



October 2, 2019

IMPASSE PROCESS

Fla. Stat. Ann. § 447.403(1)

If, after a reasonable period of negotiation concerning the terms and conditions of employment to be incorporated in a collective bargaining agreement, a dispute exists between a public employer and a bargaining agent, an impasse shall be deemed to have occurred when one of the parties so declares in writing to the other party and to the commission. When an impasse occurs, the public employer or the bargaining agent, or both parties acting jointly, may appoint, or secure the appointment of, a mediator to assist in the resolution of the impasse.

Florida Administrative Code 60CC-3.004. Appointment of Special Magistrate.

- (1) When negotiations reach impasse and no mediator has been appointed, or upon the request of either party, the Commission shall, through the Chairman, provide for the appointment of a special magistrate.
- (2) The parties may agree to the appointment of an individual who will be appointed by the Chairman if the Chairman finds that such individual is qualified pursuant to Rule 60CC-3.003, F.A.C.
- (3) If the parties do not jointly request the appointment of a specific individual, the Chairman or his designated agent shall furnish the names and biographies of seven individuals listed on the Special Magistrate Roster.
- (a) Within 20 days after the date of the letter transmitting the list of choices, each party shall notify the Chairman in writing of its rejection of three choices or its preference for one choice.
- (b) Where the parties both indicate a preference for the same choice, that individual shall be appointed by the Chairman.
- (c) Where the parties both reject the same choice, the Chairman shall appoint one of the remaining individuals.
- (4) If the parties are unable to agree upon an acceptable special magistrate from the panel of three furnished by the Chairman or his designated agent, the Chairman shall appoint a special magistrate, at his discretion, from the Special Magistrate Roster.

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Please reply to Fort Lauderdale Office

Fort Lauderdale Office
3099 E. Commercial Blvd., Suite 200, Fort Lauderdale, FL 33308. T 954-771-4500 | F 954-771-4923

Delray Beach Office
78 N.E. Fifth Avenue, Delray Beach, FL 33483. T 561-278-9400

www.GorenCherof.com

IMPASSE OUTLINE AND TIMETABLE

- STEP 1 Impasse may be declared by notifying PERC and the Bargaining Agent in writing.
- STEP 2 PERC will send a list of Special Magistrates to the parties. **Usually received within a week.**
- STEP 3 City and Bargaining Agent select from the list or PERC will appoint. **Usually takes 2-3 weeks.**
- STEP 4 Special Magistrate calls to coordinate hearing date coordinated by the Magistrate and City and Union. **Usually calls within 1-2 weeks of appointment.**
- STEP 5 Hearing- this date usually set by agreement of the parties and the Special Magistrate. **Usually set 2-4 months out due to need to coordinate calendars and witnesses.**
- STEP 6 Following the close of the hearing (either the date of the hearing or the date the Union and City submit written summaries). **Usually 30-45 days allowing for receipt of transcript.**
- STEP 7 The Special Magistrate has **15 calendar days** to transmit his recommendation to the City Manager and the Bargaining Agent.
- The Special Magistrate's recommendations are deemed accepted except as specifically rejected stating grounds for rejection. The deadline to reject all or part of the recommendations is **20 days** from date of receipt of the SM's recommendation. During the 20 day period the City and the Union are required to meet to discuss the recommendations.
- STEP 8 If either the City Manager or the Bargaining Agent reject, in whole or in part, the SM's recommendations, the City Manager must, **within 10 days** after rejection, submit the SM's recommendations to the City Commission with recommendations for settlement of the disputed issues. The City Manager must copy the Bargaining Agent.
- STEP 9 The bargaining agent must submit its recommendations for settlement to the City Commission.

The "insulated period" (see below) begins when all or part of the SM's recommendations are rejected. See Note below.

STEP 10 The Commission shall "forthwith" (**no time specified in statute but usually within 1-2 months**) hold a public hearing and "thereafter" (no time specified in the statute) decide how to resolve each remaining impasse issue.

STEP 11 Following Commission action, the City and the Union reduce the agreement to writing and submit back to the Commission and the employees in the bargaining unit for ratification. **Usually takes less than 30 days.**

- If the agreement is ratified, the process is over.
- If the agreement is not ratified, the Commission action takes effect (is imposed) for the "remainder of the first fiscal year which was the subject of negotiations."

NOTE 1: THE INSULATED PERIOD.

In order for a legislative body to maintain a neutral position and avoid any appearance of impropriety between the time of rejection of all or any part of the Special Magistrate's recommended decision and convening of the legislative body hearing, all parties at impasse and the representatives must refrain from communicating with members of the legislative body. This insulated period is designed to regulate (prohibit) communications addressed to the legislative body.

NOTE 2: CONTINUATION OF BARGAINING.

Notwithstanding a declaration of impasse, the City and Union have a mutual duty to continue negotiations. Therefore, it is possible the above process could come to an end at any one of the above steps.

NOTE 3: BYPASSING SPECIAL MAGISTRATE.

By agreement, the Union and City Manager can waive the appointment of a Special Magistrate and proceed directly to STEP 9. If that occurs, the insulated period begins when the agreement to waive appointment is reached in writing. The timeline line for completion of the impasse process can be shortened to a few months.

NOTE 4: SPECIAL MAGISTRATE RECOMMENDATIONS.

The Special Magistrate can only make recommendations. Those recommendations are not binding on the City Manager, the Union or the City Commission. The recommendations can be accepted or rejected in whole or in part.