

SCOPE OF BARGAINING



PUBLIC EMPLOYEES RELATIONS COMMISSION

ACKNOWLEDGEMENTS

The Commission would like to acknowledge former General Counsel Stephen Meck, and former Hearing Officers Lee Cohee, Suzanne Choppin, and Christi Gray for their work in creating this publication. The Commission specially thanks Hearing Officers Janeia Ingram, Leon Melnicoff, Tamara St. Hilaire, and Lyyli Van Whittle, and Deputy Clerk II Barbara Kirkland for their contributions to the recent update of this publication.

PUBLIC EMPLOYEES RELATIONS COMMISSION

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Third Edition – October, 2021

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DISCLAIMER

While extreme care was taken in the development of these summaries, inaccuracies may exist. The summaries are intended solely as a research aid and not as a substitute for direct reference to the actual decisions. These materials do not represent official PERC interpretation or policy and should not be cited or otherwise offered as authority for any legal position.

INTRODUCTION

Article I, Section 6, of the Florida Constitution provides that the right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged. The Florida Supreme Court has held that public employees have the right to “effective collective bargaining.” Hillsborough County GEA v. Hillsborough County Aviation Authority, 522 So. 2d 358, 363 (Fla. 1988). As an integral part of the constitutional right, a public employer must maintain the established status quo during the collective bargaining process.

Section 447.309(1), Florida Statutes (2021), directs a public employer to bargain collectively with the certified bargaining agent chosen by its employees regarding wages, hours, and terms and conditions of employment. The Legislature has not specifically delineated all subjects which are negotiable; therefore, the Commission must determine what constitutes a mandatory subject of bargaining. In Duval Teachers United v. Duval County School Board, 3 FPER 96 (1977), aff’d, 353 So. 2d 1244 (Fla. 1st DCA 1978), the Commission interpreted section 447.309(1), Florida Statutes, as requiring a broad scope of negotiations. The Commission’s policy in favor of a broad scope of negotiations has been expressly approved by the courts.

To determine whether a contested issue is a mandatory subject of bargaining, the Commission analyzes whether the subject has a material or significant impact upon wages, hours, or terms and conditions of employment as opposed to being an issue which only indirectly, or incidentally, relates to those subjects. If it is, the subject must be negotiated upon a proper request by either party. A public employer may take unilateral action to change these and other mandatory subjects of negotiations pursuant to the impasse resolution mechanism of section 447.403, Florida Statutes, but only when good faith negotiations fail to end in an agreement. This provision only applies after the completion of the impasse process, and it does not authorize unilateral action during pending negotiations. In addition to legislative body action taken after impasse, a public employer may lawfully take unilateral action where there has been a clear and unmistakable waiver by the employee organization or where there are extraordinary circumstances requiring immediate action. Absent such defenses, a public employer’s unilateral change constitutes an unfair labor practice violating the duty to bargain in good faith.

A subject which is fundamental to a public employer’s basic mission and only has an indirect effect on the employment relationship is not a required subject of bargaining. A public employer need not bargain over the decision to make a change in a matter that is a management right. Such rights are generally defined by section 447.209, Florida Statutes:

It is the right of the public employer to determine unilaterally the purpose of each of its constituent agencies, set standards of services to be offered to the public, and exercise control and discretion over its organization and operations. It is also the right of the public employer to direct its employees, take disciplinary action for proper cause, and relieve its employees from duty because of lack of work or for other legitimate reasons. However, the exercise of such rights shall not preclude employees or their representatives from raising grievances, should decisions on the above matters have the practical consequence of violating the terms and conditions of any collective bargaining agreement in force or any civil or career service regulation.

The exercise of management rights are subject to two bargaining caveats. First, the employer must give a union notice and an opportunity to bargain before a management right is changed. A unilateral change without notice or an opportunity for negotiations, even of a matter that is a management right, is an unfair labor practice. Once notice and an opportunity to negotiate are given, all that must be negotiated concerning a management right is the impact of the proposed change upon the wages, hours, and terms and conditions of employment. Further, a union demand for impact negotiations must be clear and identify the direct and substantial effects of the proposed change on wages, hours, and terms and conditions of employment.

The search for an approach to define mandatory versus permissive categories in collective bargaining has created much confusion over the years. Where a subject may be reasonably viewed as both a wage, hour and term and condition of employment, and a management prerogative, the Commission must employ a balancing test to determine which predominates. See Order of Police v. Miami Lodge 20 v. City of Miami, 609 So. 2d 31 at 34 (Fla. 1992).

This publication summarizes the Commission's decisions on the scope of bargaining, along with a table of cases and subject matter index. The subheadings used in this publication are for research convenience only. They should not be interpreted as an indication that all aspects of the subject were determined to be either mandatory or permissive subjects of bargaining by the Commission. For example, certain aspects of the same subject may be mandatory while other aspects are permissive. Therefore, similar subheadings may be listed under both mandatory and permissive. As the law concerning the scope of bargaining in Florida is subject to change over time, it is advisable that readers consult with legal counsel before taking action with regard to any matter covered in this publication.

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CASE SUMMARIES

1. Escambia Education Association v. School Board of Escambia County, 2 FPER 93 (1976), aff'd, 350 So. 2d 819 (Fla. 1st DCA 1970).

The procedures used by an employer to lay-off employees are mandatory subjects of bargaining.

2. Pasco Classroom Teachers Association v. School Board of Pasco County, 3 FPER 9 (1976), aff'd, 353 So. 2d 108 (Fla. 1st DCA 1977).

Salaries and wage rates are fundamental conditions of employment which must be negotiated. The School Board committed an unfair labor practice by adopting a salary schedule without prior negotiations with the certified bargaining agent.

The subject of teacher planning days is a term and condition of employment.

3. Duval Teachers United, FEA-AFT, AFL-CIO v. Duval County School Board, 3 FPER 96 (1977).

The Commission determined that the discipline or discharge of an employee is a fundamental condition of employment. The School Board committed an unfair labor practice by refusing to bargain over a collective bargaining proposal which provided that an employee would not be disciplined except for just cause. The Commission noted that a proposal which sought to severely restrict the employer's right to discipline or divest it of such power would not be a mandatory subject of bargaining.

4. Pinellas County Police Benevolent Association v. City of St. Petersburg, 3 FPER 205 (1977).

Payment of extra compensation to evening shift employees is an economic benefit to employees and therefore included within the term "wages."

Life and accident insurance programs are terms and conditions of employment. It was unlawful for the city to unilaterally reduce the dollar amount of life and accident insurance policies upon the expiration of a collective bargaining agreement.

A contractual provision regulating the return of employees to work during off-duty time is a term and condition of employment.

A contractual provision providing employees with uniforms, free cleaning of uniforms, or money to purchase uniforms is a term and condition of employment.

5. Palowitch v. Orange County School Board, 3 FPER 280 (1977), aff'd, 367 So. 2d 730 (Fla. 4th DCA 1979).

A school district's decision to change from a semester system to a quinmester system was not a negotiable subject because it is the public employer's right to determine the type of system it will offer to the public. However, that decision did not diminish duty to bargain with respect to any changes in wages, hours, and terms and conditions of employment occasioned by implementation of its management decision.

6. Lake County Education Association v. School Board of Lake County, 360 So. 2d 1280 (Fla. 2d DCA 1978).

A school board may not agree to a provision in a collective bargaining agreement in which its decision not to reappoint a non-tenured teacher must be based on just cause. Such a clause is contrary to public policy and cannot provide a basis for an arbitration award.

7. Osceola Classroom Teachers Association v. School Board of Osceola County, 4 FPER ¶ 4066 (1978).

Elimination of wage supplements for band and intramural directors was unlawful.

