

Interest-Based-Bargaining--IBB-

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SPEAKERS

Chris Casillas, Emily Martin, Matt Greer



Chris Casillas 00:09

Collective bargaining is often touted as an effective framework for labor and management to come together to improve relations and discuss operational issues in the wages, hours and working conditions of employees. In reality, it can, at least at times be the source of anxiety, frustration and bitter disagreement. Have you ever been on your way to or in a difficult negotiation and thought to yourself, I wish there was a better way. Interest Based Bargaining or IBB offers an alternative approach to resolving labor and management issues or disagreements premised on the creation of a collaborative environment in which parties can discover mutual interests and in turn more durable solutions to workplace issues. But this approach also carries with it certain risks and cautionary tales, and it is not the best solution for every party in every situation. In this episode of the PERColator, Matt, Emily and Chris, explore some of the basics of the IBB process. And consider some of the reasons you may or may not want to consider this approach in your future negotiations. As a note to our listeners, the discussion of IBB on this podcast is solely to familiarize our listeners with the approach and highlight some key features. It is not intended as a substitute for a full training regimen on the IBB process. It is strongly recommended that any interested party engage a qualified trainer on the IBB process to include extensive training, practice, and possible professional facilitation before utilizing this process in an actual bargain.



Matt Greer 01:57

Hi, there this is Matt. Hi, Chris. Hi, Emily. How are you doing?



Emily Martin 02:01

Hey, Matt, doing well. How are you today?



M Matt Greer 02:03

I am doing pretty good. How about you, Chris?

C Chris Casillas 02:05

I'm doing great, Matt, good to be with you again. So what are we going to talk about today?

M Matt Greer 02:10

Yeah, so I thought, today, we would tackle a topic that is kind of one of the frequently asked questions we get at PERC as part of our trainings, but also when people are kind of curious about different bargaining models, it comes up quite a bit. So it's Interest Based Bargaining. So that's what you call it. And if you listened to our last episode, we talked a lot about what interests are. So if you're that's a phrase that's new to you go back to our previous podcast episode, we'll talk about a little more detail. But we'll get into a little bit here too. But this is a whole bargaining model that's based on addressing interests in a way, it's usually in contrast to the more traditional or positional model. So interest based bargaining is focused on the interests. And you kind of kind of slow down or reverse your thought process or decision making process from what you might normally do, where you start off by talking about why things are important to you why we're even talking about these issues at the bargaining table. And then from there kind of brainstorm options to find a consensus based solution that everyone can agree with, to move forward. So, so interest based bargaining is a five step process, I'm going to quickly tell you what the five steps are, right, just a little more detail and kind of some of the nuances regarding those steps as we as we talk about this. But they start off with the issue, identifying what it is we're talking about. And then you talk about the interests you discuss why why we're talking about this issue, why it's important to us, where the underlying motivations behind why you might be interested in certain solutions there. So you take some time talking about that. Then together, you brainstorm options, the brainstorming process, where everyone gets a chance to share their ideas about ways to potentially resolve that issue that you're talking about. So you kind of do that in a organized fashion, then you think about, okay, which of these options are going to be best for solutions, so usually apply some standards. And then as you do that, you kind of get to a point where everyone can say, Yes, we have a consensus that this part will be part of our solution. And usually, classically, you will say, thumbs up, thumbs sideways, or thumbs down. And we'll talk about that a little bit too in a minute here. So those are the five steps, identifying the issue, addressing interests, brainstorming options, applying standards, and then reaching a consensus solution. So it's a little bit different. So if it's, if it's something that's new to you, and we go through this, it's going to feel different if you're used to more positional models. So we're going to talk about that and kind of what the pros and some of the some of the concerns you might have about that process. But I thought we could start off and turn over to Chris, you know, some of the underlying principles for why this model even exists and what kind of what was the motivation behind that kind of came from some, some interesting source material and some studies of books. So Chris, did you want to give us a an overview of that?

