

CHAPTER 70, ARTICLE II

Cecil County Sheriff's Office – Sworn Law Enforcement Deputy Sheriffs
Cecil County Sheriff's Office – Sworn Correctional Deputy Sheriffs
Department of Emergency Services – Emergency Medical Services

1. Legislative purpose.

Pursuant to the authority set forth in the Annotated Code of Maryland, the Cecil County Council enacts this Section for the following purposes:

(a) To promote a fair, harmonious, peaceful and cooperative relationship between the County and those employees of the Cecil County Sheriff's Office and Department of Emergency Services who are covered by this Section;

(b) To allow for nonbinding arbitration if the County and a Labor Organization representing certain sworn law enforcement deputy sheriffs or sworn correctional deputy sheriffs employed by the Cecil County Sheriff's Office, or certain employees who provide emergency medical services within the Department of Emergency Services are unable to reach an agreement on the contents of an MOU or collective bargaining agreement through mediation;

(c) To provide for the procedures, timeframes, and rules for conducting nonbinding arbitration; and,

(d) To provide for the procedures, timeframes, and rules for remedying unfair labor practices.

2. Definitions.

For the purposes of this Section, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

(a) County Executive. The individual holding office of the County Executive under Cecil County Charter Section 401 et. seq.

(b) Certified Labor Organization. The organization that has been certified to represent and negotiate for the employees in the bargaining unit with the County Executive on Terms and Conditions of Employment.

(c) Collective Bargaining. To meet in good faith at reasonable times to attempt to negotiate an agreement concerning Terms and Conditions of Employment.

(d) Collective Bargaining Agreement. The MOU or written agreement made between the County Executive and the Certified Labor Organization on Terms and Conditions of Employment.

(e) Employee. A person employed by the Cecil County Sheriff's Office who is classified as a sworn law enforcement deputy sheriff or as a sworn correctional deputy sheriff, or a full-time, regular, non-exempt uniformed employees on the Public Safety pay scale within the Cecil County Department of Emergency Services at the rank of captain and below, and who is authorized by law to be in the bargaining unit represented by a Certified Labor Organization.

(f) Terms and Conditions of Employment. All wages, benefits and other matters relating to the employment of employees in the bargaining unit, but for those subjects and rights excluded by law from collective bargaining.

3. Request for nonbinding arbitration.

(a) Sworn Deputies in the Cecil County Sheriff's Office: Either the Certified Labor Organization or the County Executive may demand nonbinding arbitration on Terms and Conditions of Employment that are subject to the annual exercise of budget authority pursuant to the provisions set forth in this Section. Either the Certified Labor Organization or the Cecil County Sheriff may demand nonbinding arbitration on Terms and Conditions of Employment that are not subject to the exercise of budget authority. The demand shall be in writing and set forth the Terms and Conditions of Employment that will be submitted to nonbinding arbitration.

(b) Full-time, regular, non-exempt uniformed employees on the Public Safety pay scale within the Cecil County Department of Emergency Services at the rank of captain and below: Either the Certified Labor Organization or the County Executive may demand nonbinding arbitration on Terms and Conditions of Employment that are subject to the annual exercise of budget authority pursuant to the provisions set forth in this Section. Either the Certified Labor Organization or the County Executive may demand nonbinding arbitration on Terms and Conditions of Employment that are not subject to the exercise of budget authority. The demand shall be in writing and set forth the Terms and Conditions of Employment that will be submitted to nonbinding arbitration.

4, Timing of request.

A party may demand nonbinding arbitration no earlier than thirty (30) days after the initiation of mediation. A party shall demand nonbinding arbitration by serving written notice on the other party by certified mail, return receipt requested.

5. Selection of Arbitration panel.

(a) Sworn Deputies in the Cecil County Sheriff's Office: Nonbinding arbitration shall be conducted by an arbitration panel. The arbitration panel shall be selected as follows: (a) five (5) business days after service of the demand for arbitration, the County Executive (for Terms and Conditions which are subject to the annual exercise of budget authority) or the Sheriff (for Terms and Conditions which are not subject to the annual exercise of budget authority) and the Certified Employee Organization shall each designate a member of the panel; (b) the two members shall select the third member within five (5) business days after their selection. If the two members are unable to agree to the third member, they shall make their selection from a panel provided by the Federal Mediation and Conciliation Service. The parties participating in the nonbinding arbitration shall confer within five (5) business days of receipt of the panel. They shall alternately strike names from the list until one person remains, and that person shall serve as the third member. The party making the demand for arbitration shall make the first strike.

