

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3472 HLAB HB 130

348

- Items submitted in form of last best offers
- Final and binding, issue by issue
- Decision rendered within 20 days from close of hearing
- Tripartite panel-selection of neutral representing public interest by mutual agreement or assigned by Commissioner of Education
- Limited judicial review

**Strike Policy:**  
Prohibited

**CASE LAW:**  
**STATUTORY COVERAGE**

Summer school teachers are covered within the meaning of the Teachers Negotiations Act. *Connecticut State Board v. Board of Educ.*, 160 LRRM 3065 [1979])

**UNION SECURITY**

Agency shop appearing in contracts that require the amendment permitting service fees are legal as they do not contravene public policy. *Dowaliby v. AFT Local 1018*, 109 LRRM 3015 [1980]

**CONTRACT, BINDING EFFECT**

A negotiated agreement is binding on the board when a signed copy is filed with the town clerk and the contract is not rejected by the town within 30 days from date of filing. *Education Ass'n v. Town of Madison*, 97 LRRM 2631 [1978]

**SCOPE OF BARGAINING**

Board of Education is required to bargain over the following mandatory subjects: class size, teacher load, and binding arbitration of grievances. But length of school day and calendar as they relate to hours of employment are excepted from bargaining under the Act. Further the Board may determine whether there shall be extracurricular activities but must negotiate over assignments and compensation levels. *West Hartford Educ. Ass'n v. DeCourcy*, 80 LRRM 2422 [1972]

**NOTES:**

- Negotiations commence 180 days prior to budget submission date
- Member of regional or town board of finance shall sit on the employer negotiating team to provide fiscal information
- Commissioner of Education may recommend non-binding settlement during impasse process

**DELAWARE**  
**(HE, ESP: M)**

**Statute:**

*Delaware Code*, Title 19, Section 1301 to 1312 as enacted by SB 660, L. 1970; as amended by HB 2, L. 1973

**Coverage:**

All public employees

**Exclusions:**

Professionals, elected or appointed officials

**Administrating Agency:**

Department of Labor (DOL)

**Unit Determination:**

DOL

**Unit Determination Criteria:**

- Duties skills and working conditions
- History of bargaining
- Extent of organization
- Employee desires

**Recognition:**

Exclusive, by election

**Bargaining Rights:**

Duty to bargain

**Scope of Bargaining:**

- Wages, salaries, hours, vacations, sick leave, grievance procedure and other terms and conditions of employment
- Classified employees cannot bargain on wages and salaries

**Management Rights:**

No Specific Provision

**Employee Rights:**

- Organize and select bargaining representative
- Present grievances

**Grievance Procedure:**

- Grievance procedure is negotiable
- No provision for binding arbitration

**Union Security:**

Dues deduction is negotiable

**Unfair Labor Practices:**

No Specific Provision

**Impasse Procedure:**

Any matter, except salaries or wages, may be submitted to an arbitrator or Department of Labor for resolution

**Strike Policy:**

Prohibited

**DELAWARE**  
(K-12: M)

**Statute:**

*Delaware Code*, Title 14, Chapter 40, Section 4001 to 4019, L. 1969; as amended by HB 557, L. 1982

**Coverage:**

Certified school employees

**Exclusions:**

Administrators

**Administrating Agency:**

Public Employment Relations Board (PERB)

**Unit Determination:**

PERB

**Unit Determination Criteria:**

- Similarity of duties, skills and working conditions
  - History and extent of employee organization
  - Recommendations of the parties involved
- Effect of over-fragmentation on efficient administration
- Other factors as the Board deems appropriate

**Recognition:**

Exclusive, election only

**Bargaining Rights:**

Duty to bargain and to reduce any agreement to writing

**Scope of Bargaining:**

Matters concerning or related to wages, salaries, hours, grievance procedures, and working conditions

**Management Rights:**

Not required to bargain on matters of inherent managerial policy, including but not limited to such areas of discretion, or policy as the functions and programs of the public school employer, its standards of services, overall budget, use of technology, organizational structure, curriculum, discipline and the selection and direction of personnel

**Employee Rights:**

- Be represented by their exclusive representative without discrimination
- Organize, form, join or assist an employee organization
- Negotiate collectively
- Grieve through representatives of their own choosing
- Engage in concerted activities for the purpose of collective bargaining

**Grievance Procedure:**

- Grievance procedure is negotiable
- No specific provision for final and binding arbitration

**Union Security:**

Dues deduction mandatory

**Unfair Labor Practices:****UNION**

- Interfere with, restrain or coerce employees in exer-

cise of rights under this Act

- Advocate student support for employee organization activities
- Refuse to bargain in good faith
- Refuse to comply with any provision of this Act or with rules and regulations of PERB
- Refuse to reduce to writing and sign an agreement
- Distribute organizational literature during working hours in areas where work is being performed
- Hinder or prevent by threats, intimidation, force or coercion the pursuit of work or interfere with egress or entrance to the work site

**MANAGEMENT**

- Interfere with, coerce or restrain an employee for exercising rights under this Act
- Dominate, interfere with or assist in the formation, existence or administration of a union
- Discriminate in regard to hiring, tenure or other terms and conditions of employment to encourage or discourage membership in an employee organization
- Discharge or discriminate against an employee who has filed a complaint under this Act
- Refuse to bargain in good faith
- Refuse to comply with any provision of this Act or rules and regulations of PERB
- Refuse to reduce an agreement to writing
- Refuse to disclose public records

**Impasse Procedure:****MEDIATION**

- Shall begin on 90th day after start of negotiations
- Mediator to be obtained from PERB at no cost to parties

**FACTFINDING**

- The factfinder shall make nonbinding recommendations
- May be initiated at any time by mutual agreement

**FACTFINDING AWARD CRITERIA**

- Interests and welfare of the public
- Comparisons with employees performing similar tasks
- Current overall compensation including benefits and continuity and stability of employment
- Increases in the average weekly wages earned in the private sector within the state as computed by the Department of Labor
- Stipulation of the parties
- Lawful authority of the public school employer
- Financial ability of the public school employer to meet the costs of any proposed settlement based on existing revenues
- Other factors normally taken into consideration in the determination of wages, hours and conditions of employment

**Strike Policy:**

Prohibited

WASHINGTON, D.C.  
(K-12, ESP, HE: M)

