



INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

STRATEGIC PLANNING FOR COLLECTIVE BARGAINING

March 30, 2026



LEGAL DISCLAIMERS

Please note that this presentation is offered solely for informational purposes, and is not intended, nor should it be relied upon, as legal advice. An individual or affiliate in need of legal assistance on any topic covered in this presentation should contact and confer with legal counsel to obtain legal advice appropriate to the particular situation.

Your collective bargaining jurisdiction is imperative!



OBJECTIVES

- Identify your collective bargaining framework – what does your jurisdiction require/allow?
- Know the nuts and bolts of bargaining
- Prepare for bargaining
- Mastery over certain, technical CBA provisions
- Identify impasse; how to avoid it if you're in a jurisdiction without interest arbitration
- What to do when you have an agreement
- Know when to reach out to IAFF for assistance



IAFF RESOURCES – IT TAKES A UNION



General Counsel's Office



TAIR



Your DVP/DFSRs



Government Affairs



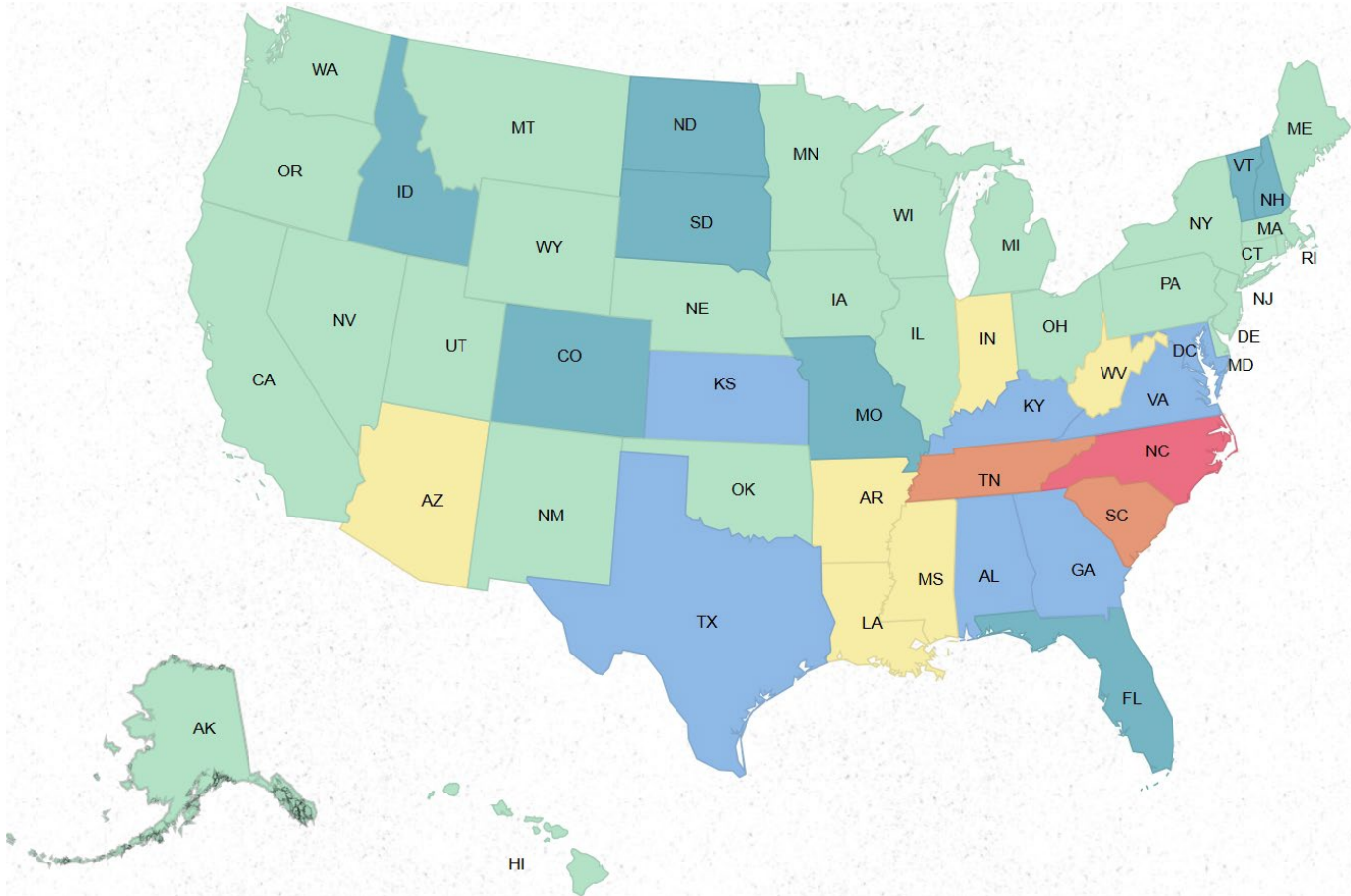
Education



Health and Safety



COLLECTIVE BARGAINING REGIMES



Light Green – Collective bargaining with binding arbitration

Blue Green – Collective bargaining with non-binding arbitration or factfinding

Blue – Local option by state statute

Yellow – Local option without statute

Orange – no statute, contracts unenforceable if challenged in state court

Red – illegal, but many Locals have strong contracts built on political power or find other ways to improve their terms and conditions



PREPARE FOR BARGAINING

1. If applicable, send your bargaining notice.
2. Gather as much financial information as possible on your employer and your bargaining unit.
3. Study prior negotiations and current CBA.
4. Hold contract meetings with members.
5. Analyze your grievances.
6. Review the current economic climate.
7. Analyze other CBAs and call the IAFF for its resources/aid.
8. Strategize your parallel contract campaign.



NUTS AND BOLTS

LEGAL REQUIREMENTS FOR BARGAINING

- The parties must bargain in good faith with each other.
 - The failure to do so is an unfair labor practice (ULP).
 - This duty to bargain rarely regulates the contents of the CBA. Keep in mind that your jurisdiction may do this by statute.
- The duty to bargain includes the obligation to provide relevant information.
 - This will be talked about later, but you should always be on the offensive with your requests for information!
- There are different kinds of “bargaining subjects” that you will engage with at the table.



SUBJECTS OF BARGAINING

Mandatory Subjects

