

First Edition
500 copies
August 2021

Organizing Power

Negotiating Union Contracts
for the Arts/Nonprofit Worker

Volume 2



PREFACE

Organizing Power Volume 1 showed arts and nonprofit workers how to form a union. Published in 2019, it has helped scores of art museums and nonprofits across the U.S. unionize (such as the Philadelphia Museum of Art).

Once you win your union, the next step is to negotiate and win a contract. *Organizing Power Volume 2* is about this process.

We explain what a contract is, what it can cover, and how you get one. You'll find an overview of the bargaining process, from forming your team to negotiating at the table to reaching an agreement with management (or what to do if you can't!). We break down this convoluted process using plain language and examples from other workers in your position.

For *Organizing Power Volume 2*, we interviewed union members from arts and nonprofit organizations across the country, including MoMA PS1, the New Museum, and California College for the Arts (CCA). Their voices, forged in the fire of negotiation, permeate the booklet. You'll learn how workers negotiated with management, built collective power, and won contracts! We also draw from our own experience serving as bargaining team members at the San Francisco Museum of Modern Art (SFMOMA).

Along the way, we lay out frameworks for thinking creatively about contract demands, tactics that engage rank-and-file members, and strategies to deal with stressful negotiations. In *Organizing Power Volume 3*, we will highlight creative organizing strategies that successfully applied pressure on employers during contract negotiations.

Whether this is your first or fifth contract, you are making a difference in the lives of your fellow workers in tangible ways. You got this!



NOTES ON ARTS ORGANIZING

You and everyone you work with has felt it. You've felt it in the aching arches of your feet after pulling another double shift. You've felt it in that early morning back pain you try to ignore because your health insurance doesn't cover a chiropractor. You've felt it heavy come time to pay your rent, realizing there won't be much left over in your account after the bills are paid.

Your employer is demanding more and more of you, of your labor, and not offering enough in return. All too often management leans on your passion, your commitment to mission-driven work to extricate further value from your labor. Value that isn't reflected in your wages. Your commitment to the work you love doesn't pay rent. And you can't serve your family a plate of museum prestige.

So together you've formed a union in order to protect yourselves from the gears of late-stage capitalism grinding you and your comrades into dust. As individuals, the gears pulverize you whole, one by one. But together, your collective power gives you a shot at stopping the machine's gnashing maw. Over time, together you might reconfigure the individual parts of the apparatus so that they work to benefit you, rather than making your working life more difficult.

Organizing collective labor fuels the negotiation of a solid contract. Your first contract is the foundation of worker empowerment and safety that future union members will build upon for decades. Being with your fellow union members at that bargaining table is your well-earned reward for the sweat poured into collecting signatures, getting buy-in from your colleagues, and winning recognition.

You bargain for yourselves, of course. But more accurately, you bargain for the protection of your colleagues, current and future. Folks you know well, your best friends. But also folks you only know in passing. Perhaps more importantly, however, is that you're also instilling protections for the person who will replace you when employment opportunities take you elsewhere. You bargain for the kid in college who in a few years will walk into the workplace starry-eyed and looking to effect change. Your energy negotiating today will shield them from the slings of the ever-increasing profit-over-people mindset that has diseased the modern American work environment.

Those protections can mean bread and butter issues like wage and cost of living raises, benefit packages, and commuter stipends. But they can also be methods of improving a workplace holistically like through establishing ongoing labor-management meetings and equity-based pay reviews. During the COVID-19 crisis, lay-off clauses protected the positions of thousands, and assisted with additional aid for those who did find themselves furloughed.

It's planting seeds in a garden. Some seedlings will spring quickly, creating quick and efficient beauty. Some will require more patience to germinate, evolve. Some so much so that you yourself may not get the chance to walk amongst the fully grown garden. But as stated—the organizing work you do here at the table will benefit generations of workers to walk and work on a beautiful path.

Organizing Power Volume 2 is all about this moment—the moment you survey your newly created collective and ask them all, “Well...what do we want?”



COLLECTIVE BARGAINING AGREEMENT

WHAT IS A COLLECTIVE BARGAINING AGREEMENT?

You've won your union—congratulations! Now you need a contract that lays out what workers and employers can and cannot do. The next step in your journey is to negotiate this contract, known as a Collective Bargaining Agreement (CBA).

A CBA is the “law” of the workplace. It is a legally binding agreement that lays out policies governing the actions of management and labor. While each CBA is unique, most CBAs address compensation, scheduling, promotions, discipline, job standards, and grievance procedures.

The first contract you bargain becomes the baseline for future contracts. Your union will build upon this first CBA for years to come—wage increases decades from now will be based on what you achieve this time! You hold great responsibility (and opportunity!) because you're forming the foundation of future worker power at your workplace.

WHAT CAN A CBA COVER?

Your CBA will not cover every single workplace issue. Judicial precedent and federal laws limit a CBA's power. At times this will feel unfair!

Federal courts and the National Labor Relations Board (NLRB) categorize CBA topics in three ways. *Mandatory topics* are those that employers must bargain over because they directly impact wages and working conditions, like healthcare and overtime. Refusing to bargain over these topics could result in an unfair labor practice charge. *Permissible topics* can be bargained over but are not mandatory, like the make-up of the employer's board of directors or internal union affairs. These topics are not directly related to workplace conditions and instead focus on the “nature” or “direction” of the employer's industry. *Illegal topics* cannot be discussed, like closed shop provisions or hiring hall preference.

There is considerable grey area when determining whether a topic is mandatory or permissible! Litigation may even be necessary to resolve the question.

