



FAQ: MOU Legality and Enforcement in Florida Public Sector Collective Bargaining

1. Q: What do MOU, MOA, LOA, and other similar terms mean, and how are they used in collective bargaining?

A: Here's a breakdown of commonly used terms in Florida public sector collective bargaining:

- **MOU (Memorandum of Understanding):** Often used to outline the general principles of an agreement between the union and employer, typically addressing temporary or situation-specific issues within the framework of a Collective Bargaining Agreement (CBA).
- **MOA (Memorandum of Agreement):** Similar to an MOU, an MOA is used for agreements on specific terms or conditions agreed upon between the union and employer, still within the existing CBA framework.
- **LOA (Letter of Agreement):** Another type of document in collective bargaining, often covering specific clarifications or temporary adjustments to the CBA terms.
- **Side Letter:** A written agreement that accompanies the main CBA to address specific issues or clarify CBA provisions without modifying the CBA itself.
- **Addendum:** An additional document attached to the CBA or an MOU/MOA, providing further details, stipulations, or modifications related to the original agreement.
- **Supplemental Agreement:** This agreement supplements the CBA by adding provisions to cover specific situations, often on a temporary basis.
- **LOI (Letter of Intent):** Sometimes used to outline intentions or general principles of an agreement or upcoming negotiations. While typically non-binding, an LOI can be enforceable if both parties intended it to be binding and it meets approval and ratification requirements.
- **Agreement in Principle:** A document that outlines broad terms or an understanding reached in negotiations before formalizing a more detailed agreement. These are generally preliminary but can be binding formalized and ratified.

These documents are designed to supplement the CBA without replacing it. Their enforceability depends on content, approval, and alignment with statutory requirements.

2. Q: Are agreements like MOUs, MOAs, and LOAs legally binding in Florida's public sector if there is an existing union Collective Bargaining Agreement (CBA)?

A: Yes, such agreements are legally binding in Florida's public sector as they are intended to supplement the CBA and when they are approved according to statutory requirements. The enforceability of these agreements depends on their content and the approval process, not their title.

Under Chapter 447 of the Florida Statutes, specifically [Section 447.309](#), public sector employers and unions may negotiate agreements addressing issues arising during the term of a CBA. If signed by both parties and meeting necessary approval or ratification steps, these agreements are enforceable, regardless of their name.

3. Q: What is required for these agreements to be legally binding?

A: To be enforceable in Florida, an agreement generally must:

1. Supplement or clarify CBA terms.
2. Be approved by both parties (the public employer and the union) as specified under [Section 447.309](#).
3. Undergo union bargaining unit member ratification if required by the CBA. PERC rulings, such as *Pasco County School Board v. PERC* (353 So. 2d 108, Fla. 1st DCA 1977), affirm the necessity of proper ratification and adherence to the CBA's ratification processes for enforceability.

4. Q: Is an agreement legally binding if it's not ratified by the union bargaining unit members?

A: Typically, if a CBA specifies that ratification is required for supplemental agreements to be binding, then a lack of ratification could mean the agreement is unenforceable. However, in cases where the CBA does not explicitly require ratification for supplemental agreements, an agreement can still be legally binding if it has been duly signed and approved by both the public employer and the union representatives.

For instance, in certain PERC rulings, such as *Pasco County School Board v. PERC* (353 So. 2d 108, Fla. 1st DCA 1977), ratification was deemed necessary when the CBA specified it, highlighting that enforceability can depend on the CBA's ratification requirements. Therefore, it's essential to review the specific terms of the CBA to determine if ratification is a mandatory step for legal binding.

5. Q: Can an agreement be legally binding even if it's not in writing?

A: Yes, in some cases, unwritten agreements are legally binding under the *past practice doctrine*. This doctrine allows longstanding, consistent practices between a public employer and a union to become enforceable even without written documentation, as long as both parties have mutually accepted the practice.

However, PERC generally prefers written agreements in Florida to avoid ambiguity. In Florida public sector there are precedent setting cases that enforce the past practice doctrine. For example, in cases like *City of Pensacola v. PERC* (358 So. 2d 589, Fla. 1st DCA 1978), PERC has enforced past practices that demonstrate clear, longstanding, and mutually accepted behavior between a union and an employer.

6. Q: Why do some people believe that agreements like MOUs, MOAs, or LOAs are not legally binding?

A: Common reasons for this misconception include:

