

REQUIRED NOTICES OF INTENT TO RE-NEGOTIATE YOUR CONTRACT

In order to require the employer to renegotiate your contract, and to be in a position to enforce that requirement if necessary by striking, you need to give a formal written notice to the employer at least sixty days before expiration of an existing contract, and another notice to the federal and state mediation services within thirty days after notifying the employer. (There are different deadlines for employees of healthcare institutions.)

The notice to the employer requires no particular form and can be cast as a very short letter, specifying when the contract expires and stating that you wish to make certain changes (which need not be specified) in the contract. You may wish to use the occasion to request basic employment and contact information for each bargaining unit employee to assist you in bargaining. (See sample attached.) The notice to the employer should be sent at least sixty days before the expiration of an existing contract.

The notice to the Federal Mediation and Conciliation Service must be filed on FMCS Form F-7, available for electronic filing or printing on the website www.fmcs.gov. If you print out the form (the current version of which says it was revised in January 2003 and still says it expires 01-31-06), you can fill it out and either fax it to 202-606-4253 or mail it to the address at the top of the form. This form is to be filed thirty days before the expiration of the contract.

You are also required to file a notice with your state mediation agency. The simplest way to do so is to fill in the name and address of the state agency at the top of the F-7 form described above and simply to send them a copy of the form F-7 that you are sending the feds. At least in New York, this is accepted as full compliance by the New York State Employment Relations Board (not to be confused with the Public Employment Relations Board, which has different requirements) NYS-ERB has offices in Albany and Buffalo, and at 86 Chambers St., Suite 201, New York, NY 10007, and notices should be sent to the nearest office. Their website is erb@labor.state.ny.us. Most unions will send out notices to the employer, the feds and the state all at the same time, in time to meet the earliest deadline, so as not to have to worry about it again.

The requirement to file these notices is found in the National Labor Relations Act (NLRA) Sec 8(d). (See attached)

National Labor Relations Act, Section 8(d) [Obligation to bargain collectively]

For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession: *Provided*, That where there is in effect a collective- bargaining contract covering employees in an industry affecting commerce, the duty to bargain collectively shall also mean that no party to such contract shall terminate or modify such contract, unless the party desiring such termination or modification—

(1) serves a written notice upon the other party to the contract of the proposed termination or modification sixty days prior to the expiration date thereof, or in the event such contract contains no expiration date, sixty days prior to the time it is proposed to make such termination or modification;

(2) offers to meet and confer with the other party for the purpose of negotiating a new contract or a contract containing the proposed modifications;

(3) notifies the Federal Mediation and Conciliation Service within thirty days after such notice of the existence of a dispute, and simultaneously therewith notifies any State or Territorial agency established to mediate and conciliate disputes within the State or Territory where the dispute occurred, provided no agreement has been reached by that time; and

(4) continues in full force and effect, without resorting to strike or lockout, all the terms and conditions of the existing contract for a period of sixty days after such notice is given or until the expiration date of such contract, whichever occurs later:

NLRA, Section 8(d) [Obligation to bargain collectively] (continued)

The duties imposed upon employers, employees, and labor organizations by paragraphs (2), (3), and (4) [paragraphs (2) to (4) of this subsection] shall become inapplicable upon an intervening certification of the Board, under which the labor organization or individual, which is a party to the contract, has been superseded as or ceased to be the representative of the employees subject to the provisions of section 9(a) [section 159(a) of this title], and the duties so imposed shall not be construed as requiring either party to discuss or agree to any modification of the terms and conditions contained in a contract for a fixed period, if such modification is to become effective before such terms and conditions can be reopened under the provisions of the contract. Any employee who engages in a strike within any notice period specified in this subsection, or who engages in any strike within the appropriate period specified in subsection (g) of this section, shall lose his status as an employee of the employer engaged in the particular labor dispute, for the purposes of sections 8, 9, and 10 of this Act [sections 158, 159, and 160 of this title], but such loss of status for such employee shall terminate if and when he is re-employed by such employer. Whenever the collective bargaining involves employees of a health care institution, the provisions of this section 8(d) [this subsection] shall be modified as follows:

(A) The notice of section 8(d)(1) [paragraph (1) of this subsection] shall be ninety days; the notice of section 8(d)(3) [paragraph (3) of this subsection] shall be sixty days; and the contract period of section 8(d)(4) [paragraph (4) of this subsection] shall be ninety days.

(B) Where the bargaining is for an initial agreement following certification or recognition, at least thirty days' notice of the existence of a dispute shall be given by the labor organization to the agencies set forth in section 8(d)(3) [in paragraph (3) of this subsection].

(C) After notice is given to the Federal Mediation and Conciliation Service under either clause (A) or (B) of this sentence, the Service shall promptly communicate with the parties and use its best efforts, by mediation and conciliation, to bring them to agreement. The parties shall participate fully and promptly in such meetings as may be undertaken by the Service for the purpose of aiding in a settlement of the dispute.

(SAMPLE NOTICE TO EMPLOYER OF INTENT TO BARGAIN)

June 3, 2009

Christopher Lamb
Executive Director
MFY Legal Services
299 Broadway, 4th Fl.
New York, NY 10007

Dear Mr. Lamb:

This will serve as an official notice. Our contract will expire 12/31/08. We wish to make certain changes in our contract. Please inform us as to a convenient date to arrange a meeting for this purpose.

To assist us in bargaining, we request the following information, to the degree that it has not already been recently provided, for each bargaining unit employee: name, address, home phone number, work phone number, annual salary, hours per week, shift/schedule of hours, department or unit, job title, e-mail address, race/ethnicity/national origin, gender, date of birth, and date of hire.

Thank you for your assistance.

Sincerely,

Gibb Surette
Unit Chair, LSSA
UAW Local 2320

cc: Gordon Deane, UAW 2320 President