

Florida Public Employees Relations Commission

Chapter 60CC-3: NEGOTIATIONS AND IMPASSE RESOLUTION

60CC-3.001 Notice of Negotiations.

(1) A Notice of Negotiations (PERC FORM 14) may be submitted at any time after the commencement of negotiations and shall contain the following information:

- (a) The name, affiliations, if any, and address of the certified bargaining agent;
- (b) The name and address of the public employer involved;
- (c) The name, address, and telephone number of the principal spokesman for both the certified bargaining agent and the public employer;
- (d) The description of the bargaining unit certified by the Commission;
- (e) The approximate number of employees included in the bargaining unit;
- (f) The commencement date of the fiscal year which is the subject of present negotiations;
- (g) The contract expiration date, if applicable; and
- (h) A statement of any other relevant facts.

(2) Upon filing of the Notice of Negotiations, the Commission, through its designated agent, shall advise the parties of the availability of a mediator in the appropriate geographical area for use by the parties as they desire.

Specific Authority 447.207(1) FS. Law Implemented 447.403(1) FS. History—New 5-6-79, Formerly 38D-19.01, 38D-19.001.

60CC-3.002 Who May Serve as Mediator.

The Commission, upon request of the parties, may, through its designated agent, select a mediator to assist the parties in reaching agreement. Selection may be made through the Federal Mediation and Conciliation Service.

Specific Authority 447.207(1) FS. Law Implemented 447.207(5), 447.403(1) FS. History—New 5-6-79, Amended 1-25-82, Formerly 38D-19.02, 38D-19.002.

60CC-3.003 Maintenance of Special Master Roster.

(1) The Commission shall maintain a roster of special masters selected by the Chairman. In selecting members for the roster, the Chairman may consider the applicant's experience, education, skill in written expression, neutrality, and willingness to undertake continuing training as a special master. The Chairman may also consider past or present memberships on a roster of arbitrators maintained by the Federal Mediation and Conciliation Service, the National Academy of Arbitrators, or the American Arbitration Association. Applicants seeking listing on the roster must complete and submit an application to the Chairman which satisfies the following requirements:

- (a) All initial applicants for admission to the roster shall provide the Chairman with written recommendations from three representatives of employee organizations active in Florida, and three representatives of Florida public employers, attesting to the applicant's experience, expertise, training and ability to serve in a neutral capacity. Recommendations from neutral

agencies may be substituted for any of the required recommendations.

(b) All initial applicants shall provide the Chairman with copies of five cases, either interest arbitration or grievance arbitration cases, in which the applicant was a neutral participant as arbitrator, fact-finder, mediator or similar participant within the preceding five years. In lieu of copies of cases an applicant may submit other equivalent evidence of experience. For the purpose of determining qualification for listing on the roster, preference will be given in the following order:

1. Public sector interest arbitration;
2. Public sector grievance arbitration;
3. Private sector arbitration;
4. Service as a hearing officer, mediator, fact finder, member of a collegial body, administrative law judge, or other neutral party;
5. Academic service as an instructor or researcher in the field of labor relations;
6. Experience in the field of labor law or labor relations.

(c) No person who is an advocate as defined herein may be listed on the roster. An advocate is a person who derives a significant portion of his or her earned income by representing employers, labor organizations or individuals as an employee, attorney or consultant, in matters of labor relations, including but not limited to the subjects of union representation and recognition matters, collective bargaining, arbitration, unfair labor practices and other areas generally recognized as constituting labor relations. The definition of advocate also includes persons directly associated with an advocate in a business or professional relationship as, for example, partners or employees of a law firm.

(2) Initial listing on the roster shall be for a period of two years, with subsequent renewals of two years if evidence of continuing satisfaction of these criteria is provided to the Chairman. Additionally, initial applicants and renewal applicants must demonstrate annual participation in continuing education or training programs sponsored by the Commission, The Florida Bar, the American Arbitration Association, Federal Mediation and Conciliation Service, National Academy of Arbitrators, Society of Professionals in Dispute Resolution, Industrial Relations Research Association, or other similar programs relating to labor and employment relations as approved by the Chairman.

(3) An out-of-state special master appointed from the roster may charge the parties for travel expenses and travel time incurred only within the State of Florida, but not for travel necessary to come to Florida.

(4) The active roster shall not list more than forty special masters approved by the Chairman.

Specific Authority 447.207(1), (5) FS. Law Implemented 447.207(5), 447.403(2) FS. History—New 5-6-79, Amended 7-14-83, Formerly 38D-19.04, 38D-19.004.

60CC-3.004 Appointment of Special Master.

