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## Successful Union Strategies for Winning Certification Elections and First Contracts: Report to Union Participants (Part 2: First Contract Survey Results)

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## Successful Union Strategies for Winning Certification Elections and First Contracts: Report to Union Participants (Part 2: First Contract Survey Results)

### Abstract

Summary of results from 1986-1988 survey of 100 chief negotiators conducted by Kate Bronfenbrenner in cooperation with the Organizing Department of the AFL-CIO.

### Keywords

labor movement, unions, certification, contracts

### Comments

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**SUCCESSFUL UNION STRATEGIES FOR WINNING  
CERTIFICATION ELECTIONS AND FIRST CONTRACTS:  
REPORT TO UNION PARTICIPANTS**

**PART 2: FIRST CONTRACT SURVEY RESULTS**

Summary of results from 1986-1988 survey of 100 chief negotiators conducted by Kate Bronfenbrenner in cooperation with the Organizing Department of the AFL-CIO. For additional information please contact:

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## **Introduction to First Contract Campaign Research**

Winning certification elections is just the first hurdle unions must overcome in their efforts to unionize unorganized workers. The union organizing process only becomes complete when the union is able to successfully negotiate a first agreement for the newly organized unit. All too often stunning union election victories turn into devastating first contract defeats through decertifications, broken strikes, plant shutdowns or the outright refusal of the employer to bargain. Yet, unions and industrial relations researchers still tend to measure union organizing success in terms of the number of elections won, or the number of eligible voters in units where the union won the election. A more accurate measure would be the number of workers covered in units where the union successfully bargained for and executed a first agreement. For without a first contract, a union election victory becomes all but meaningless, and workers are left without any lasting union representation or protection.

Unfortunately, this number is hard to come by. Although the NLRB keeps records of every certification election, there is no centralized reporting system for first contract campaign outcomes. In fact, the only way to gain any information on first contract campaigns is to use the NLRB election data to track down unions and/or employers to survey them about the first contract campaign process. Needless to say, this is a very difficult, costly and time consuming endeavor. As a part of their organizing surveys, the AFL-CIO has regularly asked organizers whether a first contract was achieved, but they have not gone on to ask any further questions about the first contract process. On the academic side there have been only two published



studies of first contract campaigns, in contrast to the profusion of research examining union certification election campaigns. Although these studies mark an important first step in learning more about what it takes to win a first contract, they provide us with only limited insights. For example, neither of the studies examine the role played by bargaining unit demographics or union tactics during the first contract campaign.

It is for this reason that in 1988 the AFL-CIO and I agreed to work together to build on the results of our survey of 1986-87 organizing campaigns to research factors contributing to first contract outcomes. I was able to survey 100 chief negotiators for units in the original sample where the union won the election. The first contract interviews included questions regarding bargaining climate, the negotiations process, employer and union tactics during the contract campaign, as well as the actual bargaining outcome. In addition I requested copies of the first contract for all bargaining units where a contract was achieved.

In this report follows I will discuss the preliminary results from the negotiating survey, including Current Bargaining Unit Status, Bargaining Climate, Company Background, Unit Background, Negotiator Background, Bargaining Process, Employer Tactics Before and After the Election, Union Tactics Before and After the Election and Contract Language Achieved in the First Agreement. I have also run more sophisticated statistical tests to determine which variables have a statistically significant impact on first contract outcome when we control for the influence of all of the other variables in the first contract campaign model. This kind of statistical testing is very important to better understand the first contract process, because there may be other factors that can distort or exaggerate the impact of any specific variable. The results from the statistical analysis are summarized in Table 1 at the end of this report, which

shows the degree of the impact each variable in the model has on first contract outcome.

