

## Article - Land Use

§16–209.

(a) (1) If the parties have not reached an agreement on or before December 1 on a collective bargaining agreement that would become effective the following July 1, the parties jointly shall appoint a mediator–arbitrator.

(2) If the parties are unable to agree on a mediator–arbitrator, the labor relations administrator shall appoint the mediator–arbitrator on or before December 7.

(3) Notwithstanding appointment of the mediator–arbitrator, this section does not require mediation–arbitration to begin before the date set forth in subsection (c) of this section.

(b) During the course of the collective bargaining:

(1) either party may declare an impasse and request the services of the mediator–arbitrator; or

(2) the parties jointly may request the services of a mediator–arbitrator before an impasse is declared.

(c) If the mediator–arbitrator finds in the mediator–arbitrator’s sole discretion that the parties are at a bona fide impasse or on February 1, whichever occurs earlier, the mediator–arbitrator shall direct the parties to submit:

(1) a joint memorandum listing all items to which the parties previously agreed; and

(2) a separate memorandum of each party’s last final offer presented in negotiations on all items to which the parties previously did not agree.

(d) (1) On or before February 10, the mediator–arbitrator shall hold a closed hearing on the parties’ proposals at a time, date, and place selected by the mediator–arbitrator.

(2) Each party shall submit evidence or make oral and written arguments in support of the party’s last final offer.

(3) The mediator–arbitrator may not open the hearing to a person that is not a party to the mediation–arbitration.

(e) (1) On or before February 15, the mediator–arbitrator shall issue a report selecting the final offer submitted by the party that the mediator–arbitrator determines to be more reasonable when viewed as a whole.

(2) In determining which offer is more reasonable, the mediator–arbitrator:

(i) may consider only:

1. past collective bargaining agreements between the parties, including the past bargaining history that led to the agreement or the precollective bargaining history of employee wages, hours, benefits, and other working conditions;

2. a comparison of wages, hours, benefits, and conditions of employment of similar employees of other public employers in the Washington metropolitan area and the State;

3. a comparison of wages, hours, benefits, and conditions of employment of similar employees of private employers in Montgomery County and Prince George's County;

4. the public interest and welfare;

5. the ability of the Commission to finance any economic adjustments required under the proposed agreement;

6. the effects of any economic adjustments on the standard of public services normally provided by the Commission; and

7. the annual increase or decrease in consumer prices for all items as reflected in the most recent Consumer Price Index – Urban Wage Earners and Clerical Workers (“CPI–W”) for the Washington–Baltimore metropolitan area; and

(ii) shall consider all items on which the parties agreed before the mediation–arbitration began to be integrated into each offer.

(3) (i) The mediator–arbitrator may not receive or consider the history of collective bargaining relating to the immediate dispute, including any offers of settlement not contained in the offer submitted to the mediator–arbitrator.

(ii) The mediator–arbitrator may not compromise or alter the final offer that the mediator–arbitrator selects.

(f) (1) (i) Subject to subparagraph (ii) of this paragraph, the offer selected by the mediator–arbitrator, as integrated with the items on which the parties previously agreed, shall be the final agreement between the Commission and the exclusive representative without ratification by the parties.

(ii) The economic provisions of the final agreement are subject to funding by the Montgomery County Council and Prince George's County Council.

(iii) The Commission shall request funds in the Commission's final budget from the county councils for all economic provisions of the final agreement.

(2) The parties shall execute an agreement incorporating the final

agreement, including arbitration awards and all issues agreed to under this subtitle.

(g) The Commission and the employee organization shall share equally the costs of the mediator–arbitrator’s services.