

Toward a New Grand Bargain

Collaborative Approaches to Labor-Management Reform
in Massachusetts

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Thomas A. Kochan is the George M. Bunker Professor of Management and Co-Director, Institute of Work and Employment Research, MIT Sloan School of Management. He is an expert source on labor relations, collective bargaining, human resource management, regulatory policies, and unemployment. In particular, he focuses on the need to update America's work and employment policies, institutions, and practices to catch up with a changing workforce and economy. Through empirical research, he demonstrates that fundamental changes in the quality of employee and labor-management relations are needed to address America's critical problems in industries ranging from health care to airlines to manufacturing. His newest book is titled, *Healing Together: The Kaiser Permanente Labor Management Partnership* (Cornell University / ILR Press, 2009). He has worked with joint labor and management groups in the auto, airline, health care, and apparel industries and currently is on the Advisory Board of the Massachusetts Division of Labor Relations.

Both authors are members of the Employment Policy Research Network.

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Preface

For a number of years the Boston Foundation has focused on improving K-12 education in the Commonwealth, especially for inner-city children. The Foundation has worked with others to pass legislation that improves the quality of our schools and ensures that public resources are being wisely and efficiently spent so that we can maintain our investments in those areas like education that will help the Commonwealth and its residents prosper.

While setting the proper framework and revenue stream through legislation is important, the ultimate success of these efforts relies on the ability of superintendents, principals, school committee members, union leaders, teachers, allied school staff, and parents to work together collaboratively to improve education outcomes for all of our kids. In particular, building strong working relationships between school managers and the unions representing teachers and allied staff is critical to success.

The passage and implementation of An Act to Close the Achievement Gap in 2010, the most significant education reform legislation in decades, involved considerable conflict between Massachusetts' teachers unions and those advocating for change, including the Boston Foundation. But must this be so? We hope that such conflict is not inevitable, and that all of those who seek to provide the best public education, and indeed the most efficient delivery of all public services, can work together to restore the public's faith in government.

It was in that vein that we asked two leading labor relations experts in the Commonwealth—Professor Barry Bluestone of Northeastern University and Professor Tom Kochan of MIT—to lay out a potential roadmap engendering a fresh approach to labor-management relations in Massachusetts.

We hope the report they have produced will lead to a thoughtful, concerted dialogue about the nature of labor relations in the public sector and help move us to the adoption of many of the ideas, programs, and institutions they suggest in this important piece of work.

We believe that if we can move toward the new Grand Bargain envisioned here, our schools will be made even better, our public services can become more efficient and more effective, and our public sector agencies can become even better places to work.

I want to thank Professors Bluestone and Kochan for helping to advance this effort.



Paul S. Grogan
President and CEO
The Boston Foundation

Executive Summary

In the face of continuing fiscal crisis, the governors of some states including Wisconsin, Ohio, and New Jersey have taken to attacking public sector unions using new legislation to undermine the collective bargaining rights of state and municipal employees. The reaction has been widespread protest and a growing rift between political leaders and civil servants. We believe this painful struggle can not only be avoided in Massachusetts, but that the continuing fiscal crisis facing the Commonwealth and its municipalities can provide the motivation for forging a fundamental change in public sector labor relations that not only could lead to more efficient and effective government service, but in the case of our teachers' unions, could play a critical role in improving public education and closing the achievement gap.

The approach we put forward in this report is developed on the basis of *"interest-based collective bargaining"* plus the *empowerment of teachers, staff, and principals* in the schools where they work. Instead of seeing unions as a barrier to fiscal prudence and better schools, we believe a new collective bargaining framework in the Commonwealth can lead to a "win-win-win" outcome for teachers, students, and taxpayers. The same approach generally can be used for all public sector labor-management relations.

Under the leadership of Governor Patrick and the state legislature, considerable progress has already been made to address health care and pension costs, the two biggest challenges in controlling public sector budgets in Massachusetts. Focusing now on the structure and nature of public sector collective bargaining could be the next step in advancing not only fiscally prudent government, but the quality of government service. If carried out, we believe the result will be citizen support for assuring that essential public services—and particularly our public schools—are adequately funded.

The Need for a New Labor-Management Relations System in the Public Sector

In order to assess the need for a new approach to labor-management relations in the Commonwealth's

public schools, we surveyed school superintendents, local teachers' union officials, and school committee members. The results suggest a general dissatisfaction with the current state of affairs:

- 73% of the superintendents and 61% of the school committee presidents view the present state of collective bargaining as an "obstacle" to "achieving improvements in educational outcomes" in their districts.
- Fewer than 8% of superintendents and 18% of school committee presidents are "very confident" that the "current state of labor management relations" in their district "is sufficient to address the needs for performance improvement in education."
- One half (50%) of union leaders and two-thirds (68%) of superintendents noted that in the course of collective bargaining the issue of "clear and shared responsibility for academic outcomes" is not discussed.
- More than 60% of union leaders and half (50%) of superintendents report that a method for "conflict resolution and problem solving" is not discussed or agreed upon in the course of collective bargaining.
- Superintendents and union leaders are in near agreement (65% vs. 61%) that "strategic planning for the school district" is not discussed in the course of collective bargaining.

Moreover, there is a deep gulf between what many superintendents and union leaders see as the problem today. A not atypical comment in our survey was the following from a school superintendent: "The lack of vision of the union leadership and over-reliance on old ways of doing business are the biggest obstacles to improvement." A typical comment by a local union leader would be: "The statewide Superintendent and School Committee associations need to start listening to the teachers and not dictating the 'solutions' to them. They think that just because we fight over health care, that we need to fight over everything." Or as another union leader put it, "The School Committee is more interested in finance and control than resolving issues related to Education. Very anti-Union."

Despite these different views about the current state of labor management relations, 80 to 90 percent of superintendents, school committee members and union leaders endorse the idea of developing the skills and capabilities to use “interest based” problem solving methods to improve their negotiations processes and day to day relationships. Such an approach focuses on underlying problems and interests, explores root causes through joint data analysis and information sharing, and generates options that serve each of the parties’ basic needs.

Moving to a different place in their relationships would almost surely be beneficial to all parties involved: school leaders, teachers, union officials, parents, students, and taxpayers. Moving away from an atmosphere of adversarial collective bargaining, away from the use of rigid work rules and job classifications, and away from using grievance machinery as the best way to resolve disputes is ultimately, in our opinion, in everyone’s interest.

Key Components of a New Approach to Collective Bargaining

Throughout this report, our goal is to provide suggestions on how the current structures and processes of collective bargaining can be altered in ways that reject *both* the traditional form of management where managers have the prerogative to unilaterally control the workplace *and* the traditional form of collective bargaining based on the negotiation of highly detailed and often overly rigid contractual agreements hammered out through long, drawn-out negotiations characterized by demands, counter demands, and last minute compromises.

The goal of the alternatives we put forward is to increase the efficiency of collective bargaining and day-to-day labor management relations through the use of state-of-the-art negotiations and problem solving techniques, so as to modify the terms and conditions of employment needed to support education innovation and improvements. Overall, the approach we suggest calls for shared responsibility for improvement in school outcomes through empowerment of teachers, staff, and principals within their own schools. Specifically, we suggest the following:

- Expanded use of **interest-based bargaining (IBB)** in contract negotiations as a substitute for traditional adversarial negotiations.

- Mutual agreement among the parties on protocols and **fixed timetables for negotiations, facilitation, and resolution of contract negotiations and means for holding each party accountable for implementing agreements.**
- Consideration of **broader, regional or perhaps even statewide collective bargaining for setting wage and benefit levels** based on clear criteria and standards that emerge out of a new state-wide compact.
- Development of **day-to-day shared responsibility** among principals, teachers, and their union representatives at each school site **for continuous problem-solving joint decision-making.**
- Creation of **forums at the district level for engaging superintendents, school committee members, parents, and union leaders in the task of building a shared vision for educational innovation** and leading, monitoring, sustaining, and communicating the results of innovation efforts to all interested stakeholders.

More specifically, to increase flexibility and promote shared responsibility, we suggest the following:

- **Replace the existing set of detailed work rules and job classifications in contracts with a system of continuous problem solving through joint decision-making** committees comprised of the principal, teachers, and a union representative in each school to agree on changes in operating procedures as issues arise.
- A system of **teacher evaluation based on a combination of teacher peer review, assessment by principals, and multiple measures of student performance.**
- Consideration of **“Peer Assistance and Review” (PAR) processes for implementing the new teacher evaluation procedures** and linking the new system to the interrelated issues of professional development; compensation and performance-based pay practices; and transfer, assignment, dismissal, and promotion policies.

To implement and institutionalize these changes, we suggest the state take the lead in:

- **Creation of a state-wide “Academy”** to train parties in interest-based bargaining (IBB) and on-going problem solving and to facilitate negotiations and

on-going innovation efforts where requested by a local district.

- **Creation of a broadly representative multi-stakeholder oversight commission** to monitor and review progress toward educational improvements and to recommend changes in policies as needed to build and sustain a 21st century labor management relations model for Massachusetts public services.
- **Creation of an on-line Massachusetts Learning Network** which could be used by superintendents, principals, local union leaders, teachers, and involved parents to share experiences with common issues and innovative labor relations efforts.

Interest-Based Bargaining

At the core of the new labor relations model we are suggesting is *interest-based bargaining*. Essentially IBB is an adaptation of basic problem solving techniques, starting with a clear statement of the problem (each party's interests or objectives), a joint analysis of the data needed to evaluate root causes of the problem and alternatives for addressing it, articulation of the criteria to be considered in choosing among alternatives, choice of an option, and implementation, monitoring, and evaluation of the results achieved following implementation. This approach departs sharply from the traditional collective bargaining which begins with strong demand-counter demand positions followed by a slow and grudging sequence of moves and counter-moves toward a compromise agreement. The end point of the traditional system is a detailed, often inflexible contract laying out the rights of workers and the rights of management. Under IBB, the agreement is just the beginning of a continuous problem-solving approach based less on the rights of the respective parties and more on the needs of the enterprise to prosper for the benefit of all parties.

In the Boston public schools, there is already in principle a commitment to shared governance and problem-solving. The *Preamble* to the now expiring 2006-2010 Boston Teachers Union contract is entitled "A Shared Commitment to Educational Achievement." It notes that while Boston is ranked among the best urban school systems in America, "being the best, in this case, is not good enough." The *Preamble* stresses "the importance of school-based decision-making," "the importance of flexibility," "the importance of professional development," and "the importance of accountability for qual-

ity and performance." These are worthy goals and the contract commits the union and the School Committee to working toward fulfilling them. But the contract then goes on to devote 80 pages to "staffing" and "working conditions." No matter the intent of these provisions, the impact is often to reduce flexibility and undermine school-based decision-making so as to make it difficult to achieve the goals laid out in the *Preamble*.

Our intent in this report is to suggest an alternative approach that can better fulfill the pledges in the *Preamble* and empower teachers, school staff, superintendents, principals, union leaders, and parents to work together to promote better schools for all students.

Strong Precedents for an Alternative Approach

To move to this alternative approach in public sector labor relations in Massachusetts does not require starting from scratch. There are numerous examples of the approach we present here in both the private and public sector, from around the country, and within Massachusetts itself. Some of these have begun and failed; others have succeeded despite a national labor law environment constructed in the 20th century that does not encourage such alternative forms of labor relations.

In the auto industry, the UAW and General Motors created in the 1980s the "Saturn" model which substituted a slim 28-page joint decision-making agreement in place of the standard auto industry contract with its hundreds of pages of rigidly detailed job classifications and work rules. Saturn ultimately failed because neither corporate-level GM nor national-level UAW leaders were willing to give up their centralized control over resources or decision-making, even though the agreement was widely supported by the workers and managers who developed the plan and worked under it. Ford and the UAW created a modern operating agreement at the company's Cleveland engine plant and later embraced many of the other Saturn principles and interest-based negotiations tools which helped increase productivity and quality and no doubt helped Ford escape the bankruptcy that consumed GM and Chrysler during the last recession. The key to both Saturn and Ford was a mutual commitment from management and union leaders to consensus decision-making and interest-based problem solving and equal commit-

ments to the success of the company from management and labor. In the health care sector, Kaiser Permanente is today's largest labor-management partnership, grounded in interest-based, day-to-day problem solving between management and local union leadership. The union coalition played a critical role in Kaiser's early adoption of electronic medical records and in the design and planning of new facilities.

What we know from extensive research is that where labor relations are transformed along the lines of what was accomplished at Saturn, Ford, and Kaiser, productivity improvements outpace those in traditional non-union settings by 15% and in traditional union settings by a margin of 35%.

