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**NEGOTIATIONS**  
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## CHAPTER 10

### NEGOTIATIONS

1. COLLECTIVE NEGOTIATIONS. In January 1982, the collective bargaining process was initiated and resulted in the state's first collective bargaining contracts entered into with the exclusive representatives, effective July 1, 1982.
  
2. PREPARING FOR NEGOTIATIONS. Management and the exclusive representatives begin preparing for the next round of negotiations the day after the current contract has been signed, and preparations do not end until a successor contract has been ratified.
  
3. CHANGES IN WORKING CONDITIONS DURING NEGOTIATIONS - DEPARTMENTAL NOTICE REQUIREMENTS.
  - a. Prohibition Against Unilateral Changes. Once the state employer and the exclusive representatives of state employees begin negotiating new contracts, state law provides that while these negotiations continue, existing practices that fall within the scope of these negotiations (i.e., most existing personnel or employment rules, regulations or policies) cannot be unilaterally changed by the employer. Disputes over the interpretation or application of existing personnel or employment rules, regulations or policies should be resolved through existing grievance procedures. The Office of Employee Relations (OER) will advise all commanders when the negotiation process begins.
  
  - b. Procedure for Making Changes. If there is a legitimate and urgent business necessity to make a change in any matter within the scope of negotiations (i.e., wages, hours and other terms and conditions of employment), OER shall be contacted. Written notice of the proposed change will then be provided to the exclusive representative(s) of affected employees. If time considerations preclude written notice of the exclusive representative, OER will provide telephone notice to the appropriate statewide representative. In any case, in all instances where an exclusive representative makes a demand to meet with a departmental representative during contract negotiations, commanders shall immediately contact OER.

#### 4. SUNSHINE PROVISION.

- a. Public Disclosure Requirement. The Ralph C. Dills Act (Dills Act) contains a public disclosure clause that requires all initial bargaining proposals and counterproposals be “sunshined,” or presented at public hearings and made public record. Pursuant to this section of the Dills Act, the public is afforded the opportunity to comment on all initial proposals and counterproposals made by exclusive representatives and management.
- b. Public Meetings. Each “sunshine meeting” allows for:
  - (1) Introducing initial exclusive representative proposal(s).
  - (2) Introducing initial management proposals and counterproposals.
  - (3) Public comment on exclusive representative or management proposal(s) or counterproposal(s).
- c. Restrictions on Negotiations. Actual negotiations on these proposals may not take place for seven days after their disclosure. Subsequent new proposals on “any substantive subject” which have not been presented at a “sunshine meeting” must be placed in the public record within 48 hours after they are presented during negotiations.

#### 5. ANTICIPATING, FORMULATING, AND COSTING PROPOSALS.

- a. Review. Management relies on several sources in anticipating potential exclusive representative demands. In addition to management’s input, a review of recent contract settlements negotiated in all the bargaining units, analyses of previous grievances and arbitration settlements and evaluations of the precise fiscal impact of the exclusive representatives’ proposals on the Department’s operating budget are completed.
- b. Management Proposals. Input from departmental managers and supervisors is essential when preparing for negotiations. Managers and supervisors are in the best position to know the problems which are occurring in administering the contracts. The CHP 605, Management Proposal form, available on I: Forms, was developed for managers and supervisors to submit recommendations for changes/additions/deletions to the contracts. This form should also be used throughout the term of the contracts when a particular problem surfaces which could be alleviated by a change in the contract (see Annex A). The completed forms may be submitted to the commander who is responsible for forwarding them to OER.

6. SELECTING A NEGOTIATING TEAM. California Department of Human Resources, which is designated by the Governor as the State's Chief Negotiator, is responsible for selecting members for the state's various negotiating teams. Normally, employee relations staff from departments which employ the largest number of employees within a particular bargaining unit comprise the management bargaining team for that unit. The composition of these teams may vary depending on the particular series of negotiations.

7. SCOPE OF BARGAINING. The state employer is only obligated to negotiate matters within the scope of representation, which are "limited to wages, hours, and other terms and conditions of employment, except however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order."

8. RESOLUTION OF NEGOTIABILITY ISSUES. Disputes over whether a matter is a mandatory subject of bargaining may be brought to the Public Employment Relations Board (PERB) for determination, either as an unfair practice complaint alleging a party has refused to negotiate in good faith or as a request to determine whether a particular item is subject to collective bargaining.

9. GOOD FAITH BARGAINING. The Dills Act establishes the mutual duty of the Governor, or appointed representative, and exclusive representatives to negotiate in good faith. This is defined as the mutual obligation to personally negotiate promptly upon request by either party and continue for a reasonable period of time in order to freely exchange information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation prior to the adoption by the state of its final budget. The Governor, or appointed representative, is required to consider fully "presentations of employee organizations before determining a policy or course of action." Any agreements reached between the Governor and the exclusive representative shall be reduced to writing in contracts.

10. IMPASSE RESOLUTION.

a. Definition. Impasse is defined as the inability of the parties to reach agreement during negotiations. Disputes over negotiating the terms of contracts typically go to mediation when impasse has been reached. The role of mediation is to bring the parties together on their own terms.

b. Mediation. Mediation is defined as the effort of an impartial third party to reconcile a dispute through "interpretation, suggestion, and advice." The Dills Act provides for mediation, allowing the parties to either seek a mediator themselves or

request PERB appoint one. Failure to “participate in good faith in the mediation procedure” is an unfair labor practice.

11. LEGISLATIVE RATIFICATION. If a contract concerns budgetary or other matters over which the Legislature has control, the contract must be approved by the Legislature before it can take effect.

12. CONTRACT RATIFICATION. Exclusive representative negotiators, after agreeing to tentative contract language, may submit the proposed contract to the members for ratification. The ratification process determines whether represented employees can live with the proposed contract. Acceptance by the membership gives management some assurance the employees will comply with the letter and spirit of the contract. Formal approval of a newly negotiated contract by vote of the organization’s members is contingent on the organization’s by-laws governing ratification.

**ANNEX A**  
**MANAGEMENT PROPOSAL FORM**

STATE OF CALIFORNIA  
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL  
**MANAGEMENT PROPOSAL**  
CHP 605 (New 4-06) OPI 007

**CONFIDENTIAL**

<small>AREA</small>	<small>BARGAINING UNIT</small>
000-PACIFIC DIVISION	05
<small>SUBJECT</small>	

OVERTIME  
CONTRACT SECTION (IF APPLICABLE)

**ARTICLE VI, SECTION 30**  
PROBLEM (Briefly describe the problem with the existing contract provision or a problem which should be addressed in future negotiations)  
**PROBLEM DESCRIBED.**

SOLUTION (Briefly outline possible solution(s), including any background or justification)  
**SOLUTION EXPLAINED.**

NAME OF EMPLOYEE SUBMITTING PROPOSAL (Optional)  
**J. L. MANAGER**

**Return this form to the Office of Employee Relations (007) in a sealed envelope marked "CONFIDENTIAL."  
This information should not be shared with or viewed by represented employees.**

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