

Article 57 - Mediation and Fact-Finding

Section 57.1 Appointment of Mediator Pursuant to 3 V.S.A. §1018

Whenever the representatives of the employees in the collective bargaining unit and the representatives of the employer, after a reasonable period of negotiation, reach an impasse with respect to any dispute existing between them during the course of collective bargaining on subjects governed by 3 V.S.A. §1013, pursuant to 3 V.S.A. §1018, either or both of the parties may petition the Board for authorization to submit their differences to mediation. A petition shall be in writing. The original shall be signed by the representative of employees in the bargaining unit or the representative of the employer. If both parties are in agreement an impasse has occurred pursuant to 3 V.S.A. §1018, the Board shall within five days of the filing of the petition appoint a mediator. If one party requests the appointment of a mediator and the other party disagrees an impasse has occurred, the Board shall initiate an informal inquiry concerning the request for a mediator. If the Board determines the parties have been unable to reach agreement despite diligent efforts, the Board shall appoint a mediator within five days of that determination. The parties may jointly request the assignment of a particular person to serve as mediator and such mediator shall be appointed by the Board if such person agrees to serve as mediator. The Board reserves the authority to assign a person of its choice if the parties are unable to agree upon a person to serve as mediator. The costs of a mediator, if any, shall be shared equally by the parties.

Section 57.2 Fact-Finding

Upon certification by the mediator that an impasse continues, the Board shall appoint a fact finder pursuant to 3 V.S.A. §1018(c) unless the parties have agreed in advance to proceed to arbitration pursuant to 3 V.S.A. §1019. The fact finder shall designate a time and place for hearing. The hearing(s) before the fact finder will be governed by Article 52 of these Rules; in which case the words "fact finder" will be substituted in place of "Board".

Section 57.3 List of Mediators and Fact-Finders

- (A) The Board shall establish and maintain a list of persons qualified to act as grievance mediators, contract negotiations mediators, and/or fact-finders. Persons seeking inclusion on the list shall file a written application with the Board.
- (B) The application shall include the following information:
 - The name, occupation, residence, business address, email address and telephone numbers of the applicant; a brief statement of the applicant's related experience and education which would serve as qualifications for appointment as a mediator and/or fact finder; fee schedule; any relevant professional, civic or social association memberships of the applicant; and the name, address, telephone number and email address of at least four references supporting the applicant's acceptability as an impartial, two of which shall be employee organization references and two of which shall be employer references.
- (C) The Board shall investigate the availability, qualifications and acceptability of applicants, and then make a determination whether to place the applicant on the list of mediators and fact-finders. The Board at its discretion may require training and/or the shadowing of a mediator or fact-finder for inclusion on the list. Persons included on the list of mediators and/or fact-finders shall be placed on the list for a term of three years. At the conclusion of the three years, the Board shall determine whether to include the person on the list for

another term of three years. The Board may remove persons from the list during a three-year term for good cause.

- (D) Mediators employed by the Federal Mediation and Conciliation Service shall be considered to be on the list of mediators.
- (E) Members of the Board who so desire shall be included on the list of mediators. A Board member who has served as a mediator in a case shall not be involved in any subsequent Board consideration of the matter.
- (F) Parties in grievance and contract negotiations disputes may make a joint request to the Board seeking the services of a grievance mediator, contract negotiations mediator or fact-finder to assist in resolving a negotiations impasse between the parties or a grievance. The parties may by mutual agreement select a mediator or fact-finder to intervene in the impasse or grievance from the list of mediators and fact-finders, and if the parties are unable to so agree the Board shall make an appointment from such list. The parties are responsible for equally sharing the costs of the mediator or fact-finder.