A big part of going into a bargaining session for the first time is to figure out what the contract can and can't cover so you don't waste your time discussing problems the contract cannot resolve. **Robin Kaiser-Schatzlein, MoMA PS1**

Dream bigger. If there's something that you want but you think you can't have, it's quite possible that you can have it. **Jamie Kavanah, Jewish Community Action, St. Paul, MN (JCA)**



Adapted from “Subjects of Bargaining” for United Steelworkers Public Employees conference and “Collective Bargaining 101” by Erin Johansson for Jobs With Justice

THE BARGAINING PROCESS

FORMING YOUR BARGAINING TEAM

In order to negotiate your CBA, you'll create a *bargaining team*. These are the people at the negotiating table. They're charged with having difficult conversations with management while accurately relaying the needs and desires of membership.

Ideally, the union holds an election where eligible members vote for the bargaining team. Alternatively, the bargaining team could be formed through an appointment process. For first-time contracts, the same committee who helped form the union may comprise the bargaining team. This group of union members works with your union representative to put together a series of proposals to management.

A strong bargaining team consists of multiple perspectives from a variety of departments. Remember: bargaining team elections are an opportunity to engage union membership in the contract negotiation process! Ask candidates to share a statement or speak about why they want to serve. Bargaining team members must have strong relationships with workers across the organization. This builds trust in the process and investment in the outcome.

Management's bargaining team will vary in each organization. In smaller nonprofits, it could include the executive director, board members, or other key leadership. In larger organizations, the HR department is a key participant in the labor-management negotiation process.

If you are an independent union, be sure there is someone with prior contract negotiating experience on the committee or advising the committee. Depending on the employer, be prepared for a long, arduous process.
Art Workers Union at the Frye Art Museum, Seattle

SAMPLE BARGAINING TEAM ELECTIONS MEETING FLYER

WHAT

Elect the Bargaining Team who represent the entire bargaining unit during contract negotiations

WHO

All union members! It is your right as a member to vote for the team representing you in bargaining with the museum's management team

WHEN

Friday, January 6 from noon to 2pm. Come whenever you can to cast your ballot and ask questions

WHERE

In the theater

WHY

Bargaining is how union members advocate for improved wages and benefits. If you've never been a part of a union before, you have a strong voice in the process of fighting for the biggest gains possible. This is the first step in that process. We come together to select a group of members representative of the union within the Museum to represent us. We will be sending the list of members nominated who are willing to serve on the team for your consideration after we've heard back from nominated members.



PREPARING TO BARGAIN

It's important the bargaining team understands the priorities of the bargaining unit. A pre-bargaining member survey is a good start. Ask for contracts from similar organizations, such as other art museums in your area (check out the Google Drive folder we put together!). The bargaining team needs a bird's eye view of the entire organization: How does your organization compare to peers? What are shared grievances? What challenges are specific to different departments?

Once you've analyzed feedback from member surveys and conversations, the bargaining team should communicate those priorities back to membership. Priorities and concerns will vary across members and departments, but it is crucial for membership to stay united. The bargaining team is responsible for both crafting a narrative of shared interests *and* continually checking in with membership to ensure that the bargaining team remains accountable and responsive.

What you're asking for—if the most sympathetic but apathetic member could describe it to a friend, then you've got something. **Robin Kaiser-Schatzlein, MoMA PS1**

The survey tries to identify who makes up our membership—where do they live, are they renters, do they commute, what kind of benefits do people rely on the most? You have a sense of what people want, but you have to prioritize because you're not going to get everything—what is the line you're not going to cross?
Matt Kennedy, CCA

The bargaining team and management will have to agree on when and where to meet. Try to bargain on-site. If not, choose a neutral site (e.g. avoid meeting at their lawyer's office). On-site bargaining makes it easier for bargaining team members to attend sessions, and also opens the door to open bargaining (i.e. where members who are not on the bargaining team can sit in).

Adapted from "Collective Bargaining 101"

AT THE BARGAINING TABLE

The bargaining team presents a series of proposals and explains the intention behind them. Management responds with its own proposals and counteroffers. The sides begin to reach agreement on some proposals and continue trading counteroffers over unresolved issues. The length of bargaining and amount of counteroffers vary depending on the complexity and number of bargaining proposals. Once the bargaining team and management have agreed on all points, they have reached a tentative agreement (TA). You will bring the TA to the full membership for a vote.

If members arrive at the ratification vote and feel blindsided by the proposal, the bargaining team hasn't done its job!

Once ratified by members, the contract will go into effect. You'll want to try to get a retroactive agreement if bargaining has extended past the previous contract's expiration date. There will be some back and forth between management, the union, and lawyers to iron out details on edge cases. Everyone on the bargaining team will want to take a long nap.



WHAT IF YOU CAN'T COME TO AN AGREEMENT?

Under Section 8(a)(5) of the NLRA, the employer must negotiate with the union in *good faith*. That does not mean the employer must agree to union proposals. Nor does it mean the union must agree to employer proposals. But it does prohibit certain management tactics which demonstrate management does not intend to actually negotiate a contract with the union. "Hard bargaining" (taking a strong position on an issue) does not violate the laws. "Surface bargaining" (going through the motions of negotiations with no intent to reach an agreement) or a "take-it-or-leave-it" approach constitutes *bad faith* bargaining.

An employer is bargaining in bad faith when they

- Refuse to meet at reasonable times
- Refuse to abide by agreed upon ground rules
- Attempt to bargain directly with membership
- Attempt to dictate the bargaining team's composition
- Refuse to negotiate over a mandatory bargaining subject
- Refuse to supply information requested by the union in order to bargain intelligently
- Attempt to discourage membership support for the union negotiators by using threats or punishment
- Withdraw approval of particular parts of the contract on which the two sides had reached a tentative agreement

What to do if your employer is bargaining in bad faith?

Document it! Then consult with your union rep to determine how to proceed. Filing a complaint with the NLRB is one possible outcome, but unfortunately, U.S. labor law makes it difficult for workers to file a charge.

Even for a clearcut case of bad faith bargaining, with representation from experienced union reps or attorneys, the outcome is not guaranteed and the process is lengthy. Another possibility is to send management a letter *threatening* an NLRB charge to try

to get negotiations back on track. This might also be a good moment for an escalation tactic by membership, or public pressure.

