Article X. Fire and Rescue Collective Bargaining

Sec. 33-147. Declaration of policy.

The public policy of Montgomery County is to promote a harmonious, peaceful, and cooperative relationship between the County government and its fire and rescue employees and to protect the public by assuring, at all times, the responsive, orderly, and efficient operation of the Department of Fire and Rescue Services. Since unresolved disputes in the fire and rescue service harm the public and fire and rescue employees, adequate means should be available to prevent disputes and resolve them when they occur. To that end, it is in the public interest that fire and rescue employees have the opportunity to bargain collectively over wages, hours, and other terms and conditions of employment, as authorized by Charter Section 510A, through a representative of their choice, or to refrain from collective bargaining. It is also in the public interest that the County government and a representative of fire and rescue employees bargain collectively in good faith without interference with the orderly process of government, and that they implement any agreement reached through collective bargaining.

Fire and rescue employee organizations and the County government each possess substantial means for initiating actions on wages, hours, and working conditions of employees. Therefore, in order to preserve an appropriate balance between labor and management in the fire and rescue service, once the employees voluntarily select a representative collective bargaining must be used in place of, and not in addition to, existing means to initiate government action on subjects that are appropriate for collective bargaining under this Article. (1996 L.M.C., ch. 21, § 1.)

Sec. 33-148. Definitions.

The following terms have the meaning indicated when used in this Article:

(1) *Agency shop* means a provision in a collective bargaining agreement requiring, as a condition of continued employment, that bargaining unit employees pay a service fee not greater than the monthly membership dues uniformly and regularly required by the employee organization of all of its members. An agency shop agreement must not require an employee to pay initiation fees, assessments, fines, or any similar collections as a condition of continued employment. A collective bargaining agreement must not require payment of a service fee by any employee who opposes joining or financially supporting an employee organization on religious grounds. However, the collective bargaining agreement may require that employee to pay an amount equal to the service fee to a nonreligious, nonunion charity, or to any other charitable organization, agreed to by the employee and the certified representative, with provision for dispute resolution if there is not agreement, and to give to the employer and the certified representative written proof of this payment. The certified representative must adhere at all times to all federal constitutional requirements in its administration of any agency shop system maintained by it.

(2) *Certified representative* means an employee organization chosen to represent the unit as the exclusive bargaining agent under this Article or Article VII.

(3) *Collective bargaining* means meeting at reasonable times and places and negotiating in good faith on appropriate subjects as defined under this Article. This Article does not compel either party to agree to a proposal or make a concession.

(4) *Employee* means a fire and rescue employee in the classification of Fire/Rescue Captain, Fire/Rescue Lieutenant, Master Firefighter/Rescuer, Firefighter/Rescuer III, Firefighter/Rescuer II, and Firefighter/Rescuer I, but not:

(A) an employee in a probationary status;

(B) an employee in the classification of District Chief or an equivalent or higher classification; or

(C) a Fire/Rescue Lieutenant or Captain whose primary assignment is in:

(i) budget;

(ii) internal affairs;

(iii) labor relations;

(iv) human resources;

(v) public information; or

(vi) quality assurance.

(5) *Employee organization* means any organization that admits employees to membership and that has as a primary purpose the representation of employees in collective bargaining.

(6) *Employer* means the County Executive and the Executive's designee.

(7) *Lockout* means any action that the employer takes to interrupt or prevent the continuity of work properly and usually performed by the employees for the purpose and with the intent of either coercing the employees into relinquishing rights guaranteed by this Article or of bringing economic pressure on employees for the purpose of securing the agreement of their certified representative to certain collective bargaining terms.

(8) *Mediation* means an effort by an impasse neutral chosen under this Article to assist confidentially in resolving, through interpretation, suggestion, and advice, a dispute arising out of collective bargaining between the employer and the certified representative.

(9) *Strike* means a concerted failure to report for duty, absence, stoppage of work, or abstinence in whole or in part from the full and faithful performance of the duties of employment with the employer, or deviation from normal or proper work duties or activities, where any of these acts are done in a concerted manner for the purpose of inducing, influencing, or coercing the employer in the determination, implementation, interpretation, or administration of terms or conditions of employment or of the rights, privileges, or obligations of employment or of the status, recognition, or authority of the employee or an employee organization.

