

Putting students first

IT'S TIME TO MAKE THE COLLECTIVE
BARGAINING PROCESS MORE
COLLABORATIVE, SO THAT THE
EDUCATIONAL IMPACT OF OUR
AGREEMENTS IS AS IMPORTANT
AS THE FINANCIAL IMPACT.

Just as the wizard created an illusion in order to enjoy power and influence in his kingdom of Oz, so has the collective bargaining process in California — and the nation — created a false environment in which schools are expected to provide high quality instruction and educational programs for our students.

Dorothy and her friends followed the yellow brick road in hope of finding solutions. In the end, the answers were not found at Oz, but rather in understanding their own values and worth.

Collaboration: The heart of learning

The employee unions in our state and school districts have a singular objective; that is, the enhancement of wages, hours and other terms of employment for their members. This is a legitimate role for them, and citizens should not be misled to believe that a few radio advertisements and ongoing legislative attempts to address classroom instruction are anything other than diversions from that main goal.

On the other side, management, as represented by the local boards of education

and the negotiating teams of school districts, has often limited its objectives to securing a negotiated agreement that will minimize or eliminate work stoppages, prevent discontent on the part of union members and the public and bring “peace” to the work place. This goal is also legitimate, for without it effective teaching and learning cannot take place.

But these two goals, as practical as they may be, miss the heart of what it takes to have an effective school environment. The “house of cards” we know as Oz came apart when Dorothy and her friends finally recognized where their hearts were.

In teaching students, the heart of learning is collaboration and cooperation among all parties. Until we have parents, teachers, administrators and elected officials all seeking the same goals, we will have Oz.

An inappropriate bargaining model

How did we get to such an adversarial situation? It was not a tornado, but rather a legislative act. Senate Bill 160, the Educa-

By Ruben L. Ingram

tional Employment Relations Act, more commonly referred to as the Rodda Act, replaced the Winton Act in 1976. The EERA was the state's first comprehensive, private sector-like collective bargaining law. It moved employer-employee relations from a "meet and confer" professional approach to a hard-line, private sector model of negotiations.

The EERA was strongly influenced by the National Labor Relations Act of 1935 and the Taft-Hartley Act of 1947. These acts were designed to resolve national labor disputes in mining, manufacturing and other commercial industries that, without resolution, would threaten the economic health of the nation.

This model was and continues to be highly inappropriate to public education because it creates adversaries of parties who need to be collaborative as they work successfully with students.

California schools today are focused on improving student achievement and equity. The rise in school reform measures such as charter schools and accountability should give the Legislature, parents and both unions and management pause to reconsider the wisdom of continuing to engage in adversarial bargaining that does not address the interests of the students, the instructional program or the quality of the work place.

To continue to settle contracts only on salaries and benefits vs. the term of the contract (how long the district will have labor peace) is extremely inefficient and ineffective in support of a public school system and for students and their learning opportunities.

If we are to "return to Kansas" with courage, heart and backbone, then we must overhaul the collective bargaining process and make it serve the educational program and goals of our schools, not the special interests of the unions, nor the political needs of the districts and the Legislature.

Will this be easy or fast? Of course not. Will collective bargaining laws be repealed? Absolutely not. Can we begin to take small steps and make progress? Sure we can.

Moving toward collaboration

Every school district needs to make serious overtures to their unions to participate in some form of collaborative (non-adver-

sarial) bargaining. Collaborative bargaining fits well with professional unionism. Therefore, if the unions truly wish to become professional partners in the education of students, they will profit from participating in interest-based bargaining, a "living contract" or some form of labor-management collaboration.

The essence of collaborative bargaining is that the parties emphasize communication of interests and the avoidance of taking positions. They develop extensive protocols for conducting negotiations and they stick to them.

If, in a specific school district, after a serious attempt to engage in collaborative bargaining, the local union refuses to do so, the district needs to handle the negotiations process from an educational point of view; that is, how can the collective bargaining process support and enhance student achievement and educational opportunities.

