

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Adopted and Filed

Pursuant to the authority of Iowa Code section 20.6(5), the Public Employment Relations Board hereby amends Chapter 6, “Negotiations and Negotiability Disputes,” Iowa Administrative Code.

Item 1 reflects amendments to the existing rule regarding scope of negotiations. The amendments were identified in the Board’s ongoing review of its administrative rules.

Item 2 reflects amendments to the existing rule regarding negotiability disputes. The amendments were identified in the Board’s ongoing review of its administrative rules and include a reorganization of current language, which has been moved to newly titled subrules. The amendments include the addition of specific information required for a petition for resolution of a negotiability dispute filed with the agency and clarify that the proposal at issue must be a proposal made during the course of collective bargaining. The amendments eliminate the option by which parties may request that arbitrators file petitions for the resolution of negotiability disputes raised at arbitrations but retain current language requiring the objecting party to file the petition.

Item 3 reflects nonsubstantive amendments to the existing rule regarding acceptance of agreements. The amendments have been identified in the Board’s ongoing review of its administrative rules and include a reorganization of current language, which has been moved to newly titled subrules.

Item 4 reflects nonsubstantive amendments to the existing rule regarding the filing of agreements. The amendments have been identified in the Board’s ongoing review of its administrative rules and include the elimination of the requirement that paper copies of collective bargaining agreements be submitted to the agency.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2191C** on October 14, 2015. Written and oral comments and requests for a public hearing were accepted through November 3, 2015. No request for a public hearing was received although one question was received and answered about the amendments. These amendments are identical to those published under Notice of Intended Action.

These rules do not provide for a waiver of their terms but are instead subject to the agency’s general waiver provisions found at rule 621—1.9(17A,20).

After review and analysis of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 20.

These amendments will become effective January 13, 2016.

The following amendments are adopted.

ITEM 1. Amend rule 621—6.1(20) as follows:

621—6.1(20) Scope of negotiations. The scope of negotiations shall ~~be include the mandatory subjects of collective bargaining as provided in Iowa Code section 20.9. “Permissive” matters are all other subjects upon which bargaining is not prohibited.~~ Either party may introduce ~~other, nonmandatory permissive matters for negotiation, and negotiation on these matters may continue until resolved by mutual agreement of the parties or until negotiations reach the arbitration stage of impasse; provided, however, that no party may be is required to negotiate on nonmandatory permissive subjects of bargaining.~~ Unresolved ~~nonmandatory permissive matters shall be excluded from arbitration unless submission of the matter has been mutually agreed upon by the parties.~~ Such an agreement is applicable only to negotiations toward the collective bargaining agreement then sought and is not binding upon the parties for future negotiations.

ITEM 2. Amend rule 621—6.3(20) as follows:

621—6.3(20) Negotiability disputes.

6.3(1) Defined. A ~~“Negotiability negotiability dispute”~~ is a dispute arising in good faith during the course of collective bargaining as to whether a proposal made during bargaining is a mandatory,

permissive, or prohibited subject to of collective bargaining under Iowa Code section 20.9 or whether a proposal which is subject to collective bargaining under Iowa Code section 20.9 is a mandatory topic of bargaining.

6.3(2) Expedited Petitions for expedited resolution.

a. In the event that a negotiability dispute arises between the employer and the certified employee organization, either party may petition the agency for expedited resolution of the dispute. The petition shall be filed and set forth the material facts of the dispute and the precise question of negotiability submitted for resolution, following:

(1) The name and address of the petitioner and the name, address, telephone number, and e-mail address of the petitioner's representative;

(2) The name and address of the respondent and the name, address, telephone number, and e-mail address of the respondent's representative;

(3) The material facts of the dispute; and

(4) The verbatim text of the proposal at issue.

b. The petitioner shall promptly serve the other party with a copy of the petition and file proof thereof with the agency in accordance with 621—subrules 2.15(3) and 16.10(1). Unless the dispute is resolved prior to the arbitration hearing, the parties shall present evidence on all items to the arbitrator, including the item which is the subject of the negotiability dispute. A negotiability dispute raised at the arbitration hearing shall be upon written objection to the submission of the proposal to the arbitrator. The objection shall request the arbitrator to seek a negotiability ruling from the agency regarding the proposal or state that the objecting party will file a petition for resolution of the dispute, which petition shall be filed within five days of the making of the objection. Arbitrators shall rule on all items submitted to them including the item which is the subject of the negotiability dispute, unless explicitly stayed by the board. Arbitration awards issued prior to the final determination of the negotiability dispute will be contingent upon that determination.