Even if both parties are negotiating in good faith, there will be situations where management and labor cannot reach agreement on a mandatory subject of bargaining. In that case, they are said to be at an impasse. At this point, management may provide its final offer.

If you come to an impasse, the only thing that will get the employer back to the table is if the entire membership is putting pressure. They won't just [agree to something] because someone at the bargaining table has raised a good point. The pressure needs to be internal, from employees, but also external pressure from the community or other unions. It's a lot of work, it's just as much work as the organizing process, it is not just something that happens during the individual bargaining sessions. It's pretty laborious. Matt Kennedy, CCA

Alternatively, both sides can agree to engage in a mediation process where a federal or private mediator helps the parties work to an agreement. In our experience bargaining two contracts with SFMOMA, both times we went into mediation and worked with an assigned federal mediator. Mediators are often a former judge or lawyer. Their job is to push each side to come to a compromise.

Labor or management may also try to exert pressure to force the other side into agreement. Strikes are one way workers can exert pressure, but there are many limitations on when strikes can take place. For example, many existing contracts have clauses outlawing strikes except in certain situations (e.g. your contract expires while you're negotiating). In the public sector, employees may only strike if allowed to do so by the relevant law. Federal law prohibits strikes by federal employees, while state and local laws vary.

Adapted from "Legal Boundaries of Collective Bargaining" by Michelle Fecteau, Labor Studies Center and "Collective Bargaining 101"



WHAT IT'S LIKE TO BE ON THE BARGAINING TEAM?

This is one of the most rewarding things you can do—it will revolutionize your relationship to your work, which will have an effect on the rest of your life. Yasmin Adele Majeed, Asian American Writers' Workshop (AAWW)

It's important potential bargaining team members understand the magnitude of representing all union members' interests at the bargaining table. Ask yourself:

- How will you do your day job while facing disrespectful behavior from management at the bargaining table?
- How will you process challenging dynamics in negotiations without setting off panic among members?
- How will you clearly communicate setbacks to members while processing your own disappointment?
- How will you maintain member morale and organizational momentum?
- How can bargaining team members constructively navigate tensions, conflicting priorities, and differing approaches among themselves?

The process can be long and fraught. However, most bargaining team members we surveyed described the experience as transformative and ultimately empowering. They emphasized that it is a tremendous commitment and test of endurance. Ongoing care is essential for avoiding burnout.

It's really rewarding but it's a lot of work and a lot of pressure! Make sure you're listening to the needs of your fellow workers, keeping them updated, but also taking care of each other on the bargaining committee. Dana Kopel, New Museum, New York (now an organizer with OPEIU Local 153)

Be prepared to be emotionally drained by your employer looking you in the face and saying your work is not worth X amount, repeatedly...It's empowering to be able to sit across from your bosses and speak to them as equals, but there are times in negotiations when the best strategy is to hold your tongue. This process is really fucking hard! But the rewards—which are not guaranteed, keep in mind—winning better pay? Fair protections? More vacation time? Improving the quality of life for yourselves and your co-workers? Because you fought for those things at the table? It makes it all worth it. Jill Grant, New Children's Museum, San Diego (NCM)

The experience of bargaining is incredibly valuable. I'm grateful to have had this experience... Bargaining is when me and the other stewards know what it means to be in the union. It's not that people don't know what it means to be a worker, it's that people don't know what it means to be in a union.. Robin Kaiser-Schatzlein, MoMA PS1

It's a very emotionally draining process that took up much more time and brain space than I expected. It absolutely was worth it and I do not regret it at all...But to be honest, if I had known going in how difficult it would be, I'm not sure if I would have gone through with it. Unionizing is a big investment into your job and workplace—for some people, it may not be worth it, and I completely understand that. Yasmin Adele Majeed, AAWW

I thought the process would be more exciting but it was very dry. Sometimes I couldn't really tell if people on either side meant the things they were saying and I would have to wait until a caucus debrief session to ask what was really going on, and seasoned union reps who were in the sessions would demystify it. Jill Grant, NCM

WHAT TO EXPECT FROM MANAGEMENT

Contract negotiations at museums and other nonprofits can be uniquely fraught. In the best case scenario, management is committed to aligning its mission with how staff is treated and compensated. Unfortunately, there is often a disconnect between a mission-driven organization's public values and how it treats its workforce. This ideological inconsistency is put into high relief during the bargaining process: workers drawn to an organization because of its values face a management team that repeatedly disrespects, belittles, devalues and manipulates them at the bargaining table. On the plus side, donor-dependent, image-conscious organizations are especially susceptible to public pressure when called to account for their bad behavior and hypocrisy.

*It's about the employer [delaying] giving up a certain amount of power and money. They're constantly trying to minimize the impact of the power we're able to get. They make you fight for basically everything...The employer will be the best organizer for you, because they will do something so mean or so stupid, and people will be so pissed off they will want to do something about it right then, so you need to be prepared to meet people right then because if that energy dissipates, it's really hard to get back. **Matt Kennedy, CCA***

*It is disappointing how my employer really believes they stand for social justice causes, meanwhile they are blatantly anti-worker. They have stalled our negotiating process, and we feel that denying us a fair contract is a form of union busting. **Amber Bales, CCA***

*I recently apologized to a brand new member for this being such a contentious time to first join this union. He responded that he felt it was an awesome time to join the union, because the Museum is telling him exactly what they would be like with NO union by offering the 0% increase for his classification. He said he feels like this was the best intro to why we have a union here. It's a point of conversation that we can use to organize around: What would the Museum look like without your hard work and advocacy? **Anonymous union rep***

*We were lucky to receive voluntary recognition from management when we went public as a union, but despite that, the bargaining process was incredibly emotionally taxing because of how our executive director at the time acted during negotiation sessions. We were continually gaslit, manipulated and the union was third-partied throughout the process. In a way, this was expected because of how our relationship with the ED was prior to negotiating, but I had assumed that the process would be entirely clinical. **Yasmin Adele Majeed, AAWW***



BARGAINING TIPS AND TRICKS

IT WILL TAKE LONGER THAN YOU THINK

Our respondents who bargained contracts for museums and other nonprofits shared a common theme when discussing the time frame for bargaining: be prepared for the long haul! Bargaining a single wage increase at SFMOMA took six months, while bargaining a full contract took about a year. If this is your first contract, be prepared for it to take longer than you think!