C Chris Casillas 04:46

Yeah, let me just kind of set the scene here for us all. Matt, before we kind of dig into some of those steps that you just mentioned, because this really this this approach that you just

those steps that you just mentioned, because this really this this approach that you just described. It really had its kind of origins in the work coming out of the, what's now referred to as the Harvard program on negotiation, which was kind of this several decades ago kind of this first, really deliberate and academic approach to kind of reimagining how we, how we go about the negotiation process, we've, you know, we've been negotiating things for as long as you know, humankind has been around. But you know, more recently, we've tried to kind of think through is there is there kind of a better way to approach this than our what we now refer to as our kind of more traditional model of, you know, one side usurps their position and the other side usurps theirs, and we kind of go this back and forth until we reach some type of compromise. And one of the kind of foundational or fundamental teachings that came out of the Harvard program was this book that many of you have probably heard of the getting to, yes, by Roger Fisher and Bill Ury. And that kind of set the, set the kind of stage for this very alternative way of thinking about the negotiation process that they called principled negotiations. And from that approach, we get this particular model that we now refer to as interest based bargaining or IBB bargaining. And so that really kind of gives us a little bit of context in terms of what we're doing here and why it's so different from the traditional approach. And part of that difference is this kind of somewhat more rigid and delineated kind of five step process. So with that, Emily, you want to kind of unpack this a little bit?

E

Emily Martin 06:43

Yeah, I want to jump in a little bit. You know, one of the things is, this process, this came out of, this is getting to yes, in the collective bargaining sphere, and it has these five steps. And we in collective bargaining, we see this at the bargaining table, when parties decide to use a method like this when they bargain a contract. We also see this in the labor management committee sometimes when parties want to sit down and problem solve together. But getting to yes, has been around for a while. And lots of negotiators have read it or heard about and these theories are not necessarily as revolutionary as they were 30 years ago. And so sometimes, if you look outside of collective bargaining, and you look at like group problem solving, or how to facilitate a group on how to make a decision, or all sorts of other ways to have a group work through a problem, it smells a lot like this kind of process. So in some ways, some of this stuff has been sort of brought into our culture over the last 30 years. And we we see it, it seems familiar in some different ways than it did when it originally started. So I wanted to give that context. The other part of this, this is a little bit tricky. But in public sector collective bargaining, we have a different term for a different kind of concept. That kind of sounds like this, and sometimes causes confusion. And that is interest arbitration. Interest Arbitration is not IBB. Interest Arbitration is a way of resolving disputes or parties who have the ability to go in or arbitrator after they reach an impasse and have the arbitrator decide the elements of their contract. That's a different universe than what we're talking about here. So if you're thinking, oh, yeah, interests are I've heard about that. This seems confusing. I just want to like put out there that interest arbitration and interest based bargaining, both they use the word interest in a very different way. And they're two very different things. So with that said, the five steps, what do we start with? We start with issue what what are we trying to solve here? What's the problem? Usually, when parties think about what do they want to talk about in their bargaining, they will think about maybe, here's a bunch of things we want to fix or contract or language we want to change, or solutions. We want to reach that if you go back and say, Well, what are the topics that we're trying to talk about? Or what are the problems we're trying to solve? You kind of come up with a list, you show up at the table, you say, hey, maybe we want to talk about uniforms, and vacation allowance, and wages and medical, those are topics. And then maybe you want to pick one of them like uniforms and have a question of like, how, how are we going

to, how can we adapt the uniforms? Or what should the uniforms be? And that's turning the topic into an issue question. That is not a yes or no question. It's an open ended question. And it helps us understand what problem we're trying to solve. Because we're going to do problems step by individual by individual. We're not lumping together and horsetrading. We're just gonna walk them through. So the first one, you pick one, you turn it into a question, and you have a good enough conversation. So both sides understand what the heck you're trying to talk about. So that's step one. What are you talking about and turning into the form of a question that is nice and open ended? But like defined enough, so everybody knows what you're talking about? Step two, interests who wants to talk about interests?