(b) Full-time, regular, non-exempt uniformed employees on the Public Safety pay scale within the Cecil County Department of Emergency Services at the rank of captain and below: Nonbinding arbitration shall be conducted by an arbitration panel. The arbitration panel shall be selected as follows: (a) five (5) business days after service of the demand for arbitration, the County Executive and the Certified Employee Organization shall each designate a member of the panel; (b) the two members shall select the third member within five (5) business days after their selection. If the two members are unable to agree to the third member, they shall make their selection from a panel provided by the Federal Mediation and Conciliation Service. The parties participating in the nonbinding arbitration shall confer within five (5) business days of receipt of the panel. They shall alternately strike names from the list until one person remains, and that person shall serve as the third member. The party making the demand for arbitration shall make the first strike.

6. Proceedings.

(a) Not before April 15 but prior to April 25, the arbitration panel shall hold a hearing. The arbitration panel may issue subpoenas to compel the testimony of witnesses and the production of documents, administer oaths, and declare the record closed. The arbitration panel shall act by and through majority determination.

(b) The participating parties shall simultaneously enter into the record their positions on the Terms and Conditions of Employment at issue. The parties shall have the right to submit positions that vary from those in the collective bargaining negotiations. Once the parties offer their positions into the record, they shall have one opportunity to change their positions prior to the close of the record by simultaneously entered amended submissions.

(c) The parties shall present evidence in support of their final positions. Admissible evidence shall be limited to information concerning:

1. Terms and Conditions of Employment for other Cecil County employees;
2. Terms and Conditions of Employment for other Sworn Correctional Deputy Sheriffs in other comparable or contiguous counties;
3. Terms and Conditions of Employment for private sector employees in Cecil County;
4. Cost of living data for Cecil County;
5. Funds available to the County Executive;
6. The ability of the County Council to finance the adjustments to Terms and Conditions of Employment and the effect of the adjustments to Terms and Conditions of Employment on the normal standard of public services provided by Cecil County and/or on Cecil County capital projects;
7. Past collective bargaining agreements between the County Executive and the Certified Labor Organization;
8. Historic Terms and Conditions of Employment for bargaining unit employees;
9. The interest and welfare of the taxpayers;
10. The interest and welfare of the public;

11. Current collective bargaining negotiations and the parties' positions on the Terms and Conditions at issue;

12. The impact on bond rating agencies;

13. The impact on debt and interest obligations; and,

14. Any other information or evidence agreed upon by the parties as relevant.

(d) Should the arbitration panel request, or should the parties elect to file, supporting briefs, all briefs must be submitted by May 1.

(e) The arbitration panel shall determine which party's final position as to each Term and Condition at issue is the most reasonable considering all of the admissible evidence in the record and the parties' submissions as to that evidence. The arbitration panel shall have no authority to consider or recommend any Terms and Conditions that vary from the final positions of the parties.

(f) The arbitration panel shall issue its decision in writing to the parties no later than May 15 to allow time for consideration prior to the adoption of the budget. The decision shall set forth the reasons the arbitration panel determined the selection to be the most reasonable position.

(g) The final written findings of the arbitration panel are nonbinding on the parties.

7. Review of decision.

(a) Sworn Deputies in the Cecil County Sheriff's Office: The County Executive (for Terms and Conditions which are subject to the annual exercise of budget authority) or the Sheriff (for Terms and Conditions which are not subject to the annual exercise of authority) may adopt, reject, or modify the decision of the arbitration panel. This decision shall be in writing.

(b) Full-time, regular, non-exempt uniformed employees on the Public Safety pay scale within the Cecil County Department of Emergency Services at the rank of captain and below: The County Executive may adopt, reject, or modify the decision of the arbitration panel. This decision shall be in writing.

8. Costs.

The party making the demand for nonbinding arbitration shall pay all of the filing fees necessary to initiate the proceedings. The losing party shall pay all of the administrative costs of conducting the proceedings. Administrative costs include, but are not limited to, expenditures necessary and/or incidental to conducting a hearing such as the costs for a hearing room, the court reporter's fees and expenses, and the arbitrator's fees and travel expenses. Each party shall bear their own costs, including, but not limited to, attorneys' fees and expert witness fees.

9. Unfair labor practices.

(a) County Executive and Sheriff unfair labor practices. It shall be an unfair labor practice for the County Executive or Sheriff, by and through their respective officers, agents and representatives, to engage in the following conduct:

1. Interfere with, restrain, or coerce Employees in the exercise of their rights set forth in MD Code, Courts and Judicial Proceedings, § 2-309(i)(4);
2. Discriminate in regard to hire or tenure of employment or any of the Terms and Conditions of Employment to encourage or discourage membership in any Certified Labor Organization;
3. Directly or indirectly cause, instigate, encourage, condone, initiate, sponsor, support, direct or engage in any lockout as that term is defined in the Annotated Code of Maryland;
4. Fail or refuse to negotiate in good faith with a Certified Labor Organization;
5. Control or dominate a Certified Labor Organization or contribute financial or other support to it; or
6. Retaliate against an Employee because of that Employee's exercise of rights guaranteed under this Section.