1. **Language and Perception:** MOUs, MOAs, and LOAs are sometimes perceived as “informal” or “handshake agreements” rather than formal contracts. Their less formal structure can lead to the misconception that they are non-binding.
2. **Temporary or Situational Nature:** These agreements often address specific, temporary circumstances (e.g., a one-time staffing change, temporary funding due to referendum or grants, etc.), which can create the impression they are informal and not enforceable.
3. **Misunderstandings of Legal Authority:** Some believe only CBAs are enforceable because they undergo a more rigorous negotiation and ratification process. However, Section 447.309 allows for enforceable midterm agreements if properly ratified. Additionally, in Florida public sector labor law, midterm agreements are common practice to supplement and enforce topics that may be new due to legislative changes, unforeseen emergencies, or new efforts the employer and union need to negotiate, to name a few.
4. **Lack of Awareness of PERC's Role:** Many are unaware that PERC considers these agreements enforceable under certain conditions. In *Florida PBA v. PERC* (703 So. 2d 556, Fla. 1st DCA 1997), PERC upheld an MOU as binding, affirming that such agreements can carry legal weight.
5. **Google Searches:** Google often simplifies complex legal concepts, and "*an MOU is not legally binding*" is a common generalization that doesn't necessarily apply in Florida public sector collective bargaining law. In many private business or informal settings, MOUs are considered non-binding because they're often used as preliminary agreements to outline general terms without creating enforceable obligations. This is true in settings, where there is no Collective Bargaining so parties can use the MOU to outline intentions rather than create a binding contract.

7. Q: How are MOUs, MOAs, and similar agreements enforced in the Florida public sector?

A: These agreements can be enforced similarly to CBAs:

1. **Filing a Grievance:** If the union believes the agreement has been violated, they may file a grievance through the CBA's grievance process.
2. **Arbitration:** If unresolved through the grievance procedure, the dispute may proceed to arbitration if allowed by the CBA. Arbitration, in Florida is legally binding, allowing a neutral third party to interpret or apply the agreement, with decisions being enforceable.
3. **PERC Involvement:** If arbitration fails, the union may file an unfair labor practice charge with PERC. PERC has the authority to investigate, enforce terms, and issue binding orders. For example, in *City of Delray Beach v. Professional Firefighters of Delray Beach and Florida Public Employees Council 79, AFSCME v. State of Florida*, PERC underscored that procedural integrity is a cornerstone in ensuring that public employers do not unilaterally alter significant employment conditions, a standard applied when interpreting MOUs alongside CBAs in many PERC decisions.
4. **Court Enforcement:** PERC decisions can be appealed in Florida's district courts, which can produce summary judgments ordering compliance with the agreement.

FAQ Footnotes: Florida public sector labor law, including Chapter 447 of the Florida Statutes, any relevant sections of the Florida Administrative Code, and PERC rulings.

1. **Definitions of Agreements (MOUs, MOAs, LOAs, etc.):**
 - **Consistency with Florida Law:** The definitions for these documents align with common Florida public sector labor practices. Chapter 447 of the Florida Statutes allows for midterm agreements that supplement the CBA, so these documents are valid as long as they follow statutory requirements and don't conflict with the CBA.
2. **Legally Binding Nature of MOUs, MOAs, and LOAs:**
 - **Statutory Basis:** Section 447.309, Florida Statutes, specifically governs the enforceability of agreements in the Florida public sector, stating that midterm agreements can be binding if they meet statutory requirements. Under this provision, enforceability hinges on approval and ratification as specified in the CBA.
 - **PERC Rulings:** PERC has consistently upheld the enforceability of midterm agreements that supplement CBAs, provided they meet procedural requirements, do not conflict with existing terms, and align with statutory duties. For example, in *City of Delray Beach v. Professional Firefighters of Delray Beach* (636 So. 2d 157, Fla. 4th DCA 1994), the court recognized that midterm agreements reached in good faith between the union and employer are enforceable.
3. **Requirements for Agreements to Be Binding:**
 - **Legal Standards:** Florida Statutes (Section 447.309) specify that binding agreements must supplement the CBA without contradicting it, receive mutual approval, and follow any ratification protocols outlined in the CBA.
4. **Ratification Requirements:**
 - **Consistency with Florida Statutes:** Florida Statutes and PERC rulings (e.g., *Pasco County School Board v. PERC*) indicate that ratification is often required if specified in the CBA, ensuring union bargaining unit members have a say in binding agreements. Enforceability can hinge on the CBA's specific terms about ratification.
 - **PERC Guidance:** PERC often reinforces the need for clarity in ratification to uphold agreements as binding, particularly in cases that specify ratification requirements for MOUs and other side agreements.
5. **Unwritten Agreements and Past Practice Doctrine:**

- **PERC and Case Law:** PERC recognizes the *past practice doctrine*, allowing for binding unwritten practices if they reflect longstanding, consistent, and mutually acknowledged behavior by both parties. However, PERC prefers written documentation to avoid disputes.
6. **Reasons for Perception That MOUs/MOAs/LOAs Aren't Binding:**
 - **Consistency with Practice:** Perceptions that MOUs or LOAs are informal stem from their flexible nature, yet Florida law allows them to be binding if they follow statutory protocols. PERC rulings affirm this, and emphasize that properly approved midterm agreements can carry legal weight just as the CBA does.
 7. **Enforcement of Agreements:**
 - **Statutory and Case Law Basis:** Enforcement avenues exist under Florida labor law, including grievance procedures, arbitration, PERC involvement, and court enforcement. Section 447, Florida Statutes, empowers PERC to enforce CBAs and midterm agreements and to hear unfair labor practice complaints.