

621—7.5(20) Binding arbitration.

7.5(1) Request for arbitration. If the dispute remains unresolved ten days after the effective date of the appointment of the mediator, either party to the impasse may request the board to arrange for binding arbitration.

7.5(2) Form and contents of request. The request for arbitration shall be filed with the agency through suPERB and shall include the name, address, email address, and signature of the requesting party and the capacity in which the requesting party is acting.

7.5(3) Service of request. The requesting party shall mail or email a copy of the request for arbitration to the opposing party.

7.5(4) Exchange of final offers. Within four days of the board's receipt of the request for arbitration, each party shall mail or email its final offer on each of the impasse items to the other party to the impasse. Final offers shall not be amended. A party shall not submit a final offer for arbitration which has not been offered to the other party in the course of negotiations.

7.5(5) Selection of arbitrator. Upon the filing of a timely request for arbitration, the board shall email a list of five arbitrators to the parties. Within five days from when that email is sent, the parties shall select their arbitrator from the list in the manner specified in Iowa Code section 20.22(4).

7.5(6) Date and conduct of hearings.

a. Impasse items are deemed submitted to binding arbitration on the date of the commencement of the arbitration hearing, regardless of its duration. In disputes where the public employer is a community college, or where all or a portion of the public employees in the bargaining unit are teachers licensed under Iowa Code chapter 272 and the public employer is a school district or area education agency, the submission of impasse items to binding arbitration shall occur not later than May 13 of the year when the resulting collective bargaining agreement is to become effective.

b. Arbitration hearings shall be open to the public and shall be recorded either by mechanized means or by a certified shorthand reporter.

c. The arbitration hearing shall be limited to those factors listed in Iowa Code section 20.22 and subrules 7.5(7) and 7.5(8) and such other relevant factors as may enable the arbitrator to select the most reasonable offer, in the arbitrator's judgment, of the final offers submitted by the parties on each impasse item. Arbitrators appointed pursuant to impasse procedures agreed upon by the parties shall likewise consider these same factors.

During the hearing, the parties shall not introduce, and the arbitrator shall not accept or consider, any direct or indirect evidence regarding any subject excluded from negotiations pursuant to Iowa Code section 20.9, except as required for purposes of the consideration of the factors specified in subrule 7.5(7) and paragraph 7.5(8) "a."

7.5(7) Arbitration involving a bargaining unit that has at least 30 percent of members who are public safety employees. The arbitrator shall consider and specifically address in the arbitrator's determination, in addition to any other relevant factors, the following factors:

a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.

b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.

c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.

7.5(8) Arbitration involving a bargaining unit that does not have at least 30 percent of members who are public safety employees.

a. The arbitrator shall consider and specifically address in the arbitrator's determination, in addition to any other relevant factors, the following factors:

(1) Comparison of base wages, hours, and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved. To the extent adequate, applicable data is available, the arbitrator shall also compare base wages, hours, and conditions of employment of the involved public

employees with those of private sector employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.

(2) The interests and welfare of the public.

(3) The financial ability of the employer to meet the cost of an offer in light of the current economic conditions of the public employer. The arbitrator shall give substantial weight to evidence that the public employer's authority to utilize funds is restricted to special purposes or circumstances by state or federal law, rules, regulations, or grant requirements.

b. The arbitrator shall not consider the following factors:

(1) Past collective bargaining agreements between the parties or bargaining that led to such agreements.

(2) The public employer's ability to fund an award through the increase or imposition of new taxes, fees, or charges or to develop other sources of revenue.

c. The arbitrator's award on the impasse item of base wages shall not exceed the lesser of the following percentages in any one-year period in the duration of the bargaining agreement:

(1) Three percent.

(2) A percentage equal to the increase in the consumer price index for all urban consumers for the Midwest region, if any, as provided by the agency.

d. Should the final offers of both parties on the impasse item of base wages exceed the lesser of the percentages specified in paragraph 7.5(8) "c," the arbitrator shall select neither of the parties' offers, but shall instead award the lesser of the amounts listed in that paragraph.

7.5(9) *Continued bargaining.* The parties may continue to bargain on the impasse items before the arbitrator until the arbitrator's selections are made. Should the parties reach agreement on an impasse item following its submission to arbitration, they shall immediately report their agreement to the arbitrator. The agreed upon term shall be incorporated into the parties' collective bargaining agreement, and the arbitrator shall no longer consider the final offers of the parties on that impasse item.

7.5(10) *Report of the arbitrator.* With respect to each impasse item, the arbitrator's award shall be restricted to the final offers on each impasse item submitted by the parties to the arbitrator, except as provided in paragraph 7.5(8) "c." Within 15 days after the arbitration hearing, the arbitrator shall issue a written award specifying and explaining the arbitrator's selections and serve each party and the board with a copy by ordinary mail or by email.

7.5(11) *Dismissal of arbitrator.* In the event of a failure of the arbitrator to issue an award within 15 days after the arbitration hearing, the arbitrator shall notify the board and the parties of this failure. Either party may thereafter request a new arbitrator. Unless the parties agree otherwise, the procedures in this rule shall apply; provided, however, that the parties may submit new final offers. No arbitrator shall issue a partial award except by mutual consent of the parties.

7.5(12) *Costs of arbitration.* The arbitrator shall submit to the parties a written statement of fees and expenses with a copy sent to the board. The parties shall share the costs of arbitration equally.

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