Steps a district might follow

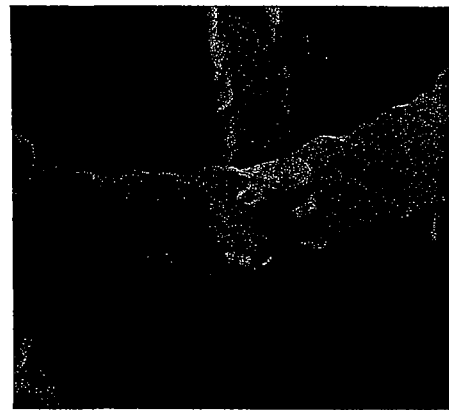
1 Within the scope of bargaining and the articles of the contract, identify those areas that affect the instructional and educational program, and state very clearly at the outset what the district wants as a result of the negotiations. For instance, if the current duty day prevents teachers and site administrators from meeting and planning for the educational program, state that the district wants to expand the duty day, and give the reason why.

2 When the district "sunshines" its proposal, with its objectives clearly stated, be sure the board, the community and staff members have received complete and timely information about the district's proposal. Encourage citizens and staff to come forward at the public hearing and comment on the district's objectives. It is not an unfair labor practice to give information and encourage debate and dialogue about the proposals.

3 Inform the media ahead of time about what the district is seeking in its proposal. The media needs training and guidance to understand the process and the ramifications of the proposals. A media guide to collective bargaining would be helpful, but personal contact and discussion are crucial. Again, it is not an unfair labor

practice to give the media information and training.

4 Prepare facts, both financial and educational, about the impact of proposals before the negotiations begin. When negotiations falter, the parties have the option to use the statutory impasse procedures to try to resolve their differences. The final step of the statutory impasse procedures is fact-finding, where the district prepares extensive information about the probable consequences of a settlement. A modified version of a fact-finding report could be



"frontloaded" and provided to citizens and staff at the beginning of negotiations.

Student learning vs. employee convenience

Using an information/full disclosure strategy at the beginning of negotiations could greatly influence the community and possibly mitigate some of the union's charges, especially if the district's proposal emphasizes student achievement and the educational program. How could most citizens and many faculty members oppose the following?

- Set the school calendar in alignment with the scope and sequence of courses and instructional units.

- Schedule the duty day to provide the time necessary for principals and faculty to meet and plan. This would include not only the number of hours and minutes on campus, but flexibility regarding meeting days.

- Assign faculty and staff according to the needs of the students and the instructional program. Transfer faculty and staff in order to meet the educational program needs of the school. This is needed to meet

the requirements of No Child Left Behind, and for schools identified as needing improvement under state regulations.

- Design employee evaluation in relation to accountability measures and student achievement outcomes.

- Structure employee compensation in relation to skills and knowledge, or performance related to student achievement.

This student/educational program approach to collective bargaining is the foundation to changing the process from one of fantasy (Oz) to one more reality-based (Kansas). After all, everything we do in schools should serve, support and promote student learning and the educational program, not the convenience or security of personnel.

Working well with others

In order to implement this strategy successfully, regardless of whether a school district engages in collaborative or traditional bargaining, the superintendent and admin-

istrators must work effectively with several groups.

Employees and unions

Trust and team-building are vital. One of the first distinctions to be made is that individual staff members are not the union. They must be treated as valued employees, and not linked to any union agenda or action. Union officers and employees who have reason to use the services of their unions must be respected and given all the rights to which they are entitled.

Superintendents and staff should meet on a regular basis with union leaders to share data and information, receive problems and concerns, and establish mechanisms such as standing labor-management committees to resolve problems on an ongoing basis.

In addition, administrators should not hesitate to share the problems of the district with the union leaders and indeed with all employees. Such an approach can mobilize solutions that will not require negotiations.

Boards of education

Understanding the collective bargaining process is crucial for board members. The board is one of the two parties to the negotiations, the other being the union. Management's negotiating team is only representative of the board. As such, training for the board should include: "Collective Bargaining 101," a fundamental course in the process.