6.3(3) Decisions. Petitions filed pursuant to subrule 6.3(2) shall be given priority by the board. If deemed necessary by the board, the petition may be set for oral argument.

6.3(3) Preliminary ruling. The agency will give priority to a petition for expedited resolution of a negotiability dispute. Parties may file briefs in support of their positions within the time specified by the agency, and the agency may set the matter for oral argument. The agency may issue a preliminary ruling, without analysis, that the proposal is mandatory, permissive, or prohibited.

6.3(4) Final ruling. Within 20 days following the issuance of a preliminary ruling, either party may request the agency to issue a final ruling, which will set forth the agency's analysis and conclusions.

6.3(5) Arbitration. Unless the dispute is resolved prior to the arbitration hearing, the parties shall present evidence on all items to the arbitrator, including the item which is the subject of the negotiability dispute. A negotiability dispute raised at the arbitration hearing shall be upon written objection to the submission of the proposal to the arbitrator. The objection shall state that the objecting party will file a petition for resolution of the dispute with the agency, which petition shall be filed within five days of the making of the objection. Arbitrators shall rule on all items submitted to them including the item which is the subject of the negotiability dispute, unless explicitly stayed by the agency. Arbitration awards issued prior to the final determination of the negotiability dispute are contingent upon the agency's determination.

6.3(6) Negotiability outside of bargaining. Questions of negotiability which do not arise during the course of bargaining are not negotiability disputes within the scope of this rule but may be posed to the agency by a petition for declaratory order filed pursuant to 621—Chapter 10.

ITEM 3. Amend rule 621—6.4(20) as follows:

621—6.4(20) Acceptance of proposed agreement Voluntary settlement procedures.

6.4(1) Terms made public. Where the parties have reached a proposed (or "tentative") collective bargaining agreement, the public employer shall make the terms of that the agreement shall be made public by the public employer, and the employee organization shall give reasonable notice of the date, time and place of a ratification election on the tentative agreement to the public employees; provided,

~~however, that such notice shall be at least 24 hours prior to the election and the election shall be within seven days of the date of the tentative agreement. The vote shall be by secret ballot and only members of the employee organization shall be entitled to vote; provided, however, that the employee organization may, pursuant to its internal procedures, extend voting rights to nonmember bargaining unit employees. The employee organization shall within 24 hours notify the public employer whether the proposed agreement has been ratified.~~

6.4(2) Ratification or rejection by employee organization. Within seven days of the date of the tentative agreement, the employee organization shall conduct a ratification election on the tentative agreement. The employee organization shall give reasonable notice of the date, time and place of the election to the public employees; however, such notice shall be at least 24 hours prior to the election. The vote shall be by secret ballot, and the majority of votes cast will determine acceptance or rejection of the tentative agreement. Only members of the employee organization shall be entitled to vote; however, the employee organization may, pursuant to its internal procedures, extend voting rights to nonmember bargaining unit employees. The employee organization shall, within 24 hours of the conclusion of the election, serve notice on the public employer as to whether or not the proposed agreement has been ratified.

6.4(3) Acceptance or rejection by public employer. The public employer shall, within ten days of the tentative agreement, likewise meet to accept or reject the agreement, and shall within 24 hours of the acceptance or rejection serve notice on the employee organization of its acceptance or rejection of the proposed agreement; ~~provided, however, that the public employer shall not be required to either accept or reject the tentative agreement if it has been rejected by the employee organization.~~

6.4(4) Time limits.

a. The above time limits may be modified by a written mutual agreement between the public employer and the employee organization.

b. The above time limits shall not apply to proposed agreements between the state and any bargaining unit of state employees.

ITEM 4. Amend rule 621—6.5(20) as follows:

~~**621—6.5(20) Negotiations report—filing** Filing of agreement. Not later than 60 days after conclusion of ratification and acceptance of an a tentative agreement or the issuance of an interest arbitration award, the public employer shall submit the collective bargaining agreement to the board a report of negotiations procedures on a form provided by the board and shall attach two copies of the agreement agency.~~

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.