

THE STATUTORY STRUCTURE OF INTERST ARBITRATION

Arbitration Completion Dates:

- Unless modified by independent impasse agreement.
 - March 15: City, County or State.
 - April 15 School District or AEA Non Teacher
 - May 31 Community College Teachers and Non-Teachers, School District or AEA Licensed Teachers.
- No budget certification date – beginning of employer’s next fiscal or budget year. (implication read in [§20.19(1)])

Interest Arbitration:

- Follow section 20.22 procedures, unless modified by independent impasse agreement. If modified by an independent impasse agreement, make sure the record reflects the agreement AND your award recites the agreement.

A. Procedures prior to selection of Arbitrator:

- 10 days after mediator is appointed (mediation date), either party may request binding arbitration. [§20.22(1)] [621 IAC 7.5(1)]
- Within four days of PERB’s receipt of request, final offers on each impasse item shall be served upon the other party. [§20.22(2)] [621 IAC 7.5(4)]
- PERB serves a list of five arbitrators to parties. [§20.22(4)] [621 IAC 7.5(5)]
- Parties strike the list within five days of PERB’s sending of list. [§20.22(4)] [621 IAC 7.5(5)]
- Parties notify PERB of selection and PERB notifies arbitrator. [§20.22(4)]

B. Pre-Hearing:

- Arbitrator sets time and place for hearing. [§20.22(4)]
 - If Community College or teacher bargaining unit in a school district or AEA, the hearing shall be conducted no later than May 13, unless an independent impasse agreement. [621 IAC 7.5(6)]
- Arbitrator may issue subpoenas to compel the attendance of witnesses and the production of records. [§20.22(8)]

C. Hearing:

- Procedural:
 - Arbitration hearing is open to the public and subject to the provisions of chapter 21. [§20.17(3)] [621 IAC 7.5(6)]
 - Hearing is recorded by mechanized means or certified shorthand reporter. [621 IAC 7.5(6)]
 - Arbitrator shall not mediate, attempt to settle the dispute or engage in discussions concerning recommendation for settlement with parties. [§§20.22(5) and (6)].
 - Arbitrator may administer oaths, examine witnesses and documents, take testimony and receive evidence. [§§20.22(8)]
 - *Comments:*

- ✓ *Do not mark on exhibits (i.e. make notes of mental impressions or calculations).*
 - ✓ *Be knowledgeable about recording equipment to prevent gaps.*
 - ✓ *If parties volunteer to record, need to take possession of the recording after the hearing.*
- Substantive:
 - Only those items upon which the parties have not reached agreement are submitted to the arbitrator. [§20.22(3)]
 - Arbitrator is restricted to the final offers on each impasse item submitted by the parties to the arbitrator. [§20.22(3)] [621 IAC 7.5(6)]
 - *Comments:*
 - ✓ *Get parties to agree on the record the number of impasse items and what the impasse items are.*
 - ✓ *If parties disagree, it is not for the arbitrator to decide.*
 - Board determines under what impasse item a proposal falls in a declaratory order. [621 IAC Chapter 10]
 - Determine who will file the petition seeking an impasse item ruling before PERB (arbitrator, employer representative or the certified employee organization representative).
 - Board may stay issuance of the award pending the Board’s determination.
 - Arbitrator considers §20.22(7) criteria and other such relevant factors. [§20.22(7)] [621 IAC 7.5(6)]
 - Used with both statutory impasse and independent impasse agreements. [621 IAC 7.5(6)]
 - “Other relevant factor” includes tentative agreements made by the parties during the course of negotiations.
 - If tentative agreement has not been ratified, need to look at the statutory criteria (not just “other relevant factors”)
 - *Comments:*
 - ✓ *If you think that one or more of criteria are not applicable, say so and why.*
 - ✓ *Discussion should reflect consideration of the §20.22(7) criteria.*
 - Statutory criteria found in §20.22(7):
 - 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 classification 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.
 - d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

D. Post Hearing:

- Parties may continue to bargain and if agreement is reached, report the agreement to the arbitrator. Agreed upon terms shall be incorporated into the collective bargaining agreement and the arbitrator shall no longer consider the final offers on that impasse item. [621 IAC 7.5(7)]
- Arbitrator is restricted to the final offers on each impasse item submitted by the parties to the arbitrator. [§20.22(3)] [621 IAC 7.5(6)]
- Arbitrator selects the most reasonable offer on each impasse item submitted by the parties. Give written explanation for the selections. [§§20.22 (9) and (11)] [621 IAC 7.5(6) and (8)]
- Makes selection within 15 days. Mails written award to the parties and PERB within 15 days after the arbitration hearing commences. [§20.22(9) and (11)] [621 IAC 7.5(6) and (8)]
 - Deemed submitted to arbitration on the first day of the hearing. [621 IAC 7.5(6)]
 - *Comments:*
 - ✓ *If agree to a different deadline, put in award.*
 - ✓ *Sign, date and serve written decision on parties and PERB. Add certificate of service at bottom of award.*
- Selections by the arbitrator and items agreed upon by the employer and the employee organization shall be deemed to be the collective bargaining agreement. [§20.22(10)]
- Cost of arbitration is shared equally by the parties. [§20.22(2)] [621 IAC 7.5(10)]
 - Copy of fee statement sent to parties and PERB. [621 IAC 7.5(10)]
 - *Comment:*
 - ✓ *Send record (recording and exhibits to PERB.*
- Determination by the arbitrator is final and binding subject to §20.17(6). [§20.22(11)]
- Terms of collective bargaining agreement may be enforced by civil action in the district court in the county in which the agreement was made. [§20.17(5)]
 - *If appealed, PERB will notify the arbitrator.*
- If arbitrator fails to issue award within 15 days, the arbitrator shall notify PERB and the parties. Either party may request a new arbitrator. [621 IAC 7.5(9)]
- No partial awards unless mutual consent of parties. [621 IAC 7.5(9)]

Other Matters:

A. Negotiability Dispute:

- Dispute whether a proposal is subject to collective bargaining under §20.9 is a mandatory subject of bargaining. [621 IAC 6.3(1)]
 - 20.9 – Scope of negotiations include:
Wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedure, job classifications, health and safety matters,

evaluation procedures, procedures for staff reduction, in-service training, and other matters mutually agreed upon. Negotiations shall also include terms authorizing dues checkoff for members of the employee organization and grievance procedures for resolving any questions arising under the agreement....

- Negotiability disputes can arise during negotiations or at the arbitration hearing. [621 IAC 6.3(2)]
 - *Not for the arbitrator to decide if a proposal is a mandatory subject of bargaining.*
 - Determine who will file the petition seeking the negotiability ruling before PERB (arbitrator, employer representative or the certified employee organization representative).
 - Board may stay issuance of the award pending the Board's determination.
 - Award issued prior to the Board's determination is "contingent on PERB's determination".
 - *Comment:*
 - ✓ *Issue award in a timely manner and rule on all impasse items as if there was not a negotiability dispute pending.*

B. Impasse Item:

- Board determines under what §20.9 impasse item a proposal falls.
 - Declaratory order. [621 IAC Chapter 10]
 - Determine who will file the petition seeking an impasse item ruling before PERB (arbitrator, employer representative or certified employee organization representative).
 - Board may stay issuance of the award pending the Board's determination.

C. Final Offers:

- A party shall not submit a final offer for arbitration which has not been offered to the other party in the "course of negotiations." [621 IAC 7.5(4)]
 - *Comment:*
 - ✓ *If such an allegation is made, not for the arbitrator to decide. Arbitrator should proceed and make selections and mail written award in accordance with Iowa Code section 20.22 and PERB rules.*