

The View From the Trenches

Collective Bargaining in the Public Schools

By Gregory J. Dannis

I am offering my perspective based on my world view, or state view, of negotiations in California. This view is from the trenches — from the collective bargaining tables.

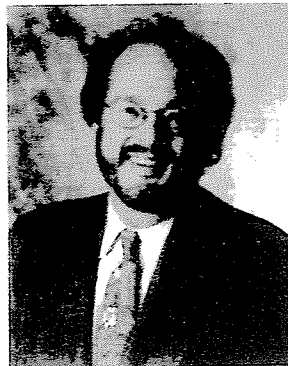
Our firm represents about one-fourth of all school districts in the state. I negotiate nearly every day, sometimes at two or three places in one day. Over the last 20 years, I estimate I have negotiated somewhere around 500 collective bargaining agreements on behalf of school districts. These include districts with an average daily attendance of 25 all the way up to districts with an ADA of 800,000. Urban, suburban, and rural; growing and declining; revenue limit and basic aid; rich and poor.

The unions with which I have negotiated include California Teachers Association; American Federation of Teachers; California School Employees Association; Service Employees International Union; American Federation of State, County, and Municipal Employees; and others.

I have bargained in good times and bad, in districts that enjoy positive and constructive relationships with their employees, and in districts with bitter, distrustful relationships, including some that have experienced destruc-

tive strikes. This is what I have seen and what I have learned in 2000.

I have learned over the years that a good negotiator must be keenly aware that every set of negotiations involves equal parts emotion and substance — it is a 50/50 ratio; call it 50 percent left brain and 50 percent right brain if you will. The good negotiator also operates a middle, third brain that maintains a constant awareness of the left and right sides and continuously switches back and forth depending on the ever-changing dynamics at the bargaining table.



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My experiences this past year have not displayed the 50/50 ratio. Instead, I have seen about 90 percent emotion and 10 percent substance.

I have seen team after team of teachers say, "We agree with your budget figures. We know you did not really receive a 10.95 percent increase in revenues across the board. We know you have 1 percent to 2 percent step and column costs. We know you are absorbing double-digit increases in health and welfare costs. We know that the 10.95 percent increase really translates to about an 8 percent increase due to the 3.17 percent increase in categorical funds. We know, we agree, and we understand. *And*, we trust you, we really do. *But*, we must have 10.95 percent nevertheless, and we will not settle for less." Thus have I seen 10 percent substance and 90 percent emotion.

I have seen 80 percent to 90 percent of my negotiations this year result in double-digit increases, regardless of the circumstances and unique fiscal attributes of each district.

I have seen great difficulties this year in basic aid school districts — those whose fortunes are tied to local property taxes, and not to the revenue limit increases. Most of these districts did not see a 10.95 percent increase in revenue, and yet they must find a way to compete with their neighbors who did. What I have learned is that there is not a great outpouring of sympathy by the revenue limit districts for the plight of these poor basic aid districts.

I have seen that this is not a time of "plenty" for many school districts, but a time of cutbacks in order to meet salary expectations.

I have learned that the double-digit expectation is *not* unreasonable for teachers to have. Everyone agrees that the deficit reduction money is a non-retroactive, interest-free payment of a decade-long, unilaterally imposed loan to the state. But look at how the \$1.84 billion windfall came about. As far as I can tell, it was the result of effective political activity primarily by the California Teachers Association. It was consummated in large part via cell phone conversations between CTA President Wayne Johnson and Governor Gray Davis, while Mr. Johnson was traveling to the May rally in Sacramento. Given these circumstances and the governor's comments at the rally, how could teachers *not* reasonably expect to see the benefit of this windfall flow directly to their pockets?

Since the time that bargain with the governor was struck, I have seen a disingenuous elected official. In 2000, the governor vetoed a bill that would have allocated funds to increase student support services such as counseling (we rank last in the nation in student-to-counselor ratio). In his veto message, the governor said, "The Budget Act of 2000 contains \$1.8 billion in discretionary funding that individual districts could use to support their unique pupil needs. The decision as to the appropriate level and type of student services provided by any given school district or school site should be a local decision." However, the fact is that very little if any local decisionmaking authority exists to allocate this money, and the governor knew it.

What I have seen in teachers' faces and what I have heard in negotiators' voices was that a promise had been made and it needed to be kept. A promise that precluded meaningful discussion of any other option.

As a result of this expectation, what I have seen are some of the most adversarial and personally contentious negotiations since the early '90s — the time of the "unCOLAs." I have seen a breakdown in the fundamental nature of bargaining. It has not been give and take; rather it has been: "Just hand it over — it's our money and no discussion is warranted." I have seen protests and packed board meetings after a single bargaining session and sometimes even before bargaining has begun. As a result, I have seen administrators and school board members begin to question relationships and the bargaining process itself.

I have questioned what this portends for bargaining in 2001 and into the future. Indeed, I have questioned whether we can continue to survive if not thrive if we are constrained to take a myopic year-by-year approach to negotiations and labor relations, without sufficient care given to the long-range view and the long-term relationship.