Board members must understand the scope of bargaining, the impact of finance and mandates on negotiations, and the dynamics of bargaining, including the rhetoric and gamesmanship often employed by the unions.

Also, if they are to pursue educational improvements through the bargaining process, board members must be willing to see the big picture and stand up for educational objectives when the going gets tough.

Board members should be advised that if they are going to change their minds after giving the superintendent and the negotiating team their instructions and parameters, they should do so early in process, not at the end just to achieve labor peace.

Become a more Powerful, Persuasive Leader by:

Becoming a more Effective Communicator and:

- * *Getting Positive Publicity*
- * *Writing for the Public*
- * *Producing Effective Publications*
- * *Making Powerful Presentations*
- * *Turning Media Crises into Positive Opportunities.*

Free Bonus Package included in every order.

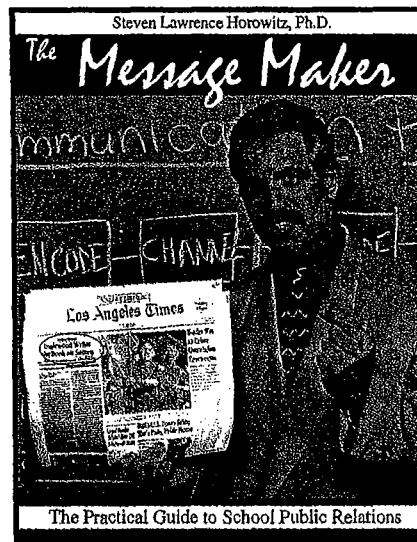
- * *Author Published Articles ideal for*
- * *Generating strategies*
- * *Training/Staff Development*

To order your copy of "The Message Maker"
The Practical Guide to School Public Relations
please send \$79.95 plus \$6.50 S&H to:

New Freedom Publishing
P.O. Box 928
Harbor City, CA 90710

** (5 or more orders \$59.95 each)**

For more information or to inquire about conference bookings
Call (310) 326-6407



The management team

Almost all managers supervise employees who belong to unions. As such, they have the dual roles of leading, motivating and supporting those employees in being successful in their assignments, while at the same time being loyal members of the management team. Teamwork is an important element in the success of any division, department or program.

When negotiations are in progress, the loyal manager separates carefully and clearly his/her roles as the leader of the work place team and a member of the superintendent's management/negotiating team. Site administrators especially have to understand that as instructional and educational leaders of faculties and staff working directly with students, the separation of roles is important.

Principals and assistant principals must be kept fully informed by the district's negotiation team during the process. There should be frequent meetings so principals can understand what is happening and receive training and advice regarding how to handle concerns from staff members and the community. Site administrators should

also be taught how to explain the duality of roles to their employees, and trained to implement the contract as intended.

Parents, communities and citizens

Often the union strategy is one of winning the hearts and minds of parents and the community. Recently, this has been done at the state level through the use of expensive radio spots portraying teachers as the only legitimate source of expertise in running the schools.

At the local level, unions often engage in tactics of electing board members favorable to union agendas, intimidating parents and harassing board members and superintendents.

Michael Poliakoff, president of the National Council on Teacher Quality, said, "The interests of teachers' unions are sometimes, but not always, coterminous with those of students. Teachers' voices are crucial for crafting education policy, but they must not be privileged in the collective bargaining process and overshadow parents, the public, elected officials, and reform initiatives based widely on research and experience" (Brown, 2002).

Poliakoff's quote is at the heart of this concept: Unless the interests of the parents and the public are addressed in the collective bargaining process, we will not be able to "get back to Kansas." The process will continue to follow the adversarial industrial model in which employee needs and interests dominate the process.

Parents, citizens and elected officials must be encouraged and trained to address the instructional and educational issues that are slighted or ignored at the bargaining table. This can be done by using an effective information/education strategy of sharing the needs of the students, the schools and the educational programs, making clear the objectives of the district before the negotiations process begins.

