

## Chapter ERC 13

### MEDIATION OF MUNICIPAL SECTOR LABOR DISPUTES

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**Note:** Chapter ERB 13 was renumbered chapter ERC 13 under s. 13.93 (2m) (b) 1., Stats., Register, December, 1994, No. 468; Chapter ERC 13 as it existed on June 30, 2006, was repealed and a new chapter ERC 13 was created, Register June 2006 No. 606, effective July 1, 2006.

**ERC 13.01 Scope.** This chapter governs the general procedure relating to mediation of labor disputes under s. 111.70 (4) (c) 1. and (cm) 3., Stats., involving collective bargaining units of municipal employees or units of supervisory law enforcement or supervisory fire fighter personnel of a municipal employer.

**History:** CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

**ERC 13.02 Policy.** To promote the prompt and peaceful settlement of labor disputes affecting terms and conditions of municipal sector employment in Wisconsin, the commission offers various mediation services involving designation of mediators to assist the parties in reaching a voluntary settlement. In order to maintain and enhance the effectiveness of the mediation function, the commission has established rules and procedures designed to maintain confidentiality of the mediation process.

**History:** CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

**ERC 13.03 Request for mediation services. (1)** WHO MAY FILE. A request for mediation services may be filed by a municipal employer or by the exclusive collective bargaining representative of a bargaining unit of municipal employees or by the certified or recognized negotiation representative of a unit of firefighter or law enforcement supervisors, or by anyone authorized to act on their behalf.

**(2) FORM; FILING; FILING FEE; SERVICE.** A request that the commission provide the services of a mediator shall be in writing on a form provided by the commission, or a facsimile of the commission's form. The request is not filed until it and the filing fee established by s. ERC 10.08 (3) have been received by the commission at its Madison office during normal business hours specified in s. ERC 10.06 (1). If any request for mediator services concerns issues arising as a result of more than one unrelated event or occurrence, each separate event or occurrence shall be treated as a separate request for which a separate filing fee shall be assessed. The request shall be transmitted to the commission as set forth in s. ERC 10.06 (1). If the request is filed in paper form, a total of 1 copy of the request shall be included. The fee may be transmitted to the commission by physical delivery or mail. Unless the request is submitted jointly, the party filing the request shall, at the same time, serve a copy of the request on the other party as set forth in s. ERC 10.07.

**(3) CONTENTS.** A request for mediation services shall include all of the following:

(a) The name and address of the municipal employer involved, and the name, address and phone number of its principal representative. Fax numbers and e-mail addresses shall be included, if available.

(b) The name and address of the exclusive representative involved, and the name, address and phone number of its principal

representative. Fax numbers and e-mail addresses shall be included, if available.

(c) A statement whether the general nature of the dispute is a collective bargaining agreement negotiation dispute, a grievance dispute, or another type of labor dispute.

(d) A statement identifying the particular dispute involved by providing the following information regarding the following types of disputes:

1. For a collective bargaining agreement negotiation dispute, the bargaining unit and number of personnel involved, the expiration date of any existing collective bargaining agreement, and the status of any other collective bargaining agreement negotiations pending between the parties.

2. For a grievance dispute, the bargaining unit and grievance involved, and the number of personnel potentially affected by the grievance.

3. For another type of labor dispute, a description of the issues in dispute and the number of personnel potentially affected.

(e) A request that the commission take one of the following actions:

1. Select and designate a member of the commission or of its staff to act as mediator.

2. Designate as mediator a particular commissioner or commission staff member jointly requested by the parties, or one of a number of particular commissioners or commission staff members jointly requested by the parties, if available.

(f) A statement whether the request is being submitted by the exclusive representative, the municipal employer, or both.

(g) The date on which the mediation request is transmitted to the commission.

**History:** CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

**ERC 13.04 Commission action on request for mediation services. (1)** ACQUIESCENCE; REFUND OF FILING FEE. If the request to initiate mediation is filed by only one party, the commission shall immediately contact the other party to the dispute to inquire as to its acquiescence to mediation. If that party opposes proceeding to mediation, the commission shall so advise the initiating party, shall return the filing fee, and shall not act further on the request. The filing fee is refundable only in the event of the other party's non-acquiescence to mediation; neither the requesting party's withdrawal of the request for mediation nor the parties' settlement of the underlying dispute is a basis on which the filing fee shall be refunded.

**(2) DESIGNATION OF MEDIATOR.** If mediation has been jointly initiated or acquiesced in, the commission shall designate the mediator. Parties' joint requests for designation of particular mediators may be considered by the commission but shall not be binding on the commission.

**(3) MEDIATOR IMPARTIALITY.** The commission shall designate only competent, impartial and disinterested persons to act as mediators.

**Published under s. 35.93, Stats. Updated on the first day of each month. Entire code is always current. The Register date on each page is the date the chapter was last published.**

**(4) CONFIDENTIAL NATURE OF FUNCTION.** Commission mediators shall maintain confidentiality as required by s. 904.085, Stats. To the extent that s. 904.085 is or becomes inapplicable for any reason, the following confidentiality provisions shall become applicable. Any information disclosed by the parties to the mediator in the performance of duties shall not be divulged voluntarily or because of compulsion unless approved by the parties involved. All files, records, reports, documents, or other papers received or prepared by the mediator in that person's confidential capacity shall be confidential and shall not be disclosed to any unauthorized person without the prior consent of the commission. The mediator shall not produce any confidential records of, or testify about any mediation conducted by the mediator, before any court, board (including the Wisconsin Employment Relations Commission), investigative body, arbitrator or fact finder without the written consent of the commission. In the absence of written consent of the commission, the mediator shall respectfully decline, by reason of this subsection, to produce or present confidential records or documents of any nature or to give testimony concerning confidential mediation information.

**History:** CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

**ERC 13.05 Mediation initiated by the commission.**

Where no request for mediation services has been filed, the commission may, on its own initiative, offer mediation services to the parties to a labor dispute where the commission considers it nec-

essary to do so to serve the purposes of the Municipal Employment Relations Commission. In those cases, no filing fee shall be applicable, and the mediation meetings shall be conducted as provided in s. ERC 13.06 (2) or as established by the commission if the parties and the commission cannot agree on meeting times and places.

**History:** CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

**ERC 13.06 Mediation proceedings. (1) NATURE.**

The mediator may hold separate or joint meetings with the parties or their representatives, or mediate by means of other communications with one or both parties or their representatives. Mediation meetings and mediation communications shall not be open to the public unless otherwise mutually agreed by the parties or their representatives.

**(2) WHERE AND WHEN CONDUCTED.** The mediator shall, after conferring with the parties, set a date, time and place for the conduct of the mediation and shall notify the parties of those arrangements in writing.

**History:** CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.

**ERC 13.07 Report to commission.** If requested by the commission, the mediator shall, either orally or in writing, report to the commission about the progress of the mediation efforts, as well as the terms of the settlement of the dispute.

**History:** CR 02-037: cr. Register June 2006 No. 606, eff. 7-1-06.