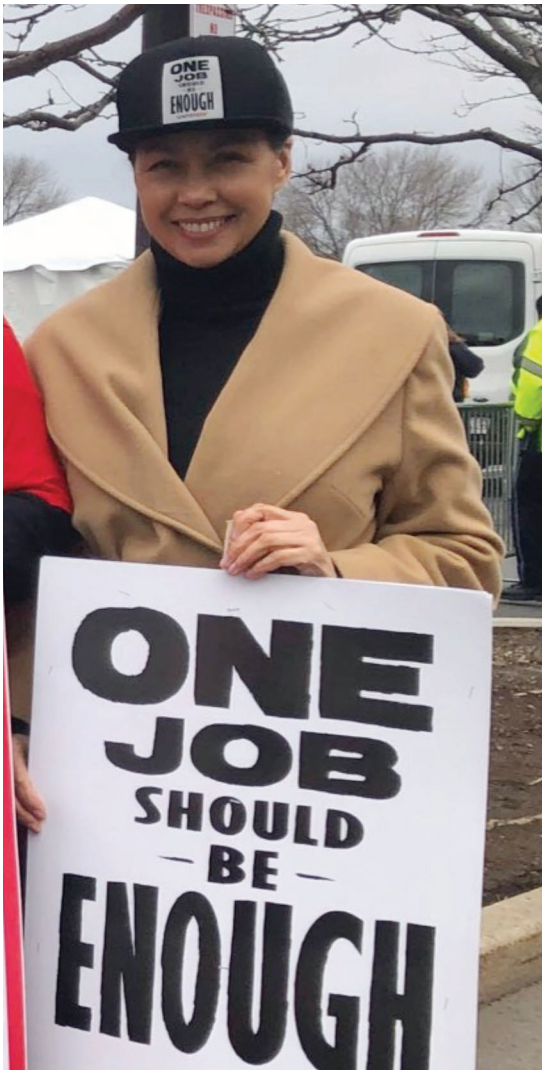
I didn’t shy away when my brothers and sisters might need me to stand behind them or with them. But, I did shy away from getting involved because I didn’t really know what the contract was all about.

with them.” But, she said, “I did shy away from getting involved because I didn’t really know what the contract was all about.” Silva went to one of the citywide contract meetings in 2017 and started talking with workers from hotels across the city. “Those types of meetings helped to bring people like myself out and be more vocal,” Silva said.

As Silva and other Local 26 members discussed their work, retirement was front of mind for many. The local’s pension fund was newly established and the accrued benefits even for the most senior workers were modest. Soon, the reality of what it meant to not have retirement savings began

to register for younger workers as well. Ye Qing Wei, a room attendant at the Sheraton Boston, a Starwood-turned-Marriott hotel and the largest in the city, hadn’t fully understood why her own mother, also a room attendant, was still cleaning rooms. “I’m 52, so I don’t realize why people who are 70 are still working.” Then she and her mom did the math together. “My mom, she worked over 25 years in the hotel. She has \$1,100 right now for retirement. So she said, ‘I pay \$400 for rent and I pay \$300 for my insurance. How am I going to survive with only like \$400 left?’” At minimum, workers wanted to be able to afford the monthly premium for Medicare supplements to maintain the level of coverage they had under the union health and welfare plan.

Another issue that rose to the top was Marriott’s “green choice” program, which gave hotel guests a financial incentive to decline daily housekeeping services. Though the company led with the environmental benefits of washing fewer sheets each day, the program was also an excuse to schedule fewer room attendants and save significantly on labor costs. The program reduced the number of room attendant shifts overall, but also meant management could no longer predict in advance what the demand for housekeeping would be. As a result, many more low-seniority room attendants were moved to de facto “on-call” status, without regular schedules or any guarantee that they would be able to work enough hours in a given month to qualify for health insurance benefits. When her kids were younger, Wei remembered feeling like she couldn’t ever say no to a call-in shift, even when it was on one of their birthdays. “I needed the hours. I didn’t know the next day if I would be scheduled or not,” she said. “It really affected my life, my schedule. It was out of control.”



Starwood had pioneered green choice as a cost-saving measure, and now Marriott was eager to fully implement the program companywide. Despite the reduced number of shifts for room attendants, the green choice program didn’t reduce the amount of work that needed to be done—the guests still produced the same amount of mess and trash over the course of their stays. Because of green choice, however, room attendants were forced to deal with the mess all at once, during one room cleaning, rather than spread out over several shifts. It also meant dealing with ad hoc guest requests—fresh towels, an additional trash pickup—which weren’t factored into their workload. The move away from daily housekeeping services only compounded the physical toll of the work. “It was killing my back, my coworkers’ backs,” said Alganesh Gebrelibanos, a room attendant at the Westin Copley, another Starwood-turned-Marriott hotel, for 25 years. “At the same time, it was killing my benefits.” There was nothing fundamentally incompatible with the hotel reducing its environmental impacts and providing

Maryann Silva, Local 26 member and banquet server at the Ritz-Carlton Boston on the picket line.

room attendants with fixed schedules and sufficient time to do their jobs. But Marriott's cost-cutting had pitted the two against each other. Gebrelibanos and other room attendants hoped that through negotiations, they could get the company to finally address how the company's bottom-line-driven approach to environmentalism was impacting them.



A restaurant server or bartender could have a gratuity line put on their bill ... well, we don't have a gratuity line. Once you start to explain it to people, the light bulb goes on.