*The Art Workers Union held its founding election with the National Labor Relations Board in June 2019, and the tally of ballots showed that the membership was in favor of the Union's creation. Negotiations began in July 2019, beginning with a Memorandum of Understanding Agreement requested by the Museum management, which was essentially guidelines of how we would conduct the bargaining sessions (e.g. who would be present at the meetings from each party, providing agendas and related documents in advance of each session, and a confidentiality agreement). Starting in August we began the actual bargaining sessions where we'd present our proposals and the management would respond with their proposals or take our proposal into consideration for the next session and respond at that time...Our contract negotiations lasted the better part of a year, and I think the Bargaining Committee became very entrenched in the battle to the point where it became difficult to recognize fair compromise. Happily, we were able to, and in the middle of a pandemic no less! Our contract was finalized in May 2020. **Art Workers Union***

USE YOUR UNION REP

Your rep works for the members of the union and provides guidance, structural support, and bargaining expertise. As a non-employee, they're often able to take a harder stance with an employer.

*Our rank-and-file members don't typically speak during negotiations. Typically you caucus with your rep if there's something you need. And that defused a lot of the terror for it. When you say 'solidarity', the process is designed to try to protect you as a part of the group, i.e. 'We as a unit have decided X'. **Jamie Kavanah, JCA***

*It's really important for [our union negotiator] to hear the members talking about what it's like to work there. He'll just sit back and listen. When it comes time, he'll chime in, because chances are he'll know exactly what this problem is and he's seen it somewhere else. He can listen to grievances and articulate the problem, and ask, 'What do you want the answer to be?', and lay out possible solutions. **Matt Kennedy, CCA***

*In many shops that I represent, even our long-term leaders do not want to facilitate meetings or take on visible leadership roles. I often think that the union works best when the members are hearing directly from their colleagues rather than just the union representative. Our bargaining team members are all really dynamic and respected workplace leaders who make the union function, and the members respond well to hearing about the product of bargaining directly from them. **Longtime union representative***

*It's ok to push back on your organizer. They're there to help you, they actually like it when you tell them what you need. **Jamie Kavanah, JCA***



ENSURE THE CONTRACT REFLECTS MEMBER PRIORITIES

Your workplace consists of people with different values, experiences, and needs. The bargaining team must understand this diversity. Create a process for identifying these needs to ensure the contract you bargain addresses the priorities of your members.

*We started by writing [our first] contract collaboratively, based on surveys we sent out to the entire bargaining unit and from our consensus building meetings we'd had throughout the entire organizing process. **Jill Grant, NCM***

*We started with a lot of visioning, even in early conversations while unionizing: 'If you could have anything in the world in your workplace, what would you ask for?' Then did similar work with our rep, who offered additional ideas based on the things we brought up. Looked at a contract from a similar org to get a sense of what language we wanted to include. **Jamie Kavanah, JCA***

*We started by surveying our unit, which was helpful in getting a better sense of people's priorities but also providing us with data and anecdotes we could bring into negotiations. We also looked at proposals from other unions in our local. **Dana Kopel, New Museum/OPEIU***

*Our first contract was terrible (we've learned this is typical). No one in management or the union knew how it worked. What we learned in our second contract negotiation is that there were stipulations in the first contract, like labor-management meetings, they just hadn't been enforced. Another big mistake is that we did these three tiers of pay. It was very arbitrary who was getting paid what. The second time around we pushed them on job descriptions so they could differentiate. **Robin Kaiser-Schatzlein, MoMA PS1***

BELIEVE IN YOUR BARGAINING SKILLS

Bargaining your first contract can feel intimidating. But you have more knowledge and skills than you realize, and you'll gain even more through the process. Your experience as a worker is your superpower!

*I had zero experience with contracts or negotiating prior to this process, so I was surprised at how quickly I was able to adapt to the experience, and how confident I felt at the end of it as an 'experienced' bargaining team member! **Yasmin Adele Majeed, AAWW***

*It's less scary than it sounds. Part of this is because of COVID, and because we're doing this over Zoom. I dressed up, I fretted and it was a ten-minute conversation. They have gotten more and more relaxed, and I don't think that would be the case if it were in person. **Jamie Kavanah, JCA***

*The formality [surprised me]—negotiating, then breaking for caucus. You usually don't do much talking at the bargaining table, it's mostly the lead negotiators from the union and employer teams doing all the talking. **Amber Bales, CCA***

*People shouldn't have to understand lots of labor law. The principles that you organized around are still what you'll focus on. **Matt Kennedy, CCA***

*I would have been a little pushier from the start. 'Who am I to speak for the unit?' And the answer is, 'I'm the person who has time.' Don't wait for other people to suggest things, bring your ideas to the group. **Jamie Kavanah, JCA***



THINK CREATIVELY ABOUT YOUR CONTRACT

In our 2018 contract with SFMOMA, some of our biggest gains were outside the traditional scope of bargaining (e.g. mandatory subjects like healthcare). We negotiated to create a preparator internship program open only to current staff, with the aim to build diversity in a role that was overwhelmingly held by white men. We also achieved the first-ever formal job upgrade analysis process for employees to have their job description reviewed and ultimately move into a higher classification (with timelines). The best part of this new process is that if the union member and employer do not agree, the union can bring in a mediator to settle the dispute.