- Must engage with you to impasse

Permissive Subjects

- Can engage with you but can't insist on impasse

Illegal Subjects

- Can't engage with you



MANDATORY SUBJECTS OF BARGAINING

- Must bargain with you about. Likewise, you must bargain with the Employer about them.
- Neither party can refuse to discuss.
- Likely cannot change and are subject to unilateral change doctrine.
- Subject to requests for information.



MANDATORY SUBJECTS OF BARGAINING

Wages	Benefits	Vacations	Seniority
Scheduling	Safety	CBA Duration	Grievance Process
Hours	Discipline	Facilities Access	Discrimination
Management Rights (at least exercise of discretion)	Bargaining Unit Work	Bulletin Boards	Technology
207(k) Cycle Length	Vending Machine Prices	Policies	Training
Phone Apps	Policies	Drug Testing	Shift Trade Qualifications



PERMISSIVE SUBJECTS OF BARGAINING

- "Permissive" or non-mandatory issues of bargaining are those which the parties may bargain over, but are not required.
- If one party puts a permissive subject on the table, the other party is not obligated to entertain it.
- Either party may choose to keep it on the table, but they cannot force such an issue to impasse or hold up bargaining until the permissive subject is dealt with.



PERMISSIVE SUBJECTS OF BARGAINING

Bargaining Unit	Internal Union Matters	Supervisors Conditions of Employment	Union Logos on Uniforms
Determining Minimum Job Qualifications	Pre-Employment Drug Testing	Bargaining Ground Rules	Criteria for Evaluation or Performance Appraisal



ILLEGAL SUBJECTS OF BARGAINING

- Discrimination against recognized groups of people.
- Closed shop clauses (clauses that requires all employees be union members before being-hired).
- Some union-security clauses.
- Jurisdiction-specific subjects.



STATUS QUO

- The most important element of the Employer's duty to bargain is the status quo obligation. The rule means that from the moment a union is certified, the employer may not make any unilateral changes in wages, hours, or working conditions.
- Likewise, once a CBA expires, the employer is not permitted to make any unilateral changes until an impasse occurs (in some jx) or the parties reach a new agreement embodying those changes.

USE STATUS QUO AS LEVERAGE AND TO GENERATE ULPs!



STATUS QUO – CONTD.

- There are always exceptions; jx specific.
- There may be a dynamic status quo based on past practice in your jurisdiction/regime.
- Moreover, non-mandatory subjects, management rights clause, waiver of bargaining clauses, and arbitration are exceptions. You will not have a grievance/arbitration process during a status quo period between CBAs without an evergreen clause.