8. In re Communications Workers of America, 4 FPER ¶ 4135 (1978).

Section 447.401 makes clear that a grievance procedure ending in some form of binding arbitration is a term and condition of employment over which the public employer and the union must negotiate.

Dismissal, discipline, and discharge are mandatory subjects of bargaining.

9. Florida State Lodge, Fraternal Order of Police v. City of Lauderdale, 4 FPER 4209 (1978).

City committed unfair labor practice by unilaterally adopting police departmental pay plan.

A public employer may not unilaterally adopt new personnel rules and regulations that change terms and conditions of employment applicable to bargaining unit employees.

10. Indian River County Education Association, Local 3617 v. School Board of Indian River County, 4 FPER ¶ 4262 (1978), aff'd, 373 So. 2d 412 (Fla. 4th DCA 1979).

The number of instructional periods that a teacher must teach each day is a term and condition of employment that must be negotiated.

However, a change in instructional periods is a management right, pursuant to its right to set standards of service to be offered to the public. But will constitute an unlawful change when the change is made by the public employer without prior negotiations with the certified bargaining agent.

11. Broward County Classroom Teachers Association v. School Board of Broward County, 4 FPER ¶ 4264 (1978).

Adoption of budget does not end duty to bargain over wages.

12. Edison Community College v. Edison Community College Faculty Federation, Local 3513, FEA/United, 4 FPER ¶ 4269 (1978).

The Commission interpreted Section 447.303 as requiring public employers and employee organizations to negotiate the costs of administering dues deductions. The parties did not have to discuss other contractual provisions relating to dues deduction or the exact wording of authorization forms. Applying the rule of *expressio unius est exclusio alterius*, the Commission determined that the Legislature only intended that the costs of dues deduction be a negotiable subject.

13. United Faculty of Florida, Local 1880 v. Board of Regents, State University System, 4 FPER ¶ 4319 (1978).

The provisions of Section 112.075 provided that a state agency could contribute only 75% of the cost of individual health coverage and only to the state health insurance program. Alternative union proposals exceeding the limits of this law cannot be implemented. The Commission would not order the parties to bargain over this subject knowing that the product of the negotiations could never be implemented.

14. Teamsters Local 444 v. City of Winter Haven, 5 FPER ¶ 10089 (1979).

The City committed an unfair labor practice by unilaterally altering the procedure for calling employees back to work and requiring that all employees be subject to call-back. The call-back procedure is a term and condition of employment because it confers a benefit on both the employees subject to call-back (extra compensation) and the employees not subject to call-back (free from call-back). Compensation received for working on a holiday is considered a "wage," and the City cannot unilaterally alter the form of the holiday benefit.

Holiday leave is a term and condition of employment. The City committed an unfair labor practice by altering the form of the holiday benefit without negotiating the change with the union.

15. In re Martin County Education Association, FEA/United, AFT, Local 3615, 5 FPER ¶ 10104 (1979).

The employees' ability to communicate with each other in furtherance of their rights guaranteed by Chapter 447, Part II, is a term and condition of employment. It is proper for an employer and a certified union to agree in a collective bargaining agreement that the union would have access to the employer's internal mail system for the purpose of communicating with unit members.

16. In re Levy County School Board, 5 FPER ¶ 10213 (1979).

A collective bargaining proposal setting forth the procedures used in transferring employees is a term and condition of employment. The Commission reasoned that the employee's job site may be as important as wages or hours, particularly if a change in job site involves a change in convenience or expense for an employee in traveling to work.

17. Martin County Education Association v. Martin County School Board, 5 FPER ¶ 10302 (1979).

Decision to change number of instructional periods in workday is a management right, but its impact upon terms and conditions of employment must be bargained before implementation.

18. St. Petersburg Association of Fire Fighters, Local 747, IAFF v. City of St. Petersburg, 5 FPER ¶ 10381 (1979).

Issues relating to a public employer's vacation leave policy are required subjects of bargaining.

19. Grace v. School Board of Hamilton County, 6 FPER ¶ 11010 (1979); Lake County Education Association, Local 3783 v. District School Board of Lake County, 6 FPER ¶ 11019 (1979).

School boards had a duty to bargain over adoption of school calendars containing teacher workdays.

20. Local No. 301 (LIUNA) v. City of Jacksonville, 6 FPER ¶ 11047 (1980).
A public employer's sick leave policy and the procedures for implementing the policy are terms and conditions of employment.
21. Duval Teachers United v. Duval County School Board, 6 FPER ¶ 11150 (1980).
Step increases that vested prior to contract expiration must be maintained.
22. Classroom Teachers Association of Gilchrist County v. The School Board of Gilchrist County, 6 FPER ¶ 11154 (1980).
Rule requiring principal's permission prior to teacher leaving classroom constituted a term and condition of employment.
23. Dade County Police Benevolent Association v. Metropolitan Dade County, 6 FPER ¶ 11211 (1980).
A public employer does not have a duty to negotiate the settlement of an employment discrimination lawsuit with a union, particularly if the union is not a party to the lawsuit. The determination by the public employer whether to litigate or compromise any lawsuit filed against it is an essential prerogative of the public employer in furtherance of its right to exercise control and discretion over its organization and operations.
24. Duval Teachers United, FEA/United, AFT, AFL-CIO, Local 3326 v. School Board of Duval County, 6 FPER ¶ 11271 (1980).
Workers compensation supplemental benefits are a term and condition of employment because the benefits amount to compensation provided by the employer in excess of those required by the Florida Worker's Compensation Law.
25. Pinellas County Police Benevolent Association v. City of St. Petersburg, 6 FPER ¶ 11277 (1980).
Rules which set the standards for disciplining police officers are terms and conditions of employment because these rules regulated the working conditions under which the police officers were required to operate.
26. Manatee Education Association v. Manatee County School Board, 7 FPER ¶ 12017 (1980).
The assignment and reassignment of employees to perform tasks that are within the scope of their basic employment duties are managerial decisions which lie at

the core of the public employer's right of control set forth in section 447.209, Florida Statutes. Accordingly, the School Board did not have a duty to bargain with the union over its decision to assign a teacher to a driver education class instead of a varsity sports class. However, the School Board does have a duty to bargain with the union if its exercise of management rights impacts upon established wages, hours or terms and conditions of employment of unit employees.

27. Orange County Police Benevolent Association v. City of Orlando, 7 FPER ¶ 12019 (1980).

Procedures for promotion to positions within the bargaining unit are a term and condition of employment.

28. City of Tallahassee v. PERC, 410 So. 2d 487 (Fla. 1981).

The Florida Supreme Court held that statutory amendments to Chapter 447 which excluded retirement matters as proper subjects of bargaining were unconstitutional. The provisions were unconstitutional because Article 1, Section 6 of the Florida Constitution provides public employees with the same rights of collective bargaining as are guaranteed to private employees with the exception of the right to strike.

29. In re Orange County Classroom Teachers Association, 7 FPER ¶ 12179 (1981).

A party to negotiations may not insist upon language which purports to exclude any provision of the contract from the grievance procedure. Section 447.401 requires all disputes regarding a bargaining agreement to be resolved through the contractual grievance procedure.

30. LIUNA, Local 1240 v. DeSoto Board of County Commissioners, 7 FPER ¶ 12212 (1981).

A public employer's decision to provide services five days a week instead of four days a week is a management prerogative. However, a public employer is required to bargain with the union concerning implementation of its decision to extend the work week if the decision impacts on the wages, hours, or terms and conditions of employment of unit employees.

