



LEXINGTON

COLLECTIVE BARGAINING

Department of Law

April 6, 2021



- The general statute for bargaining that applies to LFUCG is KRS 67A.6901, et seq.
- Only Police, Fire, and Corrections personnel in Lexington have a statutory right to bargain
- LFUCG has 6 agreements, 2 with each department/division



- LFUCG has a duty to bargain in good faith on matters pertaining to wages, hours, and other conditions of employment
- All provisions of the contract must be bargained for and agreed to by both parties
- If a specific terms are already written into the contract it requires both sides to agree to any change



- LFUCG has had bargaining agreements since 2005
- Mayor has the general authority by statute to bargain on behalf of LFUCG
- Council adopted a resolution in 2011 (No. 329-2011) requiring the agreements to be presented for acceptance or rejection (union votes to adopt first)



- Management rights and authority are always important to the employer
- Non-members can no longer be forced to pay fair share fees, so unions have to convince members of the union's value to them
- Each side goes into bargaining with a list of items they want to change in the existing agreement
- Duration of negotiations often depends on the length of these lists
- Money is always important (and not necessarily only in wages)



- LFUCG and the union each have a bargaining team of 5-10 persons each (outside negotiator, finance/budgeting, human resources, law, management personnel from the department or division)
- The negotiations are confidential, which is paramount in building trust between the parties and complying with labor law
- In employer's best interest to include as little as possible in the agreement in order maintain the discretion to implement new policies or make changes



- Both sides must agree to any changes to the agreement
- Kentucky law is not developed on what happens if an impasse in bargaining occurs



- Police contract – Officers and Sergeants – expired June 30, 2020
- In effect until a new agreement is approved/ratified
- 42 Articles, 94 pages



- Things in the contracts that can be changed or added – anything lawful that both sides agree to change or add
- However, state or federal law may already cover a subject matter
- Example – There are parts of the discipline article that are covered by state law. There are other parts of it that are not.



Statutes

- KRS 95.450
 - Applies to police officers and firefighters
 - Established 1942; last amended 2014
 - Provides for hearing before the legislative body
 - Generally discusses charges, hearing process and timing



Statutes

- KRS 15.520
 - Commonly called “Police Officer Bill of Rights”
 - Applies only to police officers
 - Established 1980; last amended 2018
 - It appears that at least 18 states have passed some form of such Bill of Rights (Source: *The Rights of Law Enforcement Officers, 7th Ed*, Will Aitchison)
 - Historically, confusion/conflict between some provisions of KRS 15.520 and KRS 95.450
 - Amendment to KRS 15.520 created a distinction between “law enforcement procedures” and “general employment policies”
 - If alleged violation of “general employment policies”, KRS 95.450 applies



Statutes—KRS 15.520 continued

- If alleged violation of “law enforcement procedures”, KRS 15.520 applies
- Generally sets forth discipline process and rights of officers, including:
 - Nature of complaints
 - Timing and nature of investigation and questioning of officer
 - Nature of charges
 - Suspending officer during an investigation and pending final disposition
 - Timing and rights related to hearing



Statutes—KRS 15.520 Continued

- States that since the provisions of the statute “relate to a minimum system of professional conduct, nothing in this section shall be interpreted or construed to:
 - Limit or to in any way affect any rights previously afforded to officers of the Commonwealth by statute, collective bargaining or working agreement, or legally adopted ordinance; or
 - Prevent an employing agency from electing to apply the provisions of this section, or parts thereof, in circumstances that would not be covered under this section.”
- Includes the following:
 - *When an officer has been charged with a violation of law enforcement procedures, **no public statements** shall be made concerning the alleged violation by any person or persons of the employing agency or the officers so charged, until final disposition of the charges.*



Collective Bargaining Agreements

- CBA for Police Officers and Sergeants and CBA for Lieutenants
- Article 15 (in both agreements) sets forth “Disciplinary Procedures and Bill of Rights”
- Article 15 provides:
 - “The provisions of this Article are supplementary to the statutory provisions of KRS 15.520 and KRS 95.450. Neither party waives its rights under those statutes.”

Questions?