In the public sector, and especially in school districts across the country, experiments with interest-based bargaining, day-to-day problem solving, and a more open-ended agenda have led to the implementation of effective teacher evaluation systems and guidelines for promotion, transfer, and dismissal. We see these systems in operation in such places as ABC Unified District in California; Baltimore, Maryland; Toledo, Ohio; Hillsborough, Florida; New Haven, Connecticut; Plattsburgh, New York; St. Francis, Minnesota, and a growing number of other urban and rural school districts.

The secret to the success in these districts is a commitment to teacher evaluation based at least in part on peer review, the introduction of extensive professional development both to help teachers improve their classroom success and to help teachers and school leadership learn problem-solving techniques, and the use of union-management teams and committees within each school to analyze student data so as to improve curriculum and instruction. This joint decision-making approach in district schools has played a crucial role in developing effective compensation systems with performance incentives based on school-based performance, rewards for teaching in hard-to-serve schools, career "pathways" for promotion, and rewards for achieving certification on national standards. In the process, the old industrial system of promotion, transfer, and layoff based on pure seniority has been substantially eliminated.

Implementing this New Approach to Public Sector Labor Relations: The Role of the State

Moving to this new form of labor relations requires that all parties learn new ways of working together. Toward this end, we strongly suggest the need for orientation sessions for all parties to the new arrangement: superintendents, school committee members, school principals, local union officials, lead teachers, and leaders of parent-teacher organizations. The orientation sessions can be used to develop an awareness of how to proceed and helps to build commitment to the IBB process.

For those directly involved in contract negotiations under IBB, intensive training is warranted to learn the specific techniques of working toward such an agreement. This involves learning five phases of the bargaining process:

1. Preparing to bargain over a new agreement
2. Bargaining over how to bargain
3. Open exploration of own and shared interests
4. Agreeing on focus issues
5. Implementing and sustaining the agreement

As we note above, the state can play a critical role in moving public sector labor relations in this new direction through the creation of a multi-stakeholder forum to discuss this report, development of a state-wide "Academy" dedicated to on-going training and facilitation of interest-based negotiations and labor relations, and implementation of an on-line Massachusetts Learning Network which could be used by superintendents, principals, local union leaders, teachers, and involved parents to share experiences with common issues and innovative labor relations efforts.

Conclusion

The combination of the continuing fiscal crisis, persistent demand for education reform, and the need to prove to taxpayers and parents that our public institutions can be made to function even more effectively and efficiently provides the political environment for fundamental change in how we conduct labor relations in the public sector in Massachusetts. We hope the ideas presented in this report provide some fodder for a serious discussion of the way ahead and reasonable suggestions for how the labor relations system in the Commonwealth can be transformed into a national model for the 21st Century.

Toward a New Grand Bargain: Collaborative Approaches to Labor-Management Reform in Massachusetts

Nearly every state in the union is currently grappling with the twin challenges of fiscal crisis and education reform. In the course of these struggles, some state governments including Wisconsin, Ohio, and New Jersey have taken the approach of attacking public service unions and undermining public sector collective bargaining in order to force unilateral concessions, reduce labor costs, and mute the political power of organized labor. These efforts are curtailing the range of collective bargaining, constraining the ability of public sector unions to adequately represent their members, and undermining the potential for joint innovation.

We hope the alternative approach we put forward in this report will help create a new labor-management environment in the Commonwealth, developed on the basis of *interest-based collective bargaining* plus the *empowerment of teachers, staff, and principals* in the schools where they work. We believe this approach is very much in line with that of Governor Patrick who suggested in his March 22nd speech to labor leaders that retaining the public's trust and support will require demonstrating that through collaboration, labor and management can produce the innovations needed to improve student achievement and school performance. (See **Figure 1** for excerpts from his speech.)

Indeed, considerable progress has been made and/or is underway in addressing health care and pension costs, the two biggest challenges in controlling public sector budgets in Massachusetts. Both of these required leadership on the part of the legislature, the governor, and labor and management. While there may be more to be done on both of these issues, accelerating the pace of education innovation and reform is the next big item on the public sector reform agenda in the state.

If implemented, we believe the alternative approach outlined in this report would uphold the rights of public sector workers while forging and sustaining innovations that help to control the cost of state and municipal government and simultaneously improve educational outcomes.

While specifically developed for public schools, we believe this approach is generally applicable to all public employees at the state and local level.

In preparing this report, we see our mission as encouraging and supporting the efforts of school superintendents, school committees, school principals, the Massachusetts Teachers Association (MTA) and the Massachusetts Federation of Teachers (MFT) to find ways of working together toward a new set of guiding principles for labor-management relations. In this pursuit, we propose a set of recommendations regarding such key issues as teacher evaluation and interrelated practices such as those governing professional development; compensation and incentives; and promotion, transfer, assignment, and dismissal.

As a preamble to our research, we see a parallel between what has happened to America's manufacturing sector and its industrial unions during the past three decades and the forces affecting public sector unions today. The environment for collective bargaining in the manufacturing sector was fundamentally altered by (a) the inexorable growth in globalization and (b) the public's embrace of imports. By not adapting swiftly enough to these powerful forces, proud industries such as auto and steel experienced a dramatic decline in demand for their products. As customers shifted to imports, these industries laid off hundreds of thousands of employees. The unions in these industries suffered a massive loss of members and a dramatic decline in political and social influence, diminishing their earlier role in providing checks and balances in society.

The continuing fiscal crisis in Massachusetts and most of its municipalities (a) and the public's growing concern over the quality of at least some public schools (b) could have the same impact on unionized teachers and staff. Rising costs could force further reductions in school programs and lead to teacher and staff layoffs. Growing concern over inflexible work rules and an inability to assure the very best teachers in every classroom will likely lead to continued pressure for alternatives to

FIGURE 1

Governor Deval Patrick's Challenge*

These are sobering times. Because the national debate right now is about more than collective bargaining. It's about the place of working people in determining their own destiny. It's about what kind of country we want to live in—what values we will defend and what we will hand on to future generations.

The assault on your rights has been carried out in the name of emergency budget cutting. But you know that's a sham.

Collective bargaining is not an obstacle to reform. We've shown right here in Massachusetts that you don't need to attack public sector workers or their unions to make change and deliver lasting and meaningful reforms.

The public is hungry for change. Be careful not to let labor be cast as an obstacle to change. Because if they see your rights as an obstacle to change, the public will take those rights away.

So in the spirit and tradition of labor as reformers, in the same spirit in which we have faced so many hard issues already together, I challenge you to work with us on the agenda for the second term.

Work with us to establish "Innovation Schools" in struggling inner city communities, in the places where families rightly or wrongly believe that charter schools are their only hope. Show your inventiveness, and unlock your creativity, to form a new, more flexible educational environment. And work with principals, parents and other professionals to do whatever it takes to reach the kids we're leaving behind.

None of these issues are easy. Many of you have worked with us closely on these measures and shown great creativity and engagement. But you need to understand that the general public is ready to go even further. The chorus of those who want to end the pension system entirely, or give you no role in health care plan design, or worse, take the "public" out of the schools in favor of charters is loud. If you allow yourselves to be painted as obstacles to change, it will grow louder.

We cannot succeed as a state or as a society if we cannot uphold the basic dignity of working people and extend our prosperity to the people who make it possible. I am willing to do my part. More jobs, better schools, more affordable health care and safer communities, working alongside you, not against you. I ask you to do your part, too, by working with us to achieve real and meaningful reform, in the spirit and best tradition of the labor movement itself.

*Excerpts from a speech to the Massachusetts AFL-CIO, March 22, 2011.

the traditional public school with the implicit expectation that these schools will be non-union. While more revenues are almost surely needed to properly fund our public schools, taxpayers will be hesitant to support a call for higher taxes unless they are assured these taxes will result in improved schools.

Critical to avoiding this outcome is a new approach to labor management relations in the public sector that can stem the tide of "customers" demanding the equivalent

of imports. By creating a new approach to collective bargaining, we believe school superintendents, school principals, teachers, and their unions can create an even better "product" while remaining fiscally prudent. In the process of developing a labor management relations system committed fully to improved school outcomes, we believe our public schools will once again warrant the full loyalty of the Commonwealth's parents, taxpayers, and political leaders. Based on years of private and public sector research, and a growing number of exam-

ples of labor-management driven education innovation, we will stress four goals for transforming labor management relations in Massachusetts:

- Share responsibility for improvement in school outcomes through empowerment of teachers, staff, and principals within their own schools.
- Increase the efficiency of collective bargaining through the use of state-of-the-art negotiations and problem solving techniques so as to modify the terms and conditions of employment needed to support education innovation and improvements.
- Build partnerships among superintendents, school committee members, parents and other community stakeholders at the district level that lead, monitor, and sustain education improvement efforts.
- Create a state-level institution to provide the resources, logistical support, and where necessary legislative action to create a 21st century labor management relations system for the Commonwealth dedicated to diffusing and sustaining education innovations throughout the state.

We will suggest specific actions that can be taken to implement these reforms.

To improve the negotiation process we support the following:

- Expanded use of interest-based bargaining (IBB) in contract negotiations as a substitute for traditional adversarial negotiations.
- Mutual agreement among the parties on protocols and fixed timetables for negotiations, facilitation, and resolution of contract negotiations.
- Consideration of broader, regional or perhaps even state-wide collective bargaining for setting wage and benefit levels based on clear criteria and standards that emerge out of a new state-wide compact.
- Development of day-to-day shared responsibility among principals, teachers, and their union representatives at each school site for continuous, problem-solving joint decision-making.
- Creation of forums at the district level for engaging superintendents, school committee members, parents, and union leaders in the task of building a shared vision for educational innovation and leading, monitoring, sustaining, and communicating the results of innovation efforts to all interested stakeholders.

To increase flexibility and promote shared responsibility, we will suggest the following:

- In place of the existing set of detailed work rules and job classifications codified in traditional negotiated contracts, the use of a joint decision-making committee comprised of the principal, teachers, and a union representative in each school to agree to changes in operating procedures as issues arise.
- A system of teacher evaluation based on a combination of teacher peer review, assessment by principals, and student performance criteria.
- Consideration of “Peer Assistance and Review” (PAR) processes for implementing the new teacher evaluation procedures and linking the new system to the interrelated issues of professional development; compensation and performance-based pay practices; and transfer, assignment, dismissal, and promotion policies.

Evidence from private sector innovations tells us that innovations of the sort needed in public sector education do not diffuse or survive over time without state-level policy and institutional supports. Therefore we support:

- Building learning networks among innovators to share experiences, lessons learned, and options for addressing common challenges.
- Creation of a state-wide “Academy” to train parties in interest-based bargaining (IBB) and on-going problem solving and to facilitate negotiations and on-going innovation efforts where requested by a local district.
- Creation of a broadly representative multi-stakeholder oversight commission to monitor and review progress toward educational improvements and to recommend changes in policies as needed to build and sustain a 21st century labor management relations model for Massachusetts public services.

As will become abundantly clear, this new approach rejects *both* the traditional form of management where managers have the prerogative to unilaterally control the workplace *and* the traditional form of collective bargaining based on the negotiation of highly detailed and often overly rigid contractual agreements hammered out through the “countervailing power” of managers and union officials.¹

In Boston, there has already been some movement on paper toward shared governance and problem-solving

in the now expired 2006-2010 Boston Teachers Union Contract.² The *Preamble* to that contract is entitled “A Shared Commitment to Educational Achievement” and notes that while Boston is ranked among the best urban school systems in America, “being the best, in this case, is not good enough.” It goes on to stress “the importance of school-based decision-making,” “the importance of flexibility,” “the importance of professional development,” and “the importance of accountability for quality and performance.” All of these are worthy goals and the contract commits the union and the School Committee to working toward fulfilling them. But the contract goes on to devote 80 pages to “staffing” and “working conditions.” No matter the intent of these provisions, the impact is often to reduce flexibility and undermine school-based decision-making so as to make it difficult to achieve the goals laid out in the Preamble.

Our intent is to suggest an alternative approach that can better fulfill the pledges in the Preamble and empower teachers, school staff, superintendents, principals, union leaders, and parents to work together to promote better schools for all students.

Educational Reform Challenges and Opportunities

This report comes at a moment when Massachusetts is poised to enter an era of historic change and innovation in education. On January 18, 2010 *An Act to Close the Achievement Gap* was signed into law. This landmark education reform legislation creates options for innovation inside and outside of school districts by establishing “Innovation Schools” and in-district charter schools, authorizes new approaches to underperforming schools, and doubles the number of charter school seats in the lowest performing districts.