31. IBPO, Local 621 v. City of Hollywood, 7 FPER ¶ 12293 (1981).

The number of hours worked and the work schedule of employees are mandatory subjects of bargaining. However, the City was able to alter the daily work schedule of its police officers because the union contractually waived the right to contest any changes in the schedule.

32. Hillsborough Classroom Teachers Association v. School Board of Hillsborough County, 7 FPER ¶ 12411, recon. denied, 8 FPER ¶ 13074 (1982), aff'd, 423 So. 2d 969 (Fla. 1st DCA 1983).

A school district does not have to bargain over a union proposal which seeks to require the school district to surrender its right to establish class size because this issue falls under the “standards of service” provision of Section 447.209. Although this particular class size proposal was not a wage, hour or term and condition of employment, the School Board has a duty to negotiate the impact of class size decisions on the teachers’ terms and conditions of employment.

Minimum staffing levels in a school are not mandatory subjects of bargaining. Proposals on minimum staffing infringe on the School District’s ability to establish those staffing standards which they determine are appropriate. Impact on unit employees’ wages, hours, or terms and conditions of employment must be negotiated.

33. Federation of Public Employees, Division of District 1, Pacific Coast District, MEBA v. Broward County Sheriff’s Department, 7 FPER ¶ 12414 (1981).

A public employer has no duty to bargain with the union concerning a tentative budget which the public employer intends to adopt. The budget is not a matter falling within the ambit of the phrase “wages, hours or terms and conditions of employment.”

34. Pinellas County Police Benevolent Association v. City of Dunedin, 8 FPER ¶ 13102 (1982).

Employee health insurance programs are terms and conditions of employment which must be the subject of negotiation. The City committed an unfair labor practice by unilaterally increasing the premium paid by employees for dependent health insurance coverage.

35. Nassau Teachers Association, FTP-NEA v. School Board of Nassau County, 8 FPER ¶ 13206 (1982).

Experience-based salary increments and merit salary increases are considered “wages” and mandatory subjects of bargaining. The School Board committed an unfair labor practice by eliminating these increments during negotiations for a new collective bargaining agreement.

36. Fort Pierce – St. Lucie County Fire Fighters Association, Local 1377, IAFF v. St. Lucie County – Fort Pierce Fire District, 8 FPER ¶ 13388 (1982).

The length of service necessary to be eligible for a promotion is a term and condition of employment. The Fire District committed an unfair labor practice by unilaterally changing from three to four years the time required for a fire fighter to be eligible for promotion to engineer.

37. Leon County Police Benevolent Association v. City of Tallahassee, 8 FPER ¶ 13400 (1982), per curiam affirmed, 445 So. 2d 604 (Fla. 1st DCA 1984).

Health insurance premiums are a mandatory subject of bargaining.

38. City of Orlando v. PERC, 435 So. 2d 275 (Fla. 5th DCA 1983), rev'g 8 FPER ¶ 13045 (1981).

The Fifth District Court of Appeal determined that the City did not commit an unfair labor practice when it refused to negotiate with the union over promotional procedures for a position outside of the bargaining unit. The court held that promotional procedures for positions outside of the bargaining unit do not constitute wages, hours, or terms and conditions of employment for employees included in the bargaining unit because promotion is speculative and uncertain.

39. City of Orlando v. Orlando Professional Fire Fighters Local 1363, 442 So. 2d 238 (Fla. 5th DCA 1983), rev'g 9 FPER ¶ 14076 (1983).

The Fifth District Court of Appeal adopted its reasoning in 435 So. 2d 275 that a public employer has no duty to bargain over promotional procedures for positions outside of the bargaining unit.

40. Bradford Education Association v. Bradford County School Board, 9 FPER ¶ 14155 (1983).

The Commission approved a consent order which stated that certain portions of the School Board's school calendar are mandatory subjects of bargaining. The School Board agreed to bargain with the union prior to making any changes in the school calendar which affect the number or timing of teacher planning days, vacation days or working days or any other matter which is a term and condition of employment.

41. Local 2266, IAFF v. City of St. Petersburg Beach, 9 FPER ¶ 14338 (1983).

The number of paychecks that an employee receives annually is a term and condition of employment. The city was required to bargain with the union before changing its practice of issuing paychecks.

42. Delaney v. City of Hialeah v. AFSCME, Local 3032, 9 FPER ¶ 14339 (1983), aff'd, 10 FPER ¶ 15300 (1984).

A contract provision which required all bargaining unit employees, including non-union members, to contribute a portion of their sick leave to a “union time pool” was unlawful. The Commission determined that such a provision interfered with the non-union members’ right to refrain from participating in union activities.

43. Hialeah IAFF, Local 1102 v. City of Hialeah, 9 FPER ¶ 14364 (1983).

The City was required to bargain with the union over a change in shift starting time from 8:00 a.m. to 7:00 a.m. for the City’s 24-hour shift fire fighters.

44. Central Florida Professional Fire Fighters, Local 2057 v. Board of County Commissioners of Orange County, 9 FPER ¶ 14372 (1983), aff'd in relevant part, 467 So. 2d 1023 (Fla. 5th DCA 1985).

The tape-recording of a bargaining session, or lack thereof, is not a wage, hour or term and condition of employment.

A long-standing practice of allowing on-duty fire fighters to visit stores to purchase toiletries for use while on duty is a term and condition of employment.

45. IAFF, Local 2577 v. Lehigh Acres Board of Fire Commissioners, 10 FPER ¶ 15166 (1984).

A public employer is not required to negotiate with the union over the creation of a position outside of the bargaining unit. Similarly, the public employer may unilaterally select the criteria for the position if the position is not included in the bargaining unit.

46. In re School Board of Collier County, Florida, 10 FPER ¶ 15169 (1984).

Proration of fringe benefits for part-time employees is a term and condition of employment.

47. In re Palm Beach County Association of Educational Secretaries and Office Personnel, 10 FPER ¶ 15177 (1984).

A proper cause provision for the failure to reappoint non-probationary non-instructional school board employees was a mandatory subject of bargaining. Such a provision would not be unlawful under Florida Statutes.

48. Florida Public Employees Council 79, AFSCME v. State of Florida, 10 FPER ¶ 15208 (1984), aff'd, 472 So. 2d 1184 (Fla. 1st DCA 1985).

The Commission held that the payment of all or a portion of the cost of electric utilities for resident park rangers is a term and condition of employment.

49. Local 2266, IAFF v. City of St. Petersburg Beach, 10 FPER ¶ 15211 (1984).

Premium pay given to employees for working in certain classifications constitutes “wages” and is a mandatory subject of bargaining.

50. Palm Beach Junior College Board of Trustees v. United Faculty of Palm Beach Junior College, 468 So. 2d 1089 (Fla. 4th DCA 1985), aff'g 10 FPER ¶ 15225 (1984).

A union cannot be compelled to waive the right to have disputes resolved through the grievance procedure mandated by Section 447.401. A bargaining proposal which would exclude from a contract’s grievance procedure all contractual disputes arising after the expiration of the contract is not a mandatory subject of bargaining.

51. Palm Beach Junior College Board of Trustees v. United Faculty of Palm Beach Junior College, 475 So. 2d 1221 (Fla. 1985), aff'g in part and rev'g in part 425 So. 2d 133 (Fla. 1st DCA 1982), aff'g 7 FPER ¶ 12300 (1981).

The Florida Supreme Court held that a blanket impact bargaining waiver proposal is a non-mandatory subject of bargaining. It is an unfair labor practice for a public employer to insist to impasse on such a provision.