The governor and Legislature

Finally, the most problematic but potentially most effective means of redirecting the collective bargaining process in California will be to get Sacramento to recognize it has created a political environment where local negotiations interfere with collaboration by parents, employees and administrations.

They could change that environment if they had the political will and courage (remember the lion in Oz). Some states have legislatively narrowed the scope of bargaining for public education employees.

Parents, citizens and elected officials must be encouraged and trained to address the instructional and educational issues that are slighted or ignored at the bargaining table.

In a higher education case that may have implications for K-12 teachers, the United States Supreme Court in *Central State University v. American Association of University Professors*, Central State University Chapter, 526 U.S. 124 (1999) (per curiam)


found that establishing minimum workloads and removing that subject from the collective bargaining process satisfied the required "rational relationship" needed between disparity of treatment and a legitimate government purpose.

As the court explained, "One of the statute's objectives was to increase the time spent by faculty in the classroom; the imposition of a faculty workload policy not subject to collective bargaining was an entirely rational step to accomplish this objective" (Brown, 2002). This is an example of focusing the instructional and educational needs of students on the collective bargaining process.

Change: An uphill journey

The problems facing anyone who wants to change the collective bargaining process in California are daunting for the following reasons.

1. Negotiated agreements in California school districts are "mature," have been **continued on page 38**



Join now!

School Administrators are persons of influence in their communities as well as their work sites. When administrators join ACSA, they take control of their profession, their own destiny. They have the power to engender positive results in education. They have the power to assure that the rights of administrators are protected. ACSA's professional development programs hone the leadership skills necessary for personal growth. The strength and energy of ACSA members ensure both the enhancement of their chosen profession and the success of California's schools.

For more information regarding ACSA membership, please contact our Member Services Department at 650.692.4300 or 800.672.3494 • <http://www.acsa.org>

Putting students first

continued from page 33

crafted through good times and bad, and have arrived at a stage where economic issues dominate all other interests.

2. Since the agreements are “functioning” to the degree that management and unions are well schooled in their use, neither side wants to make any significant changes. In districts where relationships are

good and things are peaceful, neither side wants to upset the calm.

3. The California Teachers Association has been on a path to expand the scope of bargaining, as evidenced last year in AB 2160, even though most of curriculum and instruction issues were specious and not reflective of how most districts make those decisions.

4. The CTA has opposed legislative changes that would provide flexibility in the class size reduction program even if it means some districts would be forced to eliminate the program, so there appears to be little interest on CTA’s part to collaborate to solve the state’s financial dilemma.

5. The current governor and a majority of the Legislature receive significant campaign contributions from the unions, and as a result pass legislation that has expanded the scope of bargaining.

It will be an uphill journey to make any changes to collective bargaining in Califor-

All citizens who want to put students first can insist that their elected representatives examine not just the financial impact of negotiated agreements, but indeed the “educational impact” of those agreements.