**Statute:**

District of Columbia Code Annotated, Title I, Chapter 6, Section 1-601.1 to 1-637.2, L. 1981

**Coverage:**

All employees of District of Columbia government

**Exclusions:**

Judges and nonjudicial employees of the court system

**Administrative Agency:**

- Public Employee Relations Board (PERB)
- Office of Employee Appeals (OEA)

**Unit Determination:**

PERB

**Unit Determination Criteria:**

Community of interest to mean and include skills, working conditions, common supervision, physical location, distinctiveness of functions performed, and the existence of an integrated work process

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

Duty to bargain and reduce an agreement to writing

**Scope of Bargaining:**

Salary, wages, health benefits, within-grade increases, overtime pay, education pay, shift differential, premium pay, hours and any other compensation matters and any matter not proscribed by this Title

**Management Rights:**

- Direct employees of the agency
- Hire, promote, transfer, assign, and retain employees and to suspend, demote, discharge or take other disciplinary action for cause
- Relieve employees of duties for lack of work or other legitimate reasons
- Maintain efficiency of operations
- Determine mission of the agency, budget, organization, number of employees, work, technology or security
- Take whatever action is necessary to carry out the mission of the agency

**Employee Rights:**

- Form, join and assist a labor organization or to refrain from so doing
- Engage in collective bargaining through a designated representative

- Be protected in the exercise of rights guaranteed under this Title

**Grievance Procedure:**

- Grievance procedure culminating in final and binding arbitration is negotiable
- If a procedure is not bargained, management may issue procedure

**Union Security:**

- Dues deduction mandatory
- Agency shop bargainable

**Unfair Labor Practices:**

**UNION**

- Interfere with, restrain or coerce employees or the employer in exercise of rights under this Title
- Attempt to or cause an employer to discriminate in violation of this Title
- Refuse to bargain in good faith
- Engage in or condone a strike or any form of unauthorized work stoppage
- Engage in a strike or slowdown or form of coercion to force recognition of a labor organization

**MANAGEMENT**

- Refuse to bargain in good faith
- Interfere with, restrain, or coerce employees in the exercise of rights guaranteed under this Title
- Dominate, interfere with, or assist in formation, existence of a union or contribute to its financial support
- Discriminate in regard to hiring or tenure or employment to encourage or discourage union membership
- Discharge or discriminate against employees for exercising rights guaranteed under this Title

**Impasse Procedure:**

At request of either party or upon PERB initiative, parties may engage at any time in: Mediation; Factfinding; Advisory arbitration; Request for injunction; Binding arbitration

**ARBITRATION AWARD CRITERIA**

- Existing laws, rules and regulations which bear on any item in dispute
- Ability to pay and/or comply with award
- Protect and maintain public health, safety and welfare
- Need to maintain personnel policies that are reasonable and consistent with the objectives of this Title

**Strike Policy:**

Prohibited as an unfair labor practice

**FLORIDA**  
(K-12, ESP, HE: M)

**Statute:**

*Florida Statutes Annotated*, Section 447.201 to 447.609, Part II of Chapter 447, as enacted by Ch. 74-100, L. 1974; as amended by Chs. 39, 214, 269, Ls. 1976; Ch. 343, L. 1977; Chs. 7, 85, 89, 95, 100, 164, 222, 295, 400, Ls. 1980; as last amended by Ch. 367, L. 1980

**Coverage:**

All public employees including K-12 certified teachers; higher education faculty, non-teaching professionals and all K-G support personnel

**Exclusions:**

Elected, appointed, confidential, managerial, school administrators, employees of the state legislature, criminals and inmates confined to institutions, and those who act as employer negotiating representatives

**Administrating Agency:**

Public Employment Relations Commission (PERC)

**Unit Determination:**

PERC

**Unit Determination Criteria:**

- Efficient administration of government
- Number of employee organizations with whom a government must negotiate
- Compatibility of unit with the responsibility of the employees and employer to represent the public
- Authority of the employer to agree or effectively recommend action
- Organizational structure of the employer
- Statutory authority of an employer to administer a classification and pay plan
- Separation of professionals from nonprofessionals unless both vote for a single unit
- Community of interest including manner in which wages and other terms and conditions of employment are determined
- Manner in which job and salary classifications are determined
- Interdependence of jobs and interchange of employees
- Desires of employees
- History of bargaining
- Avoiding over-fragmentation
- Avoid possible conflicts of interest

**Recognition:**

Exclusive, by election or voluntary

**Bargaining Rights:**

- Duty to bargain and reduce an agreement to writing
- Duration of contract is not to exceed three years

**Scope of Bargaining:**

Wages, hours, terms and conditions of employment, and grievance procedure

**Management Rights:**

- Determine purpose of each constituent agency
- Set standards of service
- Exercise discretion and control over organization and operation
- Direct employees
- Discipline for proper cause
- Relieve employees from duty for lack of work or for legitimate reason

**Employee Rights:**

- To form, join and participate in unions
- Be represented by a union in negotiations and grievances
- Present grievances
- Engage in concerted activities or refrain from so doing

**Grievance Procedure:**

- Grievance procedure culminating in final and binding arbitration is mandatory
- No requirement to process non-member grievances
- Career service employees have access to civil service appeal procedure
- Arbitrator cannot add to, subtract from, modify or alter terms of an agreement

**Union Security:**

Dues deduction mandatory

**Unfair Labor Practices:****UNION**

- Interfere with, restrain or coerce employees
- Cause or attempt to cause an employer to commit a ULP
- Refuse to bargain in good faith
- Solicit union support from students
- Discriminate because an employee gives testimony or files a complaint under this Act
- Participate, instigate or support in a positive manner a strike against a public employer

**MANAGEMENT**

- Interfere with, restrain, or coerce employees
- Discriminate in regard to hiring, tenure or other condition of employment to encourage or discourage union membership
- Refuse to bargain in good faith
- Dominate, interfere with or assist in the formation, existence or the financial support of a union

- Refuse to sign an agreement
- Refuse to discuss grievances
- Discharge or discriminate against an employee for filing charges or complaints under this Act

