

COLLECTIVE BARGAINING

An Overview Of The
Laws, Procedures
And Concepts

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PRE 1984

- Public employees were covered by the Ferguson Act which prohibited employees from striking and if they did they could be fired.
- Some public employees actually bargained contracts as early as 1962 (Dayton Education Association).

AFTER 1984

- The Collective bargaining law ...O.R.C. 4117 passed the legislature – Effective July 1984.
- It provided ground rules for the establishment of representation elections, rules regarding Employer/Employee behavior in the processes of collective bargaining and a series of regulations regarding Unfair Labor Practices.

AFTER 1984

- Employees are guaranteed a secret ballot election to determine if a Union is to represent them. 2010 Administrative rule allows for mail-in balloting.
- It only takes 30% of the total Employees in the proposed “unit” to request an election but 50% plus one of those VOTING to select a Union.

AFTER 1984

- To decertify a Union, it takes 50% plus one of membership of the Union to call for an election and 50% plus one of those VOTING to vote against the Union.

AFTER 1984

- The Law established the State Employment Relations Board (SERB, modeled after NLRB) to oversee the public sector collective bargaining (modeled after NLRA), giving SERB full authority to draft rules and regulations, to enforce the rules and regulations and to issue binding decisions on labor related questions.

AFTER 1984

- The Law states what can be bargained into a labor contract and what are proper subjects of bargaining. (Mandatory and Permissive Subjects)
- It also states how disagreements are to be resolved and a process by which employees have the ability to strike except for Safety Forces.(Dispute Resolution Procedure)

MEDIATION

- This is a process that is mandatory under SERB rules and is utilized to settle labor relations issues. (Collective Bargaining and Unfair Labor Practices [ULP's])
- A mediator attempts to get the two sides to moderate their positions to reach a settlement.
- The mediator has no authority to force/ recommend a settlement and is under no obligation to seek fairness within the settlement.

FACT FINDING

- This is a process wherein a third party is assigned by SERB to conduct a “hearing” on the outstanding/unresolved issues during bargaining. This process comes after mediation.
- The fact finder issues a written report which must be accepted or rejected by a 2/3 vote of each parties membership (BUM’s/Board) within 7 days of issuance.
- SERB appointed Fact-Finders are currently under direction to attempt to mediate a settlement if at all possible !

CONCILIATION

- Reserved for BU's than can not strike (e.g.: Safety Forces)
- Similar to Fact Finding
- Conciliator issues a **BINDING** report that usually mirrors the Fact Finding report, with minor changes.

STRIKE

- This is the culmination of the bargaining process if the parties cannot reach an agreement.
- If the Union is going to strike, they must provide a minimum of 10 calendar days notice of their intent to strike.
 - Intermittent Strikes are not permitted.

WAGES, HOURS, TERMS AND CONDITIONS OF EMPLOYMENT

- These are the mandatory topics of bargaining.
- In an initial contract, other topics are not mandatory subjects and do not need to be and should not be bargained.
- In negotiating a successor contract, W/H/T-C remain mandatory as do other items found within the expiring contract.

SOME MANDATORY SUBJECTS

- Wage scales
- Hours of work (not the schedule)
- Number of days of work (not the schedule)
- Insurances
- Leaves
- Holidays
- Contracting out

Generally, the Employer has the right to ...

- Determine matters of inherent managerial policy which include, but are not limited to, areas of discretion or policy such as the functions and programs of the public employer, standards of services, its overall budget, utilization of technology and organizational structure;
- Direct, supervise, evaluate, or hire employees;
- Maintain and improve the efficiency and effectiveness of governmental operations;

Generally, the Employer has the right to ...

- Determine the overall methods, process, means or personnel by which governmental operations are to be conducted;
- Suspend, discipline, demote, or discharge for just cause, or lay off, transfer, assign, schedule, promote or retain employees;
- Determine the adequacy of the work force;

Generally, the Employer has the right to

- Determine the overall mission of the employer as a unit of government;
- Effectively manage the work force;
- Take actions to carry out the mission of the public employer as a governmental unit.

