Collective Bargaining – The Basics

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

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

All employees want good pay and benefits, job satisfaction, paid time off, a safe work environment, and a voice that will be respected by the employer. Non-unionized employees haven't voted to have a legally protected process that requires their employer to negotiate work conditions that matter to them.

As a UAW member, you and your co-workers *can* require management to negotiate a binding contract over your wages, benefits, work hours and other work conditions. The employer must honor the union's bargaining demand and negotiate.

Once the union and employer reach a tentative agreement, our union presents it to dues-paying members for discussion, debate and a vote to accept or reject the proposed contract negotiated by your bargaining committee. If the tentative agreement is approved, it becomes a binding and enforceable contract between the union and the employer.

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

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

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

Your local union bylaws contain democratic voting procedures for you to elect a committee to bargain on behalf of you and your co-workers. Sometimes, the bargaining committee members play other roles, such as executive board member, steward or grievance handler.

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

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

Our union's bargaining process starts with a concerted effort to get feedback from you and your fellow members. Your local union may send you a survey to learn about your bargaining priorities or if your unit is small enough, a meeting may be called for that purpose. You and others can also always communicate with your local union representative to share ideas and learn more about the bargaining process.

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

What does the bargaining committee do with member feedback?

If a survey has been distributed, the bargaining committee sorts responses by shift or classification or other category that makes sense for your workplace, and tabulates responses. Top issues are identified and help form the basis of the union's bargaining proposal to the employer.

What else does the bargaining committee do to prepare for negotiations with the employer?

With the assistance of your International Union servicing representative and often other International Union representatives – including experts from the union's technical departments and the national department your worksite falls under – the following process normally occurs:

- Consulting the bargaining resolution passed at the 2015 Special Bargaining Convention which
 sets the UAW's general bargaining philosophy for all bargaining units in all sectors to ensure that
 priority bargaining issues are being considered.
- Grievances that were filed and arbitration decisions that were made over the prior contract term are assessed to determine whether contract changes are needed
- A general request for bargaining unit information is sent to the employer with a reasonable deadline to respond, normally seeking member pay rates, seniority, classification, health care plan use; employer finances, pension summary plan descriptions, current work rules, and other pertinent information to help inform the union's bargaining proposal and assess our leverage
- Independent research on the employer's finances is done through online and other resources, including federal, state and local government filings, business news stories, and other employer reporting documents
- Union and employer health and safety reports may be examined to determine whether workplace incidents require new bargaining language
- Training may take place to prepare the bargaining committee for negotiations, including how to research the employer or cost a contract proposal
- The local union executive board and relevant standing committees may plan a social media communication program and solidarity activities to keep members informed about what is happening at the bargaining table and how to stand together to show the employer that members support their bargaining team.

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

Are there any limits on what the employer and union can bargain?

The employer and union are required to bargain over issues that have to do with your wages, benefits, work hours, and other work conditions, including – but not limited to:

- Compensation (including hourly rate or salary, signing bonus, profit sharing, step increases, and benefits)
- Health care plan design
- Pension
- Seniority
- Workplace safety
- Paid time off
- Layoff and recall to work
- Promotions
- Professional enrichment
- Tuition reimbursement

These issues are known as *mandatory* bargaining subjects. Any failure or refusal to bargain over a mandatory bargaining subject violates labor law and can result in an unfair labor practice charge filing.

The employer and union are *not* required to bargain over issues that are indirectly related to wages, hours and other work conditions. These issues are known as *permissive* bargaining subjects.

The United States Supreme Court, the National Labor Relations Board, and counterpart state courts and labor boards have decided that while the union and employer can bargain over these issues if they want, it is not a labor law violation to refuse to bargain or stop bargaining over permissive bargaining subjects, which include:

- Cost of living adjustments (when calculated beyond contract term and for some public employees)
- Issues involving current retirees
- Where a product will be manufactured
- How a product will be manufactured
- Who should be in the union bargaining unit
- Employer or union bargaining committee composition

There are also some *illegal* bargaining subjects. These are issues that the parties can't negotiate even if they want to, and if they do, any resulting agreement on that issue can't be enforced. Illegal subjects include:

- "Closed shop" clauses that require workers to be union members before they can be hired.
- Provisions that discriminate against bargaining unit members based on race, sex, national origin or another protected classification
- "Hot cargo" clauses that allow members to refuse to handle struck goods
- Superseniority provisions for elected union leaders who don't handle contract administration or grievances

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

We have a legal right to bargain, so we have legal remedies to compel the employer to follow the law and honor our rights. When an employer won't bargain fairly or provide information we've requested to help us bargain in good faith, we can file unfair labor practice charges with the National Labor Relations Board (if we are private sector employees) or the state agency that handles employer-employee bargaining relations (if we are public sector employees). The UAW Legal Department provides advice on unfair labor practice charges and represents the union when requested.

