

# Conciliation



## What is Conciliation?

Employees in safety-sensitive positions are prohibited from striking under the law. Instead, when a fact finder's recommendations are rejected, the law requires that the dispute be submitted to a neutral conciliator for final resolution. Conciliation is a final and binding arbitration where the employer and the union present their last best offers on unresolved issues.

The contract articles that are presented to the conciliator are not limited to only the issues covered in the fact finder's report. If the fact finder's report, which incorporates all of the parties tentative agreements, is rejected by one or both parties, either party can take its last best offer to the conciliator regarding any issue it had raised during negotiations even if the issue had not gone to a fact finder. For example, if the employer originally proposed to add new language allowing 12-week furloughs but withdrew the proposal during bargaining, they could choose to renege from their tentative agreement on that issue and re-submit the furlough proposal to the conciliator. Another example would be if the union originally proposed to increase the percentage paid for the second week of sick leave used from 70% to 80% or 90% depending on circumstances but withdrew the proposal during bargaining, they could choose to ignore their tentative agreement on that issue and re-submit the sick leave payment proposal to the conciliator.

## Which employees are prohibited from striking?

Basically, all public safety employees are prohibited from striking under Ohio's Collective Bargaining Law and must use conciliation. In OCSEA, the following employees are considered prohibited from striking against their employer: Firefighters,

Correction Officers, Correctional Sergeants/Counselors, Juvenile Correction Officers, Shooting Range Attendants, Psychiatric Attendants, Psychiatric Attendant Coordinators, Security Technician 1, Security Technician 2, Youth Program Specialists, and all employees at the School of the Deaf and the School for the Blind.

## What does the conciliator do?

A conciliator selects either the proposal of the employer or the union on each proposal either party has submitted. Unlike fact finding, in conciliation, the conciliator is required to pick either the union's or the employer's offer and **not** a compromise between them.

When selecting the employer's offer or the union's offer, the conciliator bases his or her decision on the following:

- Past Collective Bargaining Agreements
- Comparison of other public and private employers doing comparable work
- The interests and welfare of the public
- The ability of the employer to pay
- The parties' stipulations
- The authority of the employer

## How does conciliation work?

Take for example roll call pay. Suppose at conciliation the employer's position is to eliminate roll call pay altogether and presents evidence to support its argument. The Union's position is to leave roll call pay as is and supplies the conciliator with evidence supporting its argument. Given this hypothetical situation, the conciliator can only pick one offer or the other. The conciliator has no authority to find middle ground between the two issues.

Whichever offer the conciliator chooses, it is final and binding on both parties.

The award has the same legal effect as an arbitration award.