

# APS GUIDELINES FOR COLLECTIVE BARGAINING AND IMPASSE

Guidelines Updated as of August 3, 2023

## A. Collective Bargaining Processes and Procedures

### 1. Negotiation Teams

- i. Arlington Public Schools (APS) and the Exclusive Representative shall each have up to, but no more than, six (6) employees serve as members of their negotiation team for purposes of collective bargaining.
  - a. Members of each negotiation team shall be APS employees. The Chief Negotiator for the Exclusive Representative is exempt from this requirement but shall still count towards the total of six (6) employees.
  - b. Members of the APS negotiation team shall be confidential non-bargaining unit employees.
  - c. Members of the Exclusive Representative negotiation team shall be APS employees within the specific bargaining unit as defined by Section 1.A. of the Collective Bargaining Resolution (CBR). The President of the Exclusive Representative is exempt from this requirement.
  - d. Neither party shall have legal counsel representation as a member of its negotiation team.
- ii. Each party will provide the roster of negotiation team members to the other party by the first negotiation session.
  - a. The roster will include the first and last name, position, work location, and email address of all permanent negotiation team members.
  - b. The roster may also include the first and last name, position, work location, and email address of no more than two (2) alternate negotiation team members that may participate in negotiation session(s) should a permanent member be unavailable.
  - c. The roster will designate the negotiation team member serving in the role of Chief Negotiator and the negotiation team member serving in the role of Chief Negotiator designee should the Chief Negotiator be unavailable.
- iii. Either party shall notify the other that it intends to have a specialist or subject matter expert not included on the negotiation team roster participate for a specific topic.
  - a. The first and last name, position, work location, and email address of the specialist or subject matter expert shall be provided to the other party no later than two (2) days before the negotiation session.
  - b. The specialist or subject matter expert will only be allowed to be in the room and participate for the discussion that is related to the specific topic of his/her expertise.
  - c. Neither party shall have legal counsel representation as a specialist or subject matter expert.
- iv. Should a member of either negotiation team cease to be an APS employee, other than the Chief Negotiator of the Exclusive Representative if exempt, the former employee shall no longer be a member of the negotiation team.

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- a. Should a member of the APS negotiation team move into an internal position at APS that does not have the confidential non-bargaining designation, the APS employee shall no longer be a member of the negotiation team.
- b. Should a member of the Exclusive Representative negotiation team move into an internal position at APS that is not within the specific bargaining unit, the employee shall no longer be a member of the negotiation team.
- c. Should either negotiation team lose a member due to eligibility, one of the alternate members may step into the role as a permanent member of the negotiations team.

### 2. Negotiation Sessions

- i. APS and the Exclusive Representative shall meet bi-weekly for up to, but not more than, a two (2) hour negotiation session.
  - a. Sessions will be scheduled for the same day at the same time every other week.
  - b. The parties can mutually agree to change the date and time of a bargaining session due to scheduling conflict of negotiation team members.
  - c. The parties can also mutually agree to cancel a scheduled negotiation session provided such cancellation is confirmed in writing with the reason for cancellation stated.
- ii. Negotiation sessions will take place in-person at the Syphax Education Center. If necessary, the parties can discuss holding an entire meeting virtually. Negotiation team members, with prior written approval from both Chief Negotiators or their designee, can participate virtually on a case-by-case basis, with a limit of two (2) sessions per person.

### 3. Conduct of Negotiations

- i. The Chief Negotiators serve as the facilitators. All members of the negotiations team are able to participate in the discussion by presenting facts, questions, comments, or explanations.
- ii. There will be no audio, stenographic, or other recording devices. Each party may take its own notes for record keeping purposes.
- iii. During the negotiation session, either party can request to caucus for up to fifteen (15) minutes. Any request to caucus for longer must be mutually agreed to by both parties.
- iv. Each party may only make one (1) request to caucus per negotiation session.

### 4. Bargaining Proposals

- i. Each party shall provide copies of initial bargaining proposals on all topics, compensation and non-compensation, no later than October 1.

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- ii. Proposals shall be submitted in writing in Word format. All counter proposals shall be submitted using track changes to reflect the changes made from initial bargaining proposal.
  - iii. For successor agreements, each party shall open any articles from the current agreement in effect by providing copies of the existing article in Word format with edits using track changes no later than October 1.
  - iv. Should either party seek to have a specialist or subject matter expert not included on the negotiation team roster participate in an upcoming session for a specific proposal, it must follow the process established in paragraph A.1.iii.a. through A.1.iii.c. above.
5. Bargaining Topics
- i. Section 2.E. of the CBR establishes exclusive rights retained by the School Board for non-negotiable matters/subjects. The following topics are included within these management rights and will not be discussed as part of collective bargaining:
    - a. Calendar
    - b. Classification
    - c. Telework
  - ii. With respect to health care benefits, the parties cannot negotiate over the specific provider or the administration of the plan including cost as this is determined by a process outside of collective bargaining.
6. Confidentiality
- i. Collective bargaining negotiations sessions are closed. Participation is limited to negotiation team members and, when applicable, a specialist or subject matter expert.
  - ii. Collective bargaining negotiation sessions are confidential.
    - a. For the initial Collective Bargaining Agreement (CBA), the Exclusive Representative is permitted to notify its bargaining unit members which general topics are under consideration for inclusion in the CBA.
    - b. For successor agreements, the Exclusive Representative is permitted to notify its members about the new topics under consideration for inclusion in the CBA, and topics that are currently in the agreement that have been reopened for negotiation purposes.
    - c. Proposals, counter proposals, and any related discussions are limited to negotiation team members, Exclusive Representative leadership, and APS leadership.
    - d. Any discussions about ongoing negotiations with or disclosure to the media are prohibited.
    - e. Proposals, counter proposals, and any related discussions shall not be shared with bargaining unit members.
    - f. Once the parties have a package of tentative agreements that are ready to be considered for approval as the CBA, the Exclusive Representative

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can share the package of tentative agreements with bargaining unit members.

