

**III. MEDIATION**

**III.15 INTEREST-BASED COLLECTIVE BARGAINING (IBCB) MEDIATION/  
FACILITATION**

Policy Overview IBCB seeks to shift the emphasis in negotiations away from adversarial, positional techniques toward a more collaborative, problem-solving approach. This process doesn't purport to eliminate altogether inherent conflicts between the parties. Rather, it is based on the principle that through identification of interests, possible options addressing those interests, and standards against which to measure acceptability of such options, conflicts are minimized and the likelihood of reaching mutually satisfactory agreements is increased. To help insure success of this process, the Bureau's IBCB program includes reliance on collaborative and decision-making procedures in the negotiations practices by both negotiating committees. Training on principles of interest-based negotiations and collaborative processes are offered to the parties by the Bureau along with neutral facilitation services in the subsequent negotiations.

Two basic policy assumptions govern application of the Bureau's program:

1. There is a long history, and numerous examples of constructive and collaborative collective bargaining using traditional negotiations procedures. Many negotiators use IBCB principles within the traditional model of bargaining. These principles lend themselves naturally to the process of persuasion, argumentation and explanation of bargaining proposals. Therefore, the Bureau believes that IBCB does not pose an "either-or" question, i.e., either the parties engage in constructive/non-adversarial bargaining by utilizing the IBCB process, or they engage in adversarial bargaining using a traditional process. The reality is that all collective bargaining operates on a continuum from adversarial to collaborative, depending upon bargaining styles, relationships, skills of the negotiators, and history.
2. Collective bargaining is best served when the parties provide their own leadership to the process, take ownership in their bargaining procedures and philosophies, and work together without undue reliance on outside neutrals. Accordingly, the Bureau's approach to IBCB is to assist the parties in such a way as to foster self-reliance and the capacity to carry out IBCB without the need for mediators. Hence, in bureau-conducted sessions, the parties should be advised that our engagement is designed to assist the parties to become self-

sufficient in the use of IBCB principles. To that end, the parties should consider procedures for the use of facilitators from within their teams or from elsewhere in the jurisdiction involved.

The following summarizes the procedures for mediating/facilitating an IBCB process:

#### Request for Information

1. All mediators will be able to respond to requests for information. The mediators will be conversant with the philosophy and procedures of the Bureau's IBCB process and be able to conduct an exploratory meeting consistent with the policy and the bureau's training program. Commitment of agency resources must be first discussed with the deputy commissioner and/or commissioner.
2. Formal IBCB training requires joint requests of labor and management.
3. Parties wishing to avail themselves of the bureau's services should contact us as far in advance as possible of the contract expiration.

#### Joint Agreement to Proceed - Exploration Meeting

During the course of the exploration meeting the Mediator will:

1. Present IBCB in an objective and neutral manner, consistent with this policy overview.
2. Make no assumptions or representations that traditional bargaining cannot be constructive and problem-solving, or is, by its nature, less effective than interest-based negotiation.
3. Inform the parties that the Bureau will provide eight to twelve hours of technical training and up to two facilitated meetings without a petition for mediation. Our staff will assist in identifying issues, interests, standards, and options as well as refining the process during the facilitated meetings.

Parties will be advised they should plan to utilize the training provided to continue the negotiations on their own. Mediation will be available if a petition for mediation is submitted. However, for a valid petition to be filed, the bureau expects that the parties have made genuine efforts to reach an agreement, as is the circumstance in the traditional collective bargaining model.

4. Make a preliminary assessment of the parties' readiness to proceed based on their expressed or implied motivations, understanding of process dynamics, and expectations. The mediator may advise the parties to continue their negotiations using the traditional process.
5. Emphasize the importance of having all negotiating team members present for the entire training session.
6. Consult with the deputy commissioner and/or commissioner on any major process changes requested or suggested by the parties.

### Training

Training of the parties in the IBCB process will be conducted in accordance with the BMS IBCB Training Manual. Changes in the program must be reviewed with the deputy commissioner prior to delivery.

Generally, two-person training teams will be assigned to each training session (as staffing conditions permit). One mediator shall be assigned to the case as a trainer. The second mediator shall act as mediator/facilitator.

The mediator/facilitator shall not proceed unless all or substantially all of the negotiators are present.

The mediator/facilitator will continue to assess the readiness of the parties and their acceptance of the process.

### Mediation/Facilitation

1. All mediators new to the process will be assigned to observe at least one entire case from exploration through the facilitation process. This requires attendance at **all** scheduled meetings.
2. After the initial training and facilitation is complete, the mediator/facilitator will continue to monitor the progress of the parties' process and will normally be assigned to the case in the event that a petition for mediation is received.

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