**Impasse Procedure:****MEDIATION**

Parties jointly may appoint or request a mediator from PERC

**SPECIAL MASTER HEARING**

- If no mediator is appointed, PERC may appoint a special master
- Either party may request that PERC appoint a special master to resolve unsettled issues
- Mediation can be conducted at any time
- Recommendations must be issued 15 days from close of hearing
- If report is rejected in whole or part, chief executive officer shall take before the legislative body of the governmental entity his report, the special master's report and the employee organization's report. The legislative body shall review all recommendations and reasons for rejecting the special master's report and take appropriate action on disputed items

**SPECIAL MASTER AWARD CRITERIA**

- Comparison of wages and salaries prevailing in the locality
- Comparison of income with other public employees
- Interest and welfare of the public
- Availability of funds
- Peculiarities of the employment classification with other employee groups with respect to hazards, physical and educational qualifications, job training and skills, retirement plans, sick leave, job security

**Strike Policy:**

- Prohibited
- Injunctions may be issued against strikes

- Union may be penalized up to \$5,000 per day and union officers \$50-100 per day for contempt of court
- PERC may fine union \$20,000 per day
- Employer may receive damages
- Union may lose certification and dues deduction privileges
- Employee subject to dismissal or probation

**CASE LAW:****SUNSHINE BARGAINING**

Public body may meet in executive session to instruct or consult with its labor representatives. Labor representatives may meet in closed session with union representatives in preliminary contract negotiations. *C.A.G.*, #073-200, 6/4/73

**SCOPE OF BARGAINING**

- A city can negotiate payment of dependent medical coverage since "matters included in a collectively bargained agreement can be all encompassing and may in fact touch on every element of the relationship when authorized by law." *O.A.G.*, #077-72, 7/15/77
- A maintenance of standards provision does not validate an expenditure of public funds as Part II, Ch. 447 does not confer authority "to expend funds in a manner unauthorized by law." *O.A.G.*, #078-76, 5/16/78

**NOTES:**

- Florida has a right to work law applicable to all public employees (Florida Constitution, Declaration of Rights, Section 6)
- Florida has an open meeting law requiring that negotiations be open to the public. *Florida Statutes Annotated* Section 286.011
- Student representation is permitted as observers in higher education negotiations
- If a legislative body does not appropriate sufficient funds to implement a contract, the contract must operate with a lesser appropriation
- Contract provisions contrary to law are not effective until the law is amended

**GEORGIA**

Georgia does not have a statute authorizing public employee collective bargaining

**CASE LAW:  
BARGAINING**

Collectively bargained contracts between school boards and unions are an illegal delegation of power and therefore void in absence of legislative authority. *Chatham Association of Educators v. Board of Public Education for the City of Savannah and the County of Chatham*, 23 Ga. 806 [1974]

**NOTES:**

- Georgia has a right to work statute. *Georgia Code*, Chapter 54, Section 54-9
- State has a firefighters bargaining statute. *Georgia Code*, Chapter 54, Section 54-1301
- No employee holding a position by appointment or employment in the state government or any agency, authority, board, commission or public institution may promote, encourage or participate in a strike. *Georgia Code*, Chapter 89-13, Sections 1301 and 1304 and Chapter 89-99, Section 89-9917

**HAWAII**  
(K-12, ESP, HE: M)

**Statute:**

*Hawaii Revised Statutes*, Chapter 89, Section 89-1 to 89-21 as enacted by Act 171, L. 1976, as amended by SB 1173, L. 1971; Act 212, L. 1971; Act 36, L. 1973; Acts 13, 41, Ls. 1976; Act 191, L. 1977; Act 108, L. 1978; Act 252, L. 1980; Act 180, L. 1981; as last amended by Acts 100, 102, Ls. 1982

**Coverage:**

All employees of any public employer including K-12 teachers, higher education faculty, nonteaching professionals and K-G support personnel

**Exclusions:**

Elected, appointed officials, members of boards, commissions, top level managerial, administrative and confidential personnel, part-time and temporary employees, students, and employees of the governor and legislative branch, and inmates, patients of state institutions

**Adminstrating Agency:**

Hawaii Public Employment Relations Board, (HPERB)

**Unit Determination:**

Statute

**Unit Determination Criteria:**

Thirteen statewide units are defined by statute

**Recognition:**

Exclusive, by election

**Bargaining Rights:**

Duty to bargain and reduce an agreement to writing

**Scope of Bargaining:**

- Wages, hours and other terms and conditions of employment are mandatory subjects of bargaining
- Matters affecting employee relations are subject to consultation

**Management Rights:**

- Classification and reclassification systems
- Health fund, retirement, salary ranges, number of increments and longevity steps
- Matters inconsistent with merit system or management discipline and control
- Matters inconsistent with the principle of equal pay for equal work
- Hire, promote, transfer, assign or retain employees in positions
- Determine qualifications and standards of work
- Suspend, demote, discharge or take other disciplinary action for proper cause
- Relieve an employee from duties because of lack of work or other legitimate reason

- Maintain efficiency of government operations
- Take necessary actions to carry out the mission of the employer

**Employee Rights:**

- To organize, form, join, assist a union or refrain from so doing
- Engage in lawful concerted activity

**Grievance Procedure:**

- Grievance procedure culminating in final and binding arbitration is negotiable
- Absent a procedure disputes may be submitted to HPERB

**Union Security:**

- Dues deduction mandatory
- Agency shop mandatory

**Unfair Labor Practices:****UNION**

- Interfere with, restrain or coerce employees
- Refuse to bargain in good faith
- Refuse to participate in impasse procedure
- Refuse to comply with this Statute
- Violate terms of an agreement

**MANAGEMENT**

- Interfere with, restrain or coerce employees in the exercise of their statutory rights
- Dominate, interfere with or assist in formation or existence of an employee organization
- Discriminate in hiring, tenure or conditions of employment to encourage or discourage union membership
- Refuse to bargain in good faith
- Refuse to participate in impasse procedure in good faith
- Refuse to comply with this Statute
- Violate the terms of a collective bargaining agreement

**Impasse Procedure:**

Parties may establish their own procedure terminating with binding arbitration

**MEDIATION**

At request of either party, or HPERB may initiate mediation within 3 days from date of impasse

**FACTFINDING**

- HPERB may initiate factfinding within 15 days from date of impasse
- Report issued within ten days
- If unresolved after five additional days or 30 days from impasse, dispute is submitted to binding arbitration