BAD FAITH BARGAINING



Refusing to meet with the union; dilatory tactics; not putting up someone with the authority to bargain



Making demands that are impossible to meet; Withholding information sought by RFIs; unilateral changes



Surface bargaining; flip flopping; regressive bargaining; aiming to maneuver into interest arbitration



REQUESTS FOR INFORMATION



COMPREHENSIVE REQUESTS FOR INFORMATION

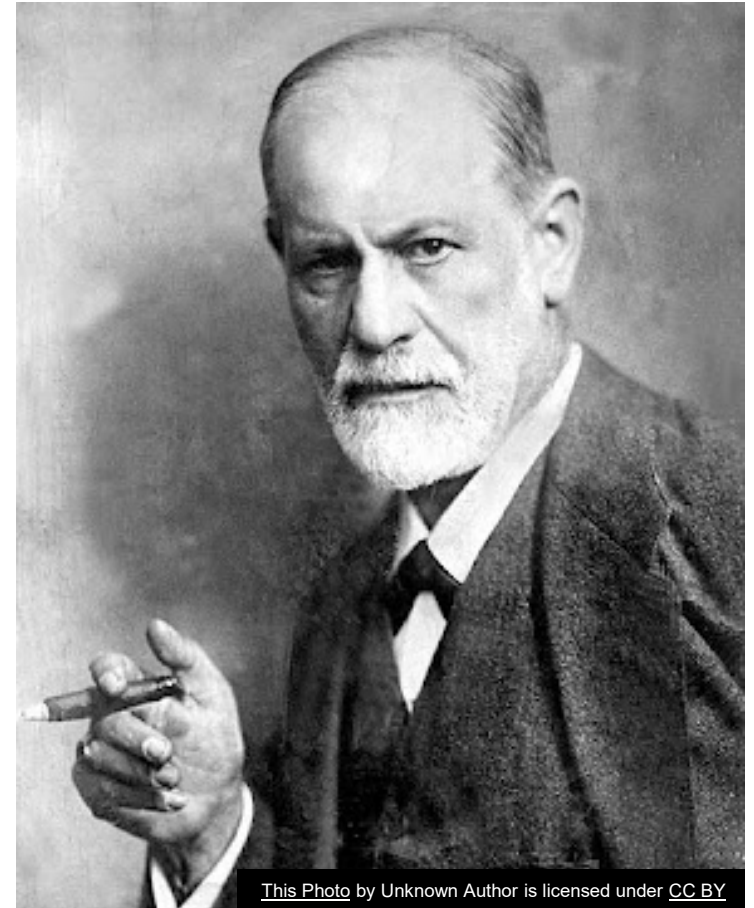
- It's about giving your employer a headache! Very broad right.
- Employers must supply information necessary and relevant to bargaining.
- Be aggressive. Request everything. Force Employer to justify proposals. Make them rethink their position.
- Basis for ULPs and preventing impasse.



AT THE TABLE

PSYCHOLOGY OF NEGOTIATING

- Don't show emotion unless planned.
- One unified team.
- Don't let fatigue or frustration wear you down.
- Build momentum from easy items.
- Reward management for compromising.
- Bring workers who are not on the team to observe a bargaining session if management is stalling or being abusive.
- Challenge management to prove its claims, feed this into the contract campaign.





OFF-THE-RECORD

At times, it may be useful to talk with management “off the record.” This can give both sides a chance to explore possible solutions that they cannot discuss publicly.



DRAFTING CBA LANGUAGE

- The wording of contract clauses can make a big difference—especially in the way arbitrators will rule on grievances involving those clauses. Look to the model CBA provided by the IAFF.

Make language giving rights and benefits as specific as possible so the intent of the agreement is clear.

For example...



“

The employer will *consider...*



“THE EMPLOYER *WILL* CONSIDER...”

- Better to negotiate, “The Employer must...” or “The Employer shall...” Otherwise, the employer can say, “I did consider doing what you wanted or proposed. I took into account your perspective. However, I’ve decided not to do it.”



“

The employer will provide *reasonable* opportunity to...



“THE EMPLOYER WILL PROVIDE *REASONABLE* OPPORTUNITY TO...”

- Better to leave the word out or give the power to decide to the union member instead: “The employer will provide the opportunity to....” or “Stewards shall have the right to...” or “The senior employee shall have the right to...”
- Another fallback position is to define what is reasonable in advance: “Health and safety committee members shall have the right to inspect the workplace on work time at least once per month...”



“

The most senior *qualified* employee...