52. United Teachers of Dade v. Dade County School Board, 500 So. 2d 508 (Fla. 1986).

Annual monetary award to teachers provided by state master teacher program is not a wage subject to collective bargaining.

53. Florida School for the Deaf and Blind Teachers United v. Florida School for the Deaf and Blind, 11 FPER ¶ 16080 (1985), aff'd, 483 So. 2d 58 (Fla. 1st DCA 1986).

Length of workday and planning time of academic employees are terms and conditions of employment within the meaning of Section 447.301 and 447.309(1).

54. In re Levy County Education Association, 11 FPER ¶ 16096 (1985), aff'd, 492 So. 2d 1140 (Fla. 1st DCA 1986).

The Commission reversed its decision in Martin County Education Association v. School Board of Martin County, 5 FPER ¶ 10199 (1979), aff'd per curiam, 380 So. 2d 582 (Fla. 1st DCA 1980), and held that supplemental compensation for athletic coaching duties constitutes “wages.” In Martin County, the Commission had held that “wages” included supplemental pay for non-athletic extracurricular advisory duties, but not for athletic advisors.

55. ATU, Local 1596 v. Orange-Seminole-Osceola Transit Authority, 11 FPER ¶ 16241 (1985).

A change in work rules prohibiting bus drivers from wearing union insignia was an unlawful unilateral change in a term and condition of employment.

56. IAFF, Local 1403 v. Metropolitan Dade County, 11 FPER ¶ 16285 (1985).

The Commission determined that a public employer does not have to bargain with the certified bargaining agent over the employer’s decision to close a fire station because the decision is within the public employer’s statutory managerial right to “exercise control and discretion over its organization and operations.” However, the public employer does have a duty to bargain over the impact of its decision to close the work site.

57. City of Casselberry v. Orange County PBA, 482 So. 2d 336 (Fla. 1986), approving in part and quashing in part, 457 So. 2d 1125 (Fla. 1st DCA 1984), rev'g, 9 FPER ¶ 14120 (1983).

The Florida Supreme Court held that a contract proposal requiring the use of a civil service ordinance to resolve disputes over demotion and discharge issues, was a permissive subject of bargaining and could not be required as a condition to entering an agreement on mandatory subjects of bargaining.

58. Fraternal Order of Police, Miami Lodge 20 v. City of Miami, 12 FPER ¶ 17029 (1985), rev'd, 571 So. 2d 1309 (Fla. 3d DCA 1989), approved, 609 So. 2d 31 (Fla. 1992).

The Florida Supreme Court held that, although random drug testing is a mandatory subject of bargaining absent legislation, drug testing is a management prerogative if there is some evidence of drug involvement by specific police officers.

59. Fire Fighters of Boca Raton, Local 1560, IAFF v. City of Boca Raton, 12 FPER ¶ 17051 (1986).

The City's practice of allowing fire fighters to work on personal equipment during slack time on a 24-hour shift was a term and condition of employment which the City could not change without bargaining with the union. The Commission compared this condition of employment to the use of the employer's tools and shop facilities for personal use which the New York Public Employees Relations Board held to be a mandatory subject of bargaining in Westbury Water and Fire District and Nassau Chapter CSEA, 13 PERB ¶ 309 (NYPERB 1980).

60. ATU, Local 1596 v. City of Gainesville, 12 FPER ¶ 17124 (1986).

Work rules are a mandatory subject of negotiations. However, the union contractually waived its right to negotiate changes to the City's work rules.

61. ATU, Local 1596 v. Orange-Seminole-Osceola Transportation Authority, 12 FPER ¶ 17134 (1986).

An employer may not unilaterally implement a policy of assessing points for absences which could lead to disciplinary action because an absenteeism policy is a mandatory subject of bargaining. The public employer committed an unfair labor practice by insisting to impasse on designating a private management firm as the employer. The designation of the public employer or employee organization is not a mandatory subject of bargaining.

62. Jacksonville Association of Fire Fighters, Local 122, IAFF v. City of Jacksonville, 12 FPER ¶ 17188 (1986).

City did not commit an unfair labor practice by unilaterally altering the method used to determine the recipients of workers' compensation supplemental benefits because union waived the right to contest any changes in the program.

63. Sarasota Professional Fire Fighters v. City of Sarasota, 13 FPER ¶ 18033 (1986).

Although overtime is a mandatory subject of bargaining, the union contractually waived its right to contest the City's unilateral abolition of pre-shift overtime assignments.

64. City of New Port Richey v. Hillsborough County PBA, Case No. 86-70 (Fla. 2d DCA March 4, 1987), rev'g 12 FPER ¶ 17040 (1985).

A public employer has no obligation to bargain with a union over changes in contributions to a pension plan where the change does not have any impact upon

the employees' benefits or contributions to the plan or the actuarial soundness of the plan.

65. IAFF, Local 2266 v. City of St. Petersburg Beach, 13 FPER ¶ 18116 (1987).

Annual physical examination is generally considered to be a mandatory subject of bargaining.

Pre-employment agreement requiring random drug testing is a mandatory bargaining subject.

66. IAFF, Local 754 v. City of Tampa, 13 FPER ¶ 18129 (1987), per curiam affirmed, 522 So. 2d 392 (Fla. 2d DCA 1988).

Length of pay period is a mandatory subject of bargaining.

67. In re City of Jacksonville, 13 FPER ¶ 18250 (1987).

Employer-funded pool of paid leave time for bargaining unit employees to engage in official union business is a mandatory subject of bargaining.

68. Spiegel v. Dade County Police Benevolent Association, Inc., 14 FPER ¶ 19092 (1988).

Optional health insurance program available exclusively to union members is an unlawful subject of bargaining because it discriminated against bargaining unit members who are not members of the union.

69. In re City of Hollywood, 14 FPER ¶ 19130 (1988).

Upgrading the job qualifications of future bargaining unit members by soliciting a pre-employment commitment requiring applicants to attain advanced certification after their initial employment is a management prerogative. However, the union must be afforded notice of the decision and an opportunity to bargain its impact upon wages, hours, and terms and conditions of employment prior to implementation.

70. Fraternal Order of Police, Ft. Lauderdale Lodge 31 v. City of Ft. Lauderdale, 14 FPER ¶ 19150 (1988).

"No beards" policy is a mandatory subject of bargaining.

71. Federation of Public Employees, a Division of District No. 1, PCD, MEBA, AFL-CIO v. School District of Broward County, 14 FPER ¶ 19159 (1988).

Under the specific facts of this case, the implementation of a time clock system by the employer did not constitute a change in a term or condition of employment and, therefore, the employer did not have a duty to bargain.

72. IBEW Local 2358 v. Jacksonville Electric Authority, 14 FPER ¶ 19196 (1988).

Reduction in length of shift is a mandatory subject of bargaining.

73. Royal Palm Beach Professional Fire Fighters Association, IAFF, Local 2886 v. Village of Royal Palm Beach, 14 FPER ¶ 19304 (1988).

Altering shifts to eliminate overtime wages is a mandatory subject of bargaining.

74. IAFF, Local 2416 v. City of Cocoa, 14 FPER ¶ 19311 (1988), per curiam affirmed, 545 So. 2d 1371 (Fla. 1st DCA 1989).

The setting and alteration of the minimum manning level is a management prerogative.

The correction of error in the rate of overtime pay is not a mandatory subject of bargaining.

75. Hillsborough County Police Benevolent Association, Inc. v City of Tampa, 15 FPER ¶ 20028 (1988).

Take-home vehicles policy is a mandatory subject of bargaining.

76. Hillsborough Community College Chapter of the Faculty United Service Association v. Board of Trustees for Hillsborough Community College, 15 FPER ¶ 20161 (1989).