- 1) When the Exclusive Representative shares the package of tentative agreements with its bargaining unit members, discussion shall be limited to bargaining unit members and Exclusive Representative leadership.
  - 2) Bargaining unit members are required to adhere to paragraph 6.ii.d. above.
- g. Any allegations of violations of confidentiality will be handled in accordance with Section 9.E. or 9.F. of the CBR.

### 7. Tentative Agreements

- i. When members of the APS negotiation team and the Exclusive Representative negotiation team tentatively agree on a proposal, the Chief Negotiator and/or the Chief Negotiator's designee from each party will initial and date the agreed upon proposal.
- ii. The parties intent of tentatively agreeing to proposals is for the language to be included in the collective bargaining agreement subject to the ratification by the Exclusive Representative prior to the approval by the School Board.
  - a. For the School Board to approve the collective bargaining agreement before the start of the upcoming fiscal year, the parties must have a package of tentative agreements ready to be considered for approval as the CBA no later than June 1.
- iii. The School Board will be scheduled to approve the CBA no later than the second School Board meeting in the month of June as long as the package of tentative agreements has been ratified by the Exclusive Representative prior to June 1.

## B. Impasse

### 1. Declaration of Impasse

- i. If the parties fail to reach agreement on any issue 150 calendar days after the exchange of the initial bargaining proposals on October 1 or if, after a reasonable period of negotiations, further negotiations appear to be unproductive, demonstrated by at least one party presenting its last best offer on outstanding issues, then impasse can be declared.
  - a. Impasse can only be declared once within a negotiation cycle and is intended to include any unresolved matters.
  - b. For the parties to complete the impasse process before the start of the upcoming fiscal year, either party must declare impasse no later than March 1.
- ii. The party declaring impasse must prepare an impasse request to the other party to include the following:
  - a. The Chief Negotiator for each party;

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- b. The expiration date of the current collective bargaining agreement, if it exists;
- c. The description of the affected bargaining unit from the authorizing resolution and the appropriate number of employees within the unit;
- d. The date when negotiations commenced and the date of the last negotiations session;
- e. The outstanding issues at impasse.

### 2. Impasse Mediation

- i. The parties shall use a third-party neutral for mediation (Mediator). The Director of Labor Relations (Director) will send the impasse mediation request to the Mediator with the Exclusive Representative included on the communication and provide the Exclusive Representative the Mediator's contact information.
- ii. The parties shall attempt to resolve the outstanding issues through mediation within thirty (30) calendar days of the impasse request. The parties will meet at least once, and no more than once a week, during this thirty (30) day period.
- iii. The mediation process is advisory only, and the Mediator shall have no authority to bind either party.
- iv. The mediation process and any comments, statements, or suggestions from the Mediator or the parties and documents evidencing the same made or created during the mediation process shall not be disclosed except as required by law or by agreement of the Parties.
- v. The costs related to contract negotiations and any impasse or mediation will be borne equally by the Employer and the Exclusive Representative.
- vi. After an impasse, in those matters for which there is no mutual agreement, the School Board shall retain exclusive authority, including, but not limited to, the discretion to continue to implement the prior collective bargaining agreement covering those matters.
- vii. Nothing shall prohibit or impede the Employer and Exclusive Representative from continuing to bargain in good faith or from voluntarily reaching an agreement during an impasse.

### 3. Impasse Hearing

- i. If no agreement is reached by the end of the thirty (30) day mediation period, the parties can mutually agree to proceed to an impasse hearing.
- ii. An impasse hearing will only be held if mutually agreed to by both parties no later than the final day of the thirty (30) day mediation period.
- iii. The parties shall use a third-party neutral for the impasse hearing (Hearing Officer). Unless mutually agreed to by the parties, the Mediator shall not serve as the Hearing Officer. The Director will send the impasse hearing request to the Hearing Officer with the Exclusive Representative included on the communication and provide the Exclusive Representative the Mediator's contact information.
- iv. An impasse hearing must be held within thirty (30) calendar days.

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- a. Each party, at their own expense, is entitled to a representative that may be an attorney. When the hearing date is set, each party must disclose whether it will be represented by an attorney. If either party is being represented by an attorney, the other party is able to do the same.
- v. The Hearing Officer will issue findings and recommendations to the parties within thirty (30) calendar days of the hearing.
- vi. In accordance with Va. Code § 2.2-4366, alternative dispute resolution procedures entered into by school boards shall be nonbinding.
- vii. Any recommendations by the Hearing Officer that the parties can mutually agree to will be treated as tentative agreements in accordance with paragraph A.6.i. and A.6.ii. above.
- viii. If the parties do not agree, then the Hearing Officer's finding and recommendations can be shared with the School Board but will not be considered for inclusion in the collective bargaining agreement.
- ix. The impasse hearing will follow the processes set forth in paragraph B.2.iv. to B.2.vii. above.
- x. Employees who serve as witnesses during an impasse hearing shall be entitled to release time from their employment duties.