

# Gimme Shelter

## *Negotiations During Difficult Economic Times*

*Presented for*



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# Purpose of the Seminar

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Examining the Role of financial information, including projections and budget shortfalls, in labor relations and collective bargaining, including how fiscal data impacts negotiations at the bargaining table and beyond.

# Disclaimer

This presentation is designed to be a **general guide** and should NOT be considered legal advice. For questions about specific situations, please consult an attorney.

The following information does not necessarily represent the views of the Pasadena Area Community College District or its Board of Trustees.



# PROPER PRIOR PLANNING

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POOR PERFORMANCE IS PREVENTABLE

# District Philosophy

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Define the District's approach for labor negotiations, considering:

- District history with local union(s)
- Closed-session discussions with Board
- Meet with supervisors/administrators

# Anticipate Demands

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Both locally and at neighboring Districts:

- What has the union demanded?
- What speeches/statements have come from the union or the negotiator?
- Has there been a new stance taken at a statewide conference?
- Have there been grievances? Over what?

# Establish Roles in Negotiation

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Determine who will be at the Table:

- Who will take notes?
- Will you bring in a Negotiator?
- How will the two teams communicate?
- Who can participate at the Table?
- Establish ground rules for negotiating?

# Review Bargaining Agreement

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Conduct a **critical review** of the CBA:

- What is unclear?
- Has there been any part impacted by new laws or recent Court decisions?
- Have there been grievances?
- What is not working for the District?



# Collect Financial Data

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At a minimum, find out:

- What is the cost of **salary** and **benefits**?
- What is changing in **hidden** costs? (PERS/STRS?)
- What are the **ongoing** costs? (Step/Column)
- Are there **avoidable** costs? (OT?)
- What will **1%** cost the District?
- Where is the District in **comparison** to others?

# Develop Initial Proposals

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What would you change about the CBA?

- Revising outdated terms/procedures
- Ensure agreement is lawful and enforceable
- **Economic posture** of the District
- What are the District goals in next 3 years?
- What is the local/state outlook for next 3 years?

# ANALYZE FINANCIAL DATA

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LOOKING AT REVENUE/EXPENDITURE PATTERNS



# Accurately Assess Financial Projections

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- Do not mislead yourself into poverty when your “**inability to pay**” argument is merely an “**unwillingness to pay.**”
- Be sure that you have considered program cuts or other sources of funding before you tell employees you have no money.

# Review Objective Resources

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## Governmental:

1. Chancellor's Office
2. Legislative Analyst Office
3. Governor's Budget
4. Committee Reports

## Industry:

1. School Services
2. Sperlings Best Places
3. Comparator Districts
4. Industry Media  
(whitepapers, outlook)

# District Financial Priorities

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Board and administration must agree there's no money.

Dissent among top administration and the Board during heated negotiations can be **deadly**.

Be sure to explore all possible alternatives in advance.

# Budget Committee Buy-In

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Obtain the support of the Board, administration and District Budget Committee regarding the fiscal parameters for an acceptable settlement before sitting down with the Association

# Invite Scrutiny

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When the District is confident in its projections, request a neutral third-party review.

Contact **FCMAT** to:

1. Review and verify accuracy of fund balances
2. Verify existence of structural deficit
3. Verify and/or advise on adherence to best practices



# Publication of Financial Concerns

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Communicate Early and Often

Alter Perceptions Through Communication

- Use staff newsletters, board agendas, news releases, faculty meetings, committees with interested public members and other communication devices to get your story across well in advance.
- Continue to communicate through accreditation process as a leverage point.

# Publish Total Compensation

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## Components of Total Compensation

- Value of step and column increases
- Value of salary schedule enhancements
- Value of health and welfare benefits
  - Health, Dental, Vision
  - Life and/or disability insurance
  - Other employee related benefits provided by the district
- Value of longevity increases awarded
- Value of stipends for athletics, clubs, etc.
- Value of paid leaves of absence

# Total Compensation vs. CPI

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Where is compensation in relation to CPI?

Create charts depicting historical record comparing these two variables.

Chart the historical record of the percentage of budget allocated to employee salaries and benefits.

Chart historical record of negotiated increases.

Chart district rankings with comparator districts.

# Develop Options

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The District's Initial Proposal Should Reflect Financial Dilemma

- Be prepared to provide incentives or alternatives.
- Be cognizant of the need to compromise non-economic provisions.