Also in 2010, Massachusetts was awarded \$250 million from the federal government’s *Race to the Top* initiative. The Massachusetts application for these funds outlined eight specific goals for improving student achievement, graduation rates, and college enrollment, and for reducing the gaps in student performance across demographic groups. Districts could apply for these funds by submitting a memorandum of understanding (MOU) signed and supported by the district superintendent, school committee, and local union. Requests for proposals to draw on these funds were received from 258 districts and the first \$125 million was allocated to these districts in May 2011.

On June 28, 2011 the State Board of Elementary and Secondary Education adopted a new teacher evaluation system that must be implemented in all districts over the next three years. The new approach requires explicit use of student achievement measures (MCAS and/or other test scores) as one of multiple evaluation criteria. The system adopted was based on input from a wide range of stakeholders including the Massachusetts Teachers Association (MTA). Implementing the system in individual school districts will require negotiations with the local teachers’ union over a range of issues such as the specific criteria to include, the professional development processes that will support the system, and the degree of teacher or peer review that will be built into the process.

There is also a demographic dimension to the challenge and opportunity facing the Massachusetts education sector. Nearly one-fourth (23%) of Massachusetts teachers will reach the traditional retirement age (65) within the next ten years. Moreover, another 26 percent of teachers have been hired in the past five years.³ The expected retirements along with the influx of a large number of new teachers provides a window of opportunity to introduce significant innovations in practices, teaching methods, and skills while at the same time respecting the rights and equities more experienced teachers have in current contracts.

Thus, Massachusetts union and management educational leaders are now embarking on the largest joint educational improvement effort ever undertaken. This provides both a challenge and an opportunity to put state-of-the-art labor management practices to work toward these stated goals.

Baseline Survey Data

Are collective bargaining and relations between union and district education leaders in Massachusetts up to the challenge? To get a sense of the current state of labor management relations in education a brief survey was sent to Massachusetts union leaders, school superintendents, and school board members.⁴ The goal was to obtain a baseline snapshot of the current state of collective bargaining and labor relations in Massachusetts education. In all, we received 144 responses including 25 from school superintendents, 27 from school committee presidents or board members, and 74 from union leaders.

The data demonstrate a number of serious problems in the current state of public school labor relations.

- 73% of the superintendents and 61% of the school committee presidents view the present state of collective bargaining as an “obstacle” to “achieving improvements in educational outcomes” in their districts. More than 42% of superintendents see collective bargaining as a “significant obstacle.” Perhaps not surprisingly, fewer than 10% of union leaders share this concern. Nonetheless, fewer than half see collective bargaining as contributing to improving educational outcomes.
- Fewer than 8% of superintendents and 18% of school committee presidents are “very confident” that the “current state of labor management relations” in their district “is sufficient to address the needs for performance improvement in education.” In general, this sentiment is shared by union leaders. Not many more union leaders (24%) express this level of confidence in the current state of labor relations to improve school performance.
- 46% of superintendents and 65% of union leaders report that a system for “teacher evaluation” either is not discussed in the course of collective bargaining or that no agreement on the issue has been reached.
- Both superintendents (85%) and union leaders (89%) report their districts have not discussed or agreed upon a system for evaluating school administrators.
- One half (50%) of union leaders and two-thirds (68%) of superintendents noted that in the course of collective bargaining the issue of “clear and shared responsibility for academic outcomes” is not discussed.
- More than 60% of union leaders and half (50%) of superintendents report that a method for “conflict resolution and problem solving” is not discussed or agreed upon in the course of collective bargaining.
- Similarly, superintendents and union leaders are in near agreement (65% vs. 61%) that “strategic planning for the school district” is not discussed in the course of collective bargaining.
- Only a little more than half (54%) of superintendents and only 37% of union leaders report that they meet “regularly” to “discuss common leadership issues in their district.”
- There is strong and nearly equal agreement among superintendents (95%) and union leaders (83%) that

training in “professional development in problem-solving approaches to negotiation” would be somewhat helpful or very helpful.

- Similarly, superintendents (88%) and union leaders (81%) agree that “professional development in ongoing teacher-principal-superintendent improvement efforts *during* the term of bargaining agreements” would be somewhat helpful or very helpful.

These quantitative data are reinforced by the many open ended responses we received from those surveyed. In responding to the question regarding how confident they were that the current state of labor management relations in their district is sufficient to address the need for performance improvement in education, a good number of superintendents and school committee members were adamant that current union leadership was a problem.

“The lack of vision of the union leadership and over-reliance on old ways of doing business are the biggest obstacles to improvement.”

“(The) Union seems poised to show its power - could be in relation to the Wisconsin effect.”

“The AFT is still using their old ‘playbook’ and I believe that any so-called concessions are temporary.”

“Given the national conversation and a change in leadership, our teacher union appears to be looking for a conflict in order to achieve some means (yet to be determined).”

“I think that the teaching staff is unrealistic about the challenges facing the communities financially. I say that even though I am a teacher in another district.”

“The situation seems hopeless. The MTA has no answers for the poor performance of most of our schools other than the failed route of more money for teachers regardless of performance.”

“Negotiations are complicated by the involvement of the MTA. If negotiations were solely at the local level, there would be more opportunities for creative solutions to issues.”

“I do not think collective bargaining and unions work quite the way they were intended to work—protecting all workers, and bargaining

for the greater good, versus the notion of don't give up anything and it is all about what you can do for me, right now."

"It has been very frustrating trying to reach agreement in order to settle a contract. It has come to the point where it is affecting the learning of our students."

Union leaders are no less anxious about the state of labor-management relations in the Commonwealth, as the following comments suggest:

"With the anti-union sentiment in the public, legislature, DESE, and in administration we are watching the slow death of middle class teaching positions."

"Going downhill fast. Town leaders (Town Manager, Selectmen) have made things much harder for our local and School Committee. Further, our School Committee is no longer 'pro-education' but 'pro-taxpayer.'"

"The state-wide Superintendent and School Committee associations need to start listening to the teachers and not dictating the 'solutions' to them. They think that just because we fight over health care, that we need to fight over everything."

"The position of management seems purely around saving money. The need for performance improvement is taken for granted no matter what conditions are like."

"The School Committee is more interested in finance and control than resolving issues related to Education. Very anti-Union."

"In our district, the desire to use collective bargaining to improve student achievement most often comes from the union. We bring the innovative ideas to the table first and the school committee is often not ready to deal at that same level."

"There is a desire on the part of the union for true collaboration and a process that will involve compromise on both sides. But we have been met with distrust and I am not sure if we can overcome the problems."

"Collective bargaining needs to be preserved. The importance of having the discussion and being able to collectively work out areas of concern for teachers and administrators cannot be understated. It is in the best interests of students and tax payers that plans are created with all the available information from all stakeholders to make the best use of resources available to districts and towns."

"There is a mindset, not only within my district, but throughout the state, and permeating our country, that somehow, teacher 'unions' stop educational progress. Our major thrust is to create fair working conditions and to advocate for better compensation for teachers. Administrators, particularly many principals who have very little experience as teachers, need to respect our work, our craft, our efforts."

Despite these conflicting sentiments about the posture of union leaders, superintendents, and school committee members, there is nonetheless some evidence of collaboration and improvement in spite of the political climate.

"Actually, the staff are very insightful in helping to address performance improvement. Having the curriculum staff work with them at grade level in analyzing MCAS and other achievement data has been productive."

"I recently completed my dissertation in IBB/ Collaborative practices and we are currently employing IBB in our District. We are beginning to see significant changes in the ways we approach interests and obstacles. We still have a ways to go!"

"We have made some positive movement in the last negotiations and the current contract reflects this improvement."

"We have an agreement on a new professional development program for staff, a new school day calendar that involves time for professional development within the school day."

"A good and trusting informal relationship between the superintendent and union president is very important. No labor agreement can cover all situations so informal resolution of issues is critical."

To improve relations between superintendents, school committee members, and teachers, many respondents talked of the need for more informal meetings outside of traditional collective bargaining.

“In general, (it would be good to have) more opportunities to come to the table in informal meetings to discuss budget and impacts of collective bargaining agreements on education. Seems like we come together only to hash out agreements and we would have a better understanding if we were meeting on a more consistent basis.”

“Teachers are rarely part of this discussion in my district so inclusion of teachers in any way would be helpful.”

“Communication skills and understanding of how to negotiate are needed at all levels.”

“My Superintendent is a former Teachers Association President. He is very aware of the needs of the district and the problems there in. He is very open to listening to concerns regarding administration, and making helpful suggestions for dealing with issues before they become major issues. He has been very proactive, opening dialogues with us before negotiations, to make sure we are all aware of what will be on the table and what monies are/are not available. We have used IBB training and techniques for collective bargaining for the past two rounds of negotiations. My fear is what will happen when our current Superintendent retires.”

Taken together, we interpret these responses as suggesting that there is:

1. Considerable variation in the state of labor management relations across Massachusetts school districts
2. A divergence of views on the ability of collective bargaining to be an agent of change
3. A recognized need to go beyond the current state of labor management relations to achieve significant change, and
4. A readiness, indeed perhaps even an eagerness, of all three groups of leaders to develop the skills and capabilities needed implement modern tools of negotiation and workplace relationships to facilitate and accelerate educational improvements.

National Equivalents

Massachusetts is not alone. Indeed, in February of this year, 150 educators—school superintendents, school committee representatives, and teacher union representatives—met in Denver to discuss the broad principles they believe should guide educational innovation and reform. The Denver meeting built on several smaller forums where particular cases of labor management innovations that had been implemented over the years were discussed.⁵ Consistent with the Massachusetts data presented above, the consensus emerging out of these meetings was that collective bargaining and labor management relations were capable of driving improvements but only if the parties *left behind some traditional attitudes, norms, practices, and rules* that had grown up under a 20th century collective bargaining system inherited from the private sector.⁶

Nothing illustrates the need for change from traditional bargaining better than the list of subjects the participants in the Denver meeting believe should be on the innovation agenda. They are shown in **Figure 2**.

FIGURE 2

Ten Principles for Education Reform

- Strategic Direction Setting
- Clear & Shared Responsibility for Academic Outcomes
- Supporting Growth & Improvement of Teachers & Leaders
- School Design, Schedules, Teacher Workload & Time
- Teacher Evaluation
- Administrator Evaluation
- School Board Evaluation
- Transfer, Assignment, & Reduction in Force
- Compensation & Benefits
- Dynamic Decision-Making & Problem-Solving

Source: Department of Education, “Advancing Student Achievement through Labor-Management Collaboration,” Conference Report, Denver, Colorado, February 15-16, 2011.

This broad and ambitious list includes but goes well beyond traditional collective bargaining and labor management relations. As we shall discuss below, labor relations traditions and legal doctrine carried over from traditional private sector labor relations treat issues such as setting strategic direction for a school and responsibility for academic outcomes as “management prerogatives” outside the scope of formal collective bargaining and employee or union influence. The Denver forum called for shared responsibility for these important matters.

The question, therefore, is how will labor and management leaders in Massachusetts adapt their relationship to address this broad agenda and realize the goals of education improvement laid out in the Education Reform bill and the Race to the Top initiative? To help answer this question, we believe there are some lessons to be learned from innovations in collective bargaining and labor-management relations that have already been carried out in both the private and public sectors. We begin first, however, by considering the traditional model of collective bargaining.

Getting from Here to There

“An early 20th century process in a 21st century world.”

The quote above is from one of the respondents to the baseline survey. The respondent is right. The “traditional” model of collective bargaining that grew up in the decades following World War II was characterized by:

- Arms-length negotiations that produced detailed written agreements covering wages and benefits; seniority provisions governing layoff, transfers, and promotions; and detailed job classifications
- Grievance procedures and arbitration as the primary means of administering terms and conditions of employment during the term of the agreement, and
- Strong language limiting the role of unions on strategic issues deemed “management prerogatives.”

