The Collective Bargaining Cycle: Timelines, Mediation & Arbitration

Presenter:
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Timelines, Mediation and Arbitration

Pre-mediation

- The duty to bargain arises when a request to bargain is received from employee organization.
- Exchange of initial bargaining positions:
  - Employee organization goes first
  - Employer responds within two weeks
  - Meetings open to the public – subject to Iowa Code Chapter 21
- Bargain:
  - Meetings not open to the public – not subject to Iowa Code Chapter 21

Impasse Timeline

- Parties should attempt to agree upon independent impasse procedures
- Independent impasse procedures:
  - Extend or waive deadline for arbitration hearing
  - Extend or waive date for completion of impasse process
  - Change the date for exchange of final offers for interest arbitration
  - Change the date for striking of arbitration list
Impasse Timeline

- Statutory timelines apply, if no agreement
- Statutory Timelines:
  - School District or AEA non-teachers
    ➢ December 15 – April 15
  - Community College bargaining unit, School District or AEA licensed teachers
    ➢ January 31 – May 31
    ➢ Hold arbitration hearing by May 13

Mediation Steps

- Mediation:
  - PERB uses: FMCS Commissioners, Ad hoc mediators and PERB staff
  - Mediator designates time and place
  - Mediation not open to the public
  - 5 hour maximum
  - 1 meeting
  - PERB is notified of outcome

Tentative Agreement

- Employee organization ratification:
  - 24 hours notice to members prior to ratification
  - Within 7 days of tentative agreement
  - Vote by secret ballot and only members entitled to vote
    ➢ May extend voting rights to nonmembers pursuant to internal procedures
  - Notify employer of outcome within 24 hours of vote
Tentative Agreement continued

- Public employer ratification:
  - If employee organization rejects TA, then employer does not have to vote
  - Within 10 days of tentative agreement
  - Notify employee organization of outcome within 24 hours of vote
- Timelines maybe modified by written agreement

Interest Arbitration

- 10 days after mediation date, either party may file a request for interest arbitration
  - Request in writing and served on other party
- Within 4 days of PERB’s receipt of arbitration request, exchange of final offers
- PERB sends list of 5 arbitrators
- Within 5 days of PERB sending list, arbitrator selected

Interest Arbitration continued

- Arbitration Hearing:
  - Arbitrator sets time and place for hearing
  - Open to the public
  - Impasse items which are in dispute
- Post Hearing:
  - Written award within 15 days
  - Cost of arbitration shared equally by the parties
Timelines, Mediation and Arbitration

Pre-mediation:
- The duty to bargain arises when a public employer receives a request to bargain from the employee organization.
- Employee organization and public employer designate their representatives to engage in collective bargaining negotiations.
- Exchange of initial bargaining positions:
  - Employee organization presents its initial position to the employer.
  - Public employer presents its initial position to the employee organization within two weeks following the first bargaining session.
  - If using a cooperative bargaining process, parties may exchange initial interest statements in lieu of initial bargaining positions.
  - Meetings are open to the public and subject to the provisions of Code of Iowa chapter 21.
- Negotiations:
  - Negotiating sessions, strategy meetings of public employers are exempt from the provisions of Code of Iowa chapter 21.

Impasse Procedures:
- Season:
  - December 15 – April 15 – School District and AEA non-teachers.
  - January 31 – May 31 – Community College bargaining units, School District or AEA licensed teachers.
- Procedure:
  - Parties should attempt to agree upon an independent impasse procedure.
    - Failure to do so means that the statutory impasse procedures apply.
  - Parties using a cooperative alternative bargaining process shall agree upon a method and schedule for the completion of impasse procedures should they fail to reach an agreement through the use of the alternative process.

Mediation:
- Either party may request PERB to appoint a mediator.
- Mechanics:
  - PERB appoints an impartial and disinterested person as a mediator.
    - PERB utilizes: PERB staff, FMCS commissioners, and Ad Hoc mediators.
  - Mediator designates the time and place for mediation session.
    - Effective date of the appointment is the mediation date.
    - Role of the mediator is to bring the parties together and facilitate an agreement. Mediator may not compel the parties to agree.
Mediations are not open to the public and exempt from the provisions of Code of Iowa chapter 21.

Mediator’s confidentiality – any information disclosed by the parties to the mediator in performance of their mediation duties shall not be discussed by the mediator unless approved by the parties involved or permitted by Iowa Code §20.31.

- Mediator notifies PERB of outcome of mediation.

Tentative Agreement Reached:

- Ratification:
  - After tentative agreement, terms shall be made public by the employer.
  - Ratification timelines may be modified by written mutual agreement.
  - Ratification election – Employee Organization:
    - Notice given at least 24 hours prior to the ratification election.
    - Election within seven days of the tentative agreement.
    - Vote by secret ballot and only members shall be entitled to vote. May extend voting rights to nonmembers pursuant to internal procedures.
    - Ratified by a majority of those voting.
    - Notify employer of outcome of vote within 24 hours of the vote.
  - Ratification election – Employer Organization:
    - Within ten days of the tentative agreement.
    - Notify employee organization of outcome of vote within 24 hours of the vote.
    - If employee organization rejects tentative agreement, public employer does not have to vote on the tentative agreement.

Tentative Agreement Not Reached:

- Interest Arbitration:
  - Mechanics of the statutory impasse procedure:
    - Ten days after mediator is appointed (mediation date), either party may file a request for arbitration.
    - Within four days of PERB’s receipt of request, exchange of final offers.
      - Final offers shall not be amended.
      - Shall not submit a final offer which has not been offered to the other party in the “course of negotiations.”
    - List of five arbitrators is sent to parties.
    - Within five days of PERB sending the list, arbitrator is selected.
    - Parties notify PERB of selection and PERB notifies arbitrator.
  - Questions as to which §20.9 impasse item a proposal falls is determined by PERB.
Questions as to whether a proposal is a mandatory, permissive or prohibited subject of bargaining is determined by PERB.

May continue to negotiate until an agreement is reached or an arbitration award is rendered.

**Interest Arbitration Hearing:**

- **Arbitrator** sets time and place for hearing.

- **Hearing:**
  - Held on or before May 13th, unless independent impasse agreement
  - Arbitration hearing is open to the public and subject to the provisions of *Code of Iowa* chapter 21.
  - Hearing is recorded.
  - Impasse items submitted to the arbitrator are limited to those items upon which the parties have not reached agreement.
  - Arbitrator shall not mediate or attempt to settle the dispute.
  - Arbitrator considers:
    - Any other relevant factors.
    - §20.22(7) statutory criteria:
      - Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
      - Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees during comparable work, giving consideration to factors peculiar to the area and the classifications involved.
      - Interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services
      - Power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

- **Post-Hearing:**
  - If parties reach agreement on an impasse item following submission to arbitration, the agreement is reported to the arbitrator.
    - Agreed upon provisions are incorporated into the collective bargaining agreement.
    - Arbitrator no longer considers the final offers on that impasse item.
  - Arbitrator selects the most reasonable offer on each impasse item.
  - Arbitrator issues and mails written award to the parties and PERB within 15 days after the arbitration hearing commences.
  - Selections by the arbitrator and items agreed upon shall be deemed to be the collective bargaining agreement.
  - Cost of arbitration is shared equally by the parties.
  - Final and binding subject to §20.17(6).
  - Terms may be enforced by civil action in the district court in the county in which the agreement was made.