**Strike Policy:**

Permitted if following conditions are met:

- Impasse procedure is followed to conclusion
- Impasse is not submitted to arbitration
- Sixty days have elapsed since factfinding report
- Ten days notice of intent to strike is given
- Employees are part of the same bargaining unit
- Any danger to public health or safety has been removed

**CASE LAW:****IMPASSE**

- The HPERB can only declare on impasse after it has

determined that the party declaring an impasse has bargained in good faith. *Board of Educ. v Hawaii PERB*, 88 LRRM 2543 [1974]

- Cost items subject to appropriation. *O.A.G.*, #72-10, 4/4/72
- Act takes precedence over all conflicting statutes, rules and local ordinances. *O.A.G.*, #73-6, 6/4/73

**NOTES:**

- The employer for negotiation purposes is the governor
- Mutually agreed to contribution to a non-religious organization permitted for bona fide religious objection to service fee

### IDAHO (K-12: M)

**Statute:**

*Idaho Code*, Chapter 103, Section 33-1271 to 33-1276, L. 1971; as amended by SB 1279, L. 1977

**Coverage:**

Certified employees of school districts (K-12)

**Exclusions:**

Superintendents, supervisors and principals may be excluded from the unit by mutual agreement

**Administrating Agency:**

- State Superintendent of Public Institution
- Local Board of Education

**Unit Determination:**

No Specific Provision

**Unit Determination Criteria:**

No Specific Provision

**Recognition:**

Exclusive, designated or by election

**Bargaining Rights:**

Duty to bargain

**Scope of Bargaining:**

Matters and conditions as agreed upon by the parties

**Management Rights:**

To take necessary actions in cases of emergency, as defined by State Board of Education

**Employee Rights:**

No Specific Provision

**Grievance Procedure:**

No Specific Provision

**Union Security:**

No Specific Provision

**Unfair Labor Practices:**

No Specific Provision

**Impasse Procedure:****MEDIATION**

- At request of either party
- Procedures to be determined by parties
- Compensation of the neutral is responsibility of the parties

**FACTFINDING**

- At request of either party if mediation fails
- If parties cannot agree on factfinder, Superintendent of Public Instruction appoints
- Report issued in 30 days

**Strike Policy:**

No Specific Provision

**CASE LAW:****RIGHT TO STRIKE**

Public school teachers are not inferentially granted strike rights absent express prohibition. *School District #351 v. Oneida Education Ass'n*, 98 Idaho 486, 567 P 2d 830 [1977]

**NOTES:**

- Accurate records of negotiation sessions to be kept and made available for public inspection
- Joint ratification of settlement at open meeting required
- State has a fire fighters statute. *Idaho Code*, Chapter 138

**ILLINOIS**  
(K-12, ESP, HE: M)

**Statute:**

Public Act 83-104

**Coverage:**

All certified K-12 teachers, higher education faculty, non-teaching professionals and support personnel of a school district, public community college district, state college/university or state agency whose major function is providing education services

**Exclusions:**

Supervisors, managerial, confidential, short-term employees, students, part-time employees, elected and appointed officials

**Administrating Agency:**

Illinois Educational Labor Relations Board (IELRB)

**Unit Determination:**

IELRB

**Unit Determination Criteria:**

- Community of interest, including skills, functions, degree of functional integration
- Interchangeability and contact among employees, common supervisors, wages, hours and other working conditions
- Desires of employees

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

Duty to bargain and reduce an agreement to writing

**Scope of Bargaining:**

Wages, hours and terms and conditions of employment as well as the impact thereof and any matters bargained over prior to effective date of this Act

**Management Rights:**

Not required to bargain over areas of inherent managerial policy such as areas of discretion or policy as the functions of the employer, standards of service, overall budget, organizational structure, selection and direction of employees

**Employee Rights:**

- Organize, form, join or assist employee organizations or refrain from so doing
- Bargain collectively and engage in concerted activities
- Present grievances

**Grievance Procedure:**

Grievance procedure culminating in final and binding arbitration is negotiable

**Union Security:**

- Dues deduction mandatory
- Agency shop/fair share fee permitted

**Unfair Labor Practices:****UNION**

- Interfere with, coerce or restrain employees in the exercise of their rights guaranteed under this Act
- Restrain or coerce an employer in selection of representatives
- Refuse to bargain collectively
- Refuse to reduce to writing or sign an agreement
- Refuse to comply with provisions of a binding arbitration award
- Violate any rules and regulations promulgated by the IELRB

**MANAGEMENT**

- Interfere with, restrain or coerce employees in the exercise of rights guaranteed under this Act
- Dominate or interfere with the formation, existence or administration of a union
- Discriminate in hiring, tenure or any term or condition of employment to encourage or discourage membership in an employee organization
- Discharge or discriminate against employees for exercising their rights under this Act
- Refuse to bargain collectively or reduce to writing and sign an agreement
- Violate rules and regulations of IELRB
- Refuse to comply with provisions of a binding arbitration award

**Impasse Procedure:****MEDIATION**

- If no agreement within 90 days of the start of a school year, parties must notify IELRB of status of negotiations
- If no agreement within 45 days either party may petition IELRB for mediation or mediation may be initiated by IELRB
- Mediator may engage in factfinding and render a written report with recommendations
- Costs to be shared by parties

**ARBITRATION**

Final and binding arbitration is at the discretion of the parties

**Strike Policy:**

Strikes are permitted if following conditions are met:

- Employees are represented by an exclusive bargaining representative
- Mediation is unsuccessful
- Five days have elapsed since notice of intent is issued to employer, regional superintendent and IELRB

- The collective bargaining agreement has expired
- The parties have not mutually submitted the unresolved issues to arbitration
- Employer may initiate judicial relief if strike is or has become a clear and present danger to the health or safety of the public
- Defense against such relief can be evidence of an un-

fair labor practice or lack of "clean hands by the educational employer"

**NOTES:**

- Contribution to mutually agreeable non-religious organization is permitted for bona fide religious objection to fair share fee

**INDIANA  
(K-12: ..i)**

**Statute:**

*Indiana Code*, Title 20, Article 7.5, Section 14, L. 1973; as amended by SB 255, L. 1973; SB 12, L. 1974; as last amended by PL 6, L. 1978