(10) *Unit* means all employees, as defined in this section, who are associated with fire suppression, fire protection, fire communications, fire service training, rescue, and emergency medical services, and whose duties include the rescue and safety of individuals and the preservation of structures and physical property. (1996 L.M.C., ch. 21, § 1; 2001 L.M.C., ch. 15, § 1.)

Sec. 33-149. Labor Relations Administrator.

(a) A Labor Relations Administrator must be appointed to effectively administer this Article as it governs selection, certification and decertification procedures and prohibited practices. The Administrator must:

(1) periodically adopt, amend, and repeal, under method (1), regulations and procedures to carry out the Administrator's duties under this Article;

(2) request from the employer or employee organization, and the employer or employee organization may at its discretion provide, any relevant assistance, service, and data that will enable the Administrator to properly carry out duties under this Article;

(3) hold hearings and make inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, and compel by issuance of subpoenas the attendance of witnesses and the production of relevant documents;

(4) conduct elections to certify or decertify an employee organization under this Article, and issue the certification or decertification;

(5) investigate and attempt to resolve or settle, as provided in this Article, charges of engaging in prohibited practices, but the Administrator must defer to the parties' grievance procedure if:

(A) the employer and the certified representative have negotiated a valid grievance procedure to resolve disputes, and

(B) deferral to the grievance procedure would not result in the application of principles repugnant to this Article;

(6) determine whether a person is properly included in or excluded from the unit;

(7) obtain any necessary support services and make necessary expenditures in the performance of duties to the extent the County has appropriated funds for these purposes; and

(8) exercise any other powers and perform any other duties and functions specified in this Article.

(b) The Administrator must be a person with experience as a neutral in labor relations, and must not be a person who, because of vocation, employment, or affiliation, can be categorized as a representative of the interest of the employer or any employee organization.

(c) The County Executive must appoint the Administrator, subject to confirmation by the County Council, from a list of 5 nominees agreed on by the certified representative and the Chief Administrative Officer. If there is no certified representative, the Executive must appoint an Administrator, subject to confirmation by the Council. If the Council does not confirm an appointment, the Executive must appoint another person from a new agreed list of 5 nominees and submit that appointee to the Council for confirmation. The Administrator serves a term of 5 years. An incumbent Administrator is automatically reappointed for another 5-year term, subject to Council confirmation, unless, during the period between 60 and 30 days before the term expires, the certified representative notifies the Chief Administrative Officer or the employer notifies the certified representative that either objects to the reappointment.

(d) If the Administrator dies, resigns, becomes disabled, or otherwise becomes unable or ineligible to continue to serve, the Executive must appoint a new Administrator, subject to Council confirmation, to serve the remainder of the previous Administrator's term. The Administrator appointed under this subsection may be reappointed as provided in subjection (c).

(e) The Administrator must be paid a daily fee as specified in a contract with the County, and must be reimbursed for necessary expenses incurred in performing the duties of Administrator. (1996 L.M.C., ch. 21, § 1; 2007 L.M.C., ch. 1, § 1.)

Sec. 33-150. Employee rights.

(a) Employees have the right to:

(1) form, join, support, contribute to, or participate in, or refrain from forming, joining, supporting, contributing to, or participating in, any employee organization or its lawful activities; and

(2) be represented fairly by their certified representative, if any.

(b) The employer must extend to the certified representative the exclusive right to represent the employees for the purposes of collective bargaining, including the orderly processing and settlement of grievances as agreed by the parties under this Article.

(c) A certified representative serves as the exclusive bargaining agent for all employees in the unit and must represent fairly and without discrimination all employees in the unit without regard to whether the employees are members of the employee organization, pay dues or other contributions to it, or participate in its affairs. However, it is not a violation of this duty for a certified representative to seek enforcement of an agency shop provision in a valid collective bargaining agreement.

(d) The right of a certified representative to receive voluntary dues or service fee deductions or agency shop provisions must be determined through negotiations, unless the authority to negotiate these provisions has been suspended under this Article. Other than an agency shop provision, a collective bargaining agreement must not require membership in, participation in the affairs of, or contributions to an employee organization. (1996 L.M.C., ch. 21, § 1.)

