



## Ohio Administrative Code

### Rule 4117-9-06 Final offer settlement procedure; conciliation.

Effective: August 29, 2015

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Members of a police or fire department, members of the state highway patrol deputy sheriffs, dispatchers employed by a police or fire or sheriff's department or the state highway patrol or civilian dispatchers employed by a public employer other than a police, fire, or sheriff's department to dispatch police, fire, sheriff's department, or emergency medical or rescue personnel and units, an exclusive nurse's unit, employees of the state school for the deaf or the state school for the blind, employees of any public employee retirement system, correction officers, guards at penal or mental institutions, special policemen or policewomen appointed in accordance with section 5123.13 of the Revised Code, psychiatric attendants employed at mental health forensic facilities, or youth leaders employed at juvenile correctional facilities, or members of law enforcement security force that is established and maintained exclusively by a board of county commissioners and whose members are employed by that board are prohibited from striking. Unless the parties are subject to a mutually agreed-upon dispute settlement procedure in compliance with paragraph (C) of rule 4117-9-03 of the Administrative Code, these conciliation procedures shall apply:

(A) If the parties are unable to reach an agreement within seven days after the publication of the findings and recommendations of the fact-finding panel, then the board shall issue to the parties an order pursuant to division (D)(1) of section 4117.14 of the Revised Code requiring the parties to engage in settlement by conciliation by a conciliator selected by the parties in accordance with paragraph (B) of this rule. The board may delegate to the bureau of mediation or the executive director responsibility for ordering conciliation when no substantive issues have been raised and when these conditions have been met:

- (1) The fact-finding report was rejected timely by at least one party by a three-fifths majority of the individuals who were eligible to vote;
- (2) The vote on the fact-finding report was served timely upon the board and the other party;
- (3) Publication of the fact-finding report did occur in which the effective date of publication is stated



on the board-issued notice of rejection of the fact-finding report; and

(4) At least seven days have passed since the effective date of publication of the fact-finding report, and the parties have not reached a settlement.

Concurrent with its order, the board shall provide to the parties a list of five neutrals from which the conciliator will be selected.

(B) The parties shall select a conciliator from the list by alternate striking of names. The parties may select any conciliator from the board's roster of neutrals rather than selecting from the list submitted by the board. If the parties agree to select a conciliator who is not listed on the board's roster of neutrals, the selection shall constitute a mutually agreed dispute settlement procedure.

(C) The parties shall within five days of the issuance of the list notify the board via electronic mail of their mutually selected conciliator and of any mutually selected alternates to the preferred conciliator. When selected conciliators are unavailable, the board shall appoint a conciliator chosen at its discretion.

(D) If the board has not received notification via electronic mail of a mutually selected conciliator within five days after issuance of the conciliation order and list of conciliators, on the sixth day after issuance of the order and list, the board shall appoint a conciliator at its discretion. Notification via electronic mail to the bureau of mediation within five days of issuance of the order and list will be sufficient notice.

(E) Upon notice of the conciliator's appointment, each party shall submit via electronic mail to the conciliator and the other party a position statement. A failure to submit such a position statement to the conciliator, to the other party, and to the board five calendar days prior to the day of the hearing shall require the conciliator to take evidence only in support of matters raised in the position statement that was submitted prior to the hearing. The statement shall include:

(1) The name of the party and the name, mailing address, email address, and telephone number of the principal representative of the party;



(2) A description of the bargaining unit including the approximate number of employees;

(3) A copy of the current collective bargaining agreement, if any;

(4) A report defining all unresolved issues, stating the party's final offer as to each unresolved issue, and summarizing the position of the party with regard to each unresolved issue. If, after submission of the parties' reports, mediation efforts result in a change in a final offer, a party or parties may, by mutual agreement, submit a revised final offer to the conciliator.

(F) The conciliator shall hold a hearing within thirty days of the effective date of the board's order to conciliate, or as soon thereafter as practicable. For purposes of the hearing, the conciliator shall have the power to regulate the time, place, course, and conduct of the hearing, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, and request the board to issue subpoenas to compel attendance of witnesses and the production of books, papers, and records relating to any matter before the conciliator. A conciliator may not choose a hearing location at a cost to the parties unless the parties fail to agree to an alternate cost-free location. The conciliator shall make provisions allowing for a written record of the hearing. The conciliator's notes shall constitute the record for the conciliation hearing, unless the parties agree otherwise.

(G) Conciliation hearings are to be held in private.

(H) The conciliator shall take the following into consideration in resolving the dispute between the parties:

(1) Past collectively bargained agreements, if any, between the parties;

(2) Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employers doing comparable work, giving consideration to factors peculiar to the area and classification involved;

(3) The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;



(4) The lawful authority of the public employer;

(5) The stipulations of the parties; and

(6) Such other factors, not confined to those listed in this rule, which are normally or traditionally taken into consideration in the determination of issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.

(I) The conciliator shall make written findings of fact and promulgate a written opinion and order upon the issues presented and upon the record made at the conciliation hearing and shall deliver via electronic mail a true copy thereof to the parties and the board within thirty days of the last date of hearing, unless the parties mutually agree to an extension although failure of the conciliator to meet the thirty-day deadline does not affect the validity of the conciliation award.

(J) The issuance of a final offer settlement award constitutes a binding mandate to the public employer and the exclusive representative to take whatever actions are necessary to implement the award.

(K) The parties shall bear equally the cost of conciliation.