Employers sometimes take a hard line at the bargaining table to test our resolve and solidarity. That's why it's so important for us to participate in solidarity actions and stand together. When the employer learns that it can't divide and conquer us, it often gets back to negotiating a fair contract.

I asked one of our local union bargaining committee members what was happening at the bargaining table and she wouldn't give me any real details. I was very frustrated and felt she was hiding something. Now, I hear that this is standard operating procedure. Why all the secrecy? Don't I have a right to know what's happening with my contract?

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

However, most bargaining committees do share weekly or periodic bargaining updates so that members have solid and accurate information about what is really happening at the bargaining table. Sometimes updates are posted on the members-only section of the local union website or conveyed in a meeting. If you and your co-workers aren't getting any bargaining updates, contact your local union representative.

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

It is for some unions, but not for the UAW. Our union lets the employer know throughout the bargaining process that there is no final voluntary contract unless and until our dues-paying members vote to ratify it.

While no two ratification processes are exactly alike, there are many similarities:

- The meeting date, time and place are set so that as many members as possible can participate and vote
- The tentative agreement is the only agenda item
- The bargaining committee chair or members, local union president or other officers, or the International servicing representative or other International representatives present the agreement and answer member questions. Sometimes they all help present the tentative agreement and answer questions
- Because of the high stakes involved in ratifying the agreement, the tone of the meeting can be very dynamic and passionate
- All members receive a secret ballot to vote on the tentative agreement as required by the UAW Constitution

As with any vote, these are the possible outcomes: acceptance, rejection and tie. When the tentative agreement is accepted, the vote is tallied and management is informed that the parties have a binding contract. If there is a tie vote, a recount is normally conducted to be sure that the vote is really tied. Additional explanation and a revote may occur at the same meeting, or another meeting may be held to revisit and resolve the reasons for the tie. If the tentative agreement is rejected, the union may demand that the employer resume bargaining to resolve the issue(s) causing member rejection, a strike might be considered, or a re-vote could occur — all with the goal of reaching a voluntary binding contract.

A few weeks ago, my local union called a meeting where we authorized strike action. What happens if we reject our tentative agreement? Do we strike right away?

It is standard operating procedure for our union to take a strike authorization vote early in the bargaining process to unify members and show the employer that if necessary, there is strong support to strike for the best possible contract terms. However, that strike authorization vote is only a *step* toward strike action.

The UAW Constitution has a strict process to move forward with a strike. Why? Because one wrong move and you and your co-workers can be fired for participating in an unauthorized or illegal strike. The general UAW strike process is located in Article 50 of the UAW Constitution. Because every situation is unique, questions about strikes should be directed to your local union leaders.

I keep hearing people talk about "ULP" strikes and economic strikes. What's the difference mean for me if we strike?

A "ULP" strike refers to an unfair labor practice strike. Under labor law, employees who have a right to strike under federal or state law have certain job protections when a strike is called to protest an employer's unfair labor practice. These same protections don't exist when a strike is called to respond to the employer's economic bargaining offer. Throughout the bargaining process, it is very important for members to recognize that difference.

In the case of an economic strike, the employer can permanently replace all striking workers with new workers to fill the vacated positions. The employer doesn't have to fire the replacements and rehire striking workers if they want to return to work. Rather, striking workers who can't find a job substantially similar to the one they struck are placed on a recall list and rehired as jobs that they are qualified for open, or if the union makes an unconditional offer to return to work.

In the case of an unfair labor practice strike, strikers cannot be permanently replaced and can return to the jobs they struck, even if the replacement workers hired by the employer during the strike have to be fired.

Whether a strike is a ULP strike or an economic strike is determined by the National Labor Relations Board or public sector counterpart agency for public employees with the right to strike. You can get more detailed information about federal labor law's treatment of ULP and economic strikes at www.nlrb.gov/strikes.

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