Sec. 33-151. Selection, certification, and decertification procedures.

(a) Any employee organization seeking certification as representative of the unit must file a petition with the Labor Relations Administrator stating its name, address, and its desire to be certified. The employee organization must also send a copy of the petition, including a copy of the signatures of the supporting employees on the petition, to the employer. The petition must contain the uncoerced signatures of 30 percent of the employees in the unit, signifying the employees' desire to be represented by the employee organization for purposes of collective bargaining.

(b) If an employee organization has been certified, an employee in the unit may file a petition with the Administrator to decertify the certified representative. The employee must also send a copy of the petition to the employer and the certified representative, not including the names of the supporting employees. The petition must contain the uncoerced signatures of 30 percent of the employees in the unit, alleging that the certified employee organization is no longer the choice of the majority of the employees in the unit.

(c) If a lawful collective bargaining agreement is not in effect, a petition may be filed under this section in September of any year, but not sooner than 22 months after an election held under this section.

(d) If a lawful collective bargaining agreement is in effect, a petition filed under this section must not be entertained unless it is filed during September of the final year of the agreement.

(e) If the Administrator finds that a petition is properly supported and timely filed, the Administrator must hold an election of all eligible employees within a reasonable time, but no later than the next October 20, to determine if and by whom the employees wish to be represented.

(1) The election must be supervised by the Administrator and must be conducted by secret ballot at the time and place that the Administrator directs. The Administrator may retain the services of a State agency responsible for conducting labor elections, or a similarly neutral body, to assist in conducting the election.

(2) The election ballots must contain, as choices to be made by the voter, the name of each petitioning or certified employee organization, the name of any other employee organization showing written proof at least 10 days before the election of at least 10 percent representation of the employees in the unit in the same manner as described in paragraph (a), and a choice that the employee does not desire to be represented by any of the named employee organizations.

(3) The employer and each party to the election may be represented by observers selected under conditions that the Administrator prescribes.

(4) Observers selected under paragraph (3) may challenge for good cause the eligibility of any person to vote in the election. All challenged ballots must be impounded until either the parties agree on the validity of each challenge or the Administrator

decides the validity of each challenge. However, if the number of challenges will not determine the outcome of the election, the challenged ballots must be destroyed.

(5) After the polls have been closed, the Administrator must count all valid ballots cast in the presence of the observers.

(6) The Administrator must immediately prepare and serve on the employer and each party a report certifying the results of the election. If an employee organization receives the votes of a majority of the employees who voted, the Administrator must certify that organization as the exclusive agent.

(7) If no employee organization receives the votes of a majority of the employees who voted, the Administrator must not certify a representative. Unless a majority of the employees who vote choose "no representative," a runoff election must be conducted. The runoff election must contain the 2 choices that received the largest and second largest number of votes in the original election.

(f) The Administrator's certification of results is final unless, within 7 days after service of the report and the certification, any party serves on all other parties and files with the Administrator objections to the election. All objections must be verified and contain a concise statement of facts constituting the grounds for each objection. The Administrator must investigate all objections and, if substantial factual issues exist, must hold a hearing. Otherwise, the Administrator may decide the matter without a hearing. The Administrator may invite, either by rule or by invitation, written or oral argument to assist in deciding the merits of the objections. If the Administrator finds that the election was conducted in substantial conformity with this Article, the Administrator must confirm the certification initially issued. If the Administrator finds that the election was not held in substantial conformity with this Article, then the Administrator must hold another election under this section.

(g) The County must pay the cost of conducting each election. (1996 L.M.C., ch. 21, § 1; 2001 L.M.C., ch. 15, § 1.)

Sec. 33-152. Collective bargaining.

