

What Faculty Need to Know About Ohio's Collective Bargaining Law

Adapted from a 2004 *Right Flier* article by Rudy Fichtenbaum

Collective Bargaining for public employees in Ohio is governed by Ohio Revised Code (ORC) 4117. This law gives public employees certain rights, but it places certain limitations on them as well. It is important that BUFMs understand the basic features of ORC 4117 as they pertain to CBA negotiations.

It is the stated goal of ORC 4117 to promote “orderly and constructive relationships between all public employers and their employees.”

Collective bargaining means that employers and the employees must meet to negotiate about “wages, hours, terms and conditions of employment and the continuation, modification or deletion of an existing provision of a collective bargaining agreement.” Neither party can be forced to accept the position of the other party; however, they must negotiate with the intent of reaching an agreement.

How does the negotiations process begin? At least 60 days prior to the end of an existing contract, if either party wishes to modify the existing agreement, they need to provide written notice to the other party stating their intention. Once this notice has been served the parties are required to begin negotiating.

(Here at WSU, the parties have traditionally begun triennial negotiations in January to replace a CBA set to expire the following June. That is how negotiations began this year. As we have reported previously, the parties were making progress

on non-economic CBA articles and had agreed in writing to exchange proposals on economic articles on April 7. But in late March and subsequently, the administration has been unwilling to exchange economic proposals and has not even been willing to negotiate in any substantial way over non-economic issues. Further, the reasons stated by the administration's negotiating team for this stoppage have not been at all credible. This intransigence on the part of the administration left AAUP-WSU with no viable choice other than initiating the fact-finding process, the dispute resolution process specified by ORC 4117, about which please continue reading.)

Since neither party is required to accept the position of the other, ORC 4117 has a built-in dispute resolution procedure. ORC 4117 also allows the parties to agree to an alternative dispute resolution procedure. Otherwise, the parties are governed by the dispute resolution procedure contained in ORC 4117.

The dispute resolution procedure contained in ORC 4117 states that if the parties cannot reach an agreement within 50 days before the expiration of a contract, either party can request intervention by Ohio's State Employee Relations Board (SERB). If SERB determines that both parties have been bargaining in good faith but have reached an impasse or they have not reached an agreement 45 days before the end of an agreement, then SERB can appoint a mediator. The job of the mediator is to try to help the parties reach an agreement on outstanding issues.

(In this case, a mediator has been appointed, and mediation dates of July 21, July 28, and August 4 have been established.)

If the mediator reports to SERB that an impasse exists or that the parties have been unable to reach an agreement 30 days prior to the expiration of the contract, then SERB must appoint a fact finder (or fact finding panel) selected by the parties from a list provided by SERB.

The fact finder(s) may engage in mediation efforts. If these efforts fail then a fact-finding hearing is held. The fact finder(s) must make a recommendation no later

than 14 days after his or her (their) appointment by SERB unless both parties agree to extend the deadline.

(In this case, a fact finder has already been appointed, and October 3 and 4 have been selected for fact finding.)

When a fact-finding report is issued it is in the form of a recommendation to the two parties, a recommendation regarding what language to put in the CBA for every unresolved issue. Typically, the report incorporates all CBA language to which the parties had already tentatively agreed. Either party may reject the fact-finding report by a three-fifths vote of its total membership. This means it takes three-fifths of the Board of Trustees or three fifths of the AAUP-WSU membership (RCMs) to reject the fact-finding report. If neither party rejects the report, then it is determined by SERB that both parties have reached an agreement. If either party rejects the fact-finding report, then they can voluntarily agree to resume negotiations, adopt an alternative dispute resolution procedure, or, the union can go on strike after a ten-day written notice to the employer.

It is critical for AAUP-WSU members to understand that unless one of the parties rejects a fact-finding report, we are prohibited from going on strike.

Rejecting a fact-finding report is a necessary condition, according to ORC 4117, to give public employees the right to strike. However, rejecting a fact-finding report does not automatically mean that we must go on strike.

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I am a Professor of English at Wright State University's Lake Campus, where I have been a faculty member for more than 25 years. I have now served multiple terms as the President of the WSU chapter of AAUP, which now includes all full-time instructional faculty, and as the Vice-President of the Ohio Conference of AAUP. I have also served several terms as an at-large member of the Executive Committee of AAUP's Collective Bargaining Congress. In addition to serving as co-editor of the Academe blog, I am also a member of the editorial board of Academe and have been a guest editor for an issue of the magazine on collective bargaining strategies. As co-chair of the Ohio Conference's Communication Committee, I began to do much more overtly political writing during the campaign to repeal Ohio's Senate Bill 5, which would have eliminated the right of faculty to be unionized. I have sustained that activism, and at the risk of stating the obvious, I have very much enjoyed contributing to the Academe Blog and to our chapter blog. I also maintain several other blogs to which I have re-posted, by topic, my posts to the Academe blog, as well as some other items. [View all posts by martinkich](#)



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