



Department of Human Resources  
City and County of San Francisco

# HUMAN RESOURCES GROUP MONTHLY MEETING October 25, 2006

MEET AND CONFER PROCESS  
PRESENTED BY  
ALICE VILLAGOMEZ

# Impact Bargaining

## I. Impact Bargaining – What is it?

Bargaining Required (Primarily by State Law) when an Employer Changes Working Conditions within the Scope of Bargaining During the Terms of an MOU. Requires a bona-fide effort to consider proposals to mitigate effects of employer actions.

### A. Stems from the Meyers-Milias-Brown Act

MMBA requires Local Municipalities Meet and Confer with the Unions before changing working conditions within the scope of bargaining. The Courts have determined that the term “meet and confer” has the same meaning as “negotiate” under the MMBA.

# Impact Bargaining

## I. Impact Bargaining – What is it?

### B. Issues Within the Scope of Bargaining

#### 1. Sources of Law

- a. California Cases under MMBA
- b. NLRA Cases
- c. EERA, HEERA & SEERA PERB Cases

## Section 3504: Scope of Representation

- The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

# Impact Bargaining

## I. Impact Bargaining – What is it?

## B. Issues Within the Scope of Bargaining

### 2. Examples of Issues Within Scope

- a. Wages
- b. Hours
- c. Benefits
- d. Discipline
- e. Use of Facilities
- f. Staffing
- g. Workload
- f. Safety

# Impact Bargaining

## I. Impact Bargaining – What is it?

### C. Issues Outside the Scope of Bargaining

#### 1. Management Rights or "Merits, Necessity or Organization"

- a. Nature and Extent of Services to be Provided
- b. Insubstantial Changes in Working Conditions
- c. Decision to Layoff (But Impact Issues are Within Scope)
- d. Special Concerns: Civil Service Commission  
Carve-outs

# Impact Bargaining

## I. Impact Bargaining – What is it?

### D. Decisions Involving Both Management Rights and Impact Bargaining – when we have the right to proceed but must negotiate over impact:

1. Departmental Reorganizations
2. Budget Changes and Layoffs
3. Possibly Opening New Facilities
4. Possibly Introducing New Work Methods

# MEET AND CONFER ?



# Meet and Confer on Reductions in Staff

Impact of Layoffs (from lack of funds) can trigger meet and confer: While the decision to layoff is not subject to meet and confer, the impact of such layoffs are within the scope.

## Examples:

- a. Staffing
- b. Workload
- c. Safety
- d. Departmental Reorganizations

# SCHEDULE CHANGES



# Impact Bargaining

## II. Procedure

- A. Notice Union of Proposed Change  
Suggestion: provide timeline for response
- B. Union will Request Meet and Confer
- C. Demand that the Union Identify the Issues it Considers to be Impact Issues.
- D. Schedule Meetings, Etc.
- E. Fully consider Union proposals, and attempt to reach agreement.
- F. Document the agreement.

# NOTICE TO THE UNIONS



# Meet and Confer

## What Happens if the Parties Cannot Agree?

1. **Under MMBA – Employer Must Exhaust Available Administrative Remedies then it May Implement Last, Best, Final Offer**
2. **Unions Can Charge City with an Unfair Practice Charge Under PERB**
3. **Does the MOU in Question Provide Otherwise?**

**SEIU has Additional Language**

# SEIU- FINALITY OF AGREEMENT

## ARTICLE VIII– SCOPE

### A. FINALITY OF AGREEMENT

- This Agreement sets forth the full and entire understanding of the parties regarding the matters herein. This agreement may be modified, but only in writing, upon the mutual consent of the parties.
- In the event management seeks to institute a change in methods or operations within the scope of representation under state law or the charter which it believes is not covered by this Agreement, the parties shall begin to meet and confer as required by state law within fifteen (15) working days from the date received written notice is received by the Union at the affected Union's executive offices. Said notice shall state the proposed change, an explanation of the reason(s) for said change, as well as the effect on represented employees that would result.
- Management, except in the event of an emergency as defined by state law, shall advise the union of the date of the intended implementation of such proposed change, which shall be no sooner than forty (40) working days from the date received written notice is received by the Union.

In the event the parties do not reach agreement thereon, the union may grieve and take to expedited arbitration such disagreements as it may have. The authority of the arbitrator is to determine:

1. Whether the city's proposed change(s) violate the terms of this agreement and, if so, what shall be the remedy;
2. To determine whether there are negative practical consequences of any such proposed changes on wages, hours benefits or other terms and conditions of employment as to which the parties have not agreed and, if so, how such consequences shall be dealt with. The arbitrator, in making that determination, has no authority to negate the change of methods or operations.
3. The Employee Relations Ordinance in the Administrative Code shall not apply to the application of this section.
4. Failure by either party to engage in meeting and conferring in accordance with this provision will result in forfeiture of such party's rights under this section.
5. Nothing in this agreement shall have application to changes of Civil Service rules excluded from bargaining pursuant to Charter Section A8.409-3 except as they may affect compensation.