(b) Certified Labor Organization unfair labor practices. It shall be an unfair labor practice for a Certified Labor Organization, by and through its officers, agents and representatives, to engage in the following conduct:

1. Interfere with, restrain, or coerce Employees in the exercise of their rights set forth in MD Code, Courts and Judicial Proceedings, § 2-309(i)(4);
2. Induce the County Executive, Sheriff, or their respective representatives to commit any unfair labor practice;
3. Directly or indirectly, cause, instigate, encourage, condone, initiate, sponsor, support, direct or engage in any strike as that term is defined in MD Code, Courts and Judicial Proceedings, § 2-309(i)(4);
4. Fail or refuse to negotiate in good faith with the County Executive or Sheriff;
5. Fail or refuse to abide by all applicable laws and ordinances; or
6. Retaliate against an Employee because of that Employee's exercise of rights guaranteed under this Section.

(c) Procedure.

1. In the event that a claim is made that an unfair labor practice has been committed by either the County Executive, Sheriff, or Certified Labor Organization, the complaining party shall serve the other party with a verified complaint setting forth a detailed statement of the alleged unfair labor practice no later than thirty (30) calendar days after the date of the alleged unfair labor practice. The party complained of shall have the right to serve an answer to the complaint within five (5) calendar days after service thereof. The complaint and answer shall be served by registered mail, return receipt requested.
2. The parties shall submit the dispute to a neutral third party ("neutral") for resolution. The neutral shall be selected as follows: (a) ten (10) calendar days after service of the complaint, the parties shall each designate a representative; (b) the two representatives shall select the neutral within three (3) business days after their selection. If the two representatives are unable to agree to a neutral, they shall make their selection from a panel provided by the Federal Mediation and Conciliation Service. The parties shall confer within five (5) days of receipt of the panel. They shall alternately strike names from the list until one person remains, and that person shall serve as the neutral. The party initiating the complaint shall make the first strike. The costs associated with the neutral shall be shared equally by the parties.

3. The neutral shall have the following authority with respect to the investigation and adjudication of unfair labor practice charges and determination of remedies for unfair labor practices in accordance with the procedures and intent of this Section:

i. After reviewing the complaint and any answer thereto, the neutral may issue an order dismissing the complaint, order an investigation, or schedule an evidentiary hearing at a designated time and place. Any such hearing shall be conducted without regard for the strict rules of evidence and a transcript of testimony shall be taken.

ii. If the neutral determines that an unfair labor practice has been committed, the neutral shall state his/her findings in writing and shall issue and cause to be served upon the party committing the unfair labor practice an order requiring the party to cease and desist from such practice within a specified period and shall take such further affirmative action as will comply with the provisions of this Section. If the neutral determines that a prohibited practice has not been or is not being committed, he/she shall state a finding of fact in writing and shall issue an order dismissing the complaint.

iii. The neutral may appoint a representative or representatives to perform investigative, administrative, ministerial, procedural or other tasks associated with the duties assigned pursuant to this Section.

iv. In addition to those duties specifically enumerated herein, the neutral shall also have the authority to perform other duties as may be deemed necessary to effectuate the purposes and intent of this Section.

4. Nothing in this section shall prohibit the neutral from personally conducting mediation to resolve unfair labor practice issues.

5. Nothing in this section shall prohibit or impede the County Executive, Sheriff or the Certified Labor Organization from using all available lawful means to end a strike or lockout, including the initiation of legal proceedings to enjoin the strike or lockout.

10. Closed Session.

All meetings relating to matters subject to this Section shall be closed to the public. When necessary, the procedure set forth in Md. Code, General Provisions, §3-305 shall be followed to conduct a closed session meeting.

11. Service fee.

A Collective Bargaining Agreement executed between the Employer and Certified Labor Organization may contain a provision whereby (1) all new Employees who elect not to join, or remain members of, the Certified Labor Organization, or (2) all present Employees who previously have executed membership or dues authorization cards as members of the Certified Labor Organization, but, hereafter, elect to terminate said membership and/or revoke said authorization cards, shall be required, as a condition of employment to pay a service fee to the Certified Labor Organization during the period that the Certified Labor Organization retains its certification, in an amount not to exceed 75 percent (75%) of the then current Certified Labor Organization's dues in order to defray the costs incurred by the Certified Labor Organization in the negotiation, administration and implementation of the terms of the Collective Bargaining Agreement, and all modifications and amendments thereto, including related proceedings such as mediation or nonbinding arbitration; in the processing of grievances; in the conduct of disciplinary proceedings and in the appeal thereof; in the protection and improvement of civil service rights; and in any and all other proceedings and matters for which the Certified Labor Organization is the Employees' exclusive representative. The service fee provision as outlined herein shall apply if the Certified Labor Organization demonstrates that ten percent (10%) or more of the total Employees eligible to be included within an appropriate bargaining unit decline to authorize dues deductions imposed by the Certified Labor Organization.