(a) *Duty to bargain; matters subject to bargaining.* When an employee organization is certified, the employer and the certified representative must bargain collectively with respect to:

(1) salary and wages, including the percentage of the increase in the salary and wages budget that is devoted to merit increments and cash awards, but salaries and wages must be uniform for all employees in the same classification;

(2) pension and other retirement benefits for active employees only;

(3) employee benefits such as, but not limited to, insurance, leave, holidays, and vacations;

(4) hours and working conditions;

(5) procedures for the orderly processing and settlement of grievances concerning the interpretation and implementation of any collective bargaining agreement, which may include:

(A) binding third party arbitration, but the arbitrator has no authority to amend, add to, or subtract from any provision of the collective bargaining agreement; and

(B) provisions for exclusivity of forum;

(6) matters affecting the health and safety of employees; and

(7) amelioration of the effect on employees when the exercise of employer rights listed in subsection (b) causes a loss of existing jobs in the unit.

(b) *Employer rights.* This Article and any collective bargaining agreement made under it must not impair the right and responsibility of the employer to:

(1) determine the overall budget and mission of the employer and any agency of County government;

(2) maintain and improve the efficiency and effectiveness of operations;

(3) determine the services to be rendered and the operations to be performed;

(4) determine the overall organizational structure, methods, processes, means, job classifications, and personnel by which operations are conducted, and the location of facilities;

(5) direct and supervise employees;

(6) hire, select, and establish the standards governing promotion of employees, and classify positions;

(7) relieve employees from duties because of lack of work or funds, or when the employer determines continued work would be inefficient or nonproductive;

(8) take actions to carry out the mission of government in emergency situations;

(9) transfer, assign, and schedule employees;

(10) determine the size, grades, and composition of the work force;

(11) set standards of productivity and technology;

(12) establish employee performance standards and evaluate employees, but evaluation procedures are subject to bargaining;

(13) make and implement systems for awarding outstanding service increments, extraordinary performance awards, and other merit awards;

(14) introduce new or improved technology, research, development, and services;

(15) control and regulate the use of machinery, equipment, and other property and facilities of the employer, subject to subsection (a)(6);

(16) maintain internal security standards;

(17) create, alter, combine, contract out, or abolish any job classification, department, operation, unit, or other division or service, but the employer must not contract work which will displace employees unless it gives written notice to the certified representative 90 days before signing the contract or other notice agreed by the parties;

(18) suspend, discharge, or otherwise discipline employees for cause, except that, subject to Charter Section 404, any such action may be subject to a grievance procedure included in a collective bargaining agreement; and

(19) issue and enforce rules, policies, and regulations necessary to carry out these and all other managerial functions which are not inconsistent with this Article, federal or State law, or the terms of a collective bargaining agreement.

(c) *Exemption.* This Article does not limit the discretion of the employer voluntarily to discuss with the representatives of its employees any matter concerning the employer's exercise of any right specified in this section. However, any matter so discussed is not subject to bargaining.

(d) The public employer rights specified in this section must be incorporated by reference in every agreement reached between the employer and the employee organization. (1996 L.M.C., ch. 21, § 1.)

Sec. 33-153. Bargaining, impasse, and legislative procedures.

(a) Collective bargaining must begin no later than the November 1 before the beginning of a fiscal year for which there is no agreement between the employer and the certified representative, and must be completed on or before January 15. The resolution of a bargaining impasse must be completed by February 1. These time limits may be waived or extended by written agreement of the parties.

(b) Any provision for automatic renewal or extension of a collective bargaining agreement is void. An agreement is void if it extends for less than 1 year or more than 3 years. Each collective bargaining agreement must take effect July 1 and end June 30.

(c) A collective bargaining agreement takes effect only after ratification by the employer and the certified representative. The certified representative may adopt its own ratification procedures.

(d) Before September 10 of any year in which the employer and the certified representative bargain collectively, they must choose an impasse neutral, either by agreement or through the processes of the American Arbitration Association. The impasse neutral must be available from January 15 to February 1. The impasse neutral's fees and expenses must be shared equally by the employer and the certified representative.

(e) During the course of collective bargaining, either party may declare an impasse and request the services of the impasse neutral, or the parties may jointly request those services before declaring an impasse. If the parties have not agreed on a collective bargaining agreement by January 15, an impasse exists by operation of law.

(f) When an impasse is reached, the parties must submit the dispute to the impasse neutral. The impasse neutral must attempt mediation by bringing the parties together voluntarily under conditions that will tend to bring about a settlement of the dispute.