M

Matt Greer 09:53

Sure, I can come in here. And as I mentioned, we did do a whole episode on this. So listen to that. And we also have some other resources on our website, you can check out on our training tab with the show notes too, about interests, but at heart the interests is having a conversation that's in the process about why those issues, that Emily just talked about that you kind of brought to the table, why those are important to us, and why are we even talking about them, and why we're bringing them here for our conversation. So one of the hallmarks of the interest based bargaining process is that you do almost everything jointly, there's very little caucus time, you know, there can be a little nuance in that, but generally, you're spending a lot of time in the same room together. In classic IBB, if you're doing it in person, you kind of set it up or you don't even sit next to your own team, you kind of intersperse yourselves. But interests is one of the exceptions to that where you actually will separate into your own caucus rooms. And we'll say, Hey, we're talking about uniforms to give to use Emily's example. We need to tell the other other side or inform the other side about why this issue of uniforms is important to us. And so you're going to go in there. And the challenge of interests is that you'd have to kind of figure out what your interests are versus what your positions are regarding that issue. And that can be surprisingly challenging, especially when you're dealing with difficult issues. But when you try to get to the why question, and you're trying, Okay, is this a why or is the what? To kind of is the key kind of question there. And so they might come back down to like one word like for uniforms, maybe affordable, like if, if you have to buy your own uniforms. Anyway, your standard and see why think about affordability or for the employer. Maybe affordability is important to you as well, if you're funding the the purchasing of uniform, so that might be one interest. Comfort might be another one classic interest with uniforms or clothing allowances. So those are the kinds of things you do and you kind of get that together. And then once you have your list of interest together, you get back together and you share them out, you share with the other side why these issues are important to us. And then each time, he said has a chance to understand, listen with the intent to understand and if there's any need to ask clarifying questions, you do that, but no one's trying to agree with interests. Interests are why it's important to you. So you don't want to get into a conversation about, oh, we think your interest isn't valid, or we don't we think it's not something that's important. You don't do that you're trying to understand why it's important to the other side, you're trying to communicate to the other side, their team, why this issue is important to us too. So you kind of understand why it's important to you, when you move to the next steps. Use that as your baseline and hopefully provides you a good foundation to generate some good brainstorm options that will address some of those interests. That's where you're trying to get to at the end. The idea here and why interests is so important, why it's kind of what's called interest based bargaining. The idea is that if you do spend some time doing this, that at the end, when you have a solution that addresses those interests, it's going to be more durable. Everyone's going to understand why this is our solution. Why? Why we got here, and you'll be able to explain that to your

constituents at a ratification meeting or at a council meeting where you're trying to ratify the TA trying to be able to explain exactly why it's there. It's way more durable. And as opposed to more positional or sometimes sometimes, at the end of the process one party just says yes, we don't understand why we're saying yes, we're just we're just done with it. So that's the idea there and nutshell. So that's the interests process. So share those out. And then you can move on to the next step, which I think is a fun one, the options brainstorming. So who wants to describe that one in a little more detail?

C

Chris Casillas 13:23

Yeah, I like how you frame that as the fun part because I maybe we have a weird definition of fun. But I agree with you that of the process, this step, generating some options is the part that I think parties enjoy the most because it's your opportunity to collectively kind of think through, you know, how we're going to address a particular issue, or a problem that's been presented to us. And so this this piece is done, it's important to do jointly with everyone together, and really your, your, the object of this, this phase of things is to brainstorm as many possible solutions to the to the issue, as you can kind of come up with as a as a collective team. And really, in this phase of things, no ideas is a bad idea. This is just an opportunity to put out there anything that you can think of that might kind of get to the underlying issue and, and address it in some way. And and sometimes I think, you know, we've probably all experienced this as facilitators of these, of this process, you know, sometimes even the strangest or silliest or, most off the wall ideas, while themselves may not be the ultimate solution can kind of lead the conversation in some really interesting and productive ways. And so we really encourage people to just kind of put it all out there and think through any possible options to solve the problems. There's a lot of different ways that you can and kind of have this brainstorm there's different techniques and we kind of train on these, you know, you can do kind of a more controlled brainstorm method, a more kind of spontaneous one where people just kind of throw out ideas, when they think of things are working around the table kind of one person at a time. Until you until you exhaust that process, there's there's a lot of different ways to kind of have the brainstorm session. But the important idea is that you have this joint opportunity, where everybody gets to share any possible ideas to address the issue with the always kind of keeping in the back of your mind, kind of those underlying interests that both sides articulated in the in the prior phase. So that's our that's our options phase. And that moves us kind of into the, into the homestretch. The last bit of this and Emily, you want to kind of pick that piece back up for us?