Both retirement and green choice were clear priorities for room attendants, the largest department in each hotel and the bulk of Local 26's hotel membership. But smaller departments also took advantage of the citywide meetings to voice their key issues. Door and bell attendants were particularly adamant that their earnings had begun to fall behind workers in other departments and that the wage scale needed to be adjusted to bolster their earnings. After talking with his coworkers about the upcoming contract negotiations, Juan Eusebio, a door "ambassador" at the W Hotel, another Starwood-Marriott, became focused on winning a significant wage increase for his department. "The door ambassador position was a good position. You made good money in tips." But, Eusebio explained, "Not many people carry cash these days and the industry has changed." The impact of a cultural shift around cash tips was further compounded by the growth of Uber, Lyft, and other ride-hailing apps. Hotel guests no longer relied on doormen to flag down taxis for them, and the associated tips had dried up. "You have the reputation being a doorman or bellman, you make a lot of money, quote unquote a lot of money," said Flannery, the door attendant at the Fairmont Copley Plaza. But once the door and bell attendants started talking to workers in other departments, they found ready support. "A restaurant server or bartender could have a gratuity line put on their bill...well, we don't have a gratuity line," he said. "Once you start to explain it to people, the light bulb goes on." The door department found common ground with the room service department, which was also feeling the financial impact of new technology. Instead of calling for room service, guests now used app-based delivery services when they wanted to order food.

The early 2017 meetings kicked off conversations among hotel workers across the city about what they wanted their next contract to look like. Towards the end of the year, they would reconvene to concretize their demands and start making a plan to win.

## Part 2: GETTING ORGANIZED

Eusebio had started talking with his coworkers about bargaining issues at work but had yet to attend a citywide union meeting. In late 2017, Local 26 hotel members gathered at the Teachers' Union Hall in Boston for an all-day Citywide Bargaining Convention to officially kick off their contract campaign. Many of the same members were in the room from earlier meetings, including the local's established network of shop stewards. But the stewards and the local's organizing staff had also been working hard to identify and recruit new leaders to help build out leadership committees within each hotel as well as what would become the bargaining committee for the contract. It was important to represent not only the various departments in each hotel but also the local's "extreme diversity," with members from China, East and West Africa, Haiti and the Caribbean, Central and South America, and elsewhere around the world such that one group rarely constituted a majority.

Eusebio was one such leader who'd been recruited in the lead-up to the citywide convention. He had gotten involved with the union right away after starting at the W in 2010 as a bellman, helping to organize the hotel under a card check agreement the union had negotiated with Starwood. The W was his first job ever—he was newly in the workforce after studying hospitality at Fisher

College—but he was already frustrated with the low pay and myriad responsibilities which seemed to go far beyond his job title. "I was doing not only the bellmen's job, I was also the runner, and there was no houseman after 6 o'clock, so any call for houseman duty was me, too. So I was doing all of that and getting paid \$6 per hour" before tips. After talking with another door attendant from an already unionized hotel, the decision to support the union was an easy one. In the intervening years, however, Eusebio had more or less checked out. "We had shop stewards and everything, so I distanced myself for a bit," he said. Still, he was the one that coworkers went to when they had issues, and now the local's staff organizers had gone to him as well. Eusebio agreed to attend the citywide convention.

### Organic Leader

A respected worker who is able to move large numbers of their coworkers to take action. Organic leaders are not necessarily pro-union, as contrasted with pro-union activists. Typically, they have no official title or position.



The agenda of the convention was equal parts political education and planning, recapping the local’s ongoing transformation under its last three presidents to focus on both raising contract standards and growing the power of the union through organizing, and looking ahead to how the hotel contract fight would continue that work. For many longtime members, it was a history they had helped to make, a history that included dramatic improvements to the union’s health plan, the creation of a first-of-its-kind home ownership assistance fund, and of course the recent establishment of the union pension and strike fund. When Aliferis first started at the Parker House in the early 1980s, he paid \$500 every three months for health insurance. Forty years later, union members paid just \$12 per week, or just over \$150 every three months for family coverage, even as the overall (and therefore employer-borne) cost of coverage had increased dramatically.

For Saihua Deng, the union’s progress could also be seen in the steady improvements to room attendant workloads—measured in terms of the number of rooms or “credits” that room attendants were assigned to clean per shift—from contract to contract. Given the physically exhausting and often debilitating work of rushing to make dozens of beds and scrub over a dozen bathrooms in the course of eight hours, a reduction of even one credit made a huge difference. Deng had worked as a room attendant at the Newbury Boston, a Highgate Hotel, for 13 years and served as shop steward for her coworkers. When she first started, the citywide standard was 16 credits. In the next contract, room attendants were able to win a citywide “room drop” to 15. But Deng thought that 15 wasn’t



I went to the convention meeting and I saw everybody together. I was like, wow, this is different. I didn’t know it was like this. We were getting organized.

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good enough, especially given the time it took to travel between the hotel’s two buildings and because management had long assigned just 13 credits to room attendants working in one of the buildings while matching the citywide standard for the other. The system was unfair, and she had organized her coworkers to fight back. It took eight years, and two turnovers in management, but Deng and the rest of the Newbury room attendants had eventually won an additional room drop

Excerpt from a Local 26 bargaining update highlighting key themes for Marriott negotiations.

## EQUALITY & RESPECT

Marriott increases our workload, eliminates departments, and introduces new technology. No more changes unless we agree!

## FULL EMPLOYMENT

We need full time work. Marriott puts us on-call because of their "Green Choice" program. They cut hours and have management do our work. This must stop!

## HEALTH CARE FOR ALL

Health care coverage must be expanded to everyone who works regularly!

## RETIREMENT

Retirement should not mean poverty. Marriott must give us more money, so we can retire with dignity!

for their hotel, above and beyond the citywide contract. "My whole department was really united and we worked together because it was affecting our job," she said. "We really wanted to fight for it and we never gave up, even eight years, every year I would fight. Every time the manager changed we would fight." Deng knew that getting a hotel to agree to less than 15 credits was possible, but she also knew better than anyone the work that it would take to win.

