

## Basic Collective Bargaining

Florida Educational Negotiators Training  
May 2016

### Part I Labor Relations in Florida / The Law: Chapter 447

Martin Miller  
Miller Consulting Group  
martinmiller@MillerConsultingGroup.com  
904-537-0267



---

---

---

---

---

---

---

---

### Topics

- History of Florida's Law on Public Labor Relations
- Peculiarities of Florida Law
- Chapter 447, Florida Statutes
  - PERC
  - Collective Bargaining

2

---

---

---

---

---

---

---

---

### History of Florida's Law

- Statewide Strike Mid 1960's
- Voter Referendum to Amend the Constitution in 1968
- Legislature Adopted Public Employees Relations Act in 1974 (Chapter 447, Part II, FS) (PERA)

3

---

---

---

---

---

---

---

---

## Peculiarities of Florida's Law

- Representation – Open Shop
- Collective Bargaining Agreement Employee Coverage (*s. 447.203(3), (4), (5) FS*)
- Strikes (*s. 447.505, 507, FS*)

4

---

---

---

---

---

---

---

---

## Chapter 447, FS

- Public Employees Relations Commission (PERC) (*s.447.205, 207, FS*)
- Representation / Recognition (*s. 447.301, 305, 307, 308, FS*)
- Collective Bargaining Process (*s. 447.203, 309, FS*)
  - Who; End of Process (*s. 447.309, 403, FS*)
  - Executive Sessions (*s. 447.309(1); 605, FS*)
  - Public records and Meetings Laws (*Ss. 119.07(1); 286.011, FS*) (*See also, s. 447.605*)

5

---

---

---

---

---

---

---

---

## Chapter 447, FS (contd)

- Collective Bargaining Process  
(*Public Meetings Laws – s. 286.011 FS – Compliance Required Under s. 447.605(2) FS*)

- S. 286.011 (1) Public Meetings and Notice (Paraphrased)

*All meetings of any authority of any political subdivision are declared to be public meetings open to the public at all times, and no resolution, rule or formal action shall be considered binding except as taken or made at such meeting. Reasonable notice of all such meetings must be provided.*

6

---

---

---

---

---

---

---

---

## Chapter 447, FS (contd)

- Collective Bargaining Process  
(Public Meetings Laws – s. 286.011 FS – Compliance Required Under s. 447.605(2) FS)
  - S. 286.011 (2) Public Meetings and Minutes (Paraphrased)  
*The minutes of a meeting of any authority of any political subdivision shall be promptly recorded, and such records shall be open to public inspection. Enforceable by the circuit courts upon application by any citizen of this state.*

7

---

---

---

---

---

---

---

---

## Chapter 447, FS (contd)

- Collective Bargaining Agreement
  - What is its relation to School Board Policy and State Law?
  - Who is covered by agreement?
- Administration
  - Grievances
  - Unfair Labor Practices (447.203, 501, 503, 509, FS)

8

---

---

---

---

---

---

---

---

## Chapter 447, FS (contd)

- Process Exceptions
  - Financial Urgency (447.4095)
  - Declaring Emergency (447.42(21))
- General – Post Ratification
  - Inform Administration of Changes
  - Watch for Grievance Trends, ULP's, Complaints

9

---

---

---

---

---

---

---

---

**Reminder**

• **Bargaining Process**

- Authority to Bargain – Statutorily and Locally
- Legal Requirements and Exceptions - Public Meetings Law, Public Records, Exec Session, Financial Support

• **Impasse (447.403 and 405)**

- Either Party; After Reasonable Time; In Writing
- Mediation or Special Magistrate or Direct to Board
- Insulation Period; Hearing; Ratification; Imposition

10

---

---

---

---

---

---

---

---

**RELATED ACRONYMS and  
STATUTORY REFERENCES**

11

---

---

---

---

---

---

---

---

**Chapter 447 Acronyms and Terms**

**Terms**

- CEO: Chief Executive Officer (Superintendent)
- Legislative Body (School Board)

**Acronyms**

- PERA: Public Employees Relations Act
- PERC: Public Employees Relations Commission
- ULP: Unfair Labor Practice

12

---

---

---

---

---

---

---

---

## Legal Basis

### §447.203, FS - Definitions (paraphrased)

- **Bargaining Unit:** That unit to be appropriate for the purposes of collective bargaining
- **Bargaining Agent:** The employee organization which has been certified by PERC as representing the employees in the bargaining unit, or its representative
- **Chief Executive Officer:** The person responsible to the legislative body of the public employer responsible for the administration of the governmental affairs of the public employer
- **Legislative Body:** The school board