E

Emily Martin 16:01

So we're at standards, all right. And, and I gotta say, for me, standards is this weird stuff. Because in some ways, these are things to keep in mind as you're taking those options. And you're moving towards consensus, which is the final step. So you're trying to get all the ideas that are up on the wall or up on the screen, depending on your virtual and you're in person, and figure out where do you want to start the conversation? And where do you take the conversation to figure out the solution that will actually work for you, right? But as you're working through that, you need to like think about what options are legal, are affordable, are ratifiable, are practical, and address the interests actually, that addressed the most important interests. And in some ways that's like the most important standard of them all. And it might be really clear that like, gold plated toilet seats are not affordable, right? And there might be other options that like, well, you can afford this depending on what else you can afford. So I know

that some of these kind of feel up for debate. I know ratifiable, is it our party, because sometimes you have to have an idea that like, might take some more conversations with constituents to figure out is this really a good place that we would want to go because it's something different that no one thought of before. And that might end up being part of the IBB process. But ultimately, you need a solution that's going to meet these steps. And I don't think I do not want you to say, Oh, we're at the standard step. And at this point, we have to decide what our standards are. Because what happens then, are people think about, okay, what option do I like? And how do I come up with standards that lead us to that option, because you already have the options out there. So I actually said, just use these default ones and try to have them in mind, maybe have them up on the screen, how to remember that. And that's a way that you can have a conversation about the different options, or where the different options might be combined or amended or put together. That is different than I just don't like it, it gives you a reason to explain why something's not working for you. Like maybe it's just going to be too complicated. And you don't think it's really going to work because it has 20 million steps. And saying, you know, I don't think this is practical is a way to start that conversation rather than like, that's just a bad idea. So standards, I think, is a reminder to think about these key things. And the most key of them all is, does it address your most important interests? Because in the end, we need a deal that both sides can ratify. And it needs to deal, it has to address their most important interests to get ratified and get a deal and have a collective bargaining agreement or to have a have a MOU or have something that both sides can say yes to it has to meet enough of everybody's needs for this to move forward. So that's how I see standards, as like the sort of step, but still a critical thing to keep in mind, consensus. We're in the final, really final stretch now, how do we get to consensus? Does anybody want to talk about the dots?

M

Matt Greer 18:53

Sure, I love the dots. I know, there's mixed feelings up there about the dots. But let me describe what that means. So so usually at this stage in the process, where you've gone through all those four steps beforehand, or three and a half, I guess, if you want to describe it more that way. And you have this list, probably a fairly long list of options that you brainstorm, but if we're there in person, you probably had a will, you'd have somebody up there transcribing them, numbering them on big sheets of paper, right, we can see electronic world, we might do it differently. But the idea is you can all see all the options up there. And then you have to figure out like, where are we going to start our conversation about which of these options might be part of our solution. And that can be challenging, especially if you get a lot of them up there. Maybe it was a complex issue, and you don't really know where to start. So if we're in person, everyone gets some dots, each person is equal in this process. So everyone gets a certain number of dots, little stickers, and they go up to the charts and they put their dots on the option where they want to start the conversation. Not the voting for a solution here is not going to be the one with the most dots is going to be what we agree to. It's just where do we want to start the conversation which one of these options up here is where we want to start talking about where our consensus solution might be. So you do that. And then you go up there, and you start with the one that has the most dots, and somebody just leaves out the conversation about that option. And then you kind of get to the point where hopefully, you're getting to a sense where your facilitator or somebody says, Hey, I think we kind of, we have talked through the options. Sounds like, most people are kind of on the same page with this. So we kind of have an idea here that might work. Let's check for consensus about this being either our solution or part of our solution. And again, the classic way of doing that is using thumbs. So you do a thumbs up, which means yes, I think that's a good solution. I support it, let's move forward with that. Then there's thumbs sideways, which is, you know, what I can live with this,