By that point, members' bargaining priorities were beginning to coalesce around key issues: equality and respect; health care for all; full employment; and real

retirement. Members at the convention broke off into small groups, once by department and once mixed with other departments, to discuss the priorities and continue to bring forward issues that had surfaced at each hotel. They also began to talk about what it would take to actually win their demands from the various hotel employers. "I went to the convention meeting and I saw everybody together...I was like,



I wanted to get more involved. I wanted to have a voice. I wanted to make decisions. I wanted to have control.

wow, this is different. I didn't know it was like this. We were getting organized," remembered Eusebio.

Workers came away from the citywide convention with assignments to start holding weekly committee meetings within their hotels as a way of continuing to build towards negotiations. For newly-identified leaders like Eusebio, the convention had lit a spark. "I wanted to get more involved. I wanted to have a voice. I wanted to make decisions. I wanted to have control," he said. A leadership group within the W formed and started meeting regularly. "I was leading the organization in the hotel, without even being the shop steward."

## Union Activist

A union member who is an enthusiastic and ready union supporter but who does not effectively motivate or lead their coworkers to take action. As contrasted with an organic leader.

With 34 hotels gearing up for contract negotiations, each was in a different place in terms of existing level of organization. At the Westin Boston Waterfront, another Marriott which had first organized under Starwood management in 2000, there were a few union stalwarts, but most people were no longer involved. "You have a few diehards who people listen to, but it was never enough...We didn't have a team there that was enough to move people," said Courtney Leonard, a server in the lobby bar. She'd worked non-union and union hotel jobs before getting hired at the Westin Waterfront, a hotel her mom had helped to open. When a Local 26 staff organizer asked her if she would consider coming out on union leave

to help build a team that could really move people, she said no, twice. But after dropping in on the citywide convention and volunteering with the union for a few weeks, she finally said yes. In February of 2018, she left her server job to organize full time, an opportunity created by language in the existing contract which allowed members to take time off from the hotel to temporarily join the union staff. "Literally I'd just sit in the cafeteria all day, eight hours a day, ten hours a day, just talking to people that I've worked with for so long." For Leonard, it was important that the voices of food and beverage department were heard, particularly on issues like sexual harassment and pay disparities. But she also wanted to make sure that people across departments were hearing and understanding each other's issues.

As the leadership committee in each hotel got their coworkers organized around the key bargaining priorities and continued to add new items under the key themes identified in citywide conversations, the local also began to focus in on negotiations strategy. Hotel workers had generated a transformational set of demands to bring to the bargaining table. How were they going to win them?

## Part 3: ALL-IN ON MARRIOTT

It seemed clear from the beginning that Marriott would be the limiting factor on what Boston hotel workers would be able to achieve in their next contract citywide. As the largest company and the most historically anti-union, they were the “biggest-worst” in terms of Boston hotel employers. In early 2018, following up on the citywide convention, over 400 workers from the various union hotels came together once again to determine what that would mean for their strategy. They decided to go all-in on Marriott, negotiating from start to finish with the company before beginning negotiations with Omni, Highgate, Fairmont, or any of the smaller players. Workers would demand that other hotel companies agree up front to “Me Too” agreements—binding the companies to the outcome of the Marriott negotiations. Those hotels that agreed could shield themselves from a strike. Hotels that refused to sign had no such guarantee. In either case, however, their negotiations would have to wait.

### Me Too Agreement

An agreement by an employer to accept the terms of a contract negotiated by the union with another employer or an industry representative. Me Too Agreements can be used to establish or maintain a union standard in a given market.

Aliferis, Seale, Deng, Flannery, and other leaders at non-Marriott hotels focused in on pressuring their employers to sign Me Toos and talking with their coworkers about just how significant the Marriott negotiations would be for them. At hotels across the city, workers marched on their HR offices to delegate management with the Me Too demand. Roughly half of the hotels signed. “They believed that Marriott was going to take Local 26 on. So whatever comes up with

Marriott, they couldn’t hope for anything better,” said Seale. “Or, they just didn’t want to be bothered with it [so] they would sign on to the Me Too. And there’s some places that held out that wanted to have their own thing.”

At the same time, a formal bargaining committee had come together, made up of both established shop stewards and new leaders like Eusebio and Leonard. Crucially, the committee included both Marriott workers and non-Marriott workers. If the Marriott contract would ultimately be extended to hotels citywide, non-Marriott workers needed a seat at the table in determining what it would say. The committee numbered 34; there were 14 Marriott workers and 20 non-Marriott workers, plus President Brian Lang, and the Financial Secretary Treasurer, Carlos Aramayo. The union also planned to have open bargaining for the first time, encouraging any hotel member from across the city to attend.

After a year of preparations—for members like Leonard and Wei, who had also come out on union leave, countless hours spent in the hotel cafeteria—and with



the contract expiration looming, the union had built an organizing structure citywide. After months of developing and distilling bargaining demands through conversations within and across hotels, and increasingly through communication with unionized Marriott workers in other cities also headed into negotiations, one overriding theme had emerged: One Job Should Be Enough.

## Part 4: BIG BARGAINING

Deng had been a union member for 14 years, but she had never been to negotiations before. “Before, when there were negotiations, they were never open like that, everybody can come and watch...The union always had the committee to go to the negotiations and sit down with the hotel managers, but this time they were open,” she said. “Everybody can go to the meetings, can go to sit there and listen to the whole conversation. The whole meeting, the whole time, you can go and watch.” Negotiations began at a conference room in the Boston Convention Center—a conference room that was too small. “They put us in a room that was about the size of a closet,” said Leonard. “I remember being out in the hallway and we were all chanting cause there’s probably three or four hundred of us.” Eventually, Marriott paid to get a bigger room.