Although many of the employer tactics, company background and negotiator background variables do appear to be significantly related to first contract outcome, the first contract results are much less definitive than the organizing results. There are several reasons for this difference. First of all the first contract sample is much smaller than the organizing sample (100 compared to 261 cases) because the survey had to be limited to the 119 elections in the organizing sample that were won by the union. Secondly the bargaining process is much more complicated than the organizing process. During the first contract campaign the interaction between public attitudes, company background, economic climate, unit demographics, and employer and union tactics is much more complex and much more difficult to measure. Larger samples and further research will need to be done to get a clearer picture of the first contract campaign process. Thus rather than reaching any definitive conclusions, I would argue that this first contract study represents exploratory research that lays the ground work for follow-up research by other union researchers.

## **Current Bargaining Unit Status**

### **1. First Contract Rates**

**Unions were able to obtain a first agreement in 80 out of the 100 units in the first contract sample.** This 80% first contract rate is relatively good news for the labor movement, because the prevailing understanding had been that union first contract rates were declining from 77% in the late 1970's to close to 60% by the end of the decade. However, the improvement in first contract rates may be explained by the fact that this is the first study to examine first contract rates more than two years after the certification election. With 14% of the units

in the survey not even beginning negotiations for their first agreement until more than a year had passed since the election, it is no wonder that earlier studies which surveyed unions only a year to a year-and-a-half after the election would underestimate the first contract rate. **Although the success rate declines from 95% in units where bargaining started within 30 days of the election, to 71% in units where bargaining started more than a year after the election, the overall union first contract rate turned out to be better than expected. However, it still means that only 27 percent of workers who vote in union certification elections end up being covered under a union agreement.**

## **2. Status of Units Which Failed to Achieve a First Agreement**

Of the twenty units that failed to win a first contract, two units were still bargaining, six units were lost through decertification elections, four units were lost due to plant closings, in four units the employer successfully withdrew recognition because of high turnover and loss of union support and in another four units the union withdrew after unsuccessfully attempting to bargain for a first agreement. In some cases the plant closing occurred right after the election, affording the union little opportunity to bargain over anything other than severance pay. For other units the plant closing occurred after the union had engaged in an aggressive and apparently successful first contract campaign, reaching a tentative agreement only to be notified on the day of the ratification vote that the plant was going to be closed before the contract would go into effect.

## **3. Second Agreements**

The second agreement casualty rate is also disturbing, with five units losing certifications by the time the survey was completed, and many more units possibly losing their certifications in the process of negotiating for a second agreement in 1991 and 1992. For the five units lost after first contracts were achieved, two were lost due to decertifications, one from plant closings, and two from union withdrawal after failure to reach a second agreement.

# **Bargaining Climate**

## **1. Region**

Unlike the organizing campaigns where unions fared relatively poorly in urban areas such as the Northeast, **unions won first contracts in 87% of the units in the Northeast, compared to 85% for the Midwest, 79% for the Westcoast, 71% for the Southeast, 67% for the Rocky Mountain states, and 50% for the Southwest.** Partly this may be explained by the positive relationship between union density and first contract outcome, with the



likelihood that the union is going to achieve a first contract increasing as the percent of the work force that is unionized in the local area increases.

## **2. Right-to-work states**

The first contract rate in right-to-work states is no different than the overall first contract rate of 80%. In fact **when we control for the influence of other employer and union background and tactic variables, unions do better in right-to-work states than in non right-to-work states.** This may be because the unions organizing in the deep south have done more thorough targeting and run more aggressive and creative contract campaigns.

## **3. Government and Public Support for Unions**

**Unions have more success in winning first agreements in communities with a majority of Democratic or Independent political leadership, and where according to the chief negotiator the majority of the population is favorably inclined towards unions.** Community support and public attitudes therefore appear to play a more important role in first contract campaigns than organizing campaigns, because the union relies more on community support to pressure the employer to bargain in good faith, than it does to convince individual workers to vote union.