I'm not super excited about this being part of the solution. But we've had a good conversation about it, we understand why the downsides and upsides of that, and I've had my say, and I can live with this, and I will support it going forward. And then there's thumbs down, thumbs down means that we kind of keep the conversation going. I think a lot of times in IBB people are, this is where it can be a little bit of fear in the consensus, because it feels like just one person putting their thumbs down, can cause the whole process to go sideways, I don't see it that way, I feel I tell people that when they put their thumbs down, they have a job to do, they have a job to explain to the group, why their thumbs down. And if they have concerns, it might mean that they see some issue that hasn't been addressed. And they see that as being a really big issue that needs to be fully fleshed out. They might think that, hey, this is not gonna be ratifiable, this is just not going to work. That might be something and we need to talk about that. You know, those concerns, too. So there can be a variety of reasons why somebody might have the thumbs down. But the key is that even if one person has their thumb down, you keep the conversation going until everyone can get to a thumbs sideways or a thumbs up, before you have consensus of that being part of your solution. So you might do multiple processes here at consensus. So you may have like more than one option up there that ends up being part of your overall solution. So you keep going. And even if one option becomes part of your solution, you keep talking until you kind of say, Hey, we've solved our issue question, we look back on our issue question, we refresh our our recollection of the interests, make sure we're addressing those, are they meeting our standards? And if we can say yes to all those questions, then you're done. You have a your your, your consensus based solution there. At that point, it's usually in a kind of a bullet point format that somebody is probably short handing somewhere. And then you usually we recommend that you farm it out to a subcommittee, somebody who's who's good and drafting up contract language, say, hey, you know, we'll give it to these two people or one person who's really good at that. Draft up what you think our contract language, that reflects that consensus, and we'll take it back, bring it back to our next meeting. At that point, you have a consensus agreement, and you're done with that issue. And everyone is very happy at that point. So, so that's where we are. So the consensus that's consensus in a nutshell, and and then you're, that's that's the end of the process for that issue.

C

Chris Casillas 23:02

There you go.

E

Emily Martin 23:04

There you go. With a brief overview, now a little bit information can get you in a lot of trouble. So I would suggest if you want to do IBB, call us up, let's do a training. Let's get everybody on the same page. Let's talk about this with the whole table and and see if see if we can like have a conversation about how it might work at your bargaining table. Because just listening to this little little podcast is not going to be a recipe for total success. Because it can get a lot more nuanced than that. But it's a good overview.

M

Matt Greer 23:35

Yeah, I probably want to throw that out, I did want to kind of briefly maybe as a close out this conversation like we, the three of us are on the training team at PERC. So and we've all served in roles where we're initial calls come in, people are saying, Hey, I've heard about this, I don't

know much about it, I have concerns about it. And I thinking you know, maybe close that with some of the common concerns you hear and and and what people might think about if they're just thinking about whether or not IBB might be an option they want to look at. So I know one of the things that is really key to me and I kind of ask people to think about this and have conversations with with the other team whether side about is make sure that everyone's on the same page with this being transparent and open process because it really is the key here is sharing information, you're not hiding the ball as you would in a positional or traditional model. So making sure everyone's on the same page with that, and there's a trust that can be that is there for that. Remember, you're gonna be doing a lot of work jointly, and it's going to be much very much of a you're breaking down the us versus them mentality that might be more natural if you're used to traditional model. So making sure that everyone is on the same page of doing that. And remember everyone in IBB is at least at the bargaining table, they are in the process, they are participating and they're all equal participants. So you do have kind of break down the official spokesperson type model in that everyone has an equal say and that's also an important piece of this.



Chris Casillas 24:58

I think that should do it for Today thanks so much, Emily and Matt. Great conversation. And we look forward to hearing from all of you further on this topic.