

CHAPTER 6
NEGOTIATIONS AND NEGOTIABILITY DISPUTES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

621—6.1(20) Scope of negotiations. The scope of negotiations shall 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 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; however, no party is required to negotiate on permissive subjects of bargaining. Unresolved 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.

[ARC 8953B, IAB 7/28/10, effective 9/1/10; ARC 2308C, IAB 12/9/15, effective 1/13/16]

621—6.2(20) Consolidated negotiations. Nothing in these rules shall prohibit, by agreement of the parties, more than one certified bargaining representative from bargaining jointly with a common public employer, or more than one public employer from bargaining jointly with a common certified bargaining representative, or any other combination thereof.

621—6.3(20) Negotiability disputes.

6.3(1) Defined. A “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 of collective bargaining under Iowa Code section 20.9.

6.3(2) 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 following:

- (1) The name and address of the petitioner and the name, address, telephone number, and email address of the petitioner’s representative;
- (2) The name and address of the respondent and the name, address, telephone number, and email 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).

6.3(3) Preliminary ruling. The agency will give priority to a petition for expedited resolution of a negotiability dispute. Parties will file informal position statements in support of their positions within the time specified by the agency, and the agency may set the matter for oral argument. The agency or appointed administrative law judge 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.

[ARC 8953B, IAB 7/28/10, effective 9/1/10; ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 2308C, IAB 12/9/15, effective 1/13/16; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—6.4(20) Public safety unit determination.

6.4(1) *Applicability.* This rule applies only to bargaining units which include at least one public safety employee, as defined in 621—subrule 1.6(12) or as required by Iowa Code section 20.32 concerning certain transit employees.

6.4(2) *Defined.* A public safety unit is a bargaining unit in which at least 30 percent of the employees are public safety employees.

6.4(3) *Determination of public safety unit status.* A bargaining unit will constitute a public safety unit if at least 30 percent of the employees in the unit were public safety employees at any one time in the six months preceding the applicable date identified in subrule 6.4(7).

6.4(4) *Identification of public safety or non-public safety unit.* Parties engaging in negotiations for a collective bargaining agreement shall endeavor to agree upon and stipulate to the public safety or non-public safety status of the unit at issue.

6.4(5) *Agreement and stipulation.* If the parties are in agreement, the parties shall complete a stipulation form prescribed by the agency. The stipulation shall be signed by the authorized representatives of the parties, and the certified employee organization shall submit it to the agency by email, ordinary mail, or personal delivery.

6.4(6) *Petition, response and hearing for determination of public safety or non-public safety unit status.*

a. If the parties fail to reach agreement, the party asserting public safety unit status shall file a petition for determination of the unit status on or before the applicable date identified in subrule 6.4(7). The petition shall be on an agency-prescribed form and electronically filed. The petitioning party 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).

b. The non-petitioning party shall, within ten days following the filing of the petition with the agency, file a response asserting its basis for identifying the unit as a non-public safety unit.

c. Hearings on the petition shall be conducted pursuant to 621—Chapter 2. The public employer shall present its evidence first.

6.4(7) *Deadlines.* The stipulation shall be submitted or a petition filed on or before the dates indicated:

- a.* August 1 for contracts that expire January 1 to March 31 of the subsequent year.
- b.* November 1 for contracts that expire April 1 to June 30 of the subsequent year.
- c.* February 1 for contracts that expire July 1 to September 30 of the same year.
- d.* May 1 for contracts that expire October 1 to December 31 of the same year.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 4457C, IAB 5/22/19, effective 6/26/19]

621—6.5(20) Voluntary settlement procedures.

6.5(1) *Terms made public.* Where the parties have reached a proposed (or “tentative”) collective bargaining agreement, the public employer shall make the terms of the agreement public.

6.5(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.

6.5(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; however, the public employer shall not be required to either accept or reject the tentative agreement if it has been rejected by the employee organization.

6.5(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.

[ARC 8953B, IAB 7/28/10, effective 9/1/10; ARC 2308C, IAB 12/9/15, effective 1/13/16; ARC 3278C, IAB 8/30/17, effective 8/10/17]

621—6.6(20) Filing of agreement.

6.6(1) *Copy of agreement.* A public employer shall file a copy of the collective bargaining agreement entered into between the public employer and a certified employee organization and made final under Iowa Code chapter 20. Filing shall be completed by uploading the collective bargaining agreement into suPERB. The certified employee organization will be notified of the filing of the collective bargaining agreement through suPERB. The public employer shall file the copy within ten days of the date on which the agreement is entered into.

6.6(2) *Failure to file an agreement.* If an employer fails to file a finalized collective bargaining agreement within ten days of the date on which the agreement is entered into, the agency will order an in-person show cause hearing at the agency. The agency shall also provide notice of the show cause hearing to the certified employee organization. The agency may grant appropriate accommodation in the form of more time or take official notice of failure to comply with subrule 6.4(1) and Iowa Code section 20.29(2).

6.6(3) *Transit units.* When filing a collective bargaining agreement, an employer will designate a unit as public safety or transit if appropriate. The agency and employee organization will receive notification of the designation. Upon agreement from both parties or absent an agreement or ruling from the agency in a contested hearing, the agency will designate the unit appropriately in suPERB.

[ARC 2308C, IAB 12/9/15, effective 1/13/16; ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 7011C, IAB 5/3/23, effective 6/7/23]

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