We got more transparency around the career ladders process, which has never been clear to anyone. There's a lot of favoritism, and we're trying to change that culture.

Matt Kennedy, CCA

The museum will provide current employees and new hires with emergency preparedness training including AED/CPR training, Narcan and a needle safety training program, and de-escalation training. They will also provide semi-annual emergency art-handling training in coordination with the collections and exhibitions departments. **Art Workers Union**

Chances are the workers also live in the community, so you want to use your union to do something for everyone. SEIU 1021 likes to include 'Bargaining for the Common Good' in their contracts. There are plans for CCA to consolidate in SF, and the historical Oakland campus will be developed. Our common good proposal was for 30% of units in the planned residential building to be below-market rate. We also included a proposal of our students' demands, including more support for our BIPOC, and LGBTQIA students. **CCA organizers**

We pushed hard to get better diversity language in the contract, which the museum was surprisingly resistant to. We also had to fight really hard for union rights—even the right to put up a union bulletin board in staff spaces was rejected several times before we finally got it into the contract. **Dana Kopel, New Museum/OPEIU**

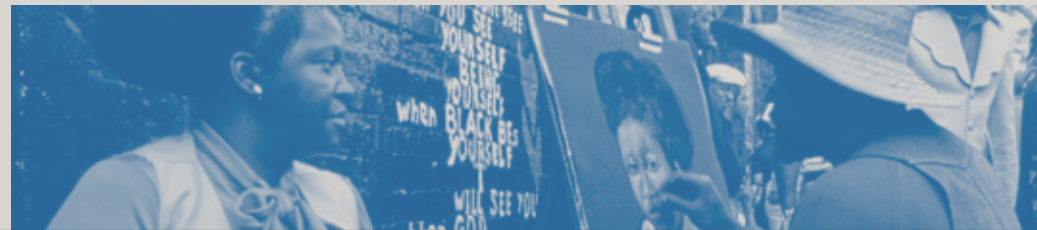
We negotiated 8 weeks of paid-time-off for a domestic violence/sexual assault leave, which is huge. We got 5 days of bereavement leave instead of 3, for all full-time AND part-time employees. We won a non-voting seat at the annual board meeting. We also instituted an IDEA (Inclusion, Diversity, Equity, Access) committee composed of both management and union members. **Jill Grant, NCM**

Negotiate about what happens to the union in the event the organization is sold or acquired, because in the nonprofit world that sometimes happens, especially little orgs that get swallowed up by bigger organizations (successor and assigns clause). **Jamie Kavanah, JCA**

Collective bargaining agreements improve workers' daily lives and can also be a tool for justice. Use this list of expansive topics to imagine how your contract can advance equity and justice in your workplace.

Traditional Bargaining Topics: wages, healthcare, vacation time, leave, grievance process, work schedules, overtime, breaks, retirement, pension, commuter subsidies, uniforms, work clothing subsidies, job classification, layoff procedures, seniority

Expansive Bargaining Topics: union seat on the Board of Directors, paid apprenticeship for increasing diversity, new employee union orientation, ability for school staff to take classes, reimbursed professional development/training, gender-neutral restrooms, dress codes, on-site union bulletin board



COST OUT A WAGE PROPOSAL ON THE FLY

Negotiations largely revolve around resource allocation. The union wants maximum resources for members and wants those resources allocated in a way that represents the values and priorities of membership. Management wants wages and benefits low and to control their allocation (e.g. providing raises only for harder-to-fill jobs rather than across-the-board raises for the entire bargaining unit).

At the bargaining table, you might need to quickly cost out the value of a wage package to understand how it compares to your previous offers. They might present something that seems generous at first glance, but isn't a real improvement once you cost it out. If an employer comes back with a repackaged offer that is worse than a previous offer, that's called *regressive bargaining*, and is an example of bargaining in bad faith. You'll want to document any instances of this in case you need to file a charge with the National Labor Relations Board.

This guide explains how to cost out the value of a wage offer. See the website on the last page of this booklet for a spreadsheet prefilled with formulas to easily calculate these numbers. You'll find fixed-rate and variable tables for crunching percentage and dollar offers.

Information you need

- Bargaining unit size
- Number of workers in each classification
- Salary for each classification
- Number of part/full time positions in each classification
- Number of yearly work hours considered part/full time

You can and should request this information from your employer prior to bargaining! Your employer is *required* to supply this information. Refusing to supply information requested by the union in order to bargain intelligently is an example of an unfair labor practice.



Employer offers a 2% across-the-board increase

Number of part time and full time employees in each classification and their salary

Number of work hours in a year considered part time and full time at your organization

| CLASSIFICATION | 1 | 2 | 3 | 4 | HOURS |
|----------------|----|----|----|----|-------|
| PART TIME (#) | 20 | 20 | 10 | 0 | 1092 |
| FULL TIME (#) | 30 | 10 | 10 | 20 | 1820 |
| SALARY (\$/HR) | 20 | 25 | 27 | 30 | |

1. Convert the percentage (2%) to a decimal (.02)

2. Multiply each classification's hourly rate by this decimal

3. Multiply the hourly increase by the number of part time workers in the classification and the number of part time hours in a year

4. Repeat this process for the full time workers in each classification

5. Add the totals in each column

| CLASSIFICATION | 1 | 2 | 3 | 4 | TOTAL |
|-------------------------------------|--------|--------|----------|--------|----------|
| HOURLY INCREASE (\$) | 0.40 | 0.50 | 0.54 | 0.60 | |
| YEARLY PART TIME INCREASE (\$) | 8,736 | 10,920 | 5,896.8 | 0 | |
| YEARLY FULL TIME INCREASE (\$) | 21,840 | 9,100 | 9828 | 21,840 | |
| YEARLY CLASSIFICATION INCREASE (\$) | 30,576 | 20,020 | 15,724.8 | 21,840 | 88,160.8 |

FORM ADDITIONAL NON-BARGAINING TEAMS

Your union is filled with folks who possess a wide array of skills and abilities. But not everybody can be at the bargaining table, nor does everyone want to be. To foster a culture of engagement, create opportunities for the general union membership to get involved in the bargaining process without being “at the table”. Form teams who activate the larger membership and share information. These teams lighten the burden of effective organizing and decrease the ever-present threat of burn-out.