As negotiations bounced between banquet halls and union halls, things started slow and stayed slow. But, with hundreds of their coworkers watching, the bargaining committee hammered the company on the core themes of the campaign, while connecting them to workers’ lives. Leonard remembered a coworker who worked as a banquet server sharing her story of losing two children to overdoses and being unable to qualifying for health insurance because she

A negotiations room packed with hotel workers during the early months of Marriott negotiations in Boston.  
Credit: UNITE HERE Local 26





I think making them listen to us was one of the most powerful things I got out of bargaining...Everybody was so willing to be so raw and so open in those meetings.

worked on-call at several hotels. “I’m standing there beside her because I just don’t know how else to be helpful,” said Leonard. “And the company’s faces are just blank...I don’t know how you listen to stuff like that.” Leonard herself stood up to share her own story about being sexually harassed on the job. “I think making them listen to us was one of the most powerful things I got out of bargaining...Everybody was so willing to be so raw and so open in those meetings.” For Leonard, those moments were as much about the other members in the room as the company. “It helped build everybody as a stronger team, opened everybody’s eyes.”

Union members would meet for an hour before the company arrived in negotiations, with bargaining committee members gathering even earlier. “We would all talk before we met with the company,” said Eusebio. “We already knew what was the plan, what was the goal.” Lang took the lead as negotiator, but according to Eusebio, “We already knew what he was going to say. He was just on that message. And we stayed on message...Very disciplined, that’s how we did it.” During caucuses, members would go around the room sharing input on next steps. Their discipline was tested when the company first put raises on the table—proposing to pay for them out of healthcare savings, money that workers had already bargained for in the previous contract. “It was so hard to believe because of who they are and what they’re supposed to stand for,” said Silva, the Ritz-Carlton banquet server. “It’s just unbelievable how little they wanted to give us.” But everyone stayed on the program. “To me it was a strong showing of the committee structure that we had. Both the bargaining committee and the organizing committee was that strong because how do you get that many people in a room that don’t want to explode?” said Leonard.

For Marriott workers and non-Marriott workers alike, the company’s wage proposal made it clear where things were headed. “Starwood, negotiations, anything you ask, they don’t want any problems, they are peaceful,” said Gebrelibanos, the room attendant from the Westin Copley. Marriott, on the

other hand, wouldn't agree to anything. "That set the standard that it was going to be a tough fight and they weren't going to give an inch and we had to be more together than ever, said Seale. For Gebrelibanos, the explanation for the company's strategy was obvious: "Marriott was taught that no one will come out for a strike." Local 26 had taken strike votes as part of its last three hotel contract campaigns, but hotel workers in Boston had still never been out on strike. The company seemed happy to wait the union out at the bargaining table on the assumption that this time around would be no different.

## Part 5: MARRIOTT ON STRIKE!

Local 26 members had anticipated that winning their key bargaining priorities from Marriott might take escalating to an open-ended strike. As negotiations dragged on, leadership committees within each Marriott hotel continued to build and test their level of organization to gauge if they were ready, not only to win a strike vote but an actual strike. Between negotiations sessions, Leonard led her first delegation to her general manager: "I was like, 'Oh my God, I'm going to faint, I'm going to faint, I'm going to faint,'" she said. But when she saw the crowd of coworkers behind her, she knew she had to go through with it. Other days, workers at the Westin Waterfront "buttoned up," by wearing union buttons to work, staged a march in front of the HR office, and did a silent action in the hotel lobby. "All of that was so necessary...through all those things, you could slowly see people building confidence in each other, confidence in me," she said. On Labor Day, Leonard, Wei and other hotel workers staged a civil disobedience near Copley Square, risking arrest. Two weeks later, the bargaining committee called for a strike authorization vote.

### BUTTON UP

A high visibility structure test in which workers publicly wear a union button while at work on a set day or days.

Marriott's surrender-nothing approach had allowed the leadership committees within each hotel time to build towards a strike through structure tests. Several months of negotiations had also allowed Marriott contracts in other major hotel markets, including San Francisco, Honolulu, Kuai, Detroit, Oakland, San Diego, and San Jose, to expire, and hotel workers around the country were now uniting under the banner of One Job Should be Enough. In San Francisco, UNITE HERE Local 2 had adopted a similar citywide "big bargaining" strategy, with a bargaining committee of over 120 rank-and-file leaders from both Marriott and non-Marriott hotels. Lead negotiators from various UNITE HERE locals had also been in close communication with one another, even bringing some global



Ye Qing Wei (center), Local 26 member and Sheraton Boston room attendant taking part in a Labor Day civil disobedience outside the Westin Copley. Marriott workers announced a strike vote later that day.



demands to the company to try to resolve uniformly across hotels. If Boston Marriott workers were to go on strike, it looked increasingly likely that they wouldn't be alone.

Strike preparations were well underway, but Eusebio, the bargaining committee member from the W, still didn't feel ready to give up on negotiations. "I was really, really, really scared," he said. "I'm young in the labor force and the first couple of years, I was not great with my money...In my mind, I was like, if I'm 30, I should be in a better financial situation." Other members of the committee were also grappling with what it would mean to go on strike, even as they urged their coworkers to pledge to vote yes. "I had just recently been divorced and my mom lives with me," said Silva, the banquet server from the Ritz-Carlton. "She's 98 and it was just hard to go out there and not know, not having a paycheck every week. It was a very hard decision to make." Wei, the room attendant from the Sheraton, had two kids in college. "I was very scared because my household gets more income from me. My husband works in a factory. They never have benefits, they never have increased their wages since he's worked there over 15 years. So in my family, my income is important." The potential sacrifices of going on strike were daunting. But after witnessing firsthand that months at the negotiating table had yielded little, the bargaining committee saw a strike as the only way to achieve the ambitious goals they'd set for the contract.

On September 12, Marriott workers voted 96 percent in support of strike authorization, with 77 percent participating. The strike was going to happen, whether Eusebio felt ready for it or not. "I got on board and I knew it was the right thing," he said. He talked with his girlfriend and his mom and started planning



out a strike budget for himself. At the next negotiations session, workers busied themselves assembling picket signs. When the company had nothing to present, they were chanted out of the room for the second time. On October 3, Boston Marriott workers were officially on strike. Over the course of the next week, Marriott workers in seven other cities would join them.

