

What every member should know about...

COLLECTIVE BARGAINING

The goal of every union is to protect and enhance the rights and benefits of its members. There are many tools unions use to achieve this goal. Collective bargaining and contract enforcement are two of these tools.

Three main factors to successful bargaining are: 1. the general health of the employer; 2. the preparedness and skill of the union; and 3. the union's power.

The Collective Bargaining Agreement

Public employees in Michigan have the right to be represented by a union and to bargain collectively with their employer. The union will bargain salary, benefits, and other terms and conditions of employment on behalf of the employees. The result of the bargaining process is the collective bargaining agreement. This is a contract between the employer and the union setting out all the terms of the employment relationship. As well as salary, the collective bargaining agreement will generally cover such topics as benefits, sick leave, personal leave, seniority, assignments, training, hours, vacation, discipline, and payment of union dues.

The contract will also include an agreed process for resolving any disputes that may arise concerning the interpretation or application of the agreement. This process is the grievance procedure and typically has several steps for resolving the dispute starting informally at the local level and rising through more senior levels of administration, usually with a provision for binding arbitration if the dispute still remains unresolved. Whether a grievance affects the entire bargaining unit, a group of employees, or just one person, the union must make decisions about whether to file a grievance, settle a grievance or take it to arbitration, in the interests of the bargaining unit as a whole. Because non-members also benefit from union representation, the union is permitted to charge them a service or agency fee.

Michigan Public Employment Relations Act

The Public Employment Relations Act (PERA) sets out the rights and responsibilities involved in collective bargaining and provides the framework for resolving disputes. The Michigan Employment Relations Commission (MERC) has the responsibility for overseeing elections, determining the appropriate bargaining unit, providing mediation support during bargaining, and hearing charges of unfair labor practices. Strikes and lockouts are prohibited.

An unfair labor practice is committed when the employer (or the union) violates one of the Act's prohibitions:

- It is an unfair labor practice "to interfere with, restrain or coerce public employees" in the exercise of their rights to organize, join a union, or engage in other lawful concerted activities for mutual aid and protection.
- It is an unfair labor practice for an employer to initiate, dominate, or interfere with a labor organization. Unions must be independent, not "company unions".

- It is an unfair labor practice to discriminate in hiring or terms of employment in order to encourage or discourage union membership. Retaliation against members or activists is prohibited.
- It is an unfair labor practice to discriminate against an employee for bringing charges or testifying before MERC.
- It is an unfair labor practice to refuse to bargain collectively and in good faith. The employer's duty to bargain in good faith includes an obligation to provide information requested by the union, needed by the union for bargaining contract terms or processing grievances.

The union, the employer, or an individual may bring an unfair labor practice charge. It must be brought within six months of the event, which is the subject of the complaint. There will be a hearing with witnesses in front of an Administrative Law Judge. The usual remedy is an order to cease and desist and an order to post a notice. In appropriate cases, MERC will order a "make whole" remedy, which may include back pay, or an order to provide necessary information. MERC will refuse to hear a charge, which is a simple breach of contract complaint, and will defer such complaints to the contract's grievance procedure.