

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 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.

[**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]