I also have seen exacerbation of the paradoxes that bedevil this noble experiment we call public education. For example, school districts that cannot afford a double-digit increase are stretching mightily to do so lest they lose teachers, especially young teachers, to competing districts and the private sector. And I have seen school districts recognize that "programs" are not independent entities without substance; they are the people who inhabit the programs. If we create or restore programs at the expense of losing the good people we have, districts recognize that the quality of those programs suffers and what, ultimately, have we gained?

I have seen the conundrum of regional economies assert their influence and domination at the bargaining table. In the Silicon Valley, school secretaries are being wooed away to dot-coms with offers of \$75,000 a year plus stock options. Beginning teachers can earn double or triple their salary at these companies, plus receive bonuses and stock options that vest at a rate of 25 percent a year. They can work in gleaming buildings with gourmet restaurants, health clubs, and on-site dry cleaning services. This is where the median price for a house is a half-million dollars and rent for a studio apartment exceeds \$2,000.

The same economic climate does not exist throughout the state, but continued reference to the Silicon Valley standard ultimately propels us to consider regional funding schemes from the State of California.

Is this really what we want? Is it even politically viable or fair? Indeed, continued reference to these standards leads us nowhere, for we cannot pay school employees, or many other professionals, nearly enough money to purchase half-million-dollar homes at the beginning of their careers.

So why do we continue to measure ourselves against a standard we cannot possibly reach? I have seen this approach only lead to a sense of frustration, powerlessness, and defeat. Instead, why not think “outside the box” like the private sector and devise ways to provide the amenities our teachers seek? Why haven’t all of the stakeholders in public education, including the unions, enthusiastically endorsed creative initiatives to provide adequate housing, instead of speaking of “teacher ghettos?”

I have seen a change in the type of individuals entering the teaching profession — indeed, in all professions, including the law. This is truly a new generation, and we have not fully acknowledged that their needs, desires, and priorities are different from those of the last generation. Despite the focus today on money, I have not seen it as the “be-all-and-end-all” at the table. Quality-of-life issues are equally important. These young people sit socially with their comparatively wealthy dot-com peers and wonder constantly about the road not taken. The passion for teaching is there, but the system — those from both sides of the labor-management equation — seems more likely to discourage their commitment to the profession, rather than to encourage it.

I have seen a direct connection between these quality-of-life issues and salary negotiations in 2000. School

districts who have stretched to pay for double-digit salary increases often have done so at the expense of larger class sizes, sometimes with teacher approval, and a scaling back of curriculum, support services, and other amenities that make a teacher’s working life enjoyable and rewarding. In every negotiation, I hear a strong mutual interest to attract and retain quality teachers. However, this year, “attract and retain” has morphed into “attain and retract.” Attain the salaries necessary to compete, but retract the conditions of the job and the quality of education that led the teacher to the district in the first place.

I have seen continuing demands placed on school districts — and passed on to teachers — to spend more and more time, effort, and energy *away* from the core purpose of classroom instruction. At every table, the discussion centers on time spent on committees, in individual education programs, student study teams, and promotion and retention activities. This truly detracts from the quality of working life and cannot continue.

Despite the rhetoric promulgated by the media, I have seen several districts attain starting salaries of \$50,000 and highest salaries of \$80,000, not counting extra compensation that can be earned. Last year, Santa Clara County published a list of the 100 highest-paid educators. More than a few teachers were on the list along with administrators.

Most of all, I have learned to reject the notion that we should consider negotiating differently in this so-called time of plenty. To me the question implies a situational ethics mentality. Have our priorities changed from when we did not have a 10 percent revenue increase? Are our values different? Has our notion of competitiveness in the marketplace changed? Are our definitions and attributes of budget integrity different — do we believe the percentage of the budget spent on salaries and benefits should be lower? The answers to some of these questions may be yes, but not merely because we got more money than usual in 2000. The rules of the game — the legal rules such as ability to pay — have not changed. But I am afraid that this standard may evolve into an unwillingness to pay, on the one hand, or a demand to pay on the other hand, even where there is no ability to do so.

We must negotiate the same way we did when we did not have this money. We must apply what I call the “GAG rule.” No, it’s not the ability to stifle voices you don’t want to hear. It’s “Get A Grip” — a grip on fiscal

reality. Rather than debate the pros and cons of traditional bargaining, or interest-based bargaining, or win-win bargaining, I propose a return to *reality-based bargaining*. Because, through the fault of no single group or individual, what I have seen in 2000 is a retreat from the realities school districts face and should face, as they attempt to right the course of this ship we call the public schools.

Despite all the politics and paradoxes I have seen in 2000, and despite the never-ending proliferation of reforms from on high — and the multitude of laws, rules, regulations, and mandates — what I continue to see everyday, more than anything else, are *people* who are dedicated to teaching and to public education. And what I have learned is that these people are what truly matters most. That's what I see every day at the bargaining table. I trust and hope that all of us will not lose sight of that.