

Mediation and Impasse Procedures



BILL FENAUGHTY

What is the FMCS?



- Acts as an independent third party neutral
- Provides bargaining dispute resolution
 - Proposals must be negotiable
 - Offer suggested changes in language
 - Traditional vs Interest Based Bargaining
- Provides grievance mediation
- Provides list of arbitrators

For this class, the focus is on how collective bargaining mediation works.

When does the FMCS act?



- At the beginning, middle or end
- Disputes regarding the merits of proposals
- Impasse on proposals per ground rules

Whom do you call?



- Either party may request the FMCS
- Parties may jointly request the FMCS
- Go to www.fmcs.gov
 - Contact regional office closest to you
 - Tell them that you are seeking assistance to resolve a bargaining impasse

What do you tell them?



- Joint or individual request for assistance
- Provide details in writing
- Request and schedule dates/times for mediation with the parties

How does mediation work?



- Mediators suggest/recommendations on methods and means to resolve impasse
- Attempts to move parties to common ground
- Advise parties of possible outcome at impasse
- No authority to bind parties
- Only tool: **Power of Persuasion**

If agreement is reached



- Parties memorialize language in writing
- Binding agreement!

If no agreement is reached



- Contact Federal Services Impasses Panel and request assistance per form
 - Negotiation impasse
 - Joint request for binding arbitration to resolve impasse
 - Impasse over CWWS
 - Serve completed form on management unless jointly filed
- Mediator certifies via letter that impasse still has occurred

Negotiation impasses



- An impasse is:

“ . . . (T)hat point in the negotiation of conditions of employment at which the parties are unable to reach agreement, notwithstanding their efforts to do so by direct negotiations and by the use of mediation or other voluntary arrangements for settlement.”

Content of Request for Services



- Issue(s) at impasse
- Summary of position
- Number, length, dates of mediation/negotiations
- Name/address of mediator
- FMCS case number

FSIP Jurisdiction



Whether the FSIP has jurisdiction

- Jurisdiction is asserted if
 - Voluntary efforts have been exhausted; and
 - neither party has raised a bona fide jurisdictional issue (i.e., non-negotiable, outside the scope of bargaining, bargaining obligation disputes, grievances etc.)

FSIP: Next Steps



- Resumption of negotiations
- Informal conference
- Med-arbitration
- Written submissions
- Fact finding

The Decision



- Decision and Order normally in 30 days
 - Panel will accept one party's proposal
 - Panel will not create other options for the parties
- Decision is binding on the parties
- Decision is precedent