

Member Education

Basic Facts About Effects Bargaining

DEFINITIONS

FOP, Police Union, Fraternal Order of Police Lodge 35 = Police Officers elected or appointed by Police Officers to represent Police Officers. All Board Members, Stewards and Officials of the FOP are active or retired Montgomery County Police Officers.

Effects Bargaining = The discussion between the FOP and management concerning the effect on police officers of the exercise of a management right. (Effects Bargaining is not bargaining of the exercise of a management right itself. It is bargaining over the effect of the exercise of that right.)

Employer Rights or Management Rights = The right and responsibility of the employer (management) to:

- (1) determine the overall budget and mission of the employer and any agency of county government;
- (2) maintain and improve the efficiency and effectiveness of operations;
- (3) determine the services to be rendered and the operations to be performed;
- (4) determine the overall organizational structure, methods, processes, means, job classifications or personnel by which operations are to be conducted and the location of facilities;
- (5) direct or supervise employees;
- (6) hire, select and establish the standards governing promotion of employees and to classify positions;
- (7) relieve employees from duties because of lack of work or funds, or under conditions when the employer determines continued work would be inefficient or nonproductive;
- (8) make and enforce rules and regulations not inconsistent with this law or a collective bargaining agreement;
- (9) take actions to carry out the mission of government in situations of emergency;
- (10) transfer, assign and schedule employees.

Effects bargaining involves only the effect on employees (and their families) of the exercise of a management right.

Effects does not involve bargaining over the exercise of a management right. It involves only bargaining over the effect or impact on police officers as a result of the fact that management is exercising its right.

Management is not prevented from exercising its right. It must bargain the effect only.

Any delays or horror stories management has told are generally unfair and wrong because:

- 1. The matter did not involve effects, or**
- 2. Management never made a proposal or made a proposal years later than they disclose, or**
- 3. Management did not comply with the law that allowed them to act immediately if significant public safety issue or after 50 days in all other cases, or**
- 4. Management is not telling the whole truth.**

Relevant Facts About Effects Bargaining:

- **Bargaining of effects is guaranteed by decision of the US Supreme Court in the private sector**
- **Effects bargaining is guaranteed by law for bargaining unit employees of the Federal Government. The Federal Government is the single largest government employer in Montgomery County.**
- **Effects bargaining is common in the public sector and in Montgomery County but often takes costly litigation to get to bargaining.**
- **Despite the distortion, the fact is that under the police law there exists a defined, orderly process for dealing with effects bargaining. Simply put if there exists a significant public safety matter, there is no bargaining before implementation of the management right. In all other cases involving management exercise of a management right, discussions go on for a maximum of 50 days., not years as has been implied. If not resolved after 50 days, then management is free to implement its right.**

(one news story said that anything that mgt wants to do that has an effect on employees must be bargained. Not true. If management wants to exercise a management right it can exercise that right. What must be bargained, within 50 days maximum, is only the effect on officers resulting from the exercise of the right.)

Unfortunately, this effects bargaining issue has been distorted, demonized and misunderstood by opponents and politicians.

No elected official, political party, county manager, or any other opponent has disputed that in any significant public safety matter, management can exercise its rights without bargaining first. Bargaining on the effect only takes place later. In all other cases involving management exercise of a management right, discussions go on for a maximum of 50 days. If not resolved by then, mgt implements.

It is a fact that now Politicians complain to the voters because its own managers have failed to follow the law.

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