For workers on strike, walking the picket line and staffing strike support became a full-time job, with members signing up for a set picket shift and collecting strike pay. Members at non-Marriott hotels continued to go to work, but also rallied to support the strikers. Deng's hotel, the Newbury, had once been a part of the Ritz-Carlton and she and the other room attendants still knew many of the workers there. "After work every day, we walked to the Ritz-Carlton to support the people," she said. "We are kind of like brother, sister, before, helping each other. We know each other. So when they go on strike, we go there to support them." Though Seale wished that the union's strategy had included taking all of the union hotels in the city out on strike together, he was committed to doing what he could to make the Marriott-only strike successful. "We would try to figure out times before work, after work, in my case in between work, where we could go to different hotels and be on the picket line with Marriott workers. Because they essentially were fighting for us." Seale's hotel had signed a Me Too agreement, so whatever contract resulted from the strike would become the new contract for his hotel. Members who were still working at non-Marriott hotels also signed up to authorize a \$10 per week additional payroll deduction to bolster the union's

strike fund in recognition that the striking workers were taking home significantly less in strike pay than they would otherwise from their hotels.

With the vast majority of Marriott workers across seven Boston hotels out on strike, negotiations continued. But it soon became clear that the company was taking advantage of the sessions to draw energy and attention away from the picket lines. It was a boss strategy to wear the workers down. The bargaining committee made the decision to shrink down to a smaller group of ten leaders from the Marriott properties and focus their energy on keeping the strike going strong. The negotiating committee continued to report out to the picket lines through daily picket



Juan Eusebio, Local 26 member and door ambassador at the W Boston rallying during the Marriott strike.

updates, phone calls, texts, and flyers. But the power of a supermajority strike was what was going to make the company agree to the workers' core demands. "It was almost winter time, we were outside from 7:00 am to 7:00 pm at each door in Marriott, marching and yelling," said Gebrelibanos, who moved to Boston from Ethiopia in 1994. "I come from a very different country and for me with Marriott it was a war...We had to stand up there and fight."

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**“ In the history of our local, we never go on strike. So I feel very proud.**

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After 46 days on strike, and one failed settlement attempt, the negotiating committee reached a tentative agreement with Marriott on November 17, on the heels of striking Marriott workers in Detroit, Oakland, San Jose, and San Diego. By that time, the smaller committee was meeting with the company in the office of then-Mayor Marty Walsh. Eusebio, who'd remained on the committee throughout, remembered crying with happiness

when it was all over. He called his girlfriend, then his coworkers. The bell and door departments, his group, had won a \$5 raise. "You know, I said it and everything in the meeting, but inside me I was like, we won't get five dollars. Maybe two dollars." Not only that, but they had secured a higher vacation wage to make up for lost tips. After years of never taking a vacation, his coworkers could finally use their vacation days. They'd gotten everything they'd asked for.

## WINNING FOR EVERYONE

As Marriott workers convened at the Hynes Convention Center the next day to ratify the contract, the news kept getting better. The new agreement included increased funding for retirement, a cap on the use of the green choice program, new protections from sexual harassment, language addressing the implementation of new technology in the hotel, and wage increases across all departments. The union had also won the right to strike again—mid-agreement—if the company tried to subcontract out or eliminate food and beverage jobs. Wei, the Sheraton room attendant, also remembered tearing up as she spoke to the crowd of nearly a thousand Local 26 members who'd gathered to celebrate and cast their votes: "I said, 'We got it. We stayed together.'" She was especially proud of the older women in her department. "With the rain, with the snow, with the cold, people who are 70 years old stayed with us for the whole time..."

In the history in our local, we never go on strike. So I feel very proud with my coworkers.” Marriott workers voted 98 percent to ratify the agreement. By early December, Marriott settled with hotel workers in Hawaii and San Francisco as well, bringing the strikes to an end around the country.

The Boston contract settlement was a victory not just for Marriott workers, but for the many others at Omni, Highgate, and other smaller hotel companies who would see the same benefits under Me Too agreements. For some with property-specific issues to hash out, negotiations weren’t over. Deng and her coworkers at the Newbury were quickly back at the bargaining table, this time with their own boss to address the impacts of an upcoming renovation at the hotel. But the Marriott strike had given them a massive boost, and they were able to win guaranteed income and six-figure buyout packages for food and beverage workers impacted by changes to the hotel restaurant. For other hotels without signed Me Toos, achieving the citywide standard set by the Marriott strike would take organizing towards a credible strike threat of their own. At the end of 2019, workers at the Battery Wharf Hotel, the final holdout in the city, went on strike. After 79 days, they reached a tentative agreement under the terms of the Marriott contract, just over a year after it was initially settled.

Courtney Leonard (second from left), Local 26 member and cocktail server at the Westin Waterfront Boston with coworkers during a rainy day on strike.



# Conclusion

As stated in the opening line of the preface, how unions negotiate is a strategic choice.

Collective bargaining is a powerful policy tool, and key policies won by unions in negotiations have historically set the floor for subsequent local, state, and federal legislation on a wide range of issues, including anti-discrimination policy, sick leave, and wages. Labor laws have been badly skewed in favor of the employers since the passage of the Taft-Hartley Act of 1947, which amended the 1935 National Labor Relations Act in ways outrageously favorable to the corporate class and against workers. In decades of debates about how to rebuild unions—about organizing unions versus servicing unions, about internal union democracy, and about top-down versus bottom-up unions—little has



Collective bargaining is a powerful policy tool, and key policies won by unions in negotiations have historically set the floor for subsequent local, state, and federal legislation.

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been written about the process of collective bargaining itself. Although Kate Bronfenbrenner’s 1990s groundbreaking research on unionization did discuss steps workers can take to improve their chances of winning a first contract, there’s scant contemporary research on how unions conduct negotiations—and on how they can do it better.