“THE MOST SENIOR *QUALIFIED* EMPLOYEE...”

- Words like “qualified” or “able to perform the work” “minimally qualified” “if minimally qualified” all give the employer a great opportunity to discriminate, and arbitrators will tend to consider judgments about qualifications and ability to be part of management’s role. This is especially true in a public safety context.
- Again, consider omitting words like that or define them.



“

Compensatory time off *may* be granted if...



“COMPENSATORY TIME OFF *MAY* BE GRANTED IF...”

- May usually is interpreted to mean that it’s up to the employer. Use “shall” instead.
- But what about your alternative language? What about “reasonable”? Who will eventually determine what “reasonable” is?



OTHER DRAFTING TIPS

- Before proposing or agreeing to language, have others check it.
- Propose specific language in a way that doesn't rule out broader rights.
- Consider whether proposals have a discriminatory effect on any BU subgroup.
- Draft language using simple words and sentences.



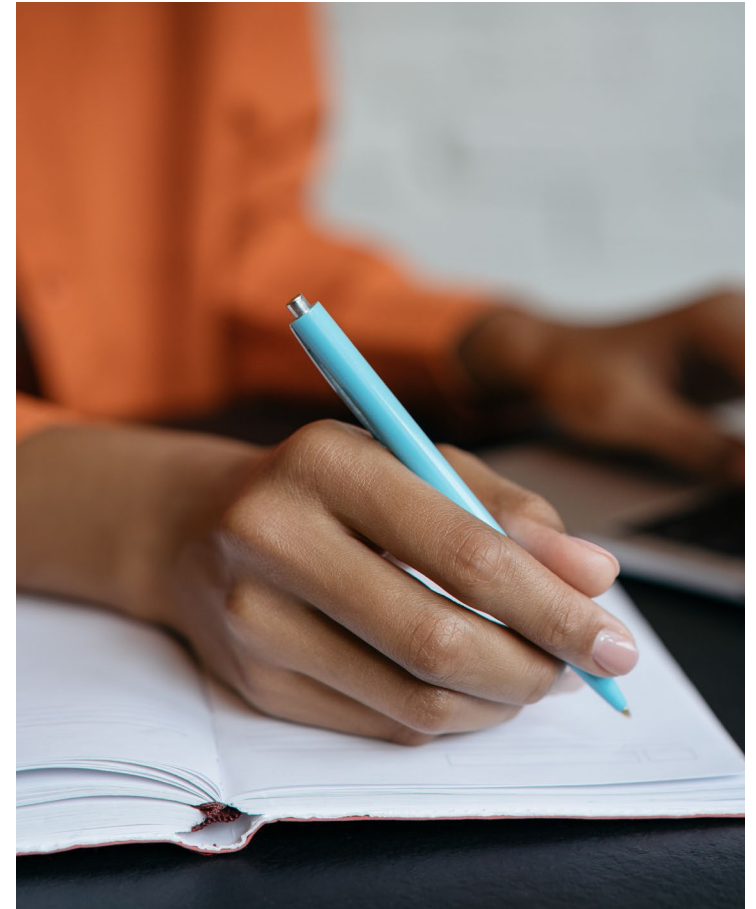
TAKING NOTES DURING BARGAINING

Why?

- Discussions in run up may be used as evidence to for what sides “really meant.”
- Clear up uncertainty on management positions.
- Support ULPs.
- In dealing with the public and members, management less likely to distort if they know you have a written record.

How?

- Dated, who is present, when caucuses occur, beginning and ending time for each major discussion, each major point made, who made it, and what evidence or argument used to support.



CBA ARTICLES

NON-DISCRIMINATION

- Prohibition against discrimination on various grounds such as sex, race, creed, color, religion, age, national origin, political affiliation or activity, disability, sexual orientation, or **union activity**.
- Establishment of union representation on affirmative action or equal opportunity committees, where they exist, with union right to designate or elect representatives.



“

The Employer agrees not to discriminate against any employee because of race, color, creed, sex, national origin, marital status, union membership, union activity, or sexual orientation.

IAFF Model Contract



UNION RIGHTS

- Access of union officials to workplace.
- Right to engage in union activity at work, right of stewards to conduct union business on work time.
- Right to post and distribute union material (boards, e-mail).
- Right of union to conduct/participate in orientation sessions.
- Right of elected officials, stewards, and members to LoA for union business.