# Develop Options

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## **Do Not Mislead**

- Be cautious that the union is not misled into thinking you have money and are merely looking for the right “quid pro quo.”
- Misleading about your settlement position could result in protracted and exacerbated bargaining.

# Develop Options

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## Provide Alternatives And Examples Of Success

- You may need to help the union think of a “way out.”
- Use contingency pay increase language.
- Defer pay increases to the future...the “TIME BOMB APPROACH.”

# Create Incentives For Settlement

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Insist on a **CAP** for insurance premiums.

Be sure your last contract has a cap in place to encourage settlement before employees are forced to pay a greater percentage of the premium.

Use the cap to leverage changes in the insurance plan benefits and out-of-pocket costs.

# Create Incentives For Settlement

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Use **Package Bargaining** techniques to obtain concessions.

Avoid demands to accept/reject *immediately*

Take Union proposals “Under Advisement.”

- Communicate management’s need to provide Union proposals with in-depth study or research prior to management providing a response.



# NO

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Saying “NO” takes **practice**

During the initial stages of bargaining, you may wish to accept proposals of little consequence to establish some good faith.

Rarely should you accept language absent making modifications that represent your interests.

# Be Careful of “*Boulwarism*”

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*General Electric Co.* (1963) 150 NLRB 192

Be prepared to demonstrate you have a sincere desire to reach an agreement.

GOOD  FAITH



# BARGAINING TABLE POLITICS

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INTERNAL AND EXTERNAL INFLUENCES

A union will only settle either when it gets everything that it is asking for or is convinced that it can get no more.

# Politics at the Bargaining Table

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Management negotiators frequently spend time and energy on the ***technical aspects*** of “at-the-table” negotiations while their union counterparts are utilizing the ***political process*** to influence management compromises. Political pressure and lobbying of board and management team members by unions can lead to undesirable settlements.

# Ability to Pay

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Financial information provided to the union should be ***timely*** and ***accurate***

“Hiding” money does not work in the public sector and leads to distrust and protracted negotiations

Budget implications & alternative settlements create political pressure



# Who Is Most Affected By Politics

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Governing Body

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Chief Executive

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Administration/Management Team

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Union Leaders

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Elected Legislators



# Union Strategies To Use Political Influence



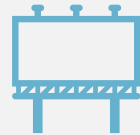
“Morale is low”



Employees are “Mad”



“Stacking” meetings



“Targeting” elected officers



“Running candidates” in election



“Frustrate bargaining”

## Union Strategies To Use Political Influence

“Harass” the administration

Mail campaign

“Influence” state legislators

“Placing administrators at risk”

## “Fight for community support”

Radio/TV spots  
Social Media

## Target Negotiation Team Members

Particularly if they  
refuse to give in to  
Union demands

## Threaten

“Erosion of  
educational results”  
Work to Rule  
Strike!

# Management Response

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- ▶ Management should be **responsive** to labor's concerns
- ▶ Management should attempt to address concerns by providing **explanations** and reasons for its actions

# Role of the Board

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Board Members should:

- Determine Institutional objectives
- Determine overall strategies
- Determine District interests
- Determine general policy

# Role of the Board

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Board Members should:

- Guide management
- Set operational parameters for administrators
- Engage in thoughtful deliberation
- Take action as a unit

# Role of the Board

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Board Members should **not be**:

- Factfinder
- Guardian
- Mediator
- Pipeline
- Hero

# Role of Management

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The District speaks in **one** voice