It is a managerial decision to change the term of the summer school program.

77. Hallandale Professional Fire Fighters Association, Local 2238 v. City of Hallandale, 15 FPER ¶ 20214 (1989).

A restrictive employment agreement setting minimum employment period and penalties is a mandatory subject of bargaining.

78. United Faculty of Florida v. State of Florida, Board of Regents, 16 FPER ¶ 21084 (1990).

The employer was not obligated to negotiate with the faculty union concerning procedures for implementing the legislature's competitive grant program, which offered monetary awards to outstanding teachers.

79. Florida Federation Union of American Physicians and Dentists, FEA/United, AFT, AFL-CIO, Local 4591 v. State of Florida, Department of Administration, 16 FPER ¶ 21156 (1990).

Housing on work-site location is a mandatory subject of bargaining.

80. Collier Support Personnel, National Education Association v. School District of Collier County, 16 FPER ¶ 21243 (1990).

"Safe driver plan" for school bus drivers, which provides for mandatory dismissal or suspension of any driver who accumulates a certain level of points a year, is a mandatory subject of bargaining.

81. In re City of Hialeah, 16 FPER ¶ 21338 (1990).

Adding preferential bonus points on employment examinations to city residents is a mandatory subject of bargaining.

82. LIUNA Public Employees Local 678 v. City of Orlando, 17 FPER ¶ 22038 (1991).

The employer could refuse to bargain over reclassifying a bargaining unit position when the position would not have been included in the union's bargaining unit in the first instance.

83. Pensacola Junior College Faculty Association v. Board of Trustees of Pensacola Junior College, 593 So. 2d 254 (Fla. 1st DCA 1992), affirming, 16 FPER ¶ 21268 (1990).

Employer had the authority to unilaterally change the job title of a position.

84. Southwest Florida Professional Fire Fighters, Local 1826, IAFF v. Lee County Port Authority, 18 FPER ¶ 23240 (1992).

Employer had a management right to assign firefighters new duties within the scope of their basic employment. Impact bargaining for wage increase was not required in the absence of evidence that the change in duties was material, substantial, and significant.

85. Florida Nurses Association v. State of Florida and Governor Lawton Chiles, 18 FPER ¶ 23265 (1992).

Employer has a unilateral right to decide whether employees will be laid-off.

86. United Faculty of Palm Beach Community College v. District Board of Trustees of Palm Beach Community College, 18 FPER ¶ 23274 (1992).

Salary increments based upon attainment of additional years of experience and a favorable supervisory recommendation constitute a mandatory subject of bargaining.

87. International Association of Fire Fighters, Local 2288 v. City of Lake City, 18 FPER ¶ 23280 (1992).

Employer's method of correcting leave hours erroneously credited to employees' accounts is not a mandatory subject of bargaining.

88. Marion Education Association and Marion Essential Support Personnel v. School District of Marion County, 18 FPER ¶ 23288 (1992).

No-smoking policy is not a management right that can be implemented without bargaining.

89. St. Lucie Classroom Teachers Association/Classified v. School District of St. Lucie County, 19 FPER ¶ 24020 (1992).

The decision to increase teaching time and decrease preparation time is a management right.

90. Seminole County Professional Fire Fighters Association, Local 3254, IAFF v. Seminole County Board of County Commissioners, 19 FPER ¶ 24062 (1993).

It is a management prerogative to discontinue the practice of allowing fire lieutenants to substitute for non-unit battalion captains who are absent.

91. St. Petersburg Association of Fire Fighters, Local 747 v. City of South Pasadena, 20 FPER ¶ 25128 (1994).

Unilateral change in a work schedule of one fire fighter did not rise to level of an unfair labor practice when there was no actual or potential impact on collective interest.

92. Big Bend Police Benevolent Association, Inc. v. City of Quincy, 21 FPER ¶ 26041 (1994).

Creation of test questions on promotion examinations is a management right.

93. Fraternal Order of Police, Jacksonville Consolidated Lodge 5-30 v. City of Jacksonville, 21 FPER ¶ 26178 (1995).

Employer's practice of offering free parking within fenced and unfenced areas of the employer's property is a term and condition of employment which is subject to mandatory negotiation. However, in City of Lake Worth Public Employees Union v. City of Lake Worth Professional Managers and Supervisors Association v. City of Lake Worth, 28 FPER ¶ 33242 (2002), the employer's practice of providing employees a \$25 per month stipend to obtain their own parking was not changed by its decision to begin enforcing existing parking regulations.

94. Liberty County National Education Association v. School District of Liberty County, 22 FPER ¶ 27070 (General Counsel's Summary Dismissal 1996).

The employer's decision not to appoint teachers to bus duty positions is within its managerial prerogative.

95. Dade County School Maintenance Employee Committee v. School Board of Dade County, 22 FPER ¶ 27190 (1996).

The employer's decision to fill a vacancy is a management right.

96. Broward County Board of County Commissioners v. Port Everglades Fire Fighters Association, IAFF, Local 1989, 23 FPER ¶ 28199 (1997).

Binding interest arbitration is an unlawful subject of bargaining. The Commission receded from its earlier decision in In re City of Boynton Beach, 7 FPER ¶ 12090 (1981) because binding interest arbitration is contrary to public policy which preserves to the local legislative body the ultimate decision on impasse items.

97. Sarasota County Board of County Commissioners v. Citrus Cannery Food Processing Allied Workers, Drivers, Warehousemen and Helpers, Local 173, 23 FPER ¶ 28212 (General Counsel's Summary Dismissal 1997).

Provisions concerning the union's ability to enter the employer's facilities for the purpose of communicating with bargaining unit members and pursuing its representational responsibility is a mandatory subject of bargaining.

98. Amalgamated Transit Union, Local 1593 v. Hillsborough Area Regional Transit Authority, 742 So. 2d 380 (Fla. 1st DCA 1999), affirming, 24 FPER ¶ 29247 (1998).

Subcontracting is a management prerogative.

99. District 2A, Transportation, Technical, Warehouse, Industrial and Service Employees Union v. Canaveral Port Authority, 26 FPER ¶ 31221 (2000), per curiam aff'd, 799 So. 2d 1062 (Fla. 5th DCA 2001).

Arbitration clauses, which include restrictions on the arbitration process and limit available remedies, are a permissive subject of bargaining.

Check off for union's political action fund is a permissive subject of bargaining.

100. Ormond Beach Firefighters Association, Local 3499 v. City of Ormond Beach, 27 FPER ¶ 32007 (2000).

When the employer gave notice and an opportunity to engage in impact bargaining to the union, it did not commit an unfair labor practice by creating a classification outside the bargaining unit, even though the duties of the new classification encompassed both those previously performed by bargaining unit employees and additional duties that were managerial in nature.

101. City of Jacksonville v. Jacksonville Supervisor's Association, Inc., 791 So. 2d 508 (Fla. 1st DCA 2001), reversing in part, 26 FPER ¶ 31140 (2000).

It is a management prerogative for an employer to delete bargaining unit positions and create positions outside of the bargaining unit.

102. United Faculty of Florida v. Florida Board of Education, 28 FPER ¶ 33232 (2002).

Although salary proposals are normally a mandatory bargaining subject, the employer's salary proposal was transformed into a permissive subject because the union waived its right to bargain over salaries and the scope of the grievance arbitration.

103. City of Lake Worth Public Employees Union v. City of Lake Worth Professional Managers and Supervisors Association v. City of Lake Worth, 28 FPER ¶ 33242 (2002).

Safety in transit to and from work is neither a wage, hour, or term and condition of employment nor a bargainable impact of a decision that arguably affects employee safety, when the employees' work does not involve travel.