Collective action only works if there is constant communication, shared values, and a sense of joy and togetherness. It's work to maintain but it's worth it and the support of our bargaining unit was essential in this process. Jill Grant, NCM

In our organizing work at SFMOMA we had two additional non-bargaining teams.

Communications Team

No contract bargaining process has ever concluded with someone saying “Well, I really think we over-communicated”. Communication is perhaps the most vital part of the journey. Surveyed organizers said communication was either the key to their success or a necessary place for improvement.

The Communications Team should be composed of clear, effective communicators who update the rank-and-file with summaries of bargaining meetings, take notes of worker feedback at activations, and inform membership of important dates and votes, etc.



Activation Team

T-shirts. Buttons. Coffee breaks. Solidarity is certainly a state of mind, and it can also be physically manifested through actions. Imagine the entire union membership meeting in the office kitchen, commiserating about their poor health insurance while sharing a cup of coffee. Picture everyone in black, silently filling the front rows at a staff meeting after a difficult round of bargaining. These are powerful actions but they require coordination and planning.

The Activation Team should include energized, vocal members who organize creative displays of solidarity, instill that sense of community so vital to this process, and let the employer know that you are united.

It's really important that they see the solidarity that the membership has, so anything visible like buttons and shirts. On days when bargaining happens, it's important that everyone wears them...so the employer understands that people are paying attention to this process. Matt Kennedy, CCA

You can always form more teams; these are just the bare minimum for effective organizing. Analyze how your general membership and bargaining team can be in closer relations, then form a team to achieve that!

It's so much work to keep pressure on your employer. Planning actions, reaching out and engaging as many members as possible, getting people to turn out, and getting media attention. But, building that worker power is the only way to get what you need from your employer. Amber Bales, CCA

COMMUNICATE CONSTANTLY WITH MEMBERSHIP

Transparency is key, radical transparency at each session, since the employer won't do that and they'll put their own spin on it. **Matt Kennedy, CCA**

You'll need a variety of strategies to keep membership engaged and informed. Just a few ideas:

Post-bargaining video calls, ongoing group chats, shared folders for document dumps, non-work email chains and newsletters, button and t-shirt drops, one-on-one check-ins with members, regular membership update meetings, scheduled coffee breaks (provide snacks!), printed fact sheets posted and distributed on site.

If [you're] fighting for things that the majority of the bargaining unit does not want or does not care about, this creates a disconnect between the rank-and-file and leadership...Your strength at the bargaining table is your solidarity with Membership. **Art Workers Union**

Don't take for granted that all our members are on the same page. Unify and empower people with some numbers and facts. **SFMOMA bargaining team member**

I think we could have done better at communicating updates to the rest of our unit from the beginning of negotiations. We definitely improved and were balancing a lot, but in hindsight I see how crucial this is. **Dana Kopel, New Museum/OPEIU**

Your experience of the workplace will be different from others. You need that full perspective to bargain a better contract. Be honest about what you do and don't know when approaching your co-workers. **Yasmin Adele Majeed, AAWW**



PREPARE TO NEGOTIATE CONTRACTS AND POWER DYNAMICS

Confronting a hostile bargaining dynamic is emotionally taxing, and the bargaining team has to endure months of this dynamic while continuing to perform their day jobs and while keeping members engaged and organized. Former bargaining team members describe this as one of the most draining aspects of bargaining. Communication with membership about bad behavior can be a crucial tactic for activating members and building union support.

Wherever there is a unionizing effort, there will be a union-busting effort from management. Knowing what union-busting looks like is important. **Yasmin Adele Majeed, AAWW**

It's best if the bargaining process is something collaborative, between you and management. Assuming it is going to be antagonistic, which is what management does, means that communication will break down. Try framing to members, 'We want this to be a good workplace, and let's assume they want that too, and see what we can get out of it.' Even within a contentious and insulting climate, go in advocating for what you think will make it a better workplace, rather than what will screw over your boss. And know that people will lie, management will lie. So much! But continuing the attempt to collaborate is important, because if things get bogged down in mud-slinging, eventually even the bargaining unit members will get annoyed. Things must move along. **Robin Kaiser-Schatzlein, MoMA PS1**

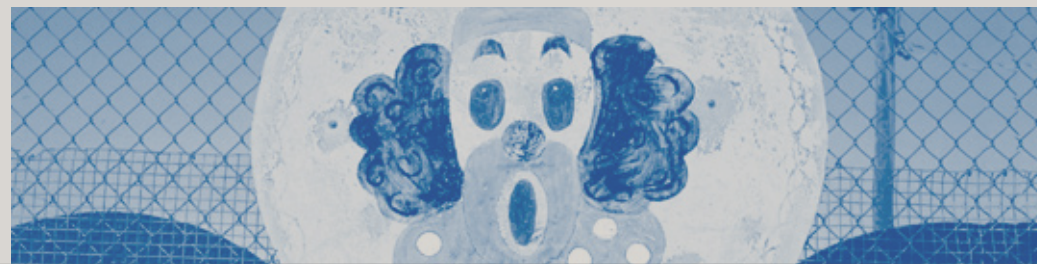
The museum management represented itself through their lawyer. The lawyer was unfamiliar with the museum working conditions and structure and needed to pass our questions/requests on to management, which often prolonged negotiations. **Art Workers Union**

The hardest part was having to repeatedly explain why our work mattered and what we actually did in our jobs (some executives were very far removed from what was actually happening at the museum). **Jill Grant, NCM**

