



COLLECTIVE BARGAINING

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Agenda

- Governing Entities
 - Legal Requirements
 - MOU Requirements
 - Collective Bargaining Process
 - Impasse Procedures
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LEGAL LANDSCAPE – COLLECTIVE BARGAINING



Meyers-Milias Brown Act (MMBA)

- Established in 1968 - Government Code 3500 – 3511¹
- The right of public officers and employees to organize
- Provides the requirement to meet and confer in good faith (3505)
 - **Wages and working conditions**
 - **Recognize bargaining units**
- California's municipal, county, and local special district employers and employees
- Brought under California Public Employment Relations Board (PERB) July 1, 2001
- PERB's jurisdiction excludes peace officers and management employees

1. https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3500.5.&nodeTreePath=2.6.17&lawCode=GOV



California Public Employment Relations Board (PERB)

- California Government Code 3541
 - Governor appointed – 5 members
 - Responsible for administering statutes
 - **Hold elections to garner interest in unionizing**
 - **Prevent and remedy unfair labor practices**
 - **Bring court action to enforce PERB decisions and rulings**
 - **Other actions to fulfill purposes of Act**
 - Unions or employers may file unfair labor charges
 - Provides for State Mediation & Conciliation services
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National Labor Relations Board (NLRB)

- Federal Agency
 - President Appointed – 5 Members
 - Jurisdiction over private entities
 - Responsible for administering statutes
 - PERB sometimes looks to the NLRB decisions for guidance
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Modesto City Charter

Article XII Personnel System, Section 1206 Impartial Arbitration For Police And Fire Department Employee Disputes

- Prohibition to strike
 - Declared policy that Police and Fire striking is not in public interest.
 - Alternative dispute resolution methods required.
 - Meet in good faith
 - No existing benefits or conditions of employment shall be eliminated or changed
 - Impasse procedures
 - All disputes or controversies remaining unresolved after good faith bargaining shall be submitted to a three-member board of arbitrators
 - Shall conform with Title 9 Part 3 of the California Code of Civil Procedure
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MEMORANDUM OF UNDERSTANDING (MOU) AND COLLECTIVE BARGAINING PROCESS



MOU Requirements

- **Meet and Confer in Good Faith**
 - **3504 - The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.**
 - **Contract negotiations**
 - **Contracts cover a period of time and expire, at which time parties begin to meet and confer**
 - **Current contract expires June 30, 2027**
 - **Side Letters**
 - **Between expirations, parties may meet for operational needs.**
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Types of Bargaining

Traditional Bargaining

- This is also called “Positional”
- Each party takes turns presenting proposals
- Parties work toward closing the gap between proposals by concessions

Interest-Based Bargaining

- Begins with listing concerns
 - All topics are listed first
 - Parties choose order of topics
 - Listing party states why it is an important topic
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Collective Bargaining Timeline

Initiate Process

Parties communicate intentions to begin bargaining, including proposed dates. Typically, 5 to 6 months before the expiration of the current MOU

Meeting One

Establish type of bargaining, rules of engagement such as communication expectations*, confidentiality, and goals.

Successive Meetings

Parties meet until a tentative agreement is reached. Both parties must meet in good faith until such agreement, or an impasse is declared**

*Includes who will be involved on both sides outside of the room. Ex: City Chief Negotiator communicates with the City Manager, Legal, and Council. The Union may consult with their legal or other board members on the Union.

**Either side can declare an impasse but must demonstrate that good faith was extended.



Preparing for Bargaining

City

- Review of MOU
 - **Potential challenging language**
 - **Operational concerns**
- Anticipate Union Requests
- Items that Support City Goals
- Potential Salary and Benefits Study
- Costing of Potential Items

Union

- Survey of Membership
 - Review of MOU
 - **Potential challenging language**
 - **Operational concerns**
 - Potential Salary and Benefits Study
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Council Role

- Council authorizes potential economic items
 - **Wages**
 - **Incentives**
 - **Benefits**
 - **Major impacts**
 - Chief Negotiator and City Manager meet regularly with Council
 - **Provide updates**
 - **Receive further direction**
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Tentative Agreement and MOU Process

- **Tentative Agreement**
 - **These items are negotiated and ratified by the union as well as approved by Council**
 - **Include anything economic as well as operational items**
 - **Language Clean Up**
 - **Changes in duty titles that have changed**
 - **Removal of irrelevant (old) language**
 - **Updating of scheduling language**
 - **Clearer language where needed**
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IMPASSE



Charter Impasse Procedures for Police and Fire

- Either party may declare impasse
 - Each party must select one arbitrator within three days of notice
 - Both parties must agree on a third arbitrator
 - **If parties cannot agree upon a third, the State Mediation and Conciliation Service will be consulted for a list of seven names**
 - **Alternate striking will proceed if agreement cannot be reached**
 - Hearings are conducted as outlined in Title 9, Section 3 of the California Code of Civil Procedure
 - A written decision shall be delivered to both parties
 - **Parties have ten days to mediate further and agree. If no further agreement is reached, arbitration decision is final and binding**
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Impasse Procedures for Non-Public Safety

- Governed by MMBA
 - Either party may declare impasse
 - Fact-finding process:
 - **Mediation – 30 days for facilitator to mediate an impasse (voluntary)**
 - **Employee Association can request fact-finding**
 - **Within 5 days, each party must choose a representative. After which PERB appoints a neutral**
 - **Panel will meet with parties, gather evidence, etc.**
 - **Recommendation (advisory) of terms of settlement**
 - **Becomes public ten days after issuance**
 - Employer can implement its last, best, and final offer
 - **Must wait at least 10 days from panel's written recommendation**
 - **Must hold a public hearing regarding impasse prior to implementation**
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Unfair Labor Practice (ULP)

- Failure to bargain in good faith (employer)
 - **Stalling tactics**
 - **Refusal to consider items**
 - **Pattern bargaining**
 - **Holding information**
 - **Making unilateral changes**
 - Failure to bargain in good faith (union)
 - **Illegal strikes**
 - **Refusing to bargain**
 - **Making unreasonable demands**
 - ULP complaints can be filed with PERB
 - **PERB investigates and issues rulings**
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