No intermeddling in negotiations by non-members of negotiation team

Administrators operate with firm and fair conviction

Management expresses **unity**

No provocation

Share all information with the Board



# Role of Management

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Diplomacy

No shooting from the hip

Team players

No loose cannon

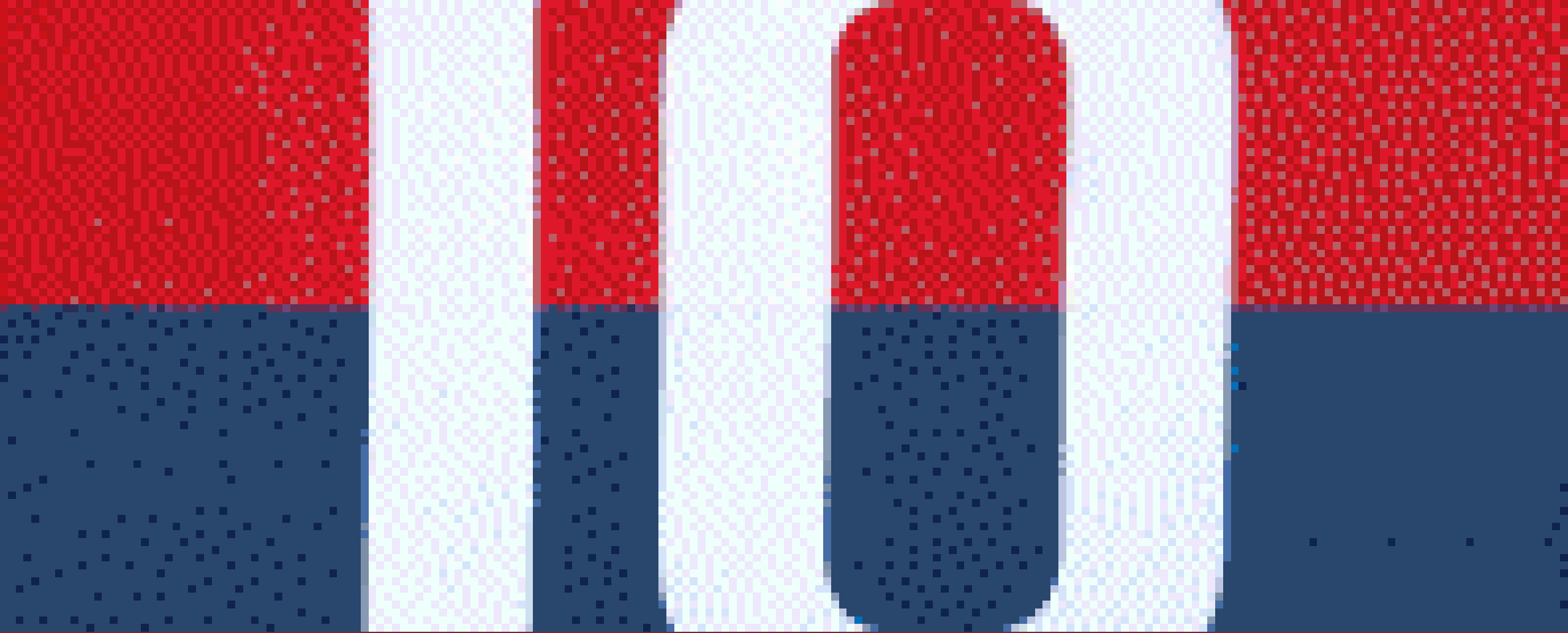
"Hero negotiators" need not apply

# Communicate Effectively

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The District should speak to the union negotiators, employees, and to the public in one **clear and unified voice**





# 10 COMMON MISTAKES AT/AROUND THE TABLE

# Use of Union Organization Documents

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Do not rely on proposals drafted by the Union

Check everything

Clarify ambiguities

# Focus on Organizational Demands

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Too much credit to Union proposals

Employer proposals are just as important

Do not mislead Union to think they will get everything they ask for

# Premature “Best Offer”

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The “Dance”

Timing is everything!

Both sides must feel they have been through the process or they will not value the bargain

Extract concessions first

The later the offer, the more it is worth

Unless truly the last offer, undermines credibility

# Run Around Own Negotiator

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“Hero negotiators” are seldom successful

“Hero negotiators” exhibit weakness

“Hero negotiators” destroy the creditability of the Employer’s negotiator and their team

“Hero negotiators” protract bargaining

# Unprepared for Alternatives

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Prepare acceptable alternatives in advance

Remain flexible

Advance preparation prevents errors



# Inadequate Cost Analysis

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Accurate cost figures are essential

“All costs” of the proposal must be included

- Watch out for "hidden" costs

Do not agree without knowing the true cost

Preparation Time v. Amount at Stake

# “Piecemeal” Negotiations

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Isolation of proposals results in giving more

- You soon run out of "gives" without achieving an agreement

Better to deal in "packages" and trades

Get something for every concession

## Need to Meet to get a Quick Agreement

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Agreement is not a function of the # of meetings

Do not raise form over substance

Timing and frequency of meetings is very important

Too frequent meetings indicate a lack of firmness

# Need To Placate The Union

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Stems from fear of the Union

Union interprets these acts as a weakness

The Union will never be satisfied

- If so, the Union would have no reason to exist

# Misjudging The Loyalty of Staff

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During bargaining, employee loyalty is typically extended to their Union/peer group, not their employer

Do not be misled to believing:

- They will accept our best offer
- Our employees won't strike
- We're All In This Together

Any questions?



Thank you for participating!

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