We entered with a high number [for wage increases] because that's what we deserve. They countered with a low number to cut us down—it was reactionary and childish. I hear what the museum is saying and to me it shows that they Are. Not. Listening. Their rhetoric is dismissive and demeaning. I'm afraid part of the problem is that the people sitting across from us were far too removed—from our workload, from our bills, from our debts—to really absorb what we were saying. **Former SFMOMA bargaining team member**

The power dynamics in the bargaining room are just different than you expect. Everyone has different interests: your parent union, different bargaining committee members, everyone on the employer side. The union representative negotiates with the employer lawyer at various different workplaces, so it's kind of a dance between them. **Robin Kaiser-Schatzlein, MoMA PS1**

Letting off steam as a bargaining team should be done with just the bargaining team. At the same time, the membership deserves to know how the team is treated at the table, but understand there's a nuance in how that is respectfully and professionally communicated. Avoid snarkiness, inside jokes, or an air of judgment. Some members have been turned off by snide remarks, feeling that they could be similarly judged if they spoke out—and obviously our intent is to give everyone a voice, not to silence anyone. **Former SFMOMA bargaining team members**



CREATE A PLAN TO DEAL WITH MANAGEMENT TACTICS

Knowing what to expect from management and having a plan to confront antagonistic tactics at the bargaining table can go a long way.

*Management put together a list of the lowest paying museums, so we put together a list of the highest paying museums, and that got us started. Establishing the 'prevailing wage' in such a fractured industry was a real challenge. **Robin Kaiser-Schatzlein, MoMA PS1***

*The nonprofit scene is very small and tight knit. We became aware that all of our executive directors are talking to each other about the contracts they are putting together. So we decided we should do the same. So we now have a Signal thread of people at different organizations comparing contracts and comparing notes. Find who the other people are in your area and talk to them. Coordinate signal boosts of other efforts. **Jamie Kavanah, JCA***

*When things get frustrating, get your membership involved. Starting arguments at the bargaining table doesn't get things done. Don't be afraid to speak up, but also understand that there are ways to win that don't require that. **Matt Kennedy, CCA***

*Trying to think of really clever, super smart ways to pre-empt what you think management is going to do, with complicated new rules and procedures, never works. Everyone will look back at those and think, "That was garbage." Have the simplest possible contract with the best possible terms, and you try to develop a relationship with management to work together between negotiations. **Robin Kaiser-Schatzlein, MoMA PS1***

TAKE CARE OF YOURSELF

Bargaining is arduous. Many people are relying on you and negotiating with management will be draining. Have a plan for how you'll take care of yourself.

*Our negotiations were pretty brutal. I've had to deal with pretty intense trauma as a result of management's treatment during the unionization process and bargaining. One thing we did on the bargaining committee, out of necessity but also solidarity and care for one another, was allow whoever needed it to step back for a couple weeks at a time to deal with the burnout. I'm not sure this is an ideal approach in general but it's what we needed given what we were up against. **Dana Kopel, New Museum/OPEIU***

*Remember how much work has gone towards reaching the goal of a fair contract and just KEEP GOING! Lean on each other. You don't have to be 100% involved the whole year. It's healthy to take breaks and step back when you need it. This is a marathon. You need adequate fuel and care to get through negotiations which are so emotionally taxing. Taking care of yourself and your basic needs like sleep, eating regularly, moving your body, will make negotiations more bearable. **Jill Grant, NCM***

*Have someone you can talk to and confide in, both in the union and outside of it...Especially someone who has experience organizing—you'll need that outlet...CELEBRATE YOUR WINS! Hang out with each other and have fun, too. **Yasmin Adele Majeed, AAWW***



DRAW STRENGTH FROM FELLOW BARGAINING TEAM MEMBERS

Your fellow bargaining team members can be a great source of strength during this process. And, like all relationships, there can be conflict.

I was amazed by how thoughtful and generous our bargaining committee members were. Everyone put so much of themselves and their time, labor, and care into the entire process. **Yasmin Adele Majeed, AAW**

It was beautiful to witness them grow throughout the process and gain confidence in speaking during negotiations. **Jill Grant, NCM**

I wish that as a bargaining committee, we'd been able to have sessions amongst ourselves where we could name dynamics that were happening within our group that were difficult or could improve, along with positive, generative things happening...Sometimes as a group we were fractured and didn't know how to talk to the union about something and kept an unhealthy peace at the expense of the benefit of everyone in the group.
Anonymous bargaining team member

Each bargaining member brought their own personality, motivations, and experiences to the bargaining table. Therefore particular negotiation points were more important to each person...But it is important to remember that the negotiations are for the best of all membership's working conditions, and everyone won't necessarily get the personalized requests they were hoping for. **Art Workers Union**

There are times when we text [our group chat] for moral support when something particularly funny or horrifying happens. **Jamie Kavanah, JCA**



CONTRACT OUTCOMES

YOUR CONTRACT WON'T BE PERFECT

The negotiation process will be drawn out, so reaching a tentative agreement can be both a relief and a disappointment. It's important to hold two seemingly contradictory truths as you embark on this process: A) you can win so much more than anyone could imagine if you stay organized and united and B) you will not get everything you want and you cannot make every member happy.

We had really great union representatives guiding us through the process and letting us know that we wouldn't get everything but we would fight for non-negotiables. We focused on the wins and on fighting for them. But if someone is experiencing disappointment, frustration, which is inevitable in this process—hold them, have a container, a space for everyone to vent and express their fears and aggravations, and balance that out by also having a container to express joy and gratitude for what going through with negotiations is going to do for so many people. We have to feel the feelings! **Jill Grant, NCM**

Team, we have all done our very best to arrive at this result. It's a good step in the right direction and I'm glad that we're thinking ahead to our next round of negotiations contract bargaining next year. We've done well to draw more awareness and energy into our Union for this big next step. **Message from a bargaining team member after reaching a tentative agreement on a one-year wage reopener**

The bargaining team's objective in contract negotiations is to shift the balance of power and resources from the employer to the workers. This happens both through concrete contract gains, but also through building organizing capacity and member skills during negotiations.