(g) If the impasse neutral, in the impasse neutral's sole discretion, finds that the parties are at a bona fide impasse, the impasse neutral must require the parties to jointly submit all items previously agreed on, and each party to submit a final offer consisting of proposals not agreed upon. Neither party may change any proposal after it is submitted to the impasse neutral as a final offer, except to withdraw a proposal on which the parties have agreed.

(h) The impasse neutral may require the parties to submit evidence or present oral or written arguments in support of their proposals. The impasse neutral may hold a hearing at a time, date, and place selected by the impasse neutral. The hearing must not be open to the public.

(i) On or before February 1, unless that date is extended by written agreement of the parties, the impasse neutral must select the final offer that, as a whole, the impasse neutral judges to be the more reasonable. In determining which final offer is the more reasonable, the impasse neutral may consider only the following factors:

(1) past collective bargaining agreements between the parties, including the past bargaining history that led to the agreements, or the pre-collective bargaining history of employee wages, hours, benefits, and working conditions;

(2) wages, hours, benefits and conditions of employment of similar employees of other public employers in the Washington Metropolitan Area and in Maryland;

(3) wages, hours, benefits, and conditions of employment of other Montgomery County employees;

(4) wages, benefits, hours, and other working conditions of similar employees of private employers in Montgomery County;

(5) the interest and welfare of the public; and

(6) the ability of the employer to finance economic adjustments, and the effect of those adjustments on the normal standard of public services provided by the employer.

(j) The impasse neutral must base the selection of the most reasonable offer on the contents of the offer and the integration of any previously agreed-on items with the disputed items. In making a decision, the impasse neutral must not consider or receive any evidence or argument concerning offers of settlement not contained in the offers submitted to the impasse neutral, or any other information concerning the collective

bargaining leading to impasse. The impasse neutral must neither compromise nor alter the final offer that he or she selects.

(k) The final offer selected by the impasse neutral, integrated with any items previously agreed on, is the final agreement between the parties, need not be ratified by any party, and has the force and effect of an agreement voluntarily entered into and ratified under subsection (c). The parties must execute that agreement.

(l) In each proposed annual operating budget, the County Executive must describe any collective bargaining agreement or amendment to an agreement that is scheduled to take effect in the next fiscal year and estimate the cost of implementing that agreement. The annual operating budget must include sufficient funds to pay for the items in the parties' final agreement. The employer must expressly identify to the Council by April 1, unless extenuating circumstances require a later date, all terms and conditions in the agreement that:

(1) require an appropriation of funds, or

(2) are inconsistent with any County law or regulation, or

(3) require the enactment or adoption of any County law or regulation, or

(4) which have or may have a present or future fiscal impact.

If a later submission is necessary, the employer must specify the submission date and the reasons for delay to the Council President by April 1. The employer must make a good faith effort to have the Council take action to implement all terms and conditions in the parties' final agreement.

(m) Each agreement submitted to the Council must include:

(1) all proposed legislation and regulations necessary to implement the agreement;

(2) all changes from the previous collective bargaining agreement, indicated by brackets and underlines or a similar notation system; and

(3) all side letters or other extraneous documents that are binding on the parties.

(n) The Council may hold a public hearing to enable the parties and the public to testify on the agreement.

(o) The Council may accept or reject all or part of any term or condition in the agreement which:

(1) requires an appropriation of funds, or

(2) is inconsistent with any County law or regulation, or

(3) requires the enactment or adoption of any County law or regulation, or

(4) which has or may have a present or future fiscal impact.

On or before May 1, the Council must indicate by resolution its intention to appropriate funds for or otherwise implement the agreement or its intention not to do so, and must state its reasons for any intention to reject any part of the parties' final agreement. The Council, by majority vote taken on or before May 1, may defer the May 1 deadline to any date not later than May 15.