## **4. Other Bargaining Climate Variables**

**Local unemployment rates and rural versus urban location do not appear to have a significant impact on the unions chances for winning a first contract.**

### **Company Background**

#### **1. Union experience**

**Unions have greater success in winning first contracts in firms where other units at the same site or at different sites are under contract, with unions achieving first contracts in 84% of the campaigns with other organized units, compared to a first contract rate of 76% in firms which had no other units under union contract.** This means that unions should seriously consider targeting firms where they or other unions have other bargaining units under contract.

#### **2. Economic Sector**

**Union first contract rates are higher in service sector units (84% first contract rate) compared to manufacturing units (78%).** This is especially true for unions who bargain with non-profit service sector employers such as

hospitals and social service agencies where the first contract rate averages 92%. However, when you control for bargaining unit demographics such as race gender and average wage, as well as employer and union tactics, unions actually appear to do better in manufacturing than in service sector units. Unions did equally well in achieving first contracts in service sector health care units and in low wage manufacturing units in the south, most likely because both types of units had significant number of women and minority low-wage workers. Thus, the fact that the service sector remains largely non-union has more to do with the lack of union initiative in past decades than it does with any inherent difficulty in organizing and bargaining first contracts for service sector units.

### **3. Company Financial Condition**

In contrast to the organizing results where unions did better in unprofitable companies, **unions had more success in winning first contracts with employers in good financial condition.** This most likely is because the employers ability to pay for improvements in a first contract is directly related to the employers willingness to settle with a union. The important role played by company financial status is evidenced by the fact that most of the plant closings came in units where the union had won the election by a large margin but the company was in poor financial condition long before the election. In fact cutbacks in wages and benefits and lack of job security were some of the primary organizing issues in these campaigns. Yet the high support for the union made no difference if the company was going to shut down or declare bankruptcy anyway. Thus research into the companies' financial condition and careful targeting based on the employer's ability to pay for a first contract are important considerations for unions entering into organizing campaigns. Unions faced with limited organizing staff and resources need to consider the likelihood of winning the election and the likelihood of achieving a first contract in making their targeting decisions. That is not to say that targeting corporations on the verge of financial ruin is always a mistake for the workers involved. In two of the plant closing cases in this sample, the union was able to play an important role in protecting the employee job severance rights and benefits, protection the workers never would have received if they had not won the election.

## **Unit Background**

### **1. Unit Size**

**Unit size plays a much less significant role in determining first contract outcome than it does in determining election outcome.** The mean number of eligible voters is only slightly larger for units unable to achieve a first agreement (109 compared to 108.37 for units where a first agreement was reached). Although the percent first contract rate was only 66% for the 15 units in the sample with more than 150 eligible voters, it was 80% for the 5 units with

more than 250 eligible voters. This may be explained by the fact that although every vote counts in a union election, bargaining for a first contract can require just as much effort, staff time and resources for 10 employees as it does for 200.

## **2. Unit Demographics**

Unit demographics play a similar role in both first contract and organizing campaigns. **Union first contract rates were highest in units with more than 60% women or minority workers (87%).** Unions also did slightly better in units with a higher percentage of part-timers and workers who previously were members of unions and in units where the average wage was less than \$5.00 an hour.

## **3. Unit Type**

**Unions did best in service and maintenance and white collar units, with an 88% first contract rate in service and maintenance units and a 100% first contract rate for the four white collar units in the sample.** The first contract rate for blue collar units was 73%. The fact that unions were able to achieve contracts in all of the white collar units, may tell us that although clerical, technical and professional employees appear to be more difficult to convince to vote for the union, once they vote for the union they may have more commitment towards staying unionized than their blue collar counterparts. On the other hand white collar employers may simply be better off financially than blue collar employers, and thus more willing or able to afford to settle on a first agreement. Unfortunately the number of white collar elections is so small that it makes it difficult to come to any definitive conclusions regarding the relationship between white collar status and first contract outcome.