CELEBRATE ALL VICTORIES

Each contract you negotiate provides something you didn't have previously. You won't get everything you want (or even everything you need), but every contract is a victory.

Fully-subsidized health-care for all staff, including part-time employees working three days a week. **Yasmin Adele Majeed, AAWW**

We got much higher wage gains than anyone expected, except us. The union expected much less (2–3% over \$30/hour), the museum expected nothing. We got close to 6–7%. **Robin Kaiser-Schatzlein, MoMA PS1**

13% raises for all members; 3% annual cost-of-living raises; free public transit passes for all members; closed shop; modified Just Cause provision. **Art Workers Union**

We brought the base salary for workers in visitor services and the store up from \$15.50/hour (minimum wage in NYC is \$15) to \$18, and that goes up to \$22 by the end of the contract. Those workers hadn't gotten a raise in over three years and it felt really important to prioritize their needs as some of the lowest paid members of our unit. **Dana Kopel, New Museum/OPEIU**

Previously staff was too small for group health insurance; but now as part of the union we have access to the steelworkers union insurance. **Jamie Kavanah, JCA**

The best part of the process was winning all of these changes that will truly shape the lived reality of so many workers!...This is really going to enable our co-workers to have only one job (maybe two) but not three or four like many of us had before. **Jill Grant, NCM**



DISAPPOINTMENT IS INEVITABLE

Because you'll never be able to achieve a perfect contract, disappointment is an inevitable part of contract negotiation.

Wages were not as high as we hoped they would be.
Yasmin Adele Majeed, AAWW

We fought so hard, right up until the end, for healthcare for everyone in our unit (part-timers weren't offered museum insurance) and for a \$51,000 minimum salary for full-timers (what the museum considered a living wage in NYC)...The museum absolutely refused to agree to them... A few months ago, during the pandemic, the museum decided to offer healthcare coverage to part-timers who work at least 20 hours/week. That felt like both a belated victory and—because they framed it as their own generosity, and never mentioned the union—another instance of gaslighting from management.
Dana Kopel, New Museum/OPEIU

We launched a campaign during our recent wage negotiations that focused on how ridiculous a \$0.37 (2%) an hour raise was for our lowest paid members. It was both effective and also backfired. We ended up getting that cohort of members a 6% total increase in compensation. However, 4% of it was in bonus form because the Chief Human Resources Officer was so pissed off at our focus on the \$0.37, that he refused to move away from it. Ultimately, the incredible organizing of this fantastic team was able to push them to spend \$130k more on our members, but it was a hard pill to swallow that the actual hourly increase remained the same at \$0.37. Punitive management might use effective organizing against you.
Anonymous

WHAT HAPPENS AFTER YOU REACH AN AGREEMENT?

[Organizing] is constant. The organizing doesn't stop once you have a union.
Dana Kopel, New Museum/OPEIU

It's important to remember that gaining a contract is not the end. In fact, you might not know what the real victories and weaknesses of the contract are until some time after it's been in effect. And language in the contract is one piece, but enforcement is another. It's much easier to enforce contract language with an active, organized workforce, which is why it's so important to keep members engaged during negotiations. While some members will be disappointed no matter what, you want everyone to feel like they have made hard fought gains that they will continue to defend until the next round of negotiations—and you want management to feel that pressure as well.

I always want to know if I got it right. I want the check plus on my homework, we can't get that. Until the contract goes into effect, we won't know if there are ways it insufficiently meets our needs.
Jamie Kavanah, JCA

Part of negotiations is that you're all equal at the table under the law. The experience of that for management is unsettling, and for workers is uncomfortable. Having labor-management meetings is a way to continue having those conversations sort of as equals is good training.
Robin Kaiser-Schatzlein, MoMA PS1

Include a clause in your contract stipulating regular labor-management meetings. These keep employers accountable for upholding their contractual obligations and addressing any new problems that arise. Shop stewards should be in continual communication with members, surfacing issues in labor-management meetings. This helps keep members engaged and ensure that the union is representing the needs and priorities of membership between negotiations.



CLOSING

Negotiating a contract on behalf of your union can be one of the most difficult undertakings of your professional life. As the stories of dedicated workers across the country prove, it can also be one of the most rewarding. In our own experiences, the skills we gained while serving as member-organizers positively impacted our personal and professional lives. It's brought us together as collaborators, and helped us grow: one of us is an artist working with themes of labor, another became a leader in equity and justice organizing at work in a non-union role, and the other now works promoting academic labor and policy research in service of workers.

Serving your fellow workers not only makes a difference in your lives, it contributes to building a future with greater equity and justice for everyone.

*I grew up in a union family, but a building trades union. My first job was at the union's main office as a summer helper. So the ethos of labor organizing has always been close to my heart. The way I do it now is very different—that was a very white, very male union. I keep being surprised that there is an intersection between my academic, progressive path and this extremely meat and potatoes structure, and it's possible to have the best of both worlds. I don't want to have to choose between having my pronouns respected and earning a living wage. Maybe we can create an environment where you are working at a progressive organization, and everyone can be materially taken care of but also push for a better world. Are you a city radical queer? Or are you a person who believes in solidarity for the working man? How about both. **Jamie Kavanah, JCA***



Organizing Power Volume 2 was funded by Southern Exposure's Alternative Exposure Grant Program and The Warhol Foundation. *Organizing Power Volume 1* was part of Yerba Buena Center for the Arts' Fellows program where Ana and Jessalyn held roundtable discussions with union leaders as part of YBCA's 2019 Public Square programming.

Information, resources, and a Google Drive folder at OrganizingPower.org

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Printed using a RISO MZ790 on Springhill Vellum Bristol and Springhill Opaque Offset with IBM Plex and ITC Lubalin Graph Std.