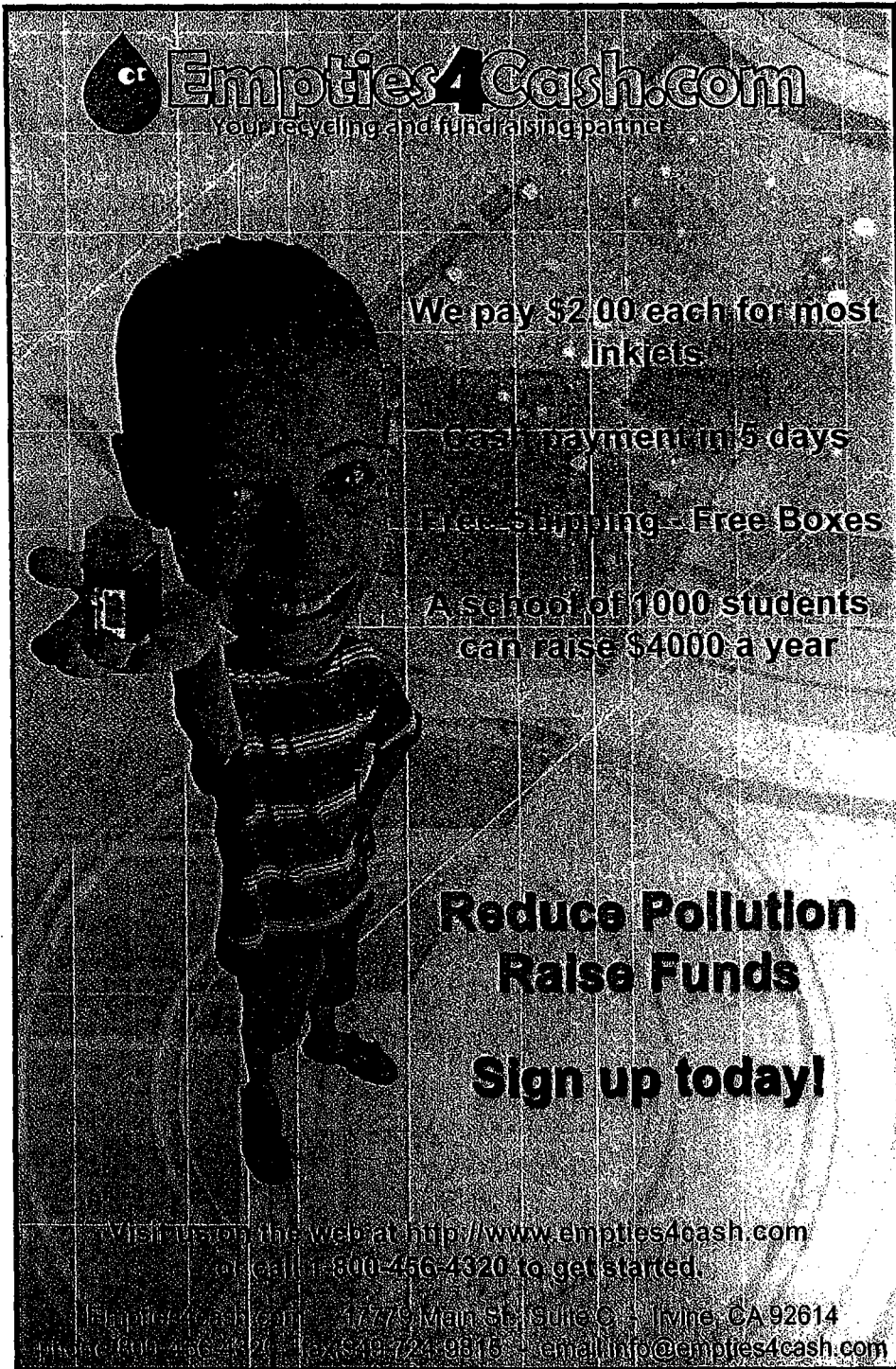
nia. However, all citizens who want to put students first can begin to make that climb and insist that their elected representatives at both the local and state levels examine not just the financial impact of negotiated agreements, but indeed the “educational impact” of those agreements. Only then will we realize that our value and worth are determined solely by what we all do together for the students and the educational program.

As Dorothy and her friends learned on the yellow brick road, with courage, heart and backbone we can make things be the way they ought to be. ■

References

Brown, Kara (2002). *Trends and Issues: Labor Relations*. Clearinghouse on Educational Management, College of Education, University of Oregon.

Ruben L. Ingram is executive director of the School Employers Association of California.



Empties4Cash.com
Your recycling and fundraising partner

We pay \$2.00 each for most
inkjets

Cash payment in 5 days

Free shipping - Free Boxes

A school of 1000 students
can raise \$4000 a year

**Reduce Pollution
Raise Funds
Sign up today!**

Visit us on the web at <http://www.empties4cash.com>
or call 1-800-456-4320 to get started.

Empties4Cash.com 17779 Main St, Suite C-3 Irvine, CA 92614
Phone: 949-456-4320 Fax: 949-724-9815 Email: info@empties4cash.com