## **Negotiator Background**

### **1. Contrast with lead organizers**

One of the most interesting, yet not surprising findings in the first contract research is the difference between chief negotiator and lead organizer background. Chief negotiators are slightly older, better educated and more likely to come from middle class backgrounds than lead organizers. They are also less likely to be female and minority, more likely to work for the international, and tend to have slightly less rank-and-file experience than lead organizers. The average age for chief negotiators was 46 compared to 45 for lead organizers, though the mean negotiator age for units where first contracts were achieved was the same as the mean organizer age for units where the union won the election (42).

## **2. Rank-and-file experience**

As with lead organizers, rank-and-file experience in itself does not appear to play a significant role in determining first contract outcome. That is to say that negotiators with one to twenty-five years of rank and file experience do just as well as those with no rank-and-file experience, but that as the years of rank-and-file experience increase beyond twenty-five years the first contract rate dramatically declines to only 50%.

## **3. Negotiator Class Background and College Education**

**Negotiators with college educations and those who come from a middle class background do appear to have greater bargaining success than those negotiators who do not have a college education or do not come from a middle class background.** This is in direct contrast to the results for lead organizers where middle class and/or college educated organizers did worse than those from more working class backgrounds, with no college education. 31% of the chief negotiators had a college education, compared to 26% of the lead organizers. 20% of the chief negotiators came from a middle or upper class background, compared to 17% of the lead organizers. The first contract rate for chief negotiators with a college education was 84% compared to 78% for those who did not complete a four year degree program. The first contract rate for negotiators from a middle or upper class background was 95% compared to 76% for those from a working class background. These results may tell us that the complexity of contract negotiations is greatly aided by the speaking, writing and research skills that a college education provides, as well as the self-confidence brought on by coming from a more advantaged background. However, it is equally possible that the results simply tell us that the unions who provide the best negotiator training and utilize the most effective first contract campaign strategies are also the unions most likely to recruit college educated staff from upper or middle class backgrounds.

## **4. Negotiator race and gender**

Only 5% of the negotiators were minority and only 9% were female compared to 15% minority and 12% female for lead organizers. As with organizers, **minority and female chief negotiators have better first contract win rates than their white male counterparts**, but the numbers are so small that it is difficult to come to any reliable conclusions regarding the relationship between negotiator race and gender and first contract outcome. What we know is that there is a great deal of room for improvement in union efforts to recruit and promote more women and minorities, both as organizers and negotiators.

## **5. Negotiator Training and Experience**

**International representatives had slightly more success in bargaining for first agreements than their local or regional counterparts.** This may

represent the increased training and experience of international representatives and the commitment of international resources to the campaign. Chief negotiators who were the lead organizer for the campaign, or who had any organizing experience also did better than those who were not the lead organizer, or who had never worked as an organizer. Servicing and bargaining experience, including the total number of contracts negotiated and the total number of first contracts negotiated, also appeared to have a slight positive impact on probability of winning a first contract, while officer experience had a slight negative impact. However, the impact of the negotiator experience variables failed to hold up once you control for the influence of union and employer background and tactics.

## **Bargaining Process**

### **1. Delay**

Bargaining for first contracts is a time consuming process fraught with delays. For the total sample the average number of bargaining sessions was 14.79 compared to 15.83 for units where a first contract was achieved. Most units averaged five months between the election and the beginning of negotiations and many more months of bargaining after that. **First contract rates declined as the delay between the election and the first bargaining session increased, with unions doing significantly better in units with less than two months between the election and the start of bargaining.** Bargaining went somewhat faster and was more successful in units where negotiations were coordinated with other units or work places, however not to a statistically significant degree.

### **2. Release time for Committee Members**

As would be expected, ground rules played an especially important role in the first contract process. Although bargaining took place during work hours for 37% of the units, companies only agreed to pay release time for negotiating committee members in 20% of the units, which covered only 7 of the 37 units where bargaining took place during work hours. **Unions won first contracts in all of the units where the employer provided paid release time.** That does not necessarily mean that paid release time guarantees contract victory. More likely, paid release time is a reflection of employer willingness and ability to reach an acceptable agreement with the union. Or, in some cases, paid release time may be a proxy for union strength, where the intensity of the membership solidarity and community support pressures the employer into bargaining on the union's terms.

