

Grievance Arbitration Procedure

Services Provided

The DLR offers grievance arbitration services to public sector and private sector parties. Generally, parties using DLR arbitration services have agreed to use the DLR in their collective bargaining agreement, though parties may also agree to request DLR arbitration services even if their contract does not specifically provide for this.

Initiating a Case

1) Filing the Petition

An employer or labor organization, or both, may petition the DLR to initiate grievance arbitration using the DLR arbitration form. Forms are available on the DLR website. (www.mass.gov/lwd/labor-relations/). A party seeking arbitration must file a petition in accordance with [456 CMR 12.11](#).

2) Filing Fee

The filing fee for arbitration services is currently \$1,000 for public sector parties and \$1,500 for private sector parties. The cost is equally divided between the parties.

DLR Initial Steps

When the DLR receives the petition, the docketing staff assigns the petition a case number. The Director, or her designee, then classifies the petition using the DLR's Arbitration Impact Analysis System, discussed below.

Classification of the Petition

Arbitrations are scheduled on a priority system, in much the same way as the DLR processes its unfair labor practice cases. This enables the DLR to provide more efficient scheduling to parties. Arbitration Impact I cases are those involving terminations, suspensions of five (5) days or more, layoffs, class action cases, and any case affecting the health and safety of employees. These cases are scheduled for hearing within one to three months, depending on the level of urgency, and it is anticipated that the decision generally issues within one month from the date that the parties' briefs are received. The remaining cases are classified as Impact II, and are scheduled within three to six months. It is anticipated

that the decision generally issues within three months from the time that the parties' briefs are received.

Mediation

A mediator is assigned to all Impact I cases to assist the parties in resolving the underlying grievance. After the DLR sets an arbitration date, a mediator contacts the parties to discuss mediation. Mediators are also available for Impact II cases at the request of the parties.

Notice to Parties of Pending Petition

After the DLR docket and classifies the petition, the DLR notifies the parties of the pending petition, its Impact Analysis classification and the scheduling procedures.

1) Impact I scheduling procedures

The parties are required to confer and agree to three proposed dates for the arbitration hearing that fall within the assigned quarter. The petitioner must provide the dates within fourteen days of receiving the DLR notice. If the petitioner fails to submit dates or submit a written statement explaining why the parties have been unable to submit mutually agreed upon dates, the petition is dismissed, absent extraordinary circumstances.

2) Impact II scheduling options

- Option one – traditional arbitration

The parties are required to confer and agree to three proposed dates for the arbitration hearing that fall within the assigned quarter. The petitioner must provide the dates within fourteen days of receiving the DLR notice. If the petitioner fails to submit dates or submit a written statement explaining why the parties have been unable to submit mutually agreed upon dates, the petition is dismissed, absent extraordinary circumstances.

- Option two – general expedited procedure

Parties are given the option to utilize the DLR's general expedited procedure that moves an Impact II case to the front of the calendar and provides the parties an immediate decision after the arbitration hearing. In order to participate in this program, both parties must agree to the process set out in a

General Expedited Arbitration Agreement (Agreement). If both parties agree to the terms, the parties are asked to sign, date and return the Agreement to the DLR with three proposed hearing dates within the assigned quarter. This is a summary of how the expedited arbitration procedure works:

- The arbitration hearing takes seventy minutes: the labor organization and the employer each receive up to twenty five minutes to present their positions and ten minutes for rebuttal. Time frames may be extended at the arbitrator's discretion. There are no cross examination; however, either side may ask clarification questions through the arbitrator.
- Each party should bring one person to present the case and one additional representative. The employer and/or the labor organization may request the attendance of other necessary witnesses, and the arbitrator will not unreasonably deny such requests.
- The employer and/or the labor organization may submit a written position statement of not more than five pages to the arbitrator before the arbitration.
- The arbitrator's Award is no more than one page in length and is transmitted to the parties the next regular business day.
- The arbitrator's Award is final and binding on the parties and there is no right to appeal the arbitrator's decision in any court or tribunal. The Award does not set precedent.
- Both parties have, either present at the arbitration hearing or immediately available by phone, a person(s) with full settlement authority in the event a settlement is proposed.

Arbitrator Appointment

The DLR Director appoints a single arbitrator who hears and determines the case on one of the dates provided by the parties. All pre-arbitration hearings and motions and issues are directed to the appointed arbitrator.

Subpoenas

Any party may request a subpoena from the arbitrator to compel the attendance of witnesses, or the production of documents. A request for

a subpoena is allowed unless it is overbroad, oppressive, or otherwise legally defective. The party requesting the subpoena is responsible for service of the subpoena.

Hearing

The arbitrator has authority and responsibility for the conduct of the arbitration proceedings and has sole discretion in deciding any procedural issues. For further information about the arbitration hearing, see [456 CMR 22.11](#).

Arbitration Awards

In Impact I cases, the arbitrator generally issues an Award within one month from the time briefs are submitted. In all other cases, the arbitrator generally issues an Award within three months from the time briefs are submitted.

Clarification, Modification or Award Correction

- 1) A joint request for clarification, modification, or correction of an Award must be submitted to the arbitrator within ten days after the parties have received the Award. The arbitrator promptly determines whether to grant the request and notifies the parties in writing of the decision.
- 2) A unilateral request for clarification, modification, or correction of an Award must be submitted to the arbitrator within ten days after the parties have received the Award. Such a request must be served upon the opposing party in accordance with the DLR's Service requirements.¹ The opposing party must respond within seven days of service. The arbitrator promptly determines whether to grant the request and notifies the parties in writing of the decision.

Publication of Award and Opinion

The arbitrator's Award and Opinion (decision) is treated as a public record. The DLR publishes arbitration decisions. If either party to the proceeding gives written notice to the DLR within 30 days that it objects to publication, the DLR considers such requests and notifies the parties within 30 days of its decision.

¹ [456 CMR 12.02](#).