**Coverage:**

Certified K-12 employees

**Exclusions:**

Supervisors, confidential, security, non-certified and part-time employees

**Administrating Agency:**

Indiana Education Employment Relations Board (IEERB)

**Unit Determination:**

IEERB

**Unit Determination Criteria:**

- Efficient administration of school operations
- Community of interest
- Avoid over fragmentation
- Recommendations of the parties

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

Duty to bargain and reduce an agreement to writing

**Scope of Bargaining:**

• Salaries, wages, hours and salary and wage related fringe benefits

• "(S)hall discuss and may...bargain collectively" on curriculum development and revision; textbooks, teaching methods; selection, assignment and promotion of personnel; student discipline, expulsion, or supervision; pupil-teacher ratio; class size, budget appropriations and other conditions of employment

**Management Rights:**

- Direct work
- Establish policy
- Suspend or discharge employees
- Maintain efficient operation of schools

- Relieve employees due to lack of work
- Take actions necessary to carry out mission of school
- Hire, promote, demote, transfer, assign or retain employees

**Employee Rights:**

- Form, prevent or assist unions or refrain from so doing
- Bargain collectively
- Engage in collective activities

**Grievance Procedure:**

Grievance procedure culminating in final and binding arbitration is negotiable

**Union Security:**

Dues deduction mandatory

**Unfair Labor Practices:**

**UNION**

- Interfere with, restrain or coerce employees or employer's representatives
- Cause a school employer to discriminate or commit a ULP
- Refuse to bargain
- Fail or refuse to comply with this Act

**MANAGEMENT**

- Interfere with, restrain or coerce employees
- Dominate, interfere with, assist in formation of or give financial assistance to an employee organization
- Discriminate in hiring, tenure or term and condition of employment to encourage or discourage union membership
- Discharge or discriminate because employee filed a complaint under this Act
- Refuse to comply with this Act
- Refuse to bargain or discuss in good faith

**Impasse Procedure:**

**MEDIATION**

- At request of either party
- IEERB appoints if no agreement within 75 days of budget submission date
- No cost to parties

**FACTFINDING**

- At request of either party
- Report made public after 10 days
- Factfinder may mediate
- Mediation can be bypassed
- No cost to either party

**FACTFINDING AWARD CRITERIA**

- Past agreement
- Comparison of wages with other employee groups performing similar work in private or public sector
- Public interest

- Financial impact on the employer

**Strike Policy:**

- Prohibited
- Union loses dues deduction for one year
- Employees may not be paid for strike days

**NOTES:**

- Strike days do not have to be made up
- Contracts may not include provisions in conflict with benefits established by federal or state law
- Contracts providing for deficit financing are void

**IOWA**  
(K-12, ESP, HE: M)

**Statute:**

*Code of Iowa*, Chapter 20, Section 20.1 to 20.28, as enacted by SF 531, L.1974; as amended by HF 634, L. 1977; as last amended by Ch. 1037, L. 1978

**Coverage:**

All public employees of the state, school boards, commissions, agencies and departments

**Exclusions:**

Elected officials, commission/board members, employer representatives; supervisors including principals and assistant principals, part-time student employees, temporary employees, judges and employees of judges and courts, national guard, patients or inmates of state or local institutions; and employees of the State Department of Justice and the Commission for the Blind

**Administrating Agency:**

Public Employment Relations Board (PERB)

**Unit Determination:**

PERB

**Unit Determination Criteria:**

- Efficient administration
- Community of interest
- History and extent of employee organization
- Geographical location
- Recommendation of the parties
- Professionals in separate unit unless majority vote for a mixed unit

**Recognition:**

Exclusive, by election

**Bargaining Rights:**

Duty to bargain and to reduce an agreement to writing

**Scope of Bargaining:**

- Wages, hours, vacations, insurance, holidays, leaves, shift differentials, overtime, supplemental pay, seniority, transfer procedures, job classification, health and safety, evaluation, staff reduction, inservice training, and other mutually agreed upon matters
- Merit system and retirement excluded from bargaining

**Management Rights:**

- Direct work of employees
- Hire, promote, demote, transfer, assign, and retain employees
- Maintain efficiency
- Relieve employees from duty due to lack of work
- Determine means to implement operations
- Prepare budget
- Exercise all power granted by law

**Employee Rights:**

- Organize, form, join or assist unions or refrain from so doing
- Negotiate collectively or engage in other concerted activities
- Meet and adjust individual complaints with employer

**Grievance Procedure:**

- Grievance procedure mandatory
- May negotiate final binding arbitration

**Union Security:**

Dues deduction permitted

**Unfair Labor Practices:****UNION**

- Refuse to bargain in good faith
- Interfere with, restrain or coerce employees or an employer's representative

- Refuse to participate in impasse procedures in good faith
- Engage in a strike
- Engage in picketing preventing entrance or egress to a facility
- Picketing in support of a job action against a public employer

#### MANAGEMENT

- Refuse to negotiate in good faith
- Interfere with, restrain or coerce employees
- Dominate or interfere in the administration of an employee organization
  - Discriminate in hiring, tenure or conditions of employment to encourage or discourage membership in an employee organization
  - Discharge or discriminate against an employee for filing or petitioning under this Act
  - Deny a union its rights
  - Refuse to participate in statutory impasse procedures
  - Lockout employees

#### Impasse Procedure:

Parties must make an effort to agree upon an impasse procedure. If the parties cannot agree the following procedure shall be used

#### MEDIATION

Mediator is appointed by PERB at request of either party 120 days prior to budget submission date

#### FACTFINDING

- Factfinder appointed by PERB ten days after mediator is appointed
  - Report is due in 15 days
  - Report is made public if there is no agreement after ten days

#### ARBITRATION

- At request of either party
- Tripartite panel or single arbitrator
- Final offer or factfinders report on an issue by issue basis
  - Arbitrator may not mediate
  - Award is due within 15 days of budget certification date, whichever comes first
  - Costs shared equally by parties
  - Hearings must be open to the public

#### ARBITRATION AWARD CRITERIA

- Post bargaining history leading up to an agreement
- Comparisons with other public employees doing similar work
  - Consideration of factors peculiar to area or job
  - Interest and welfare of the public
  - Ability to pay
  - Effect of award on standard of service
  - Employer's power to levy taxes or appropriate funds to finance award
  - Other relevant factors