Negotiations generally were characterized by a “positional” proposal-counter proposal approach in which each side drew up its proposals separately and held back information on its real interests or bottom line position. The process relied on the approach of a contract

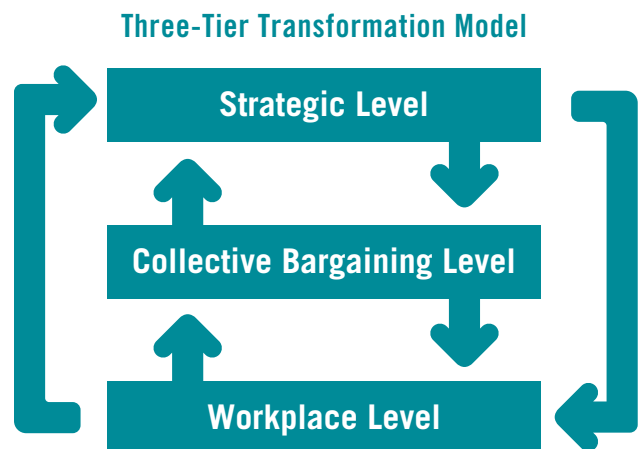
expiration deadline and threat of a strike or lockout to motivate compromises and eventual agreement, often at the last hour.

For decades this form of labor management relations worked well in the private sector, brought stability and equity to workplace relations, and importantly, helped millions of working families gain the financial security needed to move into the middle class. But by the 1980s changing technologies, intensified global competition, and the rise of new ideas about how to organize work and engage front line employees made this traditional model increasingly obsolete. At the same time, new techniques were being developed and put to use for negotiating on the basis of “interests” rather than “positions.” As a result a flurry of experimentation with new “transformed” models of labor management relations emerged in the 1980s. In its fullest form, three tiers of the transformed model pictured in **Figure 3** provide for:

- Front line employee input and engagement in problem solving and operational improvements, teamwork, and flexible work systems
- Use of interest-based bargaining tools in contract negotiations that focus on problem solving, information sharing, and joint exploration of options on a wide range of issues, and
- Consultation, information sharing, and partnerships between union and management leaders on a wide range of strategic business issues, some of which go beyond the traditional scope of bargaining.

Variants on this model emerged across a large array of manufacturing and service industries. The Saturn

FIGURE 3



Corporation, created jointly by General Motors (GM) and the United Auto Workers (UAW), is the best known 1980s example of this approach. The “Committee of 99” labor and management leaders who led the creation of Saturn incorporated these transformative principles first into a general framework agreement that was ratified by the highest levels of the company and the union and later as the organization took shape codified in a slim, 28 page labor agreement (compared to the hundreds of pages in traditional auto industry agreements). Moreover the parties treated their contract as a “living document” subject to modification through consensus-based decision-making as they worked together to build “a different kind of company and a different kind of car.” As such, the specific language of the new agreement evoked a radically different approach to labor relations. Among the seminal points in the full 28 page agreement were the following:

- The administrative structure is intended to make the Union a full partner.
- The parties agree that the consensus process is the primary method for making decisions and resolving disagreements.
- The solution to any problem must provide a high level of acceptance for all parties.
- Any of the parties may block a potential decision. However, the party blocking the decision must search for an alternative.
- In the event an alternative solution is not forthcoming, the blocking party must re-evaluate its position in the context of philosophy and mission.
- Voting, “trading” and compromise are not part of the process.

Figure 4 presents excerpts from studies we conducted of Saturn that capture the essence of how the parties organized work and governed the organization.

Saturn performed well in its initial years. For five years in a row, its cars received the highest customer satisfaction ratings of any vehicles produced in North America; it was GM’s most productive assembly plant; and it set company records for speed in launching new models. Yet it proved too radical a change in traditional labor and management roles for both the top leadership in GM and the UAW. Their unwillingness to allocate new products to Saturn set in motion a decline and a rever-

FIGURE 4

The Basic Saturn Model

“The Saturn partnership structure evolved to include four distinct dimensions... (1) on-line self-directed work teams, (2) off-line problem-solving groups, (3) joint labor-management committees, and (4) the co-management partnering arrangements found throughout the management structure.”

“The structure of Saturn reflects certain basic principles, e.g., recognition of the stakes and equities of everyone in the organization; full participation by the Union; use of a consensus decision-making process; placement of authority and decision making in the most appropriate part of the organization, with emphasis on the Work Unit; and free flow of information and clear definition of the decision-making process.”

Sources: Saul A. Rubinstein and Thomas A. Kochan, *Learning from Saturn*. Ithaca, NY: Cornell University ILR Press, 2001, p. 44.; Barry Bluestone and Irving Bluestone, *Negotiating the Future: A Labor Perspective on American Business* (New York: Basic Books, 1992)

sion to more traditional arms-length labor management relations. GM and the UAW failed to learn from its ambitious experiment. In the end, Saturn was just one of the many victims of the bankruptcy of GM in 2009.

The auto industry did eventually learn from and adopt many of the key elements in the Saturn model, albeit over two decades after Saturn was created and unfortunately too late to stem the disastrous decline in jobs of domestic autoworkers. Ironically, Ford and its UAW counterpart appear to have learned and implemented more of the lessons from Saturn than GM. **Figure 5** summarizes the lessons Ford and the UAW took away from Saturn and other industry innovations as they worked through their deep financial crises in 2003 and again in 2007 negotiations.

Ford, GM, and the UAW were not the only union and management organizations to experiment with new approaches to collective bargaining in recent years.

FIGURE 5

How Ford and the UAW Learned from their Experiences: 2003 and 2007 Negotiations

Of all the auto companies, Ford and the UAW have gone the farthest in adopting 21st century labor management relations processes and practices. In 2003 the UAW and Ford used an interest-based problem solving approach to negotiate on the issue of quality. They developed new contract language pledging they would be jointly accountable for taking their quality operating system to new levels of performance. By 2007 their joint efforts raised Ford's quality from well below the industry average to achieve a three-way tie with Toyota and Honda for best-in-class quality.

In 2007 national UAW-Ford negotiations the parties extended the problem-solving approach to address issues such as safety, retiree benefits, product sourcing, employment security, and others. On each issue, instead of opening discussions with demands and counter demands, the parties first brainstormed a shared vision of success. Then, each subcommittee was empowered to do joint data collection, identification of the interests of all stakeholders, and joint brainstorming of options. Only after these more problem-solving actions did the parties enter into negotiations. There was still hard bargaining, but it was with more information and a broader perspective. Better results were achieved for both sides, including agreements moving retiree health care costs off the company books while increasing the resources supporting retiree health care and an agreement on a new starting wage that has allowed the company to create hundreds of new union jobs.

Sources: Cutcher-Gershenfeld, J., "Bargaining When the Future of an Industry Is at Stake: Lessons from UAW-Ford Collective Bargaining Negotiations," *Negotiation Journal*, April, 2011.

Figure 6 summarizes another ambitious and successful transformation at the Magma Copper Company that was motivated by the crisis environment of the 1980s. To save the company, the agreement made *productivity improvement and product quality the leading objective for both the company and the union.*

FIGURE 6

Labor Management Transformations at Magma

The Magma Copper operation in Arizona was threatened by dramatic shifts in the global copper market and had been losing money for years. This crisis motivated local management and union leaders to turn to radical new approaches to collective bargaining and problem solving. Strategies and tactics similar to Saturn were employed at Magma including: senior leadership joint off-sites resulting in path-breaking accords designed to dramatically shift authority, responsibility, and accountability to front line employees. The new vision presented to employees and managers placed primary emphasis on the implementation of continuous improvement processes intended to improve productivity and quality and drive the impetus for innovation to the "shop floor".

The new "accord" established clear roles for senior managers and top union officials as guides and overseers of a new governance process based on shared values and principles rather than shared mistrust and rigid rule bound contracts. Flexibility, teamwork, and innovation were the new standards as these industrial sites struggled to not only survive but to prosper under a very different vision of labor and management relations.

The Magma Copper Company saw productivity and efficiency improve so much so that the Company was acquired by a global copper giant soon after the success of the transformation process was evident.

Sources: Victor Forberger, Magma Copper Case Study, Center for Urban and Regional Policy, Northeastern University, January 2001.

Figure 7 describes today's most comprehensive labor management partnership. It involves Kaiser Permanente, the largest non-profit integrated health insurance and health care delivery organization in the country and a coalition of unions of nurses, technicians, and service employees. The Kaiser agreement made the *union a full partner in introducing new electronic medical records technology and a full partner in marketing and in the design and planning of new facilities.*

FIGURE 7

Kaiser Permanente: Today's Largest Labor-Management Partnership

Transformational results have been achieved in health care at Kaiser Permanente health care system where a labor management partnership anchored by employee involvement at the workplace, interest based problem solving in contract negotiations, and broad based consultation on issues such as how to best use electronic medical records technologies has been in place since 1997. Labor and management at Kaiser Permanente have used a version of interest-based or problem solving negotiations for three sets of negotiations between 2000 and 2010. Kaiser is now a national leader in introducing and using electronic medical records technologies, organizing health care delivery via front line "unit-based" teams. A labor-management Strategy Group oversees the partnership and works together on issues ranging from marketing, to design and planning of new facilities, to planning for how to expand services to the uninsured in the context of changing national health care policies. Kaiser was losing money and considering breaking up the organization prior to the partnership in 1997. It has turned around its finances and experienced positive operating margins under the partnership for more than a decade.

Source: Thomas Kochan, Adrienne Eaton, Robert McKersie, and Paul Adler, *Healing Together: Labor-Management Partnership at The Kaiser Permanente*. Ithaca: Cornell University/ILR Press, 2009.

All of these examples illustrate that the broad principles of transformed labor-management relations can be adapted to fit a variety of different industry and occupational settings. Indeed, a 2003 national random sample survey of private sector labor and management negotiators conducted for the Federal Mediation and Conciliation Service (FMCS) found that approximately 70 percent of union negotiators and approximately 60 percent of management negotiators in the private sector have had experience with a problem-solving approach to collective bargaining. Moreover, where a problem-solving oriented approach to negotiations was combined with direct employee involvement, teamwork in day-to-day workplace relations, and high-level strategic-level partnerships, both labor and management representatives reported higher satisfaction with their relationship and better outcomes for the company, the union, and its members. Unfortunately, these examples of transformed processes and positive outcomes characterized less than ten percent of the private sector labor management relationships.⁸

These survey results are consistent with a large number of studies of the effects of transforming traditional work systems in both unionized and non-union settings.

Figure 8 summarizes the results of the largest study of the effects of these transformational efforts in manufacturing industries. The authors found that non-union transformed work systems were 15 percent more productive than a baseline, traditional non-union workplace while transformed unionized work systems were 20 percent more productive than the baseline workplace. Neither traditional unionized nor traditional non-union workplaces could match the productivity levels of unionized workplaces that engaged employees on the front lines in problem solving efforts, encouraged flexibility in work rules and job classifications, and invested in employee training and development.⁹ Moreover, a wide range of studies in industries ranging from autos, steel, airlines, health care, telecommunications, apparel, and others found similar positive effects for work systems that bundle together investments in workforce training and development with workplace processes that engage worker ideas and skills, encourage teamwork, and coordinate efforts across occupations.¹⁰

FIGURE 8

Productivity Improvements: Traditional and Transformed Models

	Traditional	Transformed
Non-Union	0% (comparison group)	15%
Union	-15%	20%

Source: Black and Lynch (1997)

Thus, the private sector experience demonstrates that there is a path to innovation and improvement open to labor and management leaders.

But there is another important lesson to learn from this private sector history. The innovations neither spread across industry nor proved easy to sustain over time. The primary reason for this, we believe, is that national labor policy was not modernized to support these efforts to adapt and transform labor management relations. Instead existing labor law allowed the traditional system to fall further into disarray, leading to union decline, greater polarization between business and labor, and an inability to innovate as unions felt they were fighting for their very survival in a hostile environment. We will come back to this key lesson when we discuss the role of state government policy in fostering a 21st century public sector labor policy suited to our 21st century challenges and opportunities.

In summary, three conclusions emerge from the long history of innovations in collective bargaining in the private sector:

- Crisis conditions often produce significant innovations in collective bargaining, workplace practices, and overall labor-management relationships and these innovations have resulted in significant improvements in economic performance as measured in cost reductions and/or productivity and quality improvements.
- Most of these innovations began through joint labor management consultation and experimentation processes and after initial “proof of concept” embodied in and reinforced and institutionalized in contract language.

- These examples of innovation have not diffused widely within their industries or across the range of private sector bargaining relationships and they have proved difficult to sustain over time in the absence of support from national policy makers and leaders.

The question now is how these early attempts at building new labor-management relationships in the private sector have fared in the public sector and whether the new challenges facing state and local governments can provide the environment for a new and enduring approach to educational reform and innovation in Massachusetts.

