

## **CITY & COUNTY OF SAN FRANCISCO CHARTER SECTION A8.409-4 IMPASSE RESOLUTION PROCEDURES (MISCELLANEOUS EMPLOYEES)**

(a) Subject to Section A8.409-4(g), disputes pertaining to wages, hours, benefits or other terms and conditions of employment which remain unresolved after good faith bargaining between the City and County of San Francisco, on behalf of its departments, boards and commissions, and a recognized employee organization representing classifications of employees covered under this part shall be submitted to a three-member mediation/arbitration board ("the board") upon the declaration of an impasse either by the authorized representative of the City and County of San Francisco or by the authorized representative of the recognized employee organization involved in the dispute; provided, however, that the arbitration procedures set forth in this part shall not be available to any employee organization that engages in a strike unless the parties mutually agree to engage in arbitration under this section. Should any employee organization engage in a strike either during or after the completion of negotiations and impasse procedures, the arbitration procedure shall cease immediately and no further impasse resolution procedures shall be required.

(b) Not later than January 20 of any year in which bargaining on an MOU takes place, representatives designated by the City and County of San Francisco and representatives of the recognized employee organization involved in bargaining pursuant to this part shall each select and appoint one person to the board. The third member of the board shall be selected by agreement between the City and County of San Francisco and the recognized employee organization, and shall serve as the neutral chairperson of the board.

In the event that the City and County of San Francisco and the recognized employee organization involved in bargaining cannot agree upon the selection of the chairperson within ten (10) days after the selection of the City and County and employee organization members of the board, either party may then request the American Arbitration Association or California State Mediation Service to provide a list of the seven (7) persons who are qualified and experienced as labor interest arbitrators. If the City and County and the employee organization cannot agree within three (3) days after receipt of such list on one of the seven (7) persons to act as the chairperson, they shall randomly determine which party strikes first, and shall alternately strike names from the list of nominees until one name remains and that person shall then become the chairperson of the board.

(c) Any proceeding convened pursuant to this section shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The board may hold public hearings, receive evidence from the parties and, at the request of either party, cause a transcript of the proceedings to be prepared. The board, in the exercise of its discretion, may meet privately with the parties to mediate or mediate/arbitrate the dispute. The board may also adopt other procedures designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the cost of the arbitration process.

(d) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the board shall direct each of the parties to submit, within such time limit as the board may establish, a last offer of settlement on each of the remaining issues in dispute. The board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds by a preponderance of the evidence presented during the arbitration most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services; the

wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of employment of other employees in the City and County of San Francisco; health and safety of employees; the financial resources of the City and County of San Francisco, including a joint report to be issued annually on the City's financial condition for the next three fiscal years from the Controller, the Mayor's budget analyst and the budget analyst for the board of supervisors; other demands on the City and County's resources including limitations on the amount and use of revenues and expenditures; revenue projections; the power to levy taxes and raise revenue by enhancements or other means; budgetary reserves; and the City's ability to meet the costs of the decision of the arbitration board. In addition, the board shall issue written findings on each and every one of the above factors as they may be applicable to each and every issue determined in the award. Compliance with the above provisions shall be mandatory.

(e) To be effective the beginning of the next succeeding fiscal year, an agreement shall be reached or the board shall reach a final decision no later than sixty days before the date the Mayor is required to submit a budget to the board of supervisors, except by mutual agreement of the parties. After reaching a decision, the board shall serve by certified mail or by hand delivery a true copy of its decision to the parties. The decision and findings of the arbitration board shall not be publicly disclosed until ten (10) days after it is delivered to the parties. During that ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision and findings of the arbitration board. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision and findings of the arbitration board, as it may be modified or amended by the parties, shall be publically disclosed for a period of fourteen(14) days after which time the decision shall be final and binding. Except as otherwise provided by this part, the arbitration decision shall supersede any and all other relevant formulae, procedures and provisions of this charter relating to wages, hours, benefits and terms and conditions of employment, and it shall be final and binding on the parties to the dispute. However, the decision of the board may be judicially challenged by either party. Thereafter, the City and County of San Francisco, its designated officers, employees and representatives and the recognized employee organization involved in the dispute shall take whatever action necessary to carry out and effectuate the final decision.

(f) The expenses of any proceedings convened pursuant to this part, including the fee for the services of the chairperson of the board, the costs of preparation of the transcript of the proceedings and other costs related to the conduct of the proceedings, as determined by the board, shall be borne equally by the parties. All other expenses which the parties may incur are to be borne by the party incurring such expenses.

(g) The impasse resolution procedures set forth in Section A8.409-4, or in any other provision of the charter, ordinance or state law shall not apply to any rule, policy, procedure, order or practice which relates or pertains to the purpose, goals or requirements of a consent decree, or which is necessary to ensure compliance with federal, state or local laws, ordinances or regulations. In the event the City acts on a matter it has determined relates to or pertains to a consent decree, or in the event the City acts to ensure compliance with federal, state, or local laws, ordinances or regulations, and the affected employee organization disputes said determination, that determination or action shall not be subject to arbitration, but may be challenged in a court of competent jurisdiction.

(h) The impasse resolution procedures set forth in section A8.409-4, or in any other section of the charter, shall not apply to any proposal pertaining to the right to strike.

(i) Charter sections A8.590-1 through A8.590-7 shall remain in full force and effect; provided, however, that the wages and other economic benefits and compensation of all classifications of employees covered by these sections shall be frozen for fiscal year 1995-96 at the rates in effect on June 30, 1995, except that wages and other economic benefits and compensation of all classifications of Airport Police shall be frozen for the fiscal year following expiration of the Memorandum of Understanding covering those classifications in effect on the effective date of this amendment.

(j) Subject to the election provisions of section A8.409-1, Charter sections A8.403 and A8.404 shall remain in full force and effect; provided, however, that the wages and other economic benefits and compensation of all classifications of employees covered by section A8.404 shall be frozen for fiscal year 1995- 96 at the rates in effect on June 30, 1995.  
(Amended March 2004)