#### Strike Policy:

- Prohibited
- Strike may be enjoined
- Employee subject to a daily fine of up to \$500 and/or 6 months in jail
  - Employee ineligible for reemployment for one year
  - Union loses certification for one year
  - Union subject to \$10,000 fine

#### CASE LAW:

##### FUNDING

While the state legislature is not legally bound to appropriate funds to support an agreement, the legislature does have an equitable obligation to ensure funding. *O.A.G.*, #81-3-21, 3/21/81

##### SCOPE OF BARGAINING

- Post education credit hours to advance a teacher along the salary schedule is a permissive subject of bargaining as the nature of credit hours relates to qualifications. The determination of what courses shall qualify is a management prerogative. *Charles City Education Ass'n v. PERB*, 109 LRRM 2249 [1980]

- Medical and health insurance payments for both employees and dependents is a mandatory subject of bargaining. Dependent coverage is a benefit contemplated under the Act. Investigation and processing of grievances during worktime is not a mandatory subject of bargaining. Such activities do not fall under the definition of "grievance procedure" as contemplated under the Act and therefore constitute a violation of the employer's right to direct employees. *Charles City School District v. PERB*, 100 LRRM 3163 [1979] affirming in part and reversing in part 98 LRRM 2696

- The terms "wages" and "supplemental pay" have a restrictive and narrow application under the Act. Therefore daily clothing allowances are not mandatory subjects of bargaining as initially determined by PERB. *City of Fort Dodge v. PERB*, 100 LRRM 3218 [1979] affirming 97 LRRM 2856

- Negotiation of transfer and staff reduction procedure provisions also include negotiation of substantive criteria. *Saydel Educ. Ass'n v. Iowa PERB*, 333 N.W. 2d 486 [1983]

##### PERB DECISIONS: REVIEW

Although Sec. 20.11(5) of the Act provides for a 10 day limitation to appeal a PERB decision a party may utilize the Administrative Procedures Act which allows 30 days to appeal a PERB decision. *Jackson County Public Hospital v. PERB*, 102 LRRM 2857 [1979]

##### GRIEVANCES

A public employer is under no obligation to adjust an individual grievance without employee organization intervention. *O.A.G.*, #80.6.16, 6/24/80

##### UNION SECURITY

- Payroll deductions of dues cannot be used for political contributions by the employee organization PAC. *O.A.G.*,

#78-1-8, 1/1/78

• An employer is only bound, under the Act, to deduct the dues of the exclusive representative certified by the PERB. Therefore parties to an agreement may negotiate a provision that prohibits dues deduction for a minority organization. *O.A.G.*, No. 79-3-1, 3/7/79

#### OPEN MEETING LAW

Teacher negotiating sessions are exempt by reference (Sec. 20.17[3]) from the state's opening meeting law. The public's right to know is protected (Sec. 20.17[4]) as the final agreement must be made public. *Burlington School District v. PERB*, 99 LRRM 2394 [1978] affirming 96 LRRM 2571

#### JUDICIAL REVIEW: ENFORCEABILITY

The authority of the court to review is limited to ascertaining whether the issue in dispute is one that the parties agreed to arbitrate and whether the award draws its essence from the contracted binding arbitration provision. *Sergeant Bluff-Luton Educ. Ass'n v. School District 103* LRRM 2247 [1979]

#### IMPASSE PROCEDURE

• The state legislature may delegate authority to provide for binding arbitration of impasse items provided sufficient safeguards are present as found in Sec. 20.22(9).

Therefore the provision for binding arbitration of impasse is constitutional. *O.A.G.*, No. 75-9-6, 9/4/75

• Before an employer-employee organization advance a dispute through the statutory impasse procedure the prior step(s) must be completed. *O.A.G.*, No. 75-11-16, 11/1/75

• The Act neither requires parties to a labor dispute to seek a mediator through PERB nor authorizes PERB to interfere with an independently established impasse resolution procedure. *O.A.G.*, No. 78-1-10, 1/16/78

• The term "impasse item" as used in the Act refers to a category of negotiable items identified in the Act upon which the parties disagree and which the parties must submit a final offer to "an arbitrator on a subject category basis." *West Des Moines Educ. Ass'n v. PERB*, 98 LRRM 2375 [1978]

#### NOTES:

• Any expression of views, arguments or opinion, written or oral or in any visual form is not an unfair labor practice "if such expression contains no threat of reprisal or force or promise of benefit"

• Contracts and arbitration decisions are not to be inconsistent with statutory limitations on public employer funds

• Iowa has a right to work statute. *Iowa Code*, Section 736 A.3

### KANSAS (K-12, CC: M)

#### Statute:

*Kansas Statutes Annotated*, Chapter 284, Section 72.5411 to 72.5437, as enacted by HB 1647, L. 1970; as amended by HB 3099, L. 1976; Ch. 248, L. 1977; as last amended by Ch. 220, L. 1980

#### Coverage:

All K-12, community college, special education cooperatives, and vocational-technical school teachers

#### Exclusions:

- Administrators of a school district for which an administrator's certificate is required
- Administrator of a community college or vocational technical schools who serves in a supervisory capacity

#### Administrating Agency:

Secretary of Human Resources (SHR)

#### Unit Determination:

SHR

#### Unit Determination Criteria:

- Community of interest
- Desire of employees and/or established practice, in-

cluding extent of organization

- All classroom teachers must be included in a teacher unit

#### Recognition:

Exclusive, voluntary or by election

#### Bargaining Rights:

Duty to bargain and reduce to writing in form of a master contract or supplemental individual contract

#### Scope of Bargaining:

Terms and conditions of professional service are defined as: salaries, wages, hours and amounts of work, vacation, holiday, sick and other leave, holidays, retirement, insurance benefits, wearing apparel, overtime, jury duty, grievance procedure, discipline, resignations, termination of contracts, supplemental pay, extended/sabbatical leave, nonrenewal, re-employment of professional employees, terms and form of individual contract, probationary period, evaluation procedures, certain union privileges including but not limited to voluntary dues deduction, use of facilities, access to information and other mutually agreed upon matters

**Management Rights:**

- Statutory and state constitutional rights exempted
- School year is not negotiable