### 3. Location of Bargaining

**The location of bargaining varied greatly, but did not appear to have any impact on first contract outcome.** 16% of the units bargained at the workplace, 58% bargained at a neutral site such as a hotel, 4% bargained at the union hall and 5% alternated bargaining between the workplace and the union hall.

### 4. Gagrules

**Ground rules regarding reporting about negotiations to the media and the general public during negotiations have somewhat confusing results.** 32% of the units agreed to a gagrule preventing any discussions with the public or media until negotiations were over. 20% agreed to bargain in the sunshine with no restrictions on speaking with the public or the media, and 45% of the units never addressed the issue of gagrules during negotiations. Units with a gagrule averaged a 94% first contract rate compared to a 70% rate for units with a sunshine rule, and 76% for units with no rule whatsoever. The results for open bargaining may be somewhat misleading because negotiating a "sunshine" ground rule in no way guarantees that the union will actually use the media, nor is it a guarantee that the union will do a good job of using the media. In fact, in those cases where the union bargained for a "sunshine" rule and actually used the media during the campaign, the first contract rate was 80%. Unions also may only bargain for sunshine rules when they expect intense employer opposition, while they may be more willing to agree to gagrules when they do not expect to need public support for their campaign.

### 5. Side-bars

The use of one-on-one side-bars between the chief negotiators for each side also had mixed results for first contract outcome. Side-bars were used in 44% of the units surveyed, and were associated with a first contract rate of 89%. **However side-bars were most effective (92% first contract rate) in units where the bargaining committee was notified of the side-bar in advance by the chief negotiator and when the contents of all side-bar discussions were reported back to committee members.** In contrast, unions only had a 67% first contract rate in those units where the contents of side-bar negotiations were not reported back to the members. This is an extremely important variable because it measures not only the willingness of the parties to reach agreement. It also measures the relationship between the chief negotiator and the committee in terms of trust, accountability and involvement. When negotiators notify the committee in advance of side-bars and report back on the sidebar contents after meeting with management, it keeps the committee involved in the process, and helps them maintain a sense of participation and ownership of the negotiations and the contract. It also puts the employer on notice that the workers are involved and committed to reaching a decent agreement. This contrasts sharply with secret sidebar negotiations between chief negotiators



were willing to bargain in good faith, and another 21% bargained hard but still were willing to give on some important union issues. Interestingly enough, 25% of the units where the employer had campaigned hard during organizing, were able to achieve good agreements without significant employer opposition. This alone could explain why employer tactic variables for the organizing campaign would not exhibit a statistically significant relationship with first contract outcomes. There were just enough employers who switched from strongly anti-union behavior to good faith bargaining weaken the overall effect of these tactics.

### **3. Employer tactics during the first contract campaign**

Despite the number of employers who seemed to tone down their anti-union efforts between the organizing and first contract campaigns, a significant number of employers did engage in very hard bargaining. 61% of the employers used an outside consultant or lawyer on retainer on their negotiating team. 30% of the employers fired workers for union activity during the contract campaign. More than 20% of the employers made some kind of unilateral change in the terms and conditions of employment after the election and 25% of the employers made threats of lay-offs and plant closings during the contract campaign. Captive audience meetings and supervisor one-on-ones also continued after the election in more than 20% of the bargaining units. More than a third of the employers also engaged in hard bargaining at the table with tactics such as playing one sector of the unit against the other, delay and stalling tactics and surface bargaining. Not only did a significant number of employers in the sample engage in aggressive anti-union tactics during negotiations for the first contract, but all of these employer tactics were associated with lower first contract rates than the units where these tactics were not used.