“

Authorized agents of the Union shall have access to the Employer's establishment during hours for the purpose of adjusting disputes, investigating working conditions, collection of dues, and ascertaining that the agreement is being adhered to. The Steward shall be permitted sufficient time, while on the jobsite, to perform those legitimate Union duties which cannot be performed during nonworking hours and which do not unduly interfere with or hinder the progress of the work.

(Marathon Ashland Petroleum LLC and Teamsters)



HEALTH AND SAFETY

- Duty of employer to provide healthy and safe working environment.
- Labor/management health and safety committee, with right of union to select members.
- Provision of protective equipment/clothing.
- A way to secure cancer screenings and physicals.



DISCIPLINE AND DISCHARGE

- Prohibition of discipline or discharge without just cause.
- Establishment of progressive discipline (oral warning, written warning, suspension, discharge), and consideration of mitigating factors.
- List of acts which can result in immediate discharge.
- Notice to union of disciplinary actions; timelines.
- Protection for whistle-blowers.
- Notice to employee of right to union representation during potential discipline interview, guarantee to stop interview until representation is provided.
- Limits on employer investigation tactics (e.g., polygraphs or computer voice stress analysis).



GRIEVANCE/ARBITRATION

Grievance

- Definition of “grievance.”
- Stewards’ right to use work time for grievance investigations and processing.
- Employees’ right to union representation.
- Steps and timelines.

Arbitration

- Arbitrator selection.
- Agreement on payment of arbitrator.
- Authority of arbitrator to issue final and binding decisions.



MANAGEMENT RIGHTS

- The employer **will** propose a section that reserves for management all rights not specifically addressed or limited by the CBA. Keep mind there may be statutory management rights in your jurisdiction.
- You may want to require negotiations prior to the implementation of any changes in working conditions.





The parties agree that it is the exclusive right of the Employer, subject to, and in accordance with the terms of this Agreement and applicable laws and not inconsistent therewith to:

1. Maintain order, discipline and efficiency.
2. Hire, direct, transfer, promote, discharge, suspend or otherwise discipline employees for just and proper cause.
3. Generally, to operate and manage the undertakings of the Department and without restricting the generality of the foregoing to select, install and require the operation of any equipment, plant and machinery necessary for the efficient and economical carrying out of the operations and undertakings of the Department.

IAFF Model Contract



EVERGREEN CLAUSE

- Evergreen clauses ensure that the current CBA will remain in full force and effect during negotiations for a new CBA.
- Allows for the grievance/arbitration process to continue.
- We see this frequently in jurisdictions like the South where the labor laws may resemble the Wild West.
- May be unlawful due to municipal contracting laws or a permissive subject of bargaining in your jurisdiction.





This Agreement shall be effective as of the first day of July, 20__ or upon execution, except as otherwise noted in the Agreement, and shall remain in full force and effect until the 30th day of June, 20__. It shall be automatically renewed from year to year thereafter unless either party shall notify the other in writing not later than March 1 prior to the date of termination that it wishes to terminate or modify this Agreement for any reason. Notification of intent to modify shall include the substance of the modifications desired. In the event that such notice is given, those provisions not reopened shall automatically renew from year to year. This agreement shall remain in full force and effect during the period of negotiations.

IAFF Model Contract



Zipper Clause

- Management is likely to propose a prohibition on additional bargaining during the life of the contract, i.e., a statement that the contract is the complete agreement between the parties.
- Prevents bringing things from outside the CBA like “intent” at the bargaining table.
- In conjunction with a strong management rights clause, may **eliminate** past practices not codified in the CBA.





The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Company and the Union, for the life of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter referred to or covered in this Agreement, or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subjects or matter may not have been within the knowledge or contemplation of either or both of the parties at the time that they negotiated or signed this Agreement.

(John Deere Horicon Works and Machinists)



PREVAILING RIGHTS/MAINTENANCE OF BENEFITS

- Because the zipper clause and management clause seek to **limit** the union, a helpful clause is a "**prevailing rights**" clause.
- This sort of clause codifies past practices and all existing benefits, privileges, and working conditions not conflicting with the CBA's express terms.



“

Any established past practices existing at the time of the execution of this Agreement more favorable to the Employees than the provisions of the Agreement, shall be continued.

**(National Linen and Uniform
Service L.L.C. and UNITE HERE)**



AVOIDING IMPASSE

WHAT IS IMPASSE?

- The point at which no further progress toward an agreement appears likely because neither side is making further movement on a specific, major unresolved mandatory subject.
- Under the NLRA and most public sector bargaining laws, the Union may not want to bargain to what could legally be defined as an “impasse” because management can implement their last best and final on that specific proposal. While some public sector bargaining regimes have impasse arbitration, not all do!