To the extent that there's now any national discussion about collective bargaining, the conversation and policy debates more often than not center on the seemingly novel idea of sectoral bargaining. Sectoral bargaining can be summed up as unions sitting down with employers across an economic sector—such as hotels, hospitals, fast food, and retail—and creating standards for wages and benefits. Many countries have national laws in place governing sectoral bargaining, in which the state itself is a party to the negotiations, along with the workers and the employers. A key feature to most of the laws is that the agreement negotiated by the union is extended to all workers in the sectors. Additionally, many of these laws guarantee minimum protections for workers. In the U.S., it's the titans of Silicon Valley who drive national discussions about sectoral bargaining. Under their designs, though, workers have no guaranteed protections of any kind.

Although sectoral bargaining can be very useful in addressing highly fissured supply chains, like any bargaining, its success depends on strong worker organization. Its proponents point to nations such as Germany and Sweden, where workers have sectoral bargaining, implying that this single-policy formula



In decades of debates about how to rebuild unions, little has been written about the process of collective bargaining itself.

is why their workers have a relatively high standard of living, with universal health care, robust paid sick leave, amazing paid parental leave, and, most recently, salary maintenance at full or close to full pay while sheltering-in-place during the pandemic. Such comparisons are either disingenuous or are made because of ignorance: workers in Germany and Sweden didn't achieve their decent living standard because of sectoral bargaining. They achieved it because they fought like mad, including with revolutions in the earlier half of the past century, to achieve an overall détente with capitalism.

It took worker power to win the standards workers enjoy in every country that currently has sectoral bargaining. Today, while those gains in livings standards and working conditions may look great to any worker in the U.S., in Germany and Sweden the same standards are under attack—and are being eroded *with* sectoral bargaining. In Germany, for example, employers can opt in and opt out of the national sectoral process; they use this to their own advantage to threaten and intimidate strong local unions from trying to improve standards

above the nationally guaranteed agreements. German employers can also do what U.S.-based employers have done: threaten to simply leave the country when workers demand more than the employers want to pay. German auto-sector employers typically threaten to move their operations to Hungary, Bulgaria, or the southern states in the U.S. Threats of exit, either from the national sectoral accords or the country, has been enough to seriously lower standards. In interviews we conducted for this report, looking at sectoral bargaining in several countries in Africa, Latin America and Europe, rank and file worker involvement is minimal, which corrodes worker understanding of why conditions are slowly slipping.

Similar corporate weapons were used in the United States to weaken unionized manufacturing workers standards before globalization all but gutted them.



**The only way you win a decent life is by building enough power to create a crisis for the employers.**

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When unions represented one in three workers in several key sectors, workers had even higher percentages of workers unionized. An example of this is the auto industry, where workers practiced a kind of sectoral bargaining built purely on the power of workers. They did this by building enough power to line up their contract expiration dates across all employers simultaneously so that they went to the negotiations table as one massive workforce, capable of waging supermajority strikes if the employers were being too stingy. Workers built the power to force employers to share a far greater portion of their profits with the people who earned them—the workers. This is in stark contrast to today, when it's shareholders who pocket the lion's share of profit, having contributed nothing to the process. In this report, Boston hotel workers exercised this same kind of brilliant strategy, along with Marriott workers across the country. In New York City, too, hospital workers have effectively created sectoral bargaining at the city level.

The examples discussed in this report of high-participation negotiations waged and won by workers point the way for making the kinds of gains workers desperately need in general—but especially as the nation emerges from a

catastrophic pandemic. During this past year of COVID, the corporate elite across the globe—and those most assuredly in the United States—showed how little they care about the people who earn the profits.

The solidarity forged and thus the power built by workers in these case studies show that when workers are trusted to seriously engage in their own negotiations, they can achieve the commonly unthinkable: they can win against the odds. Whether you are a worker in Germany or Alabama, the only way you win a decent life is by building enough power to create a crisis for the employers.

# Endnotes

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# Appendix 1: Methods

The research for this report employed mixed qualitative methods. We first created a survey interview tool (included below) that aimed to dissect each aspect of the collective-bargaining process. After reworking this core document several times, based on feedback from practitioners and academic researchers alike, we identified cases that could meet most if not all the criteria we deemed vital to a high-participation negotiations process. We explicitly set out to include a mix of types of workers by sector, geography, gender, race, and ethnicity.

Semi-structured interviews were conducted with 43 rank-and-file workers and current lead strategists in the contract campaigns discussed. We conducted archival research on each case's strategic planning documents. In the case of Einstein, one of the report's authors, Jane McAlevey, was a key player. Therefore, participant observation was also a part of the mixed methods. We relied on John Gerring's "crucial case" methods to guide our investigation of the relationship between rank-and-file worker agency in negotiations and success.<sup>14</sup>

It was challenging to find many cases that met our minimum threshold to exemplify high-participation campaigns, which reflects the paucity of worker involvement in today's union negotiations. We are forever grateful to every worker and union staff person who made the time to speak with us—in some cases, multiple times—especially in the midst of all of the challenges of the COVID-19 crisis. And we salute the leadership of these unions as they forge a path to stronger working-class movement.

Collective Bargaining Survey

**Name:**

**Title:**

**Union:**

**I. Framework for collective bargaining**

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Do any of the written rules of your union apply to the collective bargaining process?

	<b>Constitution</b>	<b>Bylaws</b>	<b>Other</b>
<b>IU/National Union</b>			
<b>State/Regional</b>			
<b>Local</b>			

What do they say about how locals should collectively bargain?

*Can you share a copy of relevant documents (constitutions/bylaws/policies/best practices)?*

In what circumstances do these rules apply?

Are bargaining practices consistent:

- Based on who the bargainer is?
- From contract to contract with the same employer?
- Across shops/units within a local?
- Across locals?
- Across union as a whole?
- For first contracts and successor contracts?
- Other: \_\_\_\_\_

How does the union train bargainers and organizers/ reps on collective bargaining and organizing for contract campaigns? Are there internal or external trainings/conferences/conventions you participate in?