104. Laborers' International Union of North America, Local 678, AFL-CIO v. Greater Orlando Aviation Authority, 28 FPER ¶ 33256 (2002), aff'd, 869 So. 2d 608 (Fla. 5th DCA 2004).

The employer's decision to heighten airport security by placing further restrictions upon employee access to secured areas is a managerial right.

105. International Union of Police Association, AFL-CIO v. State of Florida, Department of Management Services, 855 So. 2d 76 (Fla. 1st DCA 2003), rev'g in part, 28 FPER ¶ 33137 (2002).

Schedule change is a mandatory subject of bargaining.

106. Communications Workers of America v. School Board of St. Lucie County, 29 FPER ¶ 250 (2003), per curiam aff'd, 876 So. 2d 574 (Fla. 4th DCA 2004).

Whether a union may pursue a grievance in its own name is a permissive subject of bargaining.

107. Hamilton County Education Association v. Hamilton County School District, 30 FPER ¶ 180 (2004).

Wage bonuses to be paid to teachers as a hiring incentive were a mandatory subject of bargaining.

108. Coastal Florida Police Benevolent Association v. Brevard County Sheriff's Office, 30 FPER ¶ 297 (2004).

Decision to temporarily transfer deputy sheriffs to county detention center is a management prerogative but employer must provide union with notice and an opportunity to bargain over the impact of the decision on wages, hours, and terms and conditions of employment prior to implementation.

109. International Union of Painters and Allied Trades, Local 1010, AFL-CIO v. City of Sweetwater, 31 FPER ¶ 52 (2005).

Healthcare benefits are a mandatory subject of bargaining and were incorporated by reference into the parties' collective bargaining agreement. See also Citrus, Cannery, Food Processing and Allied Workers, Drivers, Warehousemen and Helpers, Local Union No. 173 v. City of Sarasota, 29 FPER ¶ 87 (2003).

110. Seminole County Professional Firefighters, Local 3254 v. Seminole County, 31 FPER ¶ 197 (2005).

The county was not required to bargain the effects of its decision to withdraw take-home vehicles from two chiefs because the union failed to give the county notice of any specific and identifiable impacts it desired to negotiate.

111. Manatee Education Association, FEA, AFT, Local 3821, AFL-CIO v. School District of Manatee County, 33 FPER ¶ 135 (2007).

The school district committed an unfair labor practice when it unilaterally assigned an additional duty hour to middle school teachers every seven days. However, the school district did not fail to bargain in good faith over the middle school teaching schedule and teacher planning time.

112. Pasco County Professional Fire-fighters, Local 4420, International Association of Fire Fighters v. Pasco County Board of County Commissioners, 33 FPER ¶ 225 (2007).

The county committed unfair labor practices by unilaterally changing the payroll processing procedures of employees represented by the union and withholding a general pay increase from unit members during the pendency of initial collective bargaining negotiations.

113. United Faculty of Florida v. Florida State University Board of Trustees, 34 FPER ¶ 159 (2008).

The employer did not commit an unfair labor practice by awarding administrative discretionary salary increases. The provision allowing for such increases survived the expiration of the parties' collective bargaining agreement and represented the status quo pending the resolution of negotiations for a new agreement.

114. United School Employees of Pasco County v. School District of Pasco County, 33 FPER ¶ 321 (2008).

The employer committed an unfair labor practice by unilaterally changing its past practice of staffing emergency shelters with volunteers to a mandatory call-in procedure.

115. Pinellas Lodge 43, Fraternal Order of Police v. Sheriff of Pinellas County, 34 FPER ¶ 073 (2008).

The employer did not commit an unfair labor practice by changing the general orders regarding assignment of take-home vehicles and physical ability tests

because changes were permitted under the parties' collective bargaining agreement and did not conflict with the agreement, and the employer provided the required notice prior to implementation of the changes.

116. Polk Education Association, Inc. v. School District of Polk County, 34 FPER ¶ 202 (2008).

The employer did not commit an unfair labor practice by implementing a teaching workday schedule change (deleting some non-class time and adding an additional class within the pre-existing work day) because adequate notice of the intention to make the change and a reasonable opportunity to bargain over the impact of the management right were given.

117. Broward Community College v. Broward Community College, United Faculty of Florida, FTP-NEA and Broward Community College, United Faculty of Florida, FTP-NEA v. Broward Community College, 34 FPER ¶ 273 (2008).

The college committed an unfair labor practice by unilaterally implementing a bargaining agreement with improper wording concerning a pay raise; unilaterally deleting a pay bonus provision from the proposed bargaining agreement; incorporating into the proposed and ratified agreement changes to the professional development and obligations provisions that were neither agreed to by the parties or submitted as an impasse item to the special magistrate.

118. Escambia Education Association v. School District of Escambia County, Order No. 09U-046 (2009).

The school district's decision to increase the number of class instruction periods was a management right, subject only to the right of impact negotiations before implementation. The Commission later vacated the final order in light of a settlement agreement between the parties.

119. Professional Managers and Supervisors Association (PMSA) v. City of West Palm Beach, 35 FPER ¶ 24 (2009).

The city committed an unfair labor practice by unilaterally altering the take-home vehicle policy, which is a mandatory subject of bargaining.

120. Winter Park Professional Fire Fighters, Local 1598 of the International Association of Fire Fighters v. City of Winter Park, 35 FPER ¶ 43 (2009).

The employer committed an unfair labor practice by legislatively imposing a management rights article and a salaries article that contained waivers of the union's right to bargain.

121. United Faculty of Florida v. Florida State University Board of Trustees, 33 FPER ¶ 159 (2008), aff'd per curiam, 9 So. 3d 622 (Fla. 1st DCA 2009).

The employer did not commit an unfair labor practice by giving discretionary salary increases to unit employees pursuant to a provision in an expired collective bargaining agreement, which was part of the status quo.

122. Martin County Education Association v. School District of Martin County, 15 So. 3d 42 (Fla. 4th DCA 2009).

The employer did not commit an unfair labor practice by unilaterally changing the method by which it distributed a stipend to classroom teachers from checks to debit cards without notice to, or negotiating with, the union. The appellate court, reversing the Commission, found that the 2008 statutory amendment to section 1012.71, Florida Statutes, included debit cards as a means for distributing stipends and that stipend funds do not affect the employee's wages, hours, or terms and conditions of employment.

123. Indian River County Education Association, Local 3617, AFT, FEA, AFL-CIO v. School District of Indian River County, Florida, 35 FPER ¶ 207 (2009).

The school district violated its bargaining obligations by refusing to impact bargaining over the electronic submission of lesson plans.

124. Teamsters Local Union 769 Affiliated with the International Brotherhood of Teamsters v. City of Fort Pierce, 36 FPER ¶ 87 (2010).

The city committed unfair labor practices by failing to sign a successor agreement and demanding to exclude agreed-upon items from that agreement and by refusing to provide information about the change to the Teamsters. However, the city did not commit an unfair labor practice by failing to bargain over the impact of the insurance premium change because the charges only alleged a failure to bargain the change itself, not a failure to engage in impact bargaining. The city also did not commit an unfair labor practice by not bargaining over the premium change because the union had contractually waived the right to bargain that change.

125. Miami Beach Fraternal Order of Police, William Nichols Lodge No. 8 v. City of Miami Beach, 36 FPER ¶ 92 (2010).

Assigning tasks that are within the scope of basic employment duties that the employees were hired to perform is a management right as a matter of law. Also, under the collective bargaining agreement, the police chief had the authority to assign employees to the field training program so there was a clear contractual waiver by the union.

