

UNDERSTANDING THE FACT-FINDING PROCESS

IF NEGOTIATIONS DO NOT YIELD AN AGREEMENT

Outside Support

- Required first step - certification by the state that a bargaining impasse exists - brings an outside mediator in to help the teams reach agreement.
- If mediation leads to an agreement, the normal process of accepting the contract takes place.
- If mediation is not successful - which only the mediator gets to determine - the teams are released to pursue fact-finding.



NEGOTIATIONS

The bargaining teams deal directly with each other to work through issues and contract proposals.



IMPASSE MEDIATION

Once an impasse is confirmed by the state, a neutral mediator is appointed to assist with resolving the remaining issues.



FACT-FINDING

When the mediator determines that additional sessions would not be helpful, the parties are released to pursue fact-finding.

No Mediated Agreement - Declaring Fact-Finding

- Fact-finding does not happen automatically. One or both parties must formally request that the process be initiated to the Public Employment Relations Board (PERB).
- Once initiated, both parties appoint members to the hearing panel.
- Within five (5) days of the appointment of each party's panel member, PERB is responsible for appointing a chairperson.
- If both parties agree, they may select a different person to chair the fact-finding panel.
- Once confirmed, the three-member fact-finding panel is responsible for convening a hearing process where information is collected from the parties and reviewed in light of the specific criteria set out in the law. This process is designed to ensure that the panel's findings and recommendations are fair and comprehensive.
- During this process, the parties may still explore options for settlement.
- If no settlement is reached within thirty days of the appointment of the panel, the chairperson of the panel is responsible for preparing a written report, setting forth their findings based on the statutory criteria and their recommendations for settlement.
- The fact-finding report is advisory only and not binding on either party.
- Once drafted, the report is initially released privately, only to the parties.
- Upon receipt, the parties are required to consider the panel's recommendations and will generally meet again, in a final effort to resolve their remaining disagreements.
- If issued to the parties, the written report must be made public within ten days thereafter, regardless of whether the parties are able to reach a settlement.
- Once that process has concluded and in the absence of a final agreement, the district may, but is not required to, impose its last, best, and final offer and the union is free to strike.
- Note that the duty to bargain may be revived at any time during this process should either party offer material concessions or indicate a willingness to compromise on their prior position(s).

Collective Bargaining Flowchart