**Employee Rights:**

- Form, join or assist unions
- Participate in negotiations
- Refrain from any concerted activities

**Grievance Procedure:**

- Grievance procedure must be negotiated
- Binding arbitration permitted

**Union Security:**

Dues checkoff is negotiable

**Unfair Labor Practices:****UNION**

- Interfere with, restrain or coerce employees
- Interfere with employer's rights or selection of his representatives
- Refuse to bargain in good faith
- Refuse to participate in impasse procedure in good faith
- Engage in strikes or picketing

**MANAGEMENT**

- Interfere with, restrain or coerce employees
- Dominate, interfere with or assist in the formation of any union
- Discriminate in regard to hiring, tenure, or condition of employment to encourage or discourage union membership
- Discharge or discriminate against an employee for petitioning or filing complaints under this Act
- Refuse to negotiate
- Deny an employee organization its rights under this Act
- Refuse to participate in dispute resolution procedures
- Engage in a lockout

**Impasse Procedure:**

- Parties shall petition SHR to determine if an impasse exists
- SHR initiates mediation and factfinding
- Factfinding report nonbinding
- All costs are shared by parties
- Board of education has final decision

**Strike Policy:**

Prohibited

**CASE LAW:****BARGAINING RIGHTS**

Act requires a Board to negotiate in good faith on terms and conditions of employment and reduce agreement to writing. Act does not permit an employer to meet and confer with individuals

"Terms and conditions of professional service" under the Act relate to matters that directly impact an individual

teacher's well-being as opposed to affecting the operation of schools. *NEA v. Shawnee Mission Board of Educ.*, 84 LRRM 2223 [1973]

**UNION RIGHTS**

The right of a union to sue or be sued or file a complaint is inferred from the grant made to professional employees to participate in professional negotiations via representatives of their choosing. *In District Teachers Ass'n v. Board of Educ.*, 90 LRRM 2652 [1975]

**EXPIRATION OF AGREEMENT: STATUS OF BENEFITS: SUPPLEMENTAL CONTRACTS**

- Where agreement is not reached on a re-opened contract, teachers may work the second year of said contract either under a board issued individual contract or under the continuing contract provisions of the Act which provides for automatic renewal of a teachers contract unless notified to the contrary. Under the Act teachers move along on the salary schedule even if salaries are an item of dispute. *NEA-Wichita v. Board of Education*, 101 LRRM 2602 [1979]

- Where parties fail to reach agreement on a new contract, a teacher electing to continue employment under the Act's continuing contract provision can have terms and conditions of the previous years contract incorporated in the new individual contract issued by the board. The board also has the right to incorporate new unnegotiated items and the board may condition acceptance of the new individual contract on acceptance of a supplemental contract as under this condition teachers are guaranteed at least the basic terms of the prior agreement under which they worked. *Riley County Educ. Ass'n v. School District*, 101 LRRM 2607 [1979]

- Teachers are not entitled to receive salary increases under an expired contract as to hold otherwise "would permit teachers to receive increases year after year under an expired agreement." *NEA-Goodland v. Board of Educ. USD 352*, 101 LRRM 2773 [1979]

**UNION SECURITY**

Teachers may be paid for time spent away from teaching duties for negotiations or for attendance at conventions, workshops and seminars which are determined as related to professional service and if mutually agreed between the board and the representative. *O.A.G., #77-213, 6/28/77*

**SCOPE OF BARGAINING**

- Class size and student discipline are not mandatory subjects of bargaining. *NEA-Topeka v. USD 501*, 101 LRRM 261 [1979]

- Reproduction of agreement, payroll deduction, preparation time and number of faculty meetings are negotiable. Access to financial information is a matter of right and therefore not negotiable. Extension of rights and privileges to a minority association is not negotiable as the subject of exclusivity is pre-empted by statute. *NEA-Kansas City v. School District*, 105 LRRM 2772 [1980]

**IMPASSE PROCEDURE**

- Secretary of Human Resources is the appropriate agency to initiate and participate in the mediation process, not the state board of education whose basic mission is to equalize and promote quality education. *NEA-Fort Scott v. Board of Educ. USD 234*, 101 LRRM 2827 [1979]

- Professional employees are not barred from making proposals or positions to a board of education. Such proposals (or listening to) do not constitute negotiations.

O.A.G. #81-185, 8/11/81

**SENIORITY RIGHTS: LAYOFF BINDING EFFECT OF CONTRACT**

Upon ratifying a contract containing a RIF provision requiring seniority based layoff, a community college could not ignore seniority on the grounds that it has the absolute right to terminate and therefore not bound by the contract. *Bratright v. Board of Trustees*, 101 LRRM 2295 [1979]

**KANSAS  
(HE: M)****Statute:**

*Kansas Statutes Annotated*, Chapter 264, Section 75-4321 to 754337, as enacted by SB 333, L. 1971; as amended by SB 509, L. 1972; HB 1531, L. 1973; SB 673, L. 1974; Ch. 370, L. 1976; SB 99, L. 1977; Ch. 150, L. 1980; as last amended by Ch. 345, L. 1981

**Coverage:**

All public employees employed by state agencies including postsecondary professional and support staff

**Exclusions:**

Supervisors; teachers (K-12); elected officials; managerial and confidential employees

**Administrating Agency:**

- Public Employee Relations Board (PERB)
- Secretary of Human Resources (SHR)

**Unit Determination:**

PERB

**Unit Determination Criteria:**

- Efficient administration of the agency
- Community of interest
- History and extent of organization
- Geographical location
- Effects of over fragmentation
- Recommendations of parties
- Separate units of professionals from non-professionals unless professionals vote for inclusion
- Separate units for uniformed and protective services

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

Duty to bargain and reduce an agreement to writing

**Scope of Bargaining:**

Salaries, wages, hours of work, vacations, sick and injury leave, holidays, retirement, insurances, prepaid legal services, wearing apparel, premium pay, shift differential, jury duty and grievance procedure

**Management Rights:**

- Any subjects preempted by federal or state statute or municipal ordinance
- Civil services and merit system rules and regulations
- Direct employees
- Hire, fire, promote, demote, transfer or assign and retain employees
  - Suspend or discharge for cause
  - Maintain efficiency of agency
  - Relieve employees of duties for lack of work or other legitimate reason