STAY AWAY FROM

- Specifications on health insurance
- Job duties and/or descriptions
- Time limits on most things
- Extensive coverage procedures
- Excessive “hoops” to jump through to do anything
- Seniority controlling filling vacancies

STAY AWAY FROM

- Seniority in promotions
- Step salary schedules
- Me too's
- Calendar issues
- Maintenance of standards issues

IN GENERAL

- Keep control of the work force
- Maintain as much flexibility as possible
- Use words such as “when possible”, “will provide notice of”, “will seek input from”, etc.

What is NOT bargained is covered by ...

- Board/ER Policy
- State Law
- Federal Law

CAUTION

- Collective Bargaining is a high risk area and requires expertise.
- It is always better to have an “outsider” bargain for you so as to “stay out of the line of fire”.

If there appears to be an organizing effort to form a union...

- There are several things which the Employer must know so as to not commit a ULP.

Permissible Activities ...

- Explain to employees that signing a Union authorization card does not obligate them to vote for the Union.
- Inform employees how their wages/benefits compare with employees in Unionized or Union-free county boards.
- Generally speaking, the County Board can limit solicitation of membership or discussion of Union affairs to off-duty time.
- Enforce work rules impartially.

Permissible Activities ...

- Explain to employees in the proposed unit that a Union cannot give more than the employer is willing and able to give.
- Explain to employees the disadvantages to belonging to a Union.
- Share prior experiences with Unions, especially this Union's history of strikes.
- Explain to employees the benefits they already have.
 - **Do not promise or threaten anything!**

Permissible Activities ...

- Remind employees that they are legally free to join or **not join** any labor organization.
- Explain to employees that a local Union may be dominated by an international Union.
- Express the County Board's opinion about Unions and Union policies.
- The County Board is permitted to keep outside organizers off County Board property.

Permissible Activities

- Explain that Ohio law permits an employer to replace workers on strike for economic reasons.
- Explain that employees protected by Ohio's civil service laws lose those protections once they join the Union.
- Advise employees of their right under Ohio law to not only form, join, assist or participate in a Union but also to **refrain** from forming, joining, assisting or participating in a Union.

Impermissible Activities ...

- County Board, or its agents, cannot attend Union meetings or spy on those who do.
- Cannot discipline or layoff or threaten to discipline or layoff, an employee for engaging in Union activity.
- Cannot grant wage increases or special concession solely to keep the Union out, or promise special benefits if the employees reject the Union.
- Cannot bar employees from soliciting employee membership during **nonworking hours**.

Impermissible Activities ...

- Cannot ask employees about confidential Union matters or meetings.
- Cannot threaten employees with economic reprisals, such as closing the shop.
- Cannot announce that County Board will not deal with the Union.
- Cannot discipline Union supporters while not disciplining non-Union supporters.

Impermissible Activities ...

- Cannot deviate from County Board's policies for purpose of discharging or forcing out a Union supporter.
- Cannot threaten or coerce employees in attempt to influence votes.
- Cannot claim that Unionizing will force the County Board to layoff employees.
- Cannot start a petition against the Union or encourage its circulation if started by employees.

Impermissible Activities

- Cannot urge employees to induce others to oppose the Union.
- Cannot solicit employees to request the return of Union authorization cards they have signed.

Conclusions

- Don't hesitate to seek help from a professional
- Don't ignore signs that there is some interest in a union
 - If a group of employees gets quiet when you approach or seem to passing out info to each other....
 - Meeting notices posted for unknown meetings

COMMERCIAL

DUBLIN MANAGEMENT GROUP

- David Kessler, 614.923.3114
 - dsk@dublinmanagement.com
- Rich Bourgault 614.923.3124
 - rrb@dublinmanagement.com