WHAT DOES IMPASSE LOOK LIKE?

- How many times have the two sides met?
- How firm do they seem to be about their positions?
- Has each side made its “last, best, and final offer?”
- Has a party said “absolutely no way!”



SPECIFIC EXAMPLES OF AVOIDING IMPASSE

- Not giving management a firm rejection on proposals you disagree with. You will consider such proposals in good faith.
- Offensively bargaining with detailed requests for information focused on the Employer's proposal.
- Continuing to make new proposals on controversial subjects, even if there is not a great difference between your new and old position.



COMING TO AN AGREEMENT

BREAKING A DEADLOCK AT THE TABLE

- Escalate your contract campaign!
- Compromise on one or more items to win others that are more important.
- Group several issues into a package or present an entire proposed CBA containing some compromises by both sides.
- Make minor changes to save face.
- Suggest resolving issue through side letter rather than CBA.



INTEREST ARBITRATION

- For many public sector jurisdictions, you will go to interest arbitration if you can't come to a CBA at the table.
- This has its pros and cons, but you should always **bargain** with interest arbitration argument in mind.



HOW DOES INTEREST ARBITRATION WORK?

- Jurisdiction specific—consult with your DVP.
- When the employer and union negotiate to impasse on a mandatory subject of bargaining, the parties hire (usually costs are split between parties) an impartial third-party arbitrator. This arbitrator conducts a formal hearing in which the parties present their positions. The arbitrator then reviews the testimony and supporting evidence and decides unresolved issues by issuing an arbitration award.
- The arbitrator is writing your CBA terms.



TENTATIVE AGREEMENTS

- Volunteer to draft the actual language expressing agreements that have been reached.
- Make sure each side initials written, revised proposals/sections as soon as tentative agreement has been reached.
- When you have a complete tentative agreement covering all subjects, make sure the TA is signed off before any announcement or ratification occurs.



RATIFICATION

- Typically done at membership meetings; worksite meetings over a time period; or via mail ballots.
- Members should be provided with a written explanation of the terms, which should begin by highlighting in summary form the major improvements and, if appropriate, the major management proposals that were defeated.
- At the same time, you shouldn't hide CBA weaknesses.







THANK YOU!
ANY QUESTIONS?

Mark Murphy

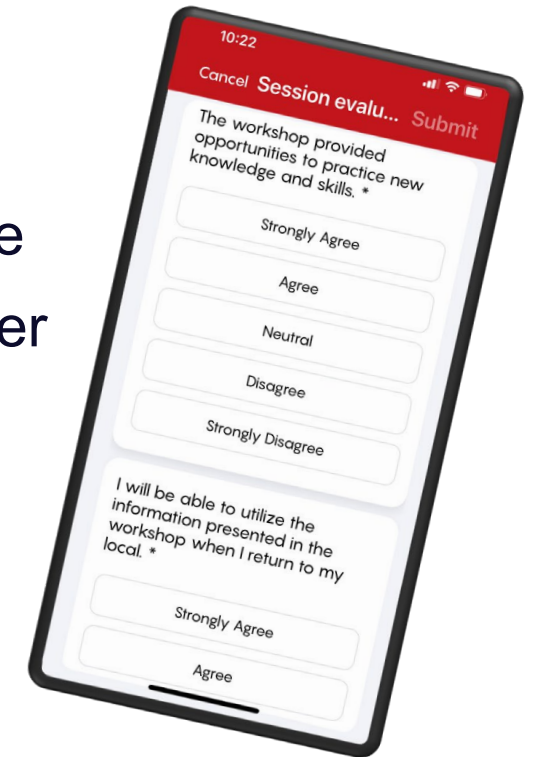
mmurphy@iaff.org

Daniel J. Sweat

dsweat@iaff.org

EVALUATION AND WIN AN IPAD!

- **Submit your workshop and overall evaluations to be automatically entered in two drawings for a new iPad!**
- **Complete your evaluations using the IAFF app:**
 1. Download the IAFF app and sign in with your iaff.org username
 2. Tap the 2026 Strive for Excellence Summit event image to enter the event's dashboard
 3. Tap "Sessions" and tap on the workshops you attended
 4. Tap "Evaluation" and complete the evaluation
 5. Tap "Submit"



For the event's overall evaluation, follow steps 1 and 2, then tap "Event Evaluation" located in the event's Dashboard.