## **Union Tactics Before the Election**

### **1. Targeting**

Unions were much more likely to win first contracts in units where the original decision to launch the organizing drive was based on factors other than or in addition to worker interest. This included targeting bargaining units because the union already represents similar units in the same company or industry and/or based on the employers financial stability. In fact unions won first contracts in 90% of the units where targeting was used, compared to a 75% first contract rate in units which were not targeted. It is worth cautioning however that when it comes to first contract negotiations, a poor job of researching the employer may be worse than no job at all, because any union that goes into negotiations with a false sense of the employer's power and vulnerability is going to have a very hard time bargaining for a first

contract. The results therefore seem to show that unions should target organizing leads on the basis of the employers ability to pay for a first agreement and the employer vulnerability to union pressure tactics. However, they must also be careful that if they are going to do targeting, that they do it well.

## **2. Other union tactics during the organizing campaign**

As with management tactics, union organizing tactics such as representative organizing committees, percent of the unit housecalled, use of solidarity days, and union issues do not appear to have a significant impact on first contract outcome. Once again this may be because there is a great deal of variance between union campaign strategies during the organizing and first contract campaign. The broad range of employer tactics used after the election do appear to have had an impact on which tactics unions used in their contract campaigns. Several union negotiators told me they did not have to organize a contract campaign because the employer was willing to sit down and bargain a fairly good first contract without much of a fight. Thus, unlike organizing campaigns, where few unions were able to win elections without a rank-and-file intensive campaign, there were many units where the union was able to win a first contract with only a few bargaining sessions and very little membership involvement. However, it does appear that in those units where employer opposition continued after the election, union tactics such as representative committees, regular newsletters and membership meetings, solidarity days, corporate pressure tactics and a focus on broader community issues do appear to play an important role in helping the union win a first agreement.

### **Union Tactics during the First Contract Campaign**

#### **1. Overview of Union Tactics During the First Contract Campaign**

The variance in union tactics for first contract campaigns is once again very revealing. Many of the unions with the worst first contract records persisted in having very small, unrepresentative committees, with little or no membership contact or organizing during the contract campaign. In contrast the unions with the highest first contract rates were much more likely to run very creative and aggressive rank-and-file intensive contract campaigns. Unfortunately there were only a small number of unions among those surveyed which fit the latter description. Unions had representative bargaining committees in just 26% of the campaigns, and rank-and-file negotiating committees played an active role in discussions at the table in only 45% of the units in the sample. Unions continued housecalls to members in only 18% of the contract campaigns and continued small group meetings in only 17% units. Newsletters and solidarity days were used in 30% of the units, while corporate pressure tactics, media campaigns, job actions, legislative initiatives, agency investigations and leafletting all were used in less than 16% of the units surveyed.

## **2. Impact of Union Tactics on First Contract Outcome**

Because of the great variance in tactics used, and because so few of the unions in the sample used a more aggressive and creative union strategy during the first contract campaign, the results for the union tactic variables are much less definitive than they were for the election data. In fact many union membership mobilization and bargaining tactics do not appear to have a significant positive or negative impact on first contract outcome when they are examined individually. However when they are combined into one rank-and-file intensive campaign variable, the use of these tactics do appear to significantly improve the unions chances of winning a first agreement. That is to say **union first contract rates significantly improve the more of the following rank-and-file intensive campaign tactics that they use.**

- a) Continued one-on-one organizing throughout the first contract campaign including housecalls and small group meetings.**
- b) Active and representative bargaining committees. The negotiating committee should represent at least 5% of the unit and be representative of bargaining unit demographics such as gender and race. Rank-and-file members on the bargaining committee should play an active role at the table and in caucuses.**
- c) Full involvement of the membership in developing contract proposals through one-on-one contract surveys and allowing members to make revisions and/or vote on initial contract proposals before they are presented to the employer.**
- d) Aggressive efforts to keep the members informed and involved in the bargaining process including regular newsletters and membership meetings to report back to the membership on the negotiations process.**
- e) Inside membership mobilization tactics including solidarity days, mass grievances and work-to-rule actions.**
- f) Outside pressure tactics such as boycotts, stockholder actions and the informational leafletting and/or picketing of the workplace or company headquarters.**
- g) Developing community support by focusing on broader issues that go beyond wages, hours and working conditions and using editorial visits to educate the media about union issues.**