Transforming Labor-Management Relations in the Public Sector

The traditional private sector model of collective bargaining—detailed contracts, positional bargaining, and a clear demarcation of management rights—was carried over when bargaining was introduced into the public sector in the 1960s. While it served the parties well in producing stable and equitable relationships over many years, parties all around the country now agree with the sentiments expressed in our Massachusetts survey that it needs to change in significant ways to meet the present need for innovation and reform. Drawing on the lessons from higher performing transformed private sector relationships, the changes need to come at three levels:

- Empower teachers and principals at individual school sites—the equivalent of a front line or shop-floor setting in the private sector
- Introduce greater interest-based problem solving into the process of collective bargaining and more flexible performance-enhancing substantive practices, and
- Build partnerships among district and union leaders that foster and sustain innovation, continuous improvements, and evaluation of progress.

Considerable innovation with these elements is occurring in urban and rural districts across the country. A recent report summarized evidence from six urban and rural districts and local unions—ABC Unified District in California; Toledo, Ohio; Hillsborough, Florida; Plattsburgh, New York; Norfolk, Virginia; and St. Francis, Minnesota.¹¹ Superintendents and union leaders in these districts have been working together on school reform

for well over a decade. These and other examples like them were discussed in detail at the Denver education conference in February. We will draw on the lessons learned from these and a number of more recent experiences as we explore options for accelerating the pace of education innovation in Massachusetts.

The Substantive Agenda: Performance Evaluation and Interrelated Practices

We begin with the question of how to introduce stronger performance evaluation systems because all districts in Massachusetts are now required to implement a formal evaluation system consistent with the regulations recently issued by the Department of Elementary and Secondary Education. However, one of the strengths of collective bargaining is that it focuses attention on the full range of interrelated terms of employment that are affected by any specific organizational innovation or intervention. Thus, as school districts and local unions begin implementing the new performance evaluation regulations they will need to make changes to a range of other employment practices to align them with the new evaluation processes. The key features other districts and unions have found that need to be addressed in tandem with new performance evaluation processes include professional development; compensation principles; and transfer, assignment, dismissal, and promotion. **Figure 9** illustrates this interdependence. In the next set of Figures we summarize the specific perfor-

mance evaluation practices that these leading districts are implementing and then further illustrate how they are handling the interdependences across the issues highlighted in Figure 9.

Peer Assistance and Review Performance Evaluation Processes

The recently released Massachusetts Department of Elementary and Secondary Education regulations call for principals to carry out performance evaluations of each non-tenured teacher on an annual basis. One concern raised by both principals and union leaders is whether principals have sufficient time to conduct all the evaluations required in his or her school. This has been an issue in all districts across the country where greater emphasis is being placed on evaluating teachers. One option for dealing with this concern, along with the need to build trust and confidence in the system that is adopted and implemented, is to engage teachers themselves in the evaluation and review process. A system for doing so, the Peer Assistance and Review (PAR) process, was first developed in Toledo in the 1970s and is now used in over 100 districts across the country. The keys to the Toledo PAR process include:

- Peer-to-peer review, support, mentoring, and evaluation
- Dispersing evaluation responsibilities to teachers so the program promotes professional development while screening teachers out of the profession who are not effectively serving students
- Extensive professional development offered by teachers who serve as internal consultants
- Use of student performance data at the school level by the principal, staff and school building representatives
- Union-management teams and committees within each school to analyze student data and to help decide issues related to curriculum and instruction that are important to faculty and students

Figure 10 describes the origins and key features of the PAR process.

FIGURE 9

Interdependent Elements in Education Innovation

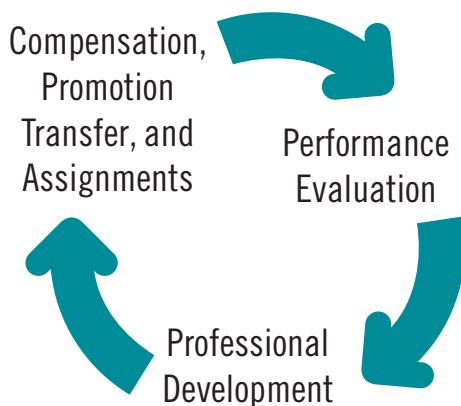


FIGURE 10

The Origins of the Toledo PAR Process

Following a strike in the late 1970s, frustration mounted in the early 1980s over teacher evaluation. Principals often found themselves overwhelmed and too busy to successfully complete the requisite number of classroom visits spelled out in the union contract to oust the teachers that they deemed to be ineffective. Dal Lawrence, then the [Toledo Federation of Teachers] President, proposed a collaborative solution in the form of a new system of peer-to-peer review, support, mentoring and evaluation. By dispersing evaluation responsibilities to teachers, the program would promote professional development, while screening teachers out of the profession who were not effectively serving students. The result was a collaborative effort to initiate the innovative Toledo Plan: Peer Assistance and Review (PAR) in 1981.

The teacher-led Peer Assistance and Review system supports new teachers through a rigorous mentoring and evaluation process, and also helps veteran teachers to improve their practice. The process is tied to extensive professional development offered by Toledo teachers who serve as internal consultants. In addition to coming together to fix the teacher evaluation system and improve teaching quality, the union and administration have also focused on student achievement through the use of student performance data analysis at the school level by the principal, staff and union building representatives. The labor-management partnership in Toledo has also given rise to performance-based compensation systems, nationally ranked innovative specialty high schools, and collaboration with the local community to help provide more opportunities for children. Union-management teams and committees also exist within each school, to analyze student data, and to help decide issues related to curriculum and instruction that are important to faculty and students. The Toledo Review and Alternative Compensation System (TRACS), for example, grants bonuses based on leadership, which includes helping other teachers, and accepting positions at low-performing schools. Further, the Ohio Teachers Incentive Fund (OTIF) allocates bonuses to schools of up to \$2,000 per teacher and administrator, based on whether schools meet their goals for attendance and math and reading scores.

Source: Susan Moore Johnson, John P. Papay, Sarah E. Fiarman, Mindy Sick Munger, and Emily Kalejs Qazilbash, "Teacher to Teacher: Realizing the Potential of Peer Assistance," Center for American Progress, May, 2010.

As the examples in **Figure 11** illustrate, PAR systems have been adapted in various ways to fit their different preferences and needs. The common feature cutting across these examples is that they do not approach performance evaluation in isolation. Each links their PAR system to professional development and compensation in some fashion. Some of the other common features reported in these systems include:

- Joint union-management development of the processes
- Use of student performance/growth measures as one of multiple criteria
- Use of "master" teachers in the evaluation and mentoring processes

- Provision for dismissal of teachers who continue to underperform.

In December 2010 The Massachusetts Teachers Association published a "Framework" document describing ways PAR systems could be employed in Massachusetts districts. An excerpt from that report is shown in **Figure 12**. The report cautions, however, that such a system will only work in districts with positive labor management relations. The cost of implementing a PAR system is also a matter of concern to some district superintendents and school committee representatives.

FIGURE 11

Examples of PAR Systems

ABC Unified – The evaluation document for teachers was developed jointly by the teachers and administrators. The Peer Assistance Support System (PASS) is available to struggling teachers and to teachers who request additional support and coaching.

Baltimore – Teachers earn “achievement units” (AUs) through a range of achievements and activities, including positive evaluations; earning AUs leads to salary increases. All teachers are evaluated annually, and state law requires student growth data to inform 50 percent of the evaluation.

Hillsborough County – The district and union have jointly developed a teacher evaluation system that is based on three components: students’ learning gains (40 percent), ratings by the principal (30 percent), and ratings by a master teacher holding the position of peer evaluator (30 percent). The evaluation system is aligned with professional development so that teachers receive the supports that best meet their needs.

Montgomery County – The district and the teachers’ union have developed a framework for teaching based on Jon Saphier’s *The Skillful Teacher*. Standards of performance in the Professional Growth System (PGS) are based on six standards derived from the core propositions of the National Board for Professional Teaching Standards. Two standards include student performance data as part of the evidence considered in the evaluation. The PGS provides for a three-year professional growth cycle consisting of an evaluative year followed by two years devoted to targeted professional development. A Peer Assistance and Review component offers support to novice and underperforming teachers and provides for dismissal of teachers who continue not to meet the standard.

New Haven – The union and the district introduced a new evaluation system this year that takes into account growth in student learning, classroom observation, and professional values. The weight carried by student learning growth depends on the consistency of that data across years and across metrics. This process solidifies the professional relationship between the manager and the teacher, increasing interactions and conferences. The process includes a third-party validation of instructional practice for those teachers who are potentially classified as “needs improvement” or “exemplary.”

Plattsburgh – The district is piloting a Peer Assistance and Review (PAR) program with novice teachers that will be expanded to include struggling teachers. All new teachers work with a “consulting teacher” who has the full responsibility to formally evaluate the new teacher. The building administrator may conduct informal evaluations. Final decisions are made by the PAR panel.

St. Francis – The jointly initiated Student Performance Improvement Program serves as a vehicle to integrate teacher evaluation, peer review, induction, and compensation. Every teacher has an assigned Performance Review Team made up of two career-ladder teachers (a team leader and a specialist) and one administrator. The team helps the teacher set an annual growth goal, conducts four classroom observations, reviews the teacher’s evidence of student growth, provides an annual rating (which is tied to compensation advancement), and plans the teacher’s next professional development focus.

FIGURE 12

MTA Analysis of PEER ASSISTANCE AND REVIEW

One means of reducing the span of control for administrators is the introduction of a Peer Assistance and Review (PAR) program in which endorsed Peer Reviewers (PRs) address issues and concerns that are related to instructional skills. PAR programs will only work in those districts that have agreed upon a clear standards-based evaluation system and have positive labor-management relationships. These are complex programs that will take time to establish. In addition, the cost is estimated at \$4,000-\$7,000 per teacher served. Some of this may be covered by repurposing existing professional development funding.

A PAR program is overseen by a PAR panel that consists of equal numbers of teachers and administrators, recommended by their respective unions and appointed by the superintendent. The panel would validate judgments that an educator is *unsatisfactory* and should be placed on an improvement plan or that an educator is *exemplary* and should be eligible for additional roles and responsibilities.

In general, PAR panels recruit, interview, select and evaluate teachers serving as Consulting Teachers (CTs), exemplary teachers who have been trained to be peer reviewers. The panel reviews reports submitted by principals and CTs and makes personnel recommendations related to the successful completion of an improvement plan, or dismissal.

In the Novice Program, CTs provide assistance and make recommendations about novice teachers whose performance is generally above *needs improvement*. They provide ongoing support for teaching, model lessons, observe and provide feedback. They submit progress reports to the PAR panel and make recommendations regarding continued employment.

In the Intervention Program, CTs provide assistance to veteran teachers whose performance is rated as *needs improvement* or *unsatisfactory*. The CTs plan and implement an intensive program of intervention and support that includes a minimum number of formal observations, ongoing communication with the teacher, analysis of student data and demonstration lessons. The CTs also make recommendations regarding future employment. PAR panels do not, however, make the final personnel decisions. Massachusetts law is clear in stating that principals hire and fire personnel with the superintendent's approval.

Source: "Reinventing Educator Evaluation," Massachusetts Teachers' Association, December, 2010, p. 21. Available at: <http://www.massteacher.org/news/archive/2011/~~/media/Files/PDFs/CEPP/evalreport.pdf>.

Professional Development

The professional development provisions in innovating districts reinforce the performance evaluation, as illustrated in the summaries included in **Figure 13**. A number of districts and unions have taken the further step of linking professional development to compensation incentives. Some of the common features seen in these examples include:

- Joint teacher union-management development, ownership, and oversight of the professional development processes
- Reliance on expert teachers as coaches, mentors or consultants
- Clear pathways for advancement and for moving into leadership positions
- Development plans jointly developed by the supervisor and the individual teacher.

FIGURE 13

Examples of Professional Development Practices

ABC Unified – The Annual PAL (Partnership between Administrators and Labor) Retreat is created jointly by teachers and administrators to provide a shared professional development opportunity. The focus of the retreat is raising student achievement in the district.

Denver – The contract emphasizes site-based shared decision-making on professional development, school schedules and calendars, and other topics. It creates a school-based “Collaborative School Committee,” which has specific charges, including the development of School Improvement Plans and Professional Development Plans.

Douglas County – The union and the district share joint ownership of the district’s “Center for Staff and Community Development.” The contract creates a wide range of teacher leadership assignments, including instructional coaches, curriculum coordinators, and administrative supports.

Green Dot – Professional development is school-based and overseen by a committee that includes union members and school leadership. The contract creates teacher leadership positions, including teacher mentors.