126. Dade County Police Benevolent Association, Inc. v. Miami-Dade County Board of County Commissioners, 36 FPER ¶ 231 (2010).

The county did not unilaterally change the status quo by conforming the Department's standard operating procedures to the county's administrative orders.

127. Polk Education Association, Inc. v. School District of Polk County, Florida, 36 FPER ¶ 260 (2010), affirmed by School District of Polk County v. Polk Education Association, 100 So. 3d 11 (Fla. 2d DCA 2011).

The school district unilaterally changed the employee health insurance plan during the hiatus period after the collective bargaining agreement expired and no waiver was found.

128. Polk County Non-Industrial Employees Union, Local 2227, AFSCME, AFL-CIO v. School District of Polk County, Florida, 36 FPER ¶ 261 (2010), affirmed by School District of Polk County v. Polk County Non-Industrial Employees Union, Local 227, AFSCME, AFL-CIO, 100 So. 3d 16 (Fla. 2d DCA 2011).

The school district unilaterally changed the employee health insurance plan during the hiatus period after the collective bargaining agreement expired and no waiver was found.

129. Florida Police Benevolent Association, Inc. v. Sheriff of Orange County, 36 FPER ¶ 348 (2010), affirmed by Florida Police Benevolent Association, Inc. v. Sheriff of Orange County, 67 So. 3d 400, 401 (Fla. 1st DCA 2011).

The sheriff did not unilaterally change the status quo by discontinuing merit step wage increases and by modifying the percentage of the employees' health insurance premiums during the hiatus period after the collective bargaining agreement expired. The status quo should have been determined by the explicit terms embodied in the relevant contractual provisions.

130. Federation of Physicians and Dentists/Alliance of Healthcare and Professional Employees v. City of Riviera Beach, 36 FPER ¶ 371 (2010).

The city did not commit an unfair labor practice by refusing to bargain with the union over the change in the work schedule because the issue was not specifically pled in the charge. Also, the city did not fail to bargain in good faith over the impact of its decision to eliminate three positions.

131. Florida State Lodge, Fraternal Order of Police v. Sheriff of Clay County, 36 FPER ¶ 402 (2010).

The sheriff did not commit an unfair labor practice by unilaterally changing the premiums for employee insurance. The premiums had varied in prior years and the Commission rejected the idea that each type of premium should be considered separately.

132. Teamsters Local Union No. 769 Affiliated with the International Brotherhood of Teamsters v. Martin County Board of County Commissioners, 37 FPER ¶ 57 (2011).

The decision to use furloughs to alleviate economic shortfalls is a management right.

133. Government Supervisors Association of Florida/Office and Professional Employees International Union, Local 100 v. Broward County Board of County Commissioners, 37 FPER ¶ 76 (2011).

An employer's decision to implement a county-wide furlough program for its employees is a management right. In implementing the system-wide furlough, the employer did not unlawfully unilaterally change contract provisions relating to work week hours, reporting of actual hours worked, disciplinary rules, and leave.

134. Communications Workers of America, Florida Police Benevolent Association, Inc., Gainesville Professional Fire Fighters, and Gator Lodge, Fraternal Order of Police v. City of Gainesville, 65 So.3d 1070 (Fla. 1st DCA 2011).

Retiree health care premiums are not negotiable. However, the city violated the bargaining law by changing a benefit that had become a part of the status quo of employee benefits (which was a finding of fact for the hearing officer, not a conclusion of law that could be reversed by the Commission).

135. Indian River County Education Association, Local 3617, American Federation of Teachers, Florida Education Association, AFL-CIO v. School District of Indian River County, Florida, 64 So.3d 723 (Fla. 4th DCA 2011) (2009).

The school district unlawfully refused to bargain over the impact of requiring secondary school teachers to electronically submit lesson plans. However, the appropriate time to impact bargain is prior to implementation of a change because the requirement that teachers submit their lesson plans electronically was merely substituting one customary duty for another.

136. United Teachers of Monroe, Local 3709, FEA, AFT, AFL-CIO v. School District of Monroe County, Florida, 38 FPER ¶ 288 (2012).

The school district did not commit an unfair labor practice by rejecting letters of understanding regarding furloughs and certain limitations on credit for teaching experience, which the school district had negotiated with the union in an attempt to alleviate budget constraints, after receiving notice of potential Sunshine Act violations. Further, by the terms of the collective bargaining agreement, the union waived its right to insist on a declaration of financial urgency before the school district made unilateral changes in employees' working conditions.

137. Local Number 3510, Columbia County EMS Association, International Association of Firefighters v. Columbia County Board of County Commissioners, 38 FPER ¶ 331 (2012).

The county did not commit an unfair labor practice by privatizing its emergency medical services and terminating the employment of bargaining unit members. The statements made by the county's attorney and the county commissioners did not establish that the decision to privatize the county's emergency medical services was taken in retaliation for positions taken by the union in collective bargaining negotiations.

138. Miami Association of Fire Fighters, Local 587, of the International Association of Fire Fighters of Miami, Florida v. City of Miami, 38 FPER ¶ 352 (2012), and City of Miami v. Miami Association of Fire Fighters, Local 587, of the International Association of Fire Fighters of Miami, Florida, 38 FPER ¶ 353 (2012), aff'd on appeal, 145 So. 3d 172 (Fla. 3d DCA 2012).

Citing Walter E. Headley, Jr., Miami Lodge #20, Fraternal Order of Police, Inc. v. City of Miami, 38 FPER ¶ 330 (2012), the Commission concluded that the city's financial condition was dire and a financial urgency existed that required the modification of the collective bargaining agreement.

139. Teamsters Local Union 385 v. City of Winter Park, 38 FPER ¶ 360 (2012), per curiam aff'd, 107 So. 3d 411 (Fla. 1st DCA 2013).

The city was not required to modify its position to agree with the union's proposals or make concessions, as long as it bargained in good faith.

140. RWDSU Southeast Council (United Food and Commercial Workers), AFL-CIO, CLC v. Clay County Board of County Commissioners, 40 FPER ¶ 121 (2013).

This case is an example of a mandatory bargaining subject that becomes a non-mandatory subject and then a mandatory subject again. The county prepared a Memorandum of Understanding (MOU) which increased the monthly costs to

employees under each of three health plans, which are mandatory subjects of bargaining. This modification changed the mandatory subject of bargaining into a non-mandatory subject of bargaining because it required the Union to waive its right to negotiate over the insurance rates. When the Union rejected the County's proposed MOU, the County reasserted its prior proposal regarding the employees' monthly contribution rates at the special magistrate hearing and at the legislative body hearing. The Commission held that, after the Union rejected the proposed MOU, the County could remove the waiver language, which would convert the proposal from a non-mandatory subject back to a mandatory subject of bargaining. It is lawful for a party to propose a non-mandatory subject of bargaining. However, neither party may insist that a special magistrate consider a non-mandatory subject of bargaining, and a legislative body may not impose a non-mandatory subject, such as a waiver of a union's right to bargain over mandatory subjects of bargaining.

141. Florida State Fire Service Association, IAFF, Local S-20 v. State of Florida, 40 FPER ¶ 285 (2014).

The state committed an unfair labor practice by imposing contract language concerning retirement benefits that operated as a waiver of the right to bargain.

142. United Faculty of Palm Beach State College v. Palm Beach State College Board of Trustees, 41 FPER ¶ 394 (2015).

In the absence of a prevailing rights clause regarding the provisions of the State Board of Education's rules establishing eligibility for continuing contracts, the employer lawfully implemented a change to those rules during the term of the collective bargaining agreement.