(1) When negotiations reach impasse and no mediator has been appointed, or upon the request of either party, the Commission shall, through the Chairman, provide for the appointment of a special master.

(2) The parties may agree to the appointment of an individual who will be appointed by the Chairman if the Chairman finds that such individual is qualified pursuant to Rule 60CC-3.004, F.A.C.

(3) If the parties do not jointly request the appointment of a specific individual, the Chairman

or his designated agent shall furnish the names and biographies of seven individuals listed on the Special Master Roster.

(a) Within 20 days after the date of the letter transmitting the list of choices, each party shall notify the Chairman in writing of its rejection of three choices or its preference for one choice.

(b) Where the parties both indicate a preference for the same choice, that individual shall be appointed by the Chairman.

(c) Where the parties both reject the same choice, the Chairman shall appoint one of the remaining individuals.

(4) If the parties are unable to agree upon an acceptable special master from the panel of three furnished by the Chairman or his designated agent, the Chairman shall appoint a special master, at his discretion, from the Special Master Roster.

Specific Authority 447.207 FS. Law Implemented 447.207, 447.403 FS. History—New 5-6-79, Formerly 38D-19.05, Amended 11-26-86, Formerly 38D-19.005.

60CC-3.005 Issues Before Special Master.

Within ten (10) days after the date of appointment of a special master, each party shall serve upon the special master a written list of issues at impasse, simultaneously serving a copy of the list upon each other party.

Specific Authority 447.207(1), (5) FS. Law Implemented 447.403(2), (3) FS. History—New 5-6-79, Formerly 38D-19.06, 38D-19.006.

60CC-3.006 Proceeding Before Special Master.

(1) Upon appointment by the Commission, through the Chairman, the special master shall set, and notify all parties of, the time and place of the hearing(s). In appropriate circumstances, the special master may, after conferring with the mediator, defer conducting hearings, pending satisfactory resolution of the impasse, for a reasonable length of time.

(2) All motions, objections, or other requests for ruling shall be made to the special master either in writing, with copies thereof being simultaneously served upon all other parties to the hearing and proof of such service being given to the special master, or orally during a hearing. The special master shall permit such response to a motion, objection or other request for ruling as he believes is reasonable and just.

(3) Any party directly involved in the proceedings shall have the right to appear at the hearing in person, by counsel, or by other representative, and any such party and the special master may call, examine, and cross-examine witnesses, and offer documentary and other evidence for introduction into the record. Witnesses shall be examined orally under oath. Stipulations of fact may be introduced in evidence with respect to any issue. Compliance with the rules of evidence shall not be required.

(4) The special master may issue subpoenas when requested by a party, or upon his own motion.

(5) In the event of any misconduct at any hearing before a special master, the special master shall submit an affidavit describing such misconduct for action by the Commission.

(6) The special master may permit the submission of a written memorandum in support of a party's position after the close of the hearing upon such conditions as he may reasonably impose, provided that the request for permission to file such post-hearing memorandum was made before

the close of the hearing.

Specific Authority 447.207(1), 447.403(3) FS. Law Implemented 447.207(5), 447.403(3) FS. History–New 5-6-79, Formerly 38D-19.07, 38D-19.007.

60CC-3.007 Recommended Decision of Special Master.

(1) Following the close of the hearing(s), the special master shall review and consider all of the relevant evidence which has been presented during the hearing(s) and any oral or written argument provided by the parties, and he shall prepare a recommended decision. In reaching a decision, the special master shall consider only that evidence presented at the hearing(s) in light of those factors set forth in Section 447.405, Florida Statutes. The special master's recommended decision shall include findings of fact and recommendations for settlement of each issue in dispute.

(2) Within fifteen (15) calendar days after the close of the hearing(s), the special master shall transmit his recommended decision to the Commission and to representatives of both parties, by registered mail, return receipt requested.

Specific Authority 447.207(1) FS. Law Implemented 447.403(3) FS. History–New 5-6-79, Amended 1-25-82, Formerly 38D-19.08, 38D-19.008.

60CC-3.008 Approval of Recommended Decision by Parties.

The recommended decision of the special master shall be deemed accepted by the parties except as to those recommendations which a party specifically rejects, by filing a written notice with the Commission and serving a copy on the other party, within twenty calendar days after the date the recommended decision was received by that party. The written notice shall include a statement of the cause for rejection of each recommendation.

Specific Authority 447.207(1) FS. Law Implemented 447.403(3) FS. History–New 5-6-79, Amended 7-14-83, Formerly 38D-19.09, 38D-19.009.

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