Helena – The contract establishes a career and professional development system for teachers that is aligned with district goals and supported by the jointly developed Professional Compensation Alternative Plan. The district and employee groups jointly participate in the implementation of a district-wide mentorship program that links together experienced and newly hired educators.

Hillsborough County – The contract provides for three new categories of full-time positions: one enables teachers to act as full-time mentors to other teachers; one provides peer evaluators who share with principals the responsibility of observing and evaluating teachers; and one gives teachers the opportunity to become “teacher leaders” who teach half the day and work the other half with administration on instructional and curricular issues.

Montgomery County – Each contract establishes the shared responsibility of the district and the respective association to jointly plan and implement relevant professional development that supports employee advancement through career pathways (support staff); or establishes a career lattice (teachers) that identifies three stages of professional growth (induction, skillful teacher, lead teacher); or promotes the development of effective school and district leaders (administrators’ association). Professional development plans are created by each staff member with guidance from appropriate evaluators and/or lead teachers.

New Haven – The contract calls for a number of professional development initiatives designed to promote teacher growth. Among these are: a teacher induction and mentoring program, school-based instructional coaches, teacher professional development centers, additional training on special education inclusion, classroom management, data-driven instruction, differentiation, and instructional technology.

St. Francis – The contract calls on teachers to develop an annual 30-hour professional development plan. The contract establishes a Teacher Academy that offers development opportunities in alignment with state and district goals.

Compensation and Incentives

The various compensation reforms found in these districts are summarized in **Figure 14**. If these examples are indicative of what is happening around the country, there is more experimentation with alternative approaches in this area than any other feature found in most teacher contracts. The standard contract typically provides a salary matrix in which (on the vertical axis) teachers advance one step for each year of service up to some limit and advance (on the horizontal axis) as they earn credits toward advanced degrees. Among the different ways parties are either supplementing or modifying this structure include:

- School-based performance incentives and bonuses
- Group or team-based rewards
- Incentives to work in hard-to-serve schools
- Individual increases tied to performance evaluations, professional development and acceptance of leadership responsibilities such as serving a mentor-teachers
- Career “pathways” for promotions to higher levels based on performance
- Rewards for achieving certification on one or more national standard
- Use of multiple years of student performance/growth data
- Provisions for transition to or choice of traditional or new salary plans for incumbent teachers.

FIGURE 14

New Compensation Arrangements

ABC Unified – Wage increases are granted through a range of achievements and activities, including professional development, strong evaluations, gains in student learning outcomes, and completion of eligible coursework. The new compensation system also creates four career “pathways” through which teachers progress based on their performance (Standard, Professional, Model, and Lead Teacher).

Baltimore – The contract creates leadership opportunities for teachers who have demonstrated results. The leadership opportunities include increased responsibilities and salary increases. Former salary lanes have been replaced in the contract by a four-tiered career ladder (Standard, Professional, Model, and Lead Teacher), and opportunities for advancement through “achievement units” tied to evaluation and evidence of leadership and learning. The contract also establishes a joint committee that oversees district professional development initiatives.

Denver – The Professional Compensation System for Teachers (ProComp) replaces the single salary schedule with a system of incentives (both base-building and non-base-building) for specific accomplishments. ProComp includes incentives for school-wide and classroom student growth, working in hard-to-serve schools and hard-to-staff assignments, acquiring and demonstrating skills and knowledge, and earning a satisfactory or better evaluation.

Douglas County – The district has one of the longest-running performance pay programs in the nation. It was developed in 1993-1994 in collaboration with the union. The performance pay program is not a “this or that” compensation model for teachers to select one or the other component. The district goes above and beyond the traditional compensation schedule by using the performance pay program as a personal and group development model that leads to recognitions that are financial rewards. The plan begins with desired skills for staff and cascades to a level of rewarding teacher portfolio and student achievement results.

Helena – The district and union have replaced the single salary schedule with the Professional Compensation Alternative Program, a compensation system that permits teachers to build salary increases for “positive evaluation, career development and education, and professional service.” The district board has remained committed to maintaining the Helena schools’ compensation package as the flagship program in the state, ensuring the recruitment and retention of the highest-quality educators.

Hillsborough County – The contract includes performance pay and “differential pay” for teachers who work in high-poverty schools. The district is moving toward a career ladder under which teachers will be compensated based on three years of value-added student learning gains. Teachers employed by the district during the 2009-2010 school year had the opportunity to choose between the old and new compensation systems, while new hires will be under the new compensation system when it takes effect in 2013.

Montgomery County – The district encourages teachers to earn National Board of Professional Teaching Standards certification by providing specific supports during the certification process and a salary stipend upon achievement of NBPTS certification.

New Haven – The contract calls for the development of a compensation system that include group-based bonuses. The contract also permits incentives to be offered to exemplary teachers who take on teacher leadership positions.

St. Francis – Placement and advancement on the district’s “career lattice” is determined in large part by student performance data, which is based on the specific teacher’s assignment and professional goals.

FIGURE 15

Peer Review System Adopted by UMass Boston Department of Political Science (1990)

As part of the collective bargaining agreement, a certain percentage of the wage settlement was set aside for a “merit pay” pool. Each department at the University was given a share of the pool equal to its share of faculty payroll

- One-half of the department’s merit pool was to be distributed according to any system devised by the department’s faculty themselves; the other half of the pool was assigned to the College dean for distribution as he or she believed justified.
- The Political Science department decided to use a secret ballot system where each tenure and tenure-track faculty member could distribute his or her 100 “chits” to any or all of his or her colleagues. Faculty members were not permitted to distribute “chits” to themselves.
- To provide information on which to vote “chits,” each faculty member filled out an “Annual Faculty Report” form listing his or her contributions to (1) teaching (2) research, and (3) service to the department and the university. These were distributed to each faculty member for their review along with the summary statistics on student evaluations for each of the faculty member’s courses that year.
- Based on the distribution of chits, faculty members were placed into three categories: “High Merit”, “Low Merit”, and “No Merit”. Faculty assigned “High Merit” scores were given twice as much of the faculty-controlled merit pay pool as the “Low Merit” faculty. “No Merit” faculty received none.
- The College dean could ratify this distribution if he or she agreed with the merit rating of the faculty. However, the dean was not required to follow this distribution. There were few instances where the dean’s ranking differed from that of the faculty.
- If an individual faculty member felt that he or she had been discriminated against in the faculty rankings, an appeal could be made to the College dean to rectify the situation. This rarely if ever occurred.

Source: Barry Bluestone, Northeastern University

Figure 15 summarizes a particular approach to distributing performance based pay in a university setting at the University of Massachusetts Boston in the 1990s. It provided for peer review based merit pay with half of a merit raise pool distributed according to the evaluation of department colleagues and half by the dean of the College.

FIGURE 16

Transfer, Assignment, Promotion, and Dismissal Practices

Baltimore – The contract places a high priority on shared agreement between teacher and principal for all transfers—voluntary and involuntary. Forced placement is possible but it is not the district’s current practice, which emphasizes mutual consent.

Denver – Teacher selections and reductions for program and enrollment changes are conducted by a committee that includes teachers and the principal. Classroom performance is considered as a part of these decisions, and seniority is not. Under a new Colorado state law, all transfers/hiring of teachers in schools must be by mutual consent of the teacher and the school. Teachers reduced in a building have the longer of two hiring cycles or one year to find a mutual consent placement before being placed on unpaid leave. Teachers on unpaid leave who find mutual consent positions return at the same salary level and seniority as when they went on leave.

Green Dot – The contract places high priority on shared agreement between teacher and principal when selecting teachers, but Green Dot does permit forced placements. Teacher evaluation is a factor in transfer decisions; seniority applies only when all other factors are equal.

New Haven – When turnaround schools are reconstituted, all teachers must compete along with other interested teachers for a position in the school. Teachers maintain employment rights if they choose not to apply or are not selected. Careful coordination between HR and the teachers’ union occurs to avoid bumping and involuntary transfers.

Transfer and Assignment

Transfers, assignments, promotions, and dismissals are handled in a variety of ways as illustrated in **Figure 16**. One of the most significant challenges being addressed in a number of large urban districts involves transfers, assignments, and compensation arrangements for “pilot”, “turnaround”, or “restructured” schools. Detroit, Baltimore, Cincinnati, Philadelphia, and Los Angeles, among others, have negotiated agreements that allow these schools to experiment with flexible application, selection, evaluation, and compensation arrangements. **Figure 17** summarizes how the superintendent in Sacramento and the Sacramento Teachers Association negotiated a memorandum of understanding to create six pilot schools in that city. **Figure 18** illustrates the type of language and provisions districts and unions are negotiating to both demonstrate their mutual commitment to experimenting with these innovations and to address some of the key issues involved in staffing them.

Some of the notable features in these examples include:

- A commitment to a shared set of values focused on student achievement and school improvement
- An emphasis on voluntary transfer/applications to transfer to turnaround schools
- Selection of teacher staff by principals of turnaround schools
- Assurance of employment continuity for teachers transferring to turnaround schools
- Continuation of union representation for teachers in turnaround schools
- Flexibility to modify and/or totally redesign work days/school hours/school year and a range of other specific provisions in the district-wide contract.

Processes

Negotiating, implementing, and sustaining these substantive changes will require significant adaptation in school-site and district level processes and relationships. We will review the approaches taken to achieve these changes in this section.

FIGURE 17

The Sacramento Pilot School Experiment

In 2009 after nearly half of the schools in the Sacramento City United School District were designated as underperforming given a set of standards created by the California Department of Education, the District Board hired a new superintendent with a mandate to improve these underperforming schools. The strategy that emerged from discussions between the new superintendent, the Sacramento Teachers Association and the SEIU, representing the allied trades in the schools, was to identify a manageable sample of failing schools with the intention of creating a pilot “priority schools” initiative.

The superintendent was allowed to select six new principals with the leadership skills to effectuate real culture change in these selected schools—in large part by allowing the principals to seek out teachers who wanted to join the efforts to turn these six schools around. In practice this meant giving the existing staff the opportunity to stay and work in this new experimental environment or transfer to another school.

The District and the Sacramento Teachers Association signed a Memorandum of Understanding in 2010 providing for voluntary reassignment of teachers at the six “Priority Schools”. Under the MOU, these schools saw a majority turnover in staff between the end of the 2010 and 2011 school years. Under the terms of the memorandum, the new teachers in these schools will not be subject to future redundancies in the District regardless of seniority thus insuring continuity of staff as the teachers and administrators at these pilot schools struggle to improve performance. All of the former staff at these schools were successfully reassigned to other schools in the district.

The MOU was the mechanism that allowed for the creation of nearly entirely new teaching staffs at the Priority Schools while honoring the existing contract and respecting the rights of the existing staff to seek teaching assignments in other schools.

Based on the first two years of data, each of these six Priority Schools achieved dramatic improvements in student test scores, attendance, and discipline measures.

Source: Interviews with Sacramento City United School District officials conducted by Senior Research Associate Russ Eckel, June-September, 2011.

Leadership

One common feature of all models of organizational change is recognition of the need for strong, committed leadership from the top of the organization(s) involved. In education, innovation leadership from the superintendent and at the school-site level, the principal, is a necessary condition for success. Long tenure of a committed leader is even more helpful.

The importance of strong, top-level leadership also came through in interviews with Massachusetts superintendents and union leaders. One superintendent put it this way:

“I sit down and bargain every three years with our unions. And I bargain the contracts myself. We have an excellent law firm representing us but I leave the lawyers out of the room. And after we’re done and the contract is signed there is very little discussion about union issues in this office. At that point it all about the students.”

This quote illustrates a management-led approach to education innovation. This superintendent has a long history of successful innovation largely achieved through personal direct interactions with teachers

FIGURE 18

St. Paul Approach to Transfer and Staffing Provisions for Restructured Schools

The District and the Union agree that one of the approaches to achieving the mutual goal of ensuring success for all students is to work together to restructure schools when it is deemed necessary. These Restructured Schools must be free to choose their own staffs, develop new cultures of successful performance and learning, redesign work rules, modify the length of the instructional day and year, modify scheduling, improve instruction programs and pedagogy, and recognize teacher and leader effectiveness in accordance with state and federal guidelines and statutes.

It is the intent of the Parties that teachers and administrators in these schools will work collaboratively to create effective learning environments for students. Teachers, other school staff, and parents shall have a voice in designing programs and determining work rules that are likely to be successful in such schools.

All teachers who elect and are selected to work in Restructured Schools shall maintain their full status as members of the Saint Paul Federation of Teachers teacher bargaining unit and as employees of the Saint Paul Public Schools.