Has your union made or attempted to make changes to how you do collective bargaining in the last five years? What changes have you made or attempted to make and how have you implemented them?

Can you share any written guidelines/best practices related to the implementation of this change?

**II. Who leads contract campaigns?**

**A. First Contract Campaigns:**

Who is on the campaign team for a first contract campaign?

<i>Indicate # of people in each category and where they come from</i>	Members on LOA/Lost Time	Organizers/ Reps	Leads/ Directors	Negotiators/ Bargainers	Other (research, comms, boycott, community, legal, etc.)
IU/National					
State/Regional					
Local					

Is there a rank-and-file bargaining committee?  Yes  No

How many people are on the bargaining committee?

What is ratio of the bargaining committee members to number of workers in the bargaining unit?

Is the committee specific to the bargaining unit whose contract is being negotiated?  Specific  General

How are bargaining committee members selected?

Elected by: \_\_\_\_\_  Appointed by: \_\_\_\_\_

Are there mechanisms for representation by work location/job classification/department/shift/unit? Race/gender/ethnicity/national origin/language? Other?

**B. Successor Contracts:**

Who is on the campaign team for a successor contract?

<i>Indicate # of people in each category and where they come from</i>	Members on LOA/Lost time	Organizers/ Reps	Leads/ Directors	Negotiators/ Bargainers	Other
IU/National					
State/Regional					
Local					

Is there a rank-and-file bargaining committee?  Yes  No

How many people are on the bargaining committee?

What is ratio of the bargaining committee members to number of workers in the bargaining unit?



Is the committee specific to the bargaining unit whose contract is being negotiated?  Specific  General

How are bargaining committee members selected?

Elected by: \_\_\_\_\_  Appointed by: \_\_\_\_\_

Are there mechanisms for representation by work location/job classification/department/shift/unit? Race/gender/ethnicity/national origin/language? Other?

Who is the negotiator?

<i>Select title/role</i>	Level of union affiliation/selection / distance from contract being negotiated			
	<i>IU/National</i>	<i>Regional/State</i>	<i>Local</i>	<i>Unit/Shop</i>
Elected Officer	President VP S-T Other	President VP S-T Other	President VP S-T Other	
Staff Member	Director Attorney Negotiator Organizer/Rep Other	Director Attorney Negotiator Organizer/Rep Other	Director Attorney Negotiator Organizer/Rep Other	Organizer/Rep Other
Rank-and-File Member	E-Board Steward Barg. Comm. Other	E-Board Steward Barg. Comm. Other	E-Board Steward Barg. Comm. Other	E-Board Steward Barg. Comm. Other
Outside Consultant	Attorney Other	Attorney Other	Attorney Other	

How is the negotiator selected?

Elected by: \_\_\_\_\_  Specific to contract  General  
 Appointed/hired by: \_\_\_\_\_  Specific to contract  General

**III. How do you prepare for bargaining?**

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Is there a unit-wide bargaining survey?  Yes  No

What, if any, are participation benchmarks relative to the size of the bargaining unit?

How is it circulated?

When is it circulated relative to the first negotiations session or contract expiration and for how long?

Who compiles the results?

Are the results shared back with workers? When and how?

*Can you share some recent examples of contract surveys and methodology (face-to-face or online?) Can you share results (# and % of workers who participated)?*

Is there a meeting with workers to discuss bargaining demands?  Open  Members Only  Closed

Who participates in the meeting and what are their roles?

Participation in meeting to develop bargaining proposals								
	Bargaining Comm.	Members in Unit	Workers in Unit	Other Union Members	Principal Officer/ E-Board	Union Staff	Lawyer	Community
Sets agenda								
Leads, facilitates, and/or presents								
Actively participates + weighs in on bargaining demands								
Participates, does not weigh in on bargaining demands								
Observes but does not participate								

How are proposals developed/drafted? Who drafts?

Who reviews proposals?

- Workers in the bargaining unit
- Members in the bargaining unit
- Bargaining Committee
- Campaign team
- Local union staff not on campaign team
- Negotiator
- Lawyer
- Executive Board
- Principal Officer
- State/regional union officers/staff
- IU/national union officers/staff

Is there coordination or consultation:

- Across bargaining units/shops/employers within the local?
- With other locals of the same union?
- With other unions?
- With community members or groups?

On what basis?

Who signs off on proposals?

- Workers in the bargaining unit
- Members in the bargaining unit
- Bargaining Committee
- Campaign team
- Local union staff not on campaign team
- Negotiator
- Lawyer
- Executive Board
- Principal Officer
- State/regional union officers/staff
- IU/national union officers/staff
- Community

Is there a follow-up meeting with workers in the bargaining unit to discuss/review/approve draft proposals?

- Open  Members only  Closed

Participation in meeting to review bargaining proposals								
	Bargaining Comm.	Members in Unit	Workers in Unit	Other Union Members	Principal Officer/ E-Board	Union Staff	Lawyer	Community
Sets agenda								
Leads, facilitates, and/or presents								
Actively participates + weighs in proposals								
Participates, does not weigh in on proposals								

Observes but does not participate								
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**IV. What happens at in the room during bargaining?**

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**A. Ground rules**

Do you agree to ground rules?

- Yes, always
- Depends on: \_\_\_\_\_
- Never

How often do you agree to the following types of ground rules (always/sometimes/never)?

<i>Party restricted</i>	Restriction on who speaks at the table	Restriction on who is at the table	Restriction on who is in the room	Restriction on distribution of proposals	Gag order/restriction on reports out
Workers in the bargaining unit					
Other union members/affiliates					
Community/other external party					

**B. Who participates and how?**

Is bargaining open or closed?  Open (anyone)  Open (bargaining unit only)  Open (members only)  
 Closed

How many people sit at the union side of the table for bargaining?