These results seem to show that utilizing some of these tactics but not others serves to backfire on the union. **When unions use a majority of the tactics listed above, the first contract rate averages 88%. In contrast when the**

**union utilize only one or two of these tactics the first contract rate averages as low as 50%. Thus if the union has an active representative committee that never reports back to the unit, bargaining unit members may be much less likely to trust and fight for the union. It is the cumulative effective of these tactics that keeps the membership mobilized and committed, builds public support and puts the employer on notice that the workers are committed to winning a good agreement and staying unionized. The results also show that what happens at the bargaining table may be the least important part of the bargaining process. The union tactics contributing most to first contract success are those which involve rank-and-file leadership mobilizing the membership to keep pressure on the employer in the workplace and in the larger community.**

### **3. Union ratification process**

Two other union tactic variables are worth pointing out. Much has been written about the lack of democracy in American unions, but that lack of democracy is usually measured by clauses in the union constitution rather than how they actually behave. It is therefore worth pointing out that **in 84% of the units in the sample where a first contract was settled, members were given a written summary of the contract settlement before the ratification vote.** This contrasts sharply with the widely held perception that most ratification votes are held without the members receiving any material in writing summarizing the settlement, depriving them of the opportunity to make a fully informed decision on how whether the settlement is worth supporting. Perhaps even more significant, in 64% of the units where a first contract settlement was reached, ratification elections were held by secret ballot, despite the fact that very few international union constitutions require secret ballot ratification for collective bargaining agreements.

### **Contract Language in the Final Agreement**

Perhaps the most exciting result of this first contract study, is the data it provided us on the nature and content of first agreements. Not only did 80% of the units in the first contract sample win a first contract, but the contracts they achieved were much better than might be expected. 44 out of the 75 units in non-right-to-work states attained union shops, and 11 attained agency shops. That means that only 4% of the units in non-right-to-work states ended up with open shops, despite the fact that many employers bargained extremely hard over the issue of union security. All of the contracts with part-timers included under the recognition clause, provided some kind of pro-rated benefits for part-timers and 77% provided pro-rated seniority. 75% of the units had either a flat-rate or a percentage wage increase, with 15% eliminating a merit pay system, and 34% establishing a step pay system. 83.4% of the contracts included health and safety language, 90% included anti-discrimination language, 97% included grievance and arbitration language. Although the majority of the agreements

simply put existing benefit language in the contract, 55% of the contracts included improvements in health insurance.

On the more negative side, 5% of the units ended up with wage and health insurance concessions, while only 14% of the contracts included parental leave, and only 12% included sick leave for taking care of dependents. 97% of the agreements included a management rights clause, 92% included a no strike clause and 45% included a zipper clause. However, when you take into consideration the nationwide trend toward wage and benefits concessions in long term union agreements, the fact that only a small percentage of the first contracts included concessions is very good news for American unions. When we also consider the number of these contracts that were bargained despite vehement employer opposition, these first agreements must be seen as quite an accomplishment for the labor movement and the workers they organized.

### **Conclusion**

As was pointed out in the introduction, this research is only the first step in gaining a better understanding of the first contract process. Yet, despite the small sample, and despite the limited nature of the statistical results, this study does provide us with important insights into how unions are faring in first contract campaigns. We know that despite intense employer opposition, close to 80% of unions are able to achieve a first contract after winning an NLRB certification election. We also know that the contracts they are winning are better than might be expected. As every union worker knows, first contracts are only the second crucial step in the ongoing process of unionization. The contracts rarely live up to worker expectations and in some cases provide not much more than a grievance procedure and putting into writing existing conditions and benefits. Yet even the weakest of these agreements still represent a significant improvement over working in a non-union setting, because these rights and benefits, however limited, are now secure for the life of the agreement.