(p) If the Council indicates its intention to reject any part of the parties' final agreement, it must select a representative to meet with the parties and present the Council's views in the parties' further negotiation on matters that the Council has indicated its intention to reject. This representative must also participate fully in stating the Council's position in any ensuing impasse procedure. The parties must meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. Either party may at this time initiate impasse procedures under this section. The parties must submit the results of the negotiation, whether a complete or a partial agreement, to the Council on or before May 10. If the Council has deferred the May 1 deadline, that action automatically postpones the May 10 deadline by the same number of days. The Council then must consider the agreement as renegotiated by the parties and indicate by resolution its intention to appropriate funds for or otherwise implement the agreement or its intention not to do so.

(q) Any agreement must provide for automatic reduction or elimination of wage or benefits adjustments if:

(1) the Council does not take action necessary to implement the agreement or a part of it; or

(2) sufficient funds are not appropriated for any fiscal year when the agreement is in effect.

(r) *Later years.* The process and timetable in subsections (o) and (p) apply to Council review of wage or benefits adjustments after the first year or any multi-year agreement.

(s) *Out-of-cycle amendments.* The process in subsections (o) and (p) applies to Council review of any amendment to a collective bargaining agreement that the Council receives after May 15 of any year, but the deadlines in those subsections do not apply. The Council President must set action deadlines which result, to the extent feasible, in a similar timetable relative to the date the Council received the amendment. (1996 L.M.C., ch. 21, § 1; 2003 L.M.C., ch. 22, § 1.)

Sec. 33-154. Prohibited practices.

(a) The employer and its agents or representatives must not:

(1) interfere with, restrain, or coerce employees in the exercise of any rights granted to them under this Article;

(2) dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it, under an agreement or otherwise, but the employer and certified representative may agree to and apply an agency shop provision under this Article and a voluntary dues or service fee deduction provision, and may agree to reasonable use of County facilities to communicate with employees.

(3) encourage or discourage membership in any employee organization by discriminating in hiring, tenure, wages, hours, or conditions of employment, but this Article does not preclude an agreement from containing an agency shop provision;

(4) discharge or discriminate against a public employee because the employee files charges, gives testimony, or otherwise lawfully aids in administering this Article;

(5) refuse to bargain collectively with the certified representative;

(6) refuse to reduce to writing or sign a collective bargaining agreement that has been agreed to in all respects;

(7) refuse to process or arbitrate a grievance if required under a grievance procedure contained in a collective bargaining agreement;

(8) directly or indirectly oppose the appropriation of funds or the enactment of legislation by the County Council to implement an agreement reached under this Article; or

(9) engage in a lockout of employees.

(b) Employee organizations and their agents, representatives, and persons who work for them, must not:

(1) interfere with, restrain, or coerce the employer or any employee in the exercise of any rights granted under this Article;

(2) restrain, coerce, or interfere with the employer in the selection of its representative for collective bargaining or the adjustment of grievances;

(3) refuse to bargain collectively with the employer if the employee organization is the certified representative;

(4) refuse to reduce to writing or sign a collective bargaining agreement which has been agreed to in all respects;

(5) hinder or prevent, by threats of violence, intimidation, force, or coercion of any kind, the pursuit of any lawful work or employment by any person, public or private, or obstruct or otherwise unlawfully interfere with the entrance to or exit from any place of employment, or obstruct or unlawfully interfere with any person's free and uninterrupted use of any road, railway, airport, or other mode of travel;

(6) hinder or prevent by threats, intimidation, force, coercion, or sabotage, the obtaining, use, or disposition of materials, supplies, equipment, or services by the employer;

(7) take or retain unauthorized possession of property of the employer, or refuse to do work or use certain goods or materials as lawfully required by the employer; or

(8) cause or attempt to cause the employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are neither performed nor to be performed.

(c) A charge of prohibited practice may be filed by the employer, an employee organization, or any individual employee. Each charge must be filed with the Labor Relations Administrator, and a copy must be sent to any person who allegedly committed a prohibited practice. Each charge must state facts sufficient to allow the Administrator to investigate the charge. The Administrator may request withdrawal of and, if necessary, summarily dismiss any charge which is insufficiently supported in fact or law to warrant a hearing.