- \_\_\_\_\_ Bargaining unit workers
- \_\_\_\_\_ Bargaining Committee members
- \_\_\_\_\_ Campaign team members
- \_\_\_\_\_ Local union staff not on campaign team
- \_\_\_\_\_ Lawyer
- \_\_\_\_\_ Executive Board
- \_\_\_\_\_ Principal Officer
- \_\_\_\_\_ State/regional union officers/staff
- \_\_\_\_\_ IU/national union officers/staff
- \_\_\_\_\_ Community



How are these people selected?

Are there limitations on who speaks at the table?  Yes  No

If so, what limitation?

Who can attend bargaining?

- Workers in the bargaining unit
- Union members in the bargaining unit
- Bargaining Committee members
- Campaign team members
- Local union staff not on campaign team
- Lawyer
- Executive Board
- Principal Officer
- State/regional union officers/staff
- IU/national union officers/staff
- Community

How many workers total are in the room? \_\_\_\_\_ Is there an upper limit?  Yes: \_\_\_\_\_  No

Are these numbers consistent throughout bargaining or does it vary session-by-session? What determines how many members are in the room for a given session?

How do workers find out about bargaining sessions?

Where does bargaining take place?  Shop  Union hall/offices  Other: \_\_\_\_\_

When does bargaining take place?  9-5 M-F  After 5 M-F  Sat/Sun

Can workers attend on their breaks?  Yes  No

Can workers access PTO to attend bargaining?  Yes – specific for union activities  Yes - general  No

Are materials presented by either side at the table distributed to everyone in the room?  Yes  No

Does the union distribute other materials to attendees, such as a proposal tracker?  Yes  No

If so, what materials?

*Can you provide an example?*

Are materials distributed allowed to leave the room?  Yes  No

Are accommodations available?

- Interpretation/translation

- Childcare
- Other: \_\_\_\_\_

**C. Decision-making**

Who can call for a caucus?

- Negotiator
- Bargaining Committee
- Anyone at the table
- Anyone in the room

What happens during caucuses?

Who leads discussion? \_\_\_\_\_

Who actively participates in discussions?

- People at the table
- Bargaining committee
- Everyone in the room

Are there off-the-records?  Yes  No

How are they authorized and by whom?

Who participates in them?

What is the process for reaching tentative agreements?

- Decided at the table
- Decided in a caucus
- Decided in an open meeting outside of bargaining
- Decided in a closed meeting outside of bargaining

**D. Coordination**

Are there coordinated:

- National/statewide/regional/citywide tables with a given employer?
  - Multiple bargaining units?
  - Multiple locals?
- Multi-employer tables?
- Multi-union tables?

	Wages	Health care	Pension	Work rules	Griev. Proc.	Union rights	Mgmt. rights	Term	Other
Coordinated									
Localized									

How are decisions reached/coordinated within these tables?

## V. What happens between bargaining sessions?

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Is information shared out from bargaining?

- Summary of what happened during the bargaining session
  - List of tentative agreements reached?
  - Specific contract language proposed, agreed to, or rejected?
  - Excerpts from exchanges at the table?
- Full text of employer proposals
- Full text of union proposals

How is information shared?

*Can you provide examples of bargaining bulletins or other communications?*

Are worker meetings held between bargaining sessions?

- Open – workers + community
- Open – workers only
- Bargaining committee only
- Other: \_\_\_\_\_

## VI. How is an agreement reached?

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Who reviews agreement before agreeing to a tentative settlement?

- Bargaining unit
- Bargaining Committee
- Campaign team
- Local union staff not on campaign team
- Lawyer
- Executive Board
- Principal Officer
- State/regional union officers/staff
- IU/national union officers/staff
- Community

Is there a formalized process for ratification?  Yes  No

*If codified somewhere, can you share?*

Is there a ratification vote?  Yes  No

When/where does it happen?

How is the vote noticed?

Is the full contract available to workers prior to the vote?  Full contract  Partial summary  Other

Who is allowed to vote?

- Everyone in the bargaining unit
- Union members in the bargaining unit
- Union members in good standing in bargaining unit
- Other: \_\_\_\_\_

What is the threshold for ratification?  50%+1 of votes cast  2/3 of votes cast  Other: \_\_\_\_\_

Is the result of the vote binding?  Yes  No

## **VII. Follow Up**

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*Is there a recent contract negotiation that has happened in your union that is representative of your bargaining practice?*

*Are there other people at your union that I should talk to?*



# Appendix 2: Additional Resources

Visit the online version of [Turning the Tables: Participation and Power in Negotiations](#) to view and download resources and materials that were used in the cases covered in this report.

## Resource Materials from Einstein

[Three Rules Down to One](#)

[Ten Reasons](#)

[AEMC Opening Power Point](#)

[Einstein Checklist 10-24-16](#)

[Elected Letter Flier 6-8-16](#)

[Information Request Einstein 7-12-16](#)

[Pastor Brown Letter BPMC](#)

[Update First Negotiations Session](#)

[Update Two 8-24](#)

## Resource Materials from New Jersey Education Association

[Bargaining Organizing Handouts](#)

[Building Map](#)

### **Resource Materials from NewsGuild-CWA**

[Bargaining Bulletin after Lunch Parade](#)  
[Bargaining Bulletin on IP](#)  
[Bargaining Bulletin on Management Rights](#)  
[Bargaining Survey Report](#)  
[Bargaining Survey](#)  
[IP Proposal Explainer](#)  
[Job Actions Timeline](#)

### **Resource Materials from Massachusetts Nurses Association**

[Community Strike Flyer](#)  
[Bargaining Committee Letter](#)  
[Ratification Packet Cover Letter](#)

### **Resource Materials from UNITE HERE Local 26**

[Bargaining Newsletter w/ Structure Test](#)  
[Bargaining Newsletter w/ Power Structure Letter](#)  
[Bargaining Newsletter w/ Proposal Updates](#)  
[Strike Pledge with Structure Tracking](#)

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## UC Berkeley Labor Center

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