Teachers shall work in Restructured Schools on a voluntary basis. When a school is designated as a Restructured School and an approved Election to Work Agreement is in place, existing teaching staff will be invited to apply to remain in the school. The principal of the school and/or Superintendent shall have the authority to determine which teacher applicants will be accepted. The application and selection process will be clearly communicated in the Election to Work Agreement.

Teachers at a school to be restructured who are not selected to staff the Restructured School shall be transferred to another District teaching position through the voluntary/involuntary transfer processes as defined in the labor agreement.

Source: St. Paul Public Schools and St. Paul Federation of Teachers Collective Bargaining Agreement

and, where appropriate, with union leaders outside of the formal contract negotiations process. This is the preferred approach of many top-level executives and can work as long as (1) the management-leader remains in place, and (2) the changes being introduced do not require major modifications of the collective bargaining agreement. It represents a hybrid approach between a more comprehensive district-union partnership and the 20th century traditional labor-management relationship.

Achieving comprehensive educational reform and innovations in union-management relations requires some form of distributed or shared leadership to emerge and be sustained through time. Here long term leadership is equally helpful on the union side of the relationship,

as the report on the six districts with sustained labor management partnerships indicated.

“All of these districts have enjoyed long-term leadership from their union presidents, some going back several decades. Most have also had long-term leadership from their superintendents as well. This has provided the stability for the institutional partnership, and also allowed for an individual partnership to be formed between the union president and the superintendent that establishes the direction and expectation for the rest of the union leadership, membership and district administration.”¹²

Shared Responsibilities

District and union leaders that have embarked on this approach, like their private sector counterparts, have developed a wide range of structures and processes at the district and school- site levels to carry out and support their shared responsibilities for educational improvement. **Figure 19** illustrates the range of approaches taken to implement these shared responsibilities. Note that many of these parties have established multi-stakeholder bodies at the district level to create a shared vision for education innovation and to lead and

sustain these efforts. They also create site-based (school building level) processes for building shared responsibility among teachers, principals, and other relevant staff for fostering innovation and continuous improvements in educational outcomes.

The language included in the 2010 Baltimore Federation of Teachers contract provides a good illustration of a collaborative approach to overseeing, monitoring, and evaluating their innovation efforts. **Figure 20** summarizes their approach. The key points are:

- Joint assessment of student needs and the capacity of the professional staff to meet those needs

FIGURE 19

Examples of Shared Responsibility Structures and Processes

ABC Unified – The district’s strategic plan consists of five major directions that are evaluated each year by the community – including teachers, administrators, parents, students, and the board of education. The strategic plan focuses on the involvement of all stakeholders in raising student achievement.

Denver – The contract calls for a partnership focused on improving student outcomes; collaboration between the district and union, with shared professional responsibility for improvement. The contract also outlines standards for behavior in the district-union partnership, making clear that all stakeholders share professional responsibility for the district’s goals, policies, and practices.

Green Dot – The contract establishes that the school will consider staff input, and decisions will be made collaboratively. In addition, the contract contains language recognizing that the union and school leadership maintain fluid communication and a willingness to work through issues and concerns. The parties affirm that this collaboration is particularly important during the formative years of a school.

Helena – The contract calls for “consensus negotiations” that bring all parties together to express a shared vision for the district, including a transparent, common understanding of the financial resources (including salaries and benefits) available to achieve that vision.

Montgomery County – The contracts with each of the three employee associations provide a detailed description of the labor-management relationship. They focus on the principles of interest-based bargaining in a collaborative, respectful culture in which there is a mutual commitment to a self-renewing organization dedicated to continuous improvement and performance excellence for staff and students. Language in each contract affirms a commitment to work through issues and concerns. Each association provides input in the updating of the strategic plan and in the setting of annual performance targets associated with that plan.

New Haven – New Haven’s School Change Initiative was discussed and shaped by the district, the city, and the New Haven Federation of Teachers outside of contract negotiation, in the context of a larger strategic and operational partnership. Ongoing work, including the shaping and monitoring of reform directions and the delivery of specific reform products (i.e., the Teacher Evaluation and Development System) happen through formal cross-constituency committees.

FIGURE 20

The Baltimore Approach to Overseeing and Evaluating Its Innovations

The 2010-2013 Agreement created a **jointly administered professional development** program known as the Baltimore Professional Practices and Student Learning Program (BPPSLP) as a means of enhancing teacher effectiveness and student achievement. This Program creates a new strategic direction for the District with respect to education reform and school performance. Section 5.2 of the Agreement states the following:

“The Board and the BTU believe that the BPPSLP will encourage teacher and staff leadership, give teachers and staff decision making responsibility and reward teachers and staff for the valuable work they do.”

The Agreement establishes a **Joint Oversight Committee** for this purpose. The Agreement states:

“There shall be a Joint Oversight Committee to provide oversight of all planning, development, and implementation of the BPPSLP. The committee will be comprised of ten members, five appointed by the Board and five appointed by the Union which shall include the CEO, the BTU President, and their designees.” The committee will, among other things:

- Define the full scope and objectives of the BPPSP
- Assess the needs of the district for programs needed by students and the capacity of the professional staff to meet those needs
- Identify educational and professional activities that need to be engaged in by staff, evaluated for effectiveness, and serve as a basis for compensation decisions
- Create and oversee a system for ensuring reliability of evaluations conducted by principals, including but not limited to, observations of teachers to ensure inter-rater reliability
- Determine whether there are worksites that have experienced significant change in the proportion of teachers receiving lower evaluations as compared to the previous school year. If so, an investigation shall be conducted including the examination of the evidence used in reaching the decisions. The investigation shall be conducted by representatives appointed by the CEO and the President of the Union
- Create and oversee the process to select members to Professional Peer Review committees, designate their responsibilities and provide general oversight of their work. Teachers will apply to the President of the BTU consistent with the application process developed by the Joint Oversight Committee to serve on the Peer Review Committee
- Review and affirm the administrative and infrastructure capacity of the system and certify the program is ready for implementation
- Certify that the district has the resources to implement and sustain this program.

By no later than January 30th 2013, the Joint Oversight Committee must certify that a research base and body of evidence exists upon which the BPPSLP concept has improved professional practices, increased student learning, and increased career acceleration and opportunities as evidenced by increased interval and Pathway movement and lead teacher placement. If the Oversight Committee does not certify, the BPPSLP shall terminate on January 30, 2013 and the then existing pay scale shall be converted into a traditional salary scale based upon steps or lanes with no loss of salary or benefits.

FIGURE 21

Basic Techniques of “Interest Based Bargaining” (IBB)

- Describe bargaining issues in problem statements
- Share all information relevant to the issue
- Discuss the parties’ shared and separate interests on the issue
- Brainstorm a variety of options for resolving the issue
- Narrow options with jointly developed criteria or standards
- Use consensus to agree on the options that best satisfy the parties’ interests

Source: Sally Klingel, “Interest Based Bargaining in Education.” Cornell/ILR School Digital Commons, November, 2003.

- Identification of educational and professional activities that need to be evaluated for effectiveness and to serve as a basis for compensation decisions
- Creation a system to assure the reliability of the evaluation system

- Joint investigation into schools where there is an increase in the number of teachers receiving lower evaluations
- Oversight of the selection of members to Professional Peer Review committees within the schools
- Joint certification that the district has the resources to implement and sustain new school-based programs.

Interest Based Bargaining and Problem Solving

Finally we come to the question of how the parties “get to yes” to reach consensus on the specific substantive changes appropriate to their needs and circumstances. This is where the role of interest based bargaining (IBB) can and has played a significant role in many of these and other districts around the country and in Massachusetts.¹³

What is IBB and how can parties put this process to work? **Figure 21** provides a brief summary of the basic features of this approach to negotiations. Essentially it is an adaptation of basic problem solving techniques, starting with a clear statement of the problem (each party’s interests or objectives), a joint analysis of the data needed to evaluate root causes of the problem and alternatives for addressing it, articulation of the criteria to be

FIGURE 22

Suggested Steps for Implementing IBB

- Orientation sessions for broad cross-sections of constituents and stakeholder groups prior to the agreement by parties to utilize IBB, with an emphasis on developing awareness and gaining commitment from constituents to try the process;
- Intensive training for bargaining teams in the techniques, behavioral skills, and concepts of IBB before commitment to the process;
- Development of clear ground rules for behaviors and protocols before engaging in bargaining;
- The use of facilitators to help craft negotiating protocols and guide bargaining sessions;
- Clear process for developing information needs, sources, and analysis of information;
- Clear process and format for collecting, presenting, and prioritizing issues for bargaining;
- Post-bargaining training for constituents in implementation of the contract and use of IBB techniques in contract administration to institutionalize both the agreements and the problem-solving process.

Source: “Interest Based Bargaining in Education,” p. 13.

considered in choosing among alternatives, choice of an option, and implementation, monitoring, and evaluation of the results achieved following implementation. Note how this approach departs from the positional demand-counter demand starting points followed by a slow and grudging sequence of moves and counter-moves toward a compromise agreement characteristic of traditional collective bargaining (and traditional negotiations in many other economic or political settings.)

Implementing and supporting IBB requires an investment on the part of both district and union representatives, indeed all the stakeholders in education. **Figure 22** summarizes the steps experts believe are essential for introducing and sustaining IBB.

Figure 23 summarizes the design of a long running interest-based negotiation training seminar. It includes a stage for “negotiating over how to negotiate,” i.e.,

FIGURE 23

Five Phases in the Bargaining Process

1. **Prepare**
2. **Bargain Over How to Bargain**
3. **Open & Explore**
4. **Focus & Agree**
5. **Implement & Sustain**

Source: Joel Cutcher-Gershenfeld, Robert McKersie, Nancy Peace, and Thomas Kochan, “Transformational Education Negotiations” MIT Institute for Work and Employment Research, October, 2010.

developing consensus on the protocols and timetables that will govern the process, and it ends with a concrete plan for implementing and sustaining the agreements reached. Each stage is elaborated with a detailed toolkit or checklist of issues to address. For example, the “negotiating over how to negotiate” checklist includes issues such as when and how to use sub-committees, the role

of facilitators, brainstorming, caucuses, and communications (both between negotiating teams and with constituents and the media). The “implementing and sustaining” checklist provides a worksheet for holding the parties accountable by encouraging them to detail “5Ws and How” (who, what, when, where, why and how) they will carry out the agreements reached.

IBB in Practice in Massachusetts

A recent survey of Massachusetts school superintendents carried out by Scott Borstel, Superintendent of the Marshfield School District, explored the extent to which IBB is being practiced in Massachusetts. He found:

- 39% of superintendents described their bargaining as “traditional”, 18% described it as collaborative (i.e. interest based), and 44% described their bargaining as a mixture of collaborative and traditional negotiations.
- Superintendents with more than seven years of experience in a district were more likely to employ collaborative bargaining than those with less tenure.
- Superintendents reporting they used either collaborative or both collaborative and traditional bargaining processes compared to using traditional practices only rated their relationships with the union more favorably and shared more positive views regarding contract language and teacher performance.¹⁴

These data reinforce the findings from the private sector studies reviewed earlier. There is considerable experience with forms of IBB in Massachusetts education negotiations and those parties using IBB or mixing it with traditional negotiations report more positive results than those relying on traditional negotiations techniques alone. However, these practices are at this point limited to a small number of districts across the state and many union leaders, lawyers who represent school districts and local unions, and some rank and file teachers are skeptical that these processes can produce positive results. Moreover, there is no guarantee that use of IBB to solve problems in one negotiation will carry over to the next. Too often, as the example in **Figure 24** illustrates, turnover in district or union leadership results in a return to the comforts of traditional bargaining. The challenge is to make IBB the norm not the exception in negotiations. This will require significant

FIGURE 24

Interest Based Bargaining Achievements and Limitations in the Face of Leadership Turnover

The teachers' contract signed in 2003 only occurred after a prolonged period that carried negotiations well past the expiration of the prior agreement and involved work to rule by the teachers and considerable acrimony.

So in July 2005 with the expiration of the contract on the horizon, the union and the new superintendent attended a two day IBB training seminar. They found the experience valuable and agreed to implement some of the concepts and tools of IBB. A follow-up half-day seminar was then held for the full union bargaining committee and for town officials.

Bargaining started in the fall and continued throughout the school year with the help of a facilitator. The contract was signed before the deadline the next summer.

The most significant tool employed by the parties was the formation of joint teams for key agenda items. The subcommittee charged with surveying salaries for comparable towns came back with some ah hahs! (e.g. senior teachers were not as far behind as assumed). Good work also occurred in non-money areas such as staffing and assignments for special education.