143. United Faculty of Florida, Seminole State College of Florida v. Seminole State College of Florida Board of Trustees, 42 FPER ¶ 69 (2015).

The college did not unilaterally alter its past practice of providing faculty members with a step increase at the beginning of the academic year absent an objective reasonable expectation of receiving a step increase at the beginning of the 2014-2015 academic year. The college acted consistent with its past practice for determining whether it was appropriate to give such raises, and that the action taken was virtually identical to what the college had done in the 2009-2010 academic year.

144. Fernandez, Garfinkel, Kennedy, Suau, and Dade County Police Benevolent Association, Inc. v. City of Hialeah, 42 FPER ¶ 133 (2015).

The city did not commit an unfair labor practice by unilaterally changing the starting and ending times of the police lieutenants' work shifts to create a one-hour overlap between the sergeants' and lieutenants' road schedules in order to increase administrative oversight and accountability. The parties' collective bargaining agreement contained a clear and unmistakable waiver covering the city's actions because it gave the chief of police the sole right to transfer employees between units of the police department and/or change shift assignments for the betterment of the service or to improve effectiveness or efficiency. The collective bargaining agreement also contained language indicating that the parties contemplated that a transfer and/or shift assignment change might cause a change in work hours or days off.

145. Dade County Police Benevolent Association, Inc. v. Miami-Dade County Board of County Commissioners, 42 FPER ¶ 197 (2015).

The employer committed an unfair labor practice when it unilaterally changed the status quo of dependent health insurance premiums during negotiations. However, the employer did not unlawfully change the premiums for employees in the Point of Service Plan because the increase in the individual premium was not greater than the percentage allowed by the collective bargaining agreement.

146. International Union of Police Associations, AFL-CIO v. Sheriff of Broward County, 44 FPER ¶ 17 (2017).

The Commission rejected the hearing officer's use of a refusal to bargain analysis, instead of a unilateral change analysis, in concluding that the Sheriff committed an unfair labor practice by unilaterally altering an unequivocal policy of loaning firearms to deputies that had existed substantially unvaried for a significant period of time and that the deputies could reasonably have expected the practice to continue unchanged.

147. Jacksonville Consolidated Lodge 5-30, Fraternal Order of Police v. City of Jacksonville, 44 FPER ¶ 129 (2017).

Implementing a program requiring police officers to wear body cameras is a management right. The impact of that decision on terms and conditions of employment is negotiable upon a proper request.

148. Dade County Police Benevolent Association, Inc. v. Miami-Dade County Board of County Commissioners, 44 FPER ¶ 263 (2017).

The county unilaterally changed the status quo leave benefit for unit members through a revision to its standard operating procedures. The union did not waive its right to bargain over this matter.

149. International Union of Operating Engineers Locals 487, 487-A, 487-B and 487-S v. South Florida Water Management District, 44 FPER ¶ 185 (2017).

The employer did not commit an unfair labor practice by failing to provide pre-imposition notice and an opportunity to bargain over the discretionary aspects of the discipline issued to one of its employees while the parties were bargaining an initial contract. In analyzing this novel issue, the Commission rejected the NLRB decision in Total Security Management Illinois 1, LLC and International Union Security Police Fire Professionals of America, 364 NLRB No. 106 (2016), noting the critical differences in the private and public sector legislative schemes. Instead, long-standing Commission precedent provides that if the public employers' imposition of discipline on an individual employee does not impact the collective interests of the members of the bargaining unit, there is no obligation to engage in collective bargaining, whether there is a contract in effect or not.

150. Miami Association of Fire Fighters, Local 587, of the International Association of Fire Fighters of Miami, Florida v. City of Miami, 44 FPER ¶ 236 (2018).

The city violated section 447.501(1)(a) and (c), Florida Statutes, when it unilaterally changed wages, insurance, and pensions for the employees in the bargaining unit represented by the union prior to completing the section 447.403, Florida Statutes, impasse resolution procedure. See Walter E. Headley, Jr., Miami Lodge #20, Fraternal Order of Police, Inc., et al. v. City of Miami, 215 So. 3d 1 (Fla. 2017).

151. International Union of Operating Engineers Locals 487, 487-A, 487-B, and 487-S v. South Florida Water Management District, 44 FPER ¶ 246 (2018).

The district did not commit an unfair labor practice when it unilaterally changed its policy regarding pay for employees during a lockdown, requiring two employees to report for lockdown duty during Hurricane Matthew but failed to pay them additional emergency pay for the days worked, meal allowances, and lost vacation expenses, as required by the Emergency and Assignment Pay Procedure.

152. Jacksonville Supervisors Association, Inc. v. School District of Duval County, Florida, 45 FPER ¶ 8 (2018).

The public employer did not commit an unfair labor practice by failing to give pay raises provided for in the parties' collective bargaining agreement to those members of the unit who had reached the maximum base rate of pay within the pay range for their classification and giving those employees lump-sum payments instead. Raising salaries above the maximum base rate of pay was prohibited by the civil service rules referenced in the parties' collective bargaining agreement.

153. Broward County Police Benevolent Association, Inc., Chartered by the Florida Police Benevolent Association, Inc. v. City of Hollywood, 45 FPER ¶ 74 (2018).

The city committed an unfair labor practice by declaring financial urgency for fiscal year 2011-2012 and modifying the parties' collective bargaining agreement prior to completing the impasse process required by section 447.403, Florida Statutes. The union waived any and all remedies that arose out of the resolution of the case in collective bargaining agreements executed during the pendency of the case.

154. Hollywood Fire Fighters, Local 1375, IAFF, Inc. v. City of Hollywood, 45 FPER ¶ 83 (2018).

The city conceded that it committed unfair labor practices by unilaterally implementing changes to the parties' collective bargaining agreement under its declarations of financial urgency without having completed the impasse resolution proceedings of section 447.403, Florida Statutes. See Walter E. Headley, Jr., Miami Lodge #20, Fraternal Order of Police, Inc., et al. v. City of Miami, 215 So. 3d 1 (Fla. 2017). But the union waived any and all remedies arising out of the resolution of the cases based on provisions in collective bargaining agreements executed during the pendency of these cases.

155. Gator Lodge Number 67, Inc., Fraternal Order of Police v. City of Gainesville, 46 FPER ¶ 169 (2019).

The city unlawfully imposed and unilaterally implemented waivers on mandatory subjects of bargaining with respect to one provision of the article related to hours of work, but not as to a separate provision of the article because the special magistrate had not made a recommendation regarding that provision, and it was the status quo carryover from a prior collective bargaining agreement. The Commission rejected the city's contention that language permitting shift changes based upon the "Department's operational needs" did not constitute a waiver.

156. Local Union No. 2038 of the United Brotherhood of Carpenters and Joiners of America v. City of St. Augustine, 46 FPER ¶ 283 (2020).

The city did not commit an unfair labor practice by retaliating against an employee who testified in a unit clarification proceeding and by unilaterally changing the employee's terms and conditions of employment. The contractual provision in the parties' contract plainly manifested a clear and unmistakable waiver of the union's right to bargain over the impact of the city's decision to modify the job description.

157. Local Number 3623, Ocoee Professional Fire Fighters v. City of Ocoee, 46 FPER ¶ 288 (2020).

The city committed an unfair labor practice by unilaterally changing its transfer policy without providing the union notice and an opportunity to bargain.

158. International Union of Police Associations, AFL-CIO v. Sheriff of Broward County, 47 FPER ¶ 71 (2020).

The sheriff did not commit an unfair labor practice by unilaterally changing disciplinary procedures without giving notice to the union because the union clearly and unmistakably waived its right to negotiate over the change.

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