One thing the results clearly tell us, is that the collective bargaining process for first agreements is very complex. Bargaining climate variables, unit demographics and employer and union tactics all have an interactive impact on whether the union is able to achieve a first agreement. The complexity of this interaction makes the first contract process much less suited to statistical analysis than the organizing process. After all, union elections are clear cut, the union either wins or loses. But first contracts can easily range from major union victories to concessionary agreements that severely restrict union activity, and leave the membership not much better off than they were before the union came in. A true measure of union success would be a comparison of the first agreements with the terms and conditions of employment before the union drive was initiated. Unfortunately that data is extremely difficult to come by.

But despite the complexity we have learned quite a bit about the first contract process. We have learned that employers have a great number of legal and illegal tactics at their disposal to thwart union efforts to bargain a first agreement; and a significant percentage of employers are using these tactics very effectively. But we have also learned that there are union tactics which can effectively diffuse the employer campaign if they are used correctly. Continuing the organizing after the election through housecalls, one-on-one contact, solidarity days and small group meetings, keeping the members informed through newsletters and regular membership meetings, and pressuring the employer from the outside through community-labor coalitions, corporate pressure tactics and media campaigns all can help the union achieve a first agreement. More than that, the benefits of utilizing these tactics go far beyond the first contract. The contrast between a very open, membership intensive organizing campaign and a very closed, staff dominated contract campaign, may play



a role in membership apathy and disillusionment. The negative effects of this contrast, still have effect long after the first contract has been reached because they make it more difficult for the union to develop stewards, enforce the agreement or build for the second contract campaigns.

There is still a great deal more work that needs to be done before we really understand what makes or breaks a union first contract campaign. My hope is that this research has laid the groundwork for future union and academic efforts to learn more about the first contract process. It is also research that can be easily built upon with follow up studies comparing future agreements with the first contract, and the success of future contract campaigns. In the end I hope that it will help unions and researchers have a much better understanding of the critical role played by union tactics in both organizing and first contract campaigns. But more importantly, I hope that this study will help lead organizers and chief negotiators across the country to build on their successes and learn from their failures.

**Table 1: Impact of Negotiating Survey Variables on First Contract Outcome**

**Variables showing moderate to strong positive impact on first contract outcome**

1. Other units of the employer unionized
2. Percent union density in the area
3. Unit 60% or more minority and or female
4. Unit in manufacturing sector
5. Union negotiator had 1-25 years rank-and-file experience
6. Unit targeted for other reasons besides worker interest
7. Union used combination of rank-and-file intensive strategies  
(this is an additive variable including the following:
  - %Housecalled during negotiations
  - Focus on community issues
  - Inside strategies used
  - Sidebars reported to committee
  - Report on negotiations to membership meetings
  - Committee active at table
  - Committee active in caucuses
  - Newsletter distributed
  - Solidarity days used
  - Editorial visits used
  - Members vote/revise proposals
  - Contract survey done 1on1
  - %Unit on negotiating committee
  - Leafletting used
  - Corporate pressure tactics used

**Variables showing slight positive impact on first contract outcome**

1. Unit located in right to work state
2. Chief negotiator female or minority
3. Negotiator from middle-class background
4. Mediator brought into negotiations

**Variables showing moderate negative impact on first contract outcome**

1. Employer ran public campaign
2. Employer used outside lawyer or consultant as chief negotiator
3. Initial employer proposals concessionary

**Variables showing slight negative impact on first contract outcome**

1. More than 60 days delay between election and start of bargaining
2. Employer continued captive audience meetings after the election
3. Employer made unilateral changes after election
4. Employer engaged in surface bargaining

**Variables showing no statistically significant impact on first contract outcome**

1. Unit size
2. Percent unemployment in the area
3. Average wage in unit \$5.00 or less an hour
4. Company in profitable condition
5. Employer fired workers for union activity after the election