13

---

---

---

---

---

---

---

---

## Legal Basis

### §447.203, FS - Definitions (cont'd) (paraphrased)

- **Collective Bargaining:**
  - Meet at reasonable times
  - Negotiate in good faith
  - Execute a written contract concerning the terms and conditions of employment
  - **Neither party shall be required to make a concession unless otherwise provided**

14

---

---

---

---

---

---

---

---

## Legal Basis

### §447.203, FS - Definitions (cont'd) (paraphrased)

- **Bad Faith Bargaining:**
  - Failure to meet at reasonable times and places
  - Unreasonable restrictions ... as a prerequisite to meeting
  - Failure to discuss bargainable issues
  - **Refusing, upon reasonable written request, to provide public information, excluding work products prepared for collective bargaining**
  - **Refusing to negotiate because of an unwanted person on the opposing team**
  - **Negotiating directly with employees rather than with their certified bargaining agent**
  - Refusing to reduce a total agreement to writing

15

---

---

---

---

---

---

---

---

## Legal Basis

### §447.309, FS - Collective bargaining (excerpts - paraphrased)

- The bargaining agent ... and the CEO / representative ..., **shall bargain collectively** in the determination of the wages, hours, and terms and conditions of employment of the public employees within the bargaining unit.
- The chief executive officer or his or her representative shall consult with, and attempt to **represent the views of, the school board**.
- Any signed agreement ... shall not be binding on the public employer **until** ... **ratified** by the public employer and by public employees who are members of the bargaining unit.
- Maximum length of agreement is 3 years.

16

---

---

---

---

---

---

---

---

## Legal Basis

### §447.309, FS - Collective bargaining (contd) (excerpts)

- Upon execution of the [agreement], the chief executive shall, in his or her annual budget request or by other appropriate means, request the legislative body to **appropriate such amounts** as shall be sufficient to fund the provisions of the collective bargaining agreement.
- If any provision ... is in **conflict with any law, ordinance, rule, or regulation** over which the chief executive officer has no amendatory power, the chief executive officer shall submit to the appropriate governmental body having amendatory power a proposed amendment to such law, ordinance, rule, or regulation.

17

---

---

---

---

---

---

---

---

## Executive Sessions

### §447.605, FS - Public meetings and records law; exemptions and compliance.

- (1) All discussions between the chief executive officer of the public employer, or his or her representative, and the legislative body or the public employer relative to collective bargaining shall be closed and exempt from the provisions of s. 286.011.
- (2) The collective bargaining negotiations between a chief executive officer, or his or her representative, and a bargaining agent shall be in compliance with the provisions of s. 286.011.
- (3) All **work products** developed by the public employer in preparation for negotiations, and during negotiations, shall be confidential and exempt from the provisions of s. 119.07(1).

18

---

---

---

---

---

---

---

---

## Meetings and Records

### §119.07(1), 286.011 (1) & (2), FS - Records and Public Meetings. (Summarized)

- s. 119.07(1) – All school board records are public. Collective Bargaining work products are exempt unless placed on table. See s. 447.605 (3).
  
- s. 286.011(1) – Public notice of time and place of collective bargaining meeting must be provided. Does not apply to Executive Sessions. See s. 447.605 (2).
  
- s. 286.011(2) – Minutes must be maintained for collective bargaining meetings. Does not apply to Executive Sessions. See s. 447.605(2).

19

---

---

---

---

---

---

---

---

## Impasse

(See ss. 447.403 and .405, FS.)

- Reasonable period of time.
- **One of the parties** may declare impasse **in writing** to other party AND PERC.
- Seek Special Magistrate
  - OPTION: MAY go directly to school board for legislative hearing, - OR -
  - OPTION: MAY seek mediation (*either* party)
    - If successful, then sign agreement and go to ratification.
    - If this is unsuccessful, then go to Board hearing OR Special Magistrate

20

---

---

---

---

---

---

---

---

## Impasse (contd)

- Special Magistrate:
  - Holds hearing – issue subpoenas – Administer oaths
  - Written decision sent to both parties
  - Parties discuss recommended decision.
  - If decision is agreed upon, parties reduce agreement to writing and proceed to ratification
  - IF THE DECISION IS REJECTED BY EITHER PARTY IN WHOLE OR PART, NO EX PARTE COMMUNICATION WITH BOARD
- Public Board Hearing Within 10 Days of Rejection.
  - Quasi-judicial: Board - Board Attorney – Superintendent’s Attorney – Union Representative

21

---

---

---

---

---

---

---

---

### Impasse (contd)

Thereafter, the Board takes action on disputed items

- Parties reduce to writing an agreement including TA's and Board-resolved disputed issues.
- Agreement submitted for ratification.

If ratified, agreement goes into effect.

If NOT ratified, ONLY the Board-resolved disputed issues and the status quo take effect for the remainder of the fiscal year. TA's are lost.

22

---

---

---

---

---

---

---

---