(d) The Administrator may independently investigate any charge and may adopt rules for an independent investigation. If, after investigating, the Administrator finds that a charge is sufficiently supported to raise an issue of fact or law and is unable to settle or resolve the matter, the Administrator must hold a hearing on the charge after notifying the parties. In any hearing, the charging party must present evidence in support of the charges; and the party or parties charged may file an answer, appear in person or otherwise, and present evidence in defense against the charges.

(e) If the Administrator finds that the person charged has committed a prohibited practice, the Administrator must file findings of fact and conclusions of law, may order the person charged to cease and desist from the prohibited practice, and may take affirmative actions to remedy any violation of this Article. Remedies available under this subsection include reinstating employees with or without back pay, making employees whole for any loss relating to County employment suffered as a result of any prohibited practice, or withdrawing or suspending an employee organization's authority to negotiate or continue an agency shop provision or a voluntary dues or service fee deduction provision. If the Administrator finds that the party charged has not committed a prohibited practice, the Administrator must file findings of fact and conclusions of law and dismiss the charges.

(f) The Administrator must summarily dismiss any charge based on an alleged prohibited practice which occurred more than 6 months before the charge was filed.

(g) Any party aggrieved by a final decision of the Administrator under this section may appeal the decision to the Circuit Court for Montgomery County in accordance with the court rules governing administrative appeals. The court may affirm, reverse, or modify the decision, or remand the case for further proceedings. The filing of an appeal does not stay the Administrator's order. Any party to the proceeding in the Circuit Court

may appeal the Court's decision under applicable provisions of State law and court rules. (1996 L.M.C., ch. 21, § 1.)

Sec. 33-155. Expression of views.

(a) Expressing or disseminating any views, argument, or opinion, orally, in writing, or otherwise:

(1) is not a prohibited practice or evidence of a prohibited practice under this Article; and

(2) is not grounds to invalidate any election conducted under this Article; unless the expression or dissemination contains a threat of reprisal or promise of benefit.

(b) Recognizing an employee organization does not preclude the County from dealing with religious, social, fraternal, professional, or other lawful associations with respect to matters or policies that involve individual members of those associations or particularly apply to those associations or their members. (1996 L.M.C., ch. 21, § 1.)

Sec. 33-156. Strikes and lockouts.

(a) An employee or employee organization must not either directly or indirectly cause, instigate, encourage, condone, or engage in any strike, nor the employer any lockout. An employee or employee organization must not obstruct, impede, or restrict, either directly or indirectly, any attempt to terminate a strike.

(b) The employer must not pay, reimburse, make whole, or otherwise compensate any employee for or during the period when that employee is directly or indirectly engaged in a strike. The employer must not compensate an employee who struck for wages or benefits lost during a strike.

(c) If an employee or employee organization violates this section, and after adequate notice and a fair hearing the Labor Relations Administrator finds that the violations have occurred and that any or all of the following sanctions are necessary in the public interest, the employer may:

(1) discipline, or dismiss from employment, any employee who engaged in the conduct;

(2) terminate or suspend an employee organization's dues deduction privilege, if any; or

(3) revoke the certification of and disqualify the employee organization from participation in representation elections for a period up to a maximum of 2 years.

(d) This Article does not prohibit an employer or a certified employee organization from seeking any remedy available in a court with jurisdiction. (1996 L.M.C., ch. 21, § 1.)

Sec. 33-157. Effect of prior laws and regulations.

(a) This Article supersedes any law, executive order, rule, or regulation adopted by the County or any County department or agency which is inconsistent with this Article.

(b) Any executive order, rule, or regulation of the County or any County department or agency which regulates any subject that is bargainable under this Article is not superseded or modified by a collective bargaining agreement negotiated under this Article, except to the extent that the application of the order, rule, or regulation is inconsistent with the collective bargaining agreement.

(c) However, if the inconsistent order, rule, or regulation is subject to and has received County Council approval, a collective bargaining agreement does not supersede or modify it unless:

(1) the order, rule, or regulation was expressly identified to the Council by the parties before the Council reviewed the collective bargaining agreement, as required by Section 33-153(l), and the Council did not reject the inconsistent term or condition of the collective bargaining agreement under Section 33-153(n); or

(2) the Council repeals or modifies the order, rule, or regulation. (1996 L.M.C., ch. 21, § 1.)