As the parties approached negotiations for the 2009 agreement all the key leadership slots had new faces. This combined with budget problems led the parties into a time warp that carried bargaining two years beyond the expiration before a contract was eventually signed and made retroactive to the expiration date.

Has there been any carryover from the 2006 experience - some but not a great deal. The current union vice president knows about the 2006 experience and would like to build on this record - with an emphasis on wide ranging collaboration. Whether this leader can build the support needed to revisit and apply the lessons from this experience remains to be seen.

investment in training and facilitation, and support from state level education and union leaders to overcome skeptics of this approach within their ranks. We will suggest ways to do this in the concluding section of this report.

Together these data and experiences elsewhere suggest that IBB is neither a panacea nor a "single best way" that will fit all situations. It requires strong joint commitment on the part of district and union leaders to improve on their problem-solving potential and requires a great deal of communication with all the stakeholders—constituents, parents, the media—for this approach to pay off and to maintain support over time. Many parties mix IBB techniques and traditional negotiations in ways that fit their relationship and the issues on their agenda. The use of joint study committees, often set up well before negotiations begin, are especially useful when there is (as the exhibits on performance evaluation and

other terms illustrate) experience and data available from other settings that can be summarized and jointly presented to the chief bargainers.¹⁵

Putting a Collaborative Approach to Work in Massachusetts: A Comprehensive Strategy

Our goal in preparing this report was to provide an evidence and experience-based framework for key stakeholders to use for transforming labor management relations in education and to serve as a catalyst for education improvement.

A good starting point might entail convening a multi-stakeholder forum to discuss this report and to develop a new *Massachusetts Compact for Collaborative Education Improvement*. While we believe the principles we lay out at the beginning of this report are good starting points

for the Compact, it is important that the key stakeholders shape and reach consensus both on basic principles and on concrete actions for moving forward.

Immediate Opportunities for Action

There are a number of opportunities for immediate action, such as the joint efforts needed to put *Race to the Top* funds to work and the joint efforts needed to negotiate and put in place the new teacher evaluation system. Both of these offer opportunities to engage front-line teachers and administrators at the school-site levels, use interest-based problem solving approaches to negotiating whatever changes in bargaining agreements are required, and to jointly monitor, evaluate, and learn from initial experiences with these innovations.

Consistent with prior experiences with joint initiatives that start around specific issues like these, the parties might then apply the same problem solving-interest-based tools when the time comes for the next round of contract negotiations. Collective bargaining has a key role to play in reinforcing and institutionalizing innovations that demonstrate their value. And by treating the contract as a “living document,” to borrow the UAW’s term, the cycle of innovation can continue during the terms of future agreements. Codifying the innovations and reinforcing them in the parties’ written agreements are critical to sustaining support for the innovations as union leaders, superintendents, and school committee leaders turn over.

Options for Longer Term Consideration

The actions called for above would retain the current district-by-district structures for collective bargaining. Another option that has been proposed from time to time and that is worth considering is moving to more regional and/or state-wide structures for negotiating basic wages and benefits while leaving the issues related to education reform and innovation and the other terms of employment to be decided at the district and school levels. This would reduce the amount of time and resources district and local union leaders have to devote to bargaining and leave more time to focus on their educational innovation efforts.

The above actions also largely call for incremental changes to existing collective bargaining agreements to allow education reforms and innovations to be carried out. By and large these could be achieved (as they have in most other districts around the country) without

rewriting or eliminating many of the detailed rules now found in teacher contracts. Others have proposed replacing these detailed contracts with “thin” agreements similar to the 28 page Saturn agreement described earlier in this report. Essentially this is what some of the pilot and/or public charter schools have done. Whether or not this more ambitious approach is adopted, over time there will need to be on-going dialogue over how to incorporate the lessons learned from the pilots and other experimental schools into terms of employment governing other schools in the district. Doing so will provide an opportunity to continue the transition from a traditional industrial-style, 20th century to a professional-style 21st century employment relationship.

Institutional and State Policy Supports

As noted earlier in this report, one of the key lessons from the private sector efforts to transform labor management relations is the need for active institutional and public policy support. In the absence of state level reinforcement and leadership, the private sector experience is likely to be replicated: islands of successful (even spectacular) innovations in selected districts will emerge but fail to spread across the state and have difficulty surviving changes in political leadership in local unions, school districts, and/or state government.

Therefore, a key issue for discussion among the stakeholders is: *What resources, institutional supports, and public policy changes will be needed to diffuse and sustain the transformation and innovation processes?*

We suggest the following supports as a starting point for discussion of this question:

- In response to the 80 to 90 percent call for professional development/training on problem solving approaches to negotiations and on-going workplace partnerships, we suggest creation of a state-wide public-private “Academy” that would provide training in interest based negotiations and facilitation of on-going site-based engagement, shared responsibility, and labor management partnership processes.
- When public sector collective bargaining statutes were first enacted a new cadre of mediators and arbitrators were recruited, trained, and put into the field to support the development of this process. The same effort will now be needed to develop and make available facilitators trained in state-of-the art negotiations and change skills to districts and local unions

engaged in the innovation process. The Academy could recruit, train, and deploy as needed a roster of full-time and part-time or per diem facilitators. Alternatively, these functions could be assigned to an expanded and re-chartered Massachusetts Division of Labor Relations, the state agency currently in charge of providing mediation services and adjudicating disputes in the public sector.

- Similarly, in many states the initial public sector statutes were designed and then later evaluated by study teams that involved academic experts working with labor and management leaders. It will be important to put in place a similar, but consistent with the times, a broader multi-stakeholder oversight commission that takes responsibility for and has the necessary resources to monitor, evaluate, and learn from initial experiences with collaborative innovation efforts and to serve as a sustaining force through changes in leadership in state and local government.
- An on-line Massachusetts Learning Network could be created for leaders in different districts and local unions to share experiences with common issues and innovative efforts and to get on-line feedback/ advice from facilitators with expertise on the different subjects. The U.S. Department of Education is considering developing such a network. If they do so, the Massachusetts Learning Network could be linked to this broader initiative.
- Given the large number of young teachers who have either recently been hired or will be recruited in the next decade, a special leadership development curriculum and program could be created and offered to provide the next generation of mentor teachers, union leaders, and education administrators the skills and capabilities needed to support and sustain the innovation process and the 21st century labor management model envisioned here.

Extending the Lessons: A 21st Century Public Sector Strategy for Massachusetts

While this report focuses on the immediate challenges and opportunities facing the education sector, equivalent pressures for change are being felt in all public sector services in state and local government across the Commonwealth and around the nation. Equivalent local level innovations in negotiations and day-to-day labor management relations need to be initiated in these other public service settings. Indeed, there is already considerable momentum in this direction:

- Transportation reform is moving forward with the help of a coalition bargaining agreement that merged the workforces and bargaining units from the Mass Turnpike and other agencies into a single, integrated Massachusetts Department of Transportation. The agreement provides for an on-going operational improvement and savings program in which employees share a portion of the savings they help achieve. Aligning the incentives and interests of the parties in this way may serve as a model for other state and local agencies in the future.
- Pension reforms enacted this past year will reduce future pension costs and eliminate practices that led some to abuse these benefits.
- In April 2011 a coalition of nineteen of the thirty-six unions representing City of Boston employees took the lead in negotiating changes to their health plan that will save the city \$70 million over a four year time span. The coalition and city representatives are now working together to develop jointly sponsored wellness programs that could further reduce health care costs and improve the health of the city's workforce.
- Health insurance reforms were enacted into the current state budget that will bring more local government employees into the state-wide health insurance system while preserving local opportunities to negotiate alternative ways to obtain the equivalent savings. Importantly, the approach taken allows for use of collective bargaining to address these issues and provides a speedy and certain resolution mechanism to assure the savings are achieved in an equitable fashion. If municipalities, school districts, and union coalitions follow the Boston example they could also work together to develop jointly

sponsored and led wellness programs and pursue other ideas for achieving further cost reductions and improved health of the workforce.

- Agreements between the state government and state employee unions were negotiated that have provided stability through this time of turbulence and conflict in other states across the country. The parties addressed the fiscal realities of the state budget by deferring wage increases, implementing furloughs, and modifying health insurance options while at the same time utilizing employee and union ideas to incorporate changes that fit the interests and needs of different occupational groups.
- One important achievement of information sharing and joint analysis by the state government and union representatives is that their joint analysis found that the state could save over \$8 million a year and create 200 new state jobs by bringing various information technology tasks back in house that had previously been contracted out. This demonstrated ability to work through difficult and complex issues provides a solid foundation for the parties to explore ways to engage the workforce in cost savings and other problem solving processes and to continue to use interest-based, problem-solving approaches in negotiating successor bargaining agreements.

If all the parties who share an interest in and responsibility for public service labor-management relations take up the challenges and opportunities facing them, Massachusetts will demonstrate that there are positive and effective alternatives to the approaches taken in Wisconsin and other states. The Commonwealth can demonstrate to the nation that there are more successful ways to enhance the efficiency and effectiveness of public services while preserving the cherished principal of collective bargaining.

Endnotes

- ¹ For an earlier study urging expanded use of similar innovations in education labor management relations, see Linda Kaboolian and Paul Sutherland (eds.) *Win-Win Labor-Management Collaboration in Education*. Boston: Rennie Center for Education Research and Policy, 2005.
- ² For the complete 2006-2010 Boston Teachers Union contract with the Boston School Committee, see <http://www.btu.org/contract-highlights/contract-download>.
- ³ Data on teacher demographics taken from *Massachusetts Teachers Retirement System Actuarial Valuation Report*, June, 2010. <http://www.mass.gov/perac/teachers/2010teachersval.pdf>.
- ⁴ We thank the Massachusetts Teachers Association, the Massachusetts Federation of Teachers, the Massachusetts Association of School Superintendents, and the Massachusetts Association School Committees for their assistance in distributing the survey to their members.
- ⁵ Department of Education, "Advancing Student Achievement through Labor-Management Collaboration," Conference Report, Denver, Colorado, February 15-16, 2011.
- ⁶ Saul A. Rubinstein and John E. McCarthy, *Collaborative School Reform: Creating Union-Management Partnerships to Improve Public School Systems*, Rutgers University School of Management and Labor Relations, October, 2010.
- ⁷ UAW Saturn Corporation "Memorandum of Agreement," sec. 10, "Structure and Decision-Making Process," July 24, 1985, p. 4.
- ⁸ J. Cutcher-Gershenfeld & Kochan, T. (2004). "Taking Stock: Collective Bargaining at the Turn of the Century". *Industrial and Labor Relations Review*, 58(1), 3-26; Cutcher-Gershenfeld, J., T. Kochan, B. Barrett and J.P. Ferguson (2007) "Collective Bargaining in the Twenty-First Century: A Negotiations Institution at Risk," *Negotiation Journal*, (July: 249-65).
- ⁹ S.E. Black and L.M. Lynch (1997) "How to Compete: The Impact of Workplace Practices and Information Technology on Productivity," NBER Working Papers 6120, National Bureau of Economic Research, Inc.
- ¹⁰ For a review, see Eileen Appelbaum, Jody Hoffer Gittel, and Carrie Leana, "High Performance Work Practices and Economic Recovery," www.employmentpolicy.org.
- ¹¹ Saul A. Rubinstein and John McCarthy, "Reforming Public School Systems through Sustained Union-Management Collaboration," July, 2011. www.americanprogress.org.
- ¹² Rubinstein and McCarthy, *Collaborative School Reform*, p. 6.
- ¹³ For a recent study of the use of interest based bargaining in education in Massachusetts, see Scott L. Borstel, "Massachusetts Superintendents' Perceptions of Teacher Bargaining Practices," EdD Dissertation, School of Education, Johnson & Wales University, Providence, Rhode Island, February, 2010. See Kaboolian and Sutherland, *Win-win Labor Management Collaboration in Education* for an earlier study of interest based bargaining in education.
- ¹⁴ Borstel, "Massachusetts Superintendents' Perception of Teacher Bargaining Practices."
- ¹⁵ For a detailed description of how IBB has been used to negotiate collective bargaining agreements at Kaiser Permanente, see Robert B. McKersie, Teresa Sharpe, Thomas Kochan, Adrienne Eaton, George Strauss, and Marty Morgenstern, "Bargaining Theory Meets Interest-Based Negotiations: A Case Study," *Industrial Relations* Vol. 47, No. 1, January, 2008, 66-96.

