



# Collective Bargaining

## Narrating Your Story

By Robert Moll

**M**any hospitals and health systems are asking their employees to help balance budgets as the hospitals work to implement elements of health care reform, operate with lower government and commercial reimbursements, and adjust to higher benefit costs. For those with unionized employees, often this means concessionary labor negotiations that may lead to corporate campaigns, picketing, and strikes.

Historically, employers have allowed unions to control the story about labor-management relations. Under the National Labor Relations Act (NLRA), employers have limited means to mitigate union activities. But employers can tell their side of the story and increasingly more are choosing to do that. Federal labor law guarantees employers the right of free speech, which includes the right to communicate directly with employees during negotiations about collective bargaining and related issues. Through frequent and timely communications with internal and external stakeholders, employers can put the reality of their situation in context by explaining the rationale for their contract proposals. This helps build an employer's narrative before it is necessary to react or respond to union rhetoric.

Human resources (HR) professionals (often in conjunction with their corporate communications counterparts) must be careful to design a strategy and develop materials that comply with the NLRA. All materials should be reviewed with the bargaining team and legal counsel to ensure compliance. Generally, the law prohibits:

- Communication intended to bypass the union as the employees' exclusive bargaining representative
- Threats and promises to employees that are intended to erode employee support for the union.

Employers may and should be open in discussing facts, opinions, and examples in support of their contract proposals (see

below). It's also important to use a balanced tone and focus on presenting facts that minimize the risk of inflaming the situation. Before negotiations begin, in-house corporate communications professionals or external communications consultants should be involved in negotiations preparations, helping the organization prepare from a communications perspective.

### Get Ready

Employers should begin by assessing vulnerabilities that the union could leverage through publicity strategies known as corporate campaigns. These campaigns are designed to compel management into agreeing to union demands at the bargaining table or further risk union efforts to undermine the organization's reputation or credibility.

Employers should also honestly assess existing communications, determine whether they reach the right audience and are effective in getting the message out, and explore ways for employees to share questions and comments about negotiations and get answers from management in a timely manner.

### Craft Messages in Advance

Under negotiation pressure and time constraints, one of the greatest challenges is researching an issue, developing the message, and getting the necessary approvals. Where possible, employers should draft materials in advance, with tailored messages for managers, employees, and outside constituencies, to be ready to respond should an issue emerge. Often, the first to communicate frames the debate. By getting messages and materials distributed quickly, the employer is better able to control its message.

Prepared employers anticipate the issues likely to arise at negotiations. By reviewing issues raised during past negotiations and researching bargaining the union has conducted elsewhere,

### PERMITTED COMMUNICATION

Facts, Law, Opinion, Personal Experiences (FLOP)

#### Employers may:

- Offer status reports on negotiations
- Share proposals that have been presented to the union at the bargaining table
- Offer their position and rationale for proposals
- Correct misinformation
- Share any tentative agreements
- Ask employees to support a tentative agreement.

### NOT PERMITTED COMMUNICATION

Threats, Interrogation, Promises, Spying, Discipline (TIPS-D)

#### Employers should not:

- Ask employees what they think about proposals or union business
- Survey or poll employees about any issue related to pay, benefits, or working conditions
- Negotiate directly with employees
- Offer employees more favorable contract terms than what has been presented to the union
- Misrepresent the union's bargaining position
- Appeal directly to employees to "partner" with management.

employers identified hot-button issues and how the union communicated about them. With this knowledge, employers can anticipate the union's communications playbook to create a more complete, compelling narrative that could pre-empt the union's messages or provide a counter-balance should the union get ahead of the employer's message.

### **Demystify the Process**

Traditionally, contract negotiations took place behind closed doors and out of the media. While HR professionals, labor attorneys, and union representatives may understand the contract negotiations process, a frontline manager or employee may not. Many managers and employees wonder about informational picketing, worry there may be a strike, and are uncertain about whether to believe the rumor mill. HR can help reduce the anxiety by providing managers and employees with a primer about the steps in the process and providing periodic updates – again, in conjunction with the bargaining team and after review by labor counsel.

### **Provide Managers with Skills and Tools**

Too often, the managers who interact daily with unionized employees are ill-equipped to respond to questions about bargaining, dispel rumors, and end up learning about what's happening from employees (who the union keeps informed) rather than senior leadership.

Studies demonstrate that interactive face-to-face conversations between supervisors and employees are the most effective communication channel in the workplace. An employer's communication team can help HR train managers on how to effectively communicate during negotiations and preview the issues and scenarios they may face. After a new contract has been ratified, managers still can use the communication skills they learned before negotiations to discuss other work-related topics and change initiatives.

A consistent message driven by employee communications and reinforced by managers helps support the organization's bargaining objectives and keeps employees focused on the work at hand.

### **Provide Timely, Fact-Based Information**

HR also can support the negotiations team by creating and distributing communications materials, including factsheets and Q&As, to explain the rationale behind the organization's proposals and respond to anticipated employee questions. To add legitimacy to messages, draw upon publicly available information from third-parties, such as trade associations and non-partisan foundations, to explain the rationale for bargaining positions. Employers can also demonstrate commitment to truthful, transparent communications by encouraging employees to gather information from sources other than the employer or the union.

By preparing in advance and communicating proactively, employers are better prepared to frame the debate, manage their message, and minimize risk. ■

---

*Robert Moll is a communications consultant with IRI Consultants and can be reached at (313) 965-0350 or [rmoll@iriconsultants.com](mailto:rmoll@iriconsultants.com).*