**Employee Rights:**

Form, join, and participate in unions or refrain from so doing

**Grievance Procedure:**

- Grievance procedure is negotiable
- Binding arbitration is permitted

**Union Security:**

Dues deduction is permitted

**Unfair Labor Practices:****UNION**

- Interfere with, restrain, or coerce employees
- Interfere with employer's rights or selection of his representatives
- Refuse to meet and confer in good faith
- Avoid participation in impasse procedure
- Strike
- Endorse candidates for office or make political contributions

**MANAGEMENT**

- Interfere with, restrain or coerce employees
- Dominate, assist or interfere with the formation of a union
- Discharge or discriminate against employees for exercising rights guaranteed under this Act
- Refuse to meet and confer in good faith
- Deny rights accompanying certification
- Deliberately avoid designated impasse procedure
- Institute a lockout

**Impasse Procedure:**

Parties may agree to an impasse procedure. If none is agreed upon, the following procedure is prescribed:

**MEDIATION**

- Either party requests or PERB appoints a mediator
- Mediator obtained from SHR
- SHR bears cost of mediation

**FACTFINDING**

- After 7 days of mediation, a factfinder is appointed by SHR at PERB request
- Report due 21 days from appointment and made public after 14 days
- Costs borne by SHR
- If no resolution after 40 days or 14 days after budget submission date, local governing body may take a tion

considering the factfinder's report in its decision

- State or its agencies excluded from this provision

**Strike Policy:**

Prohibited

**CASE LAW:****SCOPE OF BARGAINING**

Mandatory subjects of bargaining defined. The primary employer identified as Board of Regents. *Kansas Board of Regents v. Pittsburg State University Chapter, Kansas-NEA*, 233 Kan 801, 667 P. 2d 306 [1983]

**NOTES:**

- Contract duration may not exceed 3 years
- Kansas has a right to work statute applicable to public employees

**KENTUCKY**

Kentucky does not have a statute granting collective bargaining rights to teachers

**CASE LAW:****BARGAINING RIGHTS:**

- Board of Trustees of the University of Kentucky may but is not required to contractually commit itself to a salary schedule, employee retirement plan, work schedule and other conditions of employment with authorized representatives (including unions) of groups of employees. *Board of Trustees of the University of Kentucky v. AFSCME*, 571 SW 2d 616 [1978]
- A county board of education has no authority to enter into an agreement recognizing one organization designated as bargaining agent by one group of employees as the exclusive representative of all employees. *Fayette County Board of Education v. Hardy*, 626 SW 2d 217 [1980]
- Public school teachers have no legal authority to engage in collective bargaining. *O.A.G.*, 75-126, 1/27/75
- The question of collective bargaining between a teachers' organization and a board of education is for the legislature to decide and cannot be submitted to a referen-

dum vote of the citizens in the school district. *O.A.G.*, 75-75, 1/27/75

- The Governor of Kentucky has no authority to extend negotiation rights to public school teachers by Executive Order. *O.A.G.*, 75-126, 1/27/75

**STRIKES**

- Strikes are prohibited. *Jefferson County Teachers Ass'n v. Board of Education*, 463 SW 2d 627 [1971]
- Public school teachers do not have a right to strike. *O.A.G.*, 75-126, 1/27/75

**OPEN MEETING**

Collective bargaining sessions may be closed, but public labor policy meetings must be open to the public. *O.A.G.*, 75-456, 1/76

**NOTES:**

- Firefighters Bargaining, *Kentucky Revised Statutes*, Chapter 345, Section 345.010-345.130
- Policemen Bargaining, *Kentucky Revised Statutes*, Chapter 78, Section 1-3

## LOUISIANA

**Statute:**

Louisiana does not have a statute granting collective bargaining rights to public employees

**CASE LAW:  
BARGAINING**

- Teachers and other public employees may engage in collective bargaining with their employers. *O.A.G.*, #74-413, 4/4/74
- Negotiated agreements may not violate any law and the subject matter must be in an area which the employer is lawfully authorized to negotiate. *Zbosen v. Dept. of Highways*, La. 19 Jud. Dist. Ct., #163,480 [1973]
- State law neither requires nor prohibits collective bargaining with municipal employee unions. *Beauboeuf v. Delgado College*, 303 F. Supp. 841 aff'd---F. 2d 470 (5 Cir. 1970)

- An agreement between a city and fire fighters unions may be enforced in court. *New Orleans Firefighters Ass'n v. City of New Orleans*, 204 So. 2d 690 (4th Cir. 1967)

**RECOGNITION**

In the absence of statute, union recognition by a state agency is not a question of law but an administrative policy decision. *Opinion of Special Counsel to Atty. Gen.* 4/3/72

**NOTES:**

- Dues deduction permitted for all public employees
- State has a right to work law
- State requires parishes and local school boards to provide teachers with a grievance procedure. *Louisiana Statutes Annotated*, Title 17, Section 100.4 (A-E)

MAINE  
(K-12, ESP: M)**Statute:**

*Maine Revised Statutes Annotated*, Title 26, Chapter 9-A, Section 961 to 974, as enacted by Ch. 424, L. 1969; as amended by Ch. 578, L. 1970; Ch. 609, L. 1972; Ch. 620, L. 1972; Chs. 458, 533, 610, 617, Ls. 1973; Ch. 788, L. 1974; Chs. 9, 561, 564, 623, Ls. 1975; Chs. 697, 717, 776, Ls. 1976; Chs. 479, 553, Ls. 1977; Chs. 674, 696, Ls. 1978; Chs. 501, 199, 125, Ls. 1979; as last amended by Chs. 137, 524, Ls. 1981

**Coverage:**

Any municipal or political subdivision employee, K-12 level, professional and support

**Exclusions:**

Elected, appointed, confidential, superintendent, 6-month probationary, temporary, seasonal and on-call employees

**Administrating Agency:**

- Maine Labor Relations Board (MLRB)
- MLRB administers Maine Board of Arbitration and Conciliation, and Panel of Mediators

**Unit Determination:**

MLRB

**Unit Determination Criteria:**

- Insuring employees fullest freedom
- Supervisors excluded from units that include nonsupervisory employees
- Community of interest
- Professionals must vote for inclusion in nonprofessional units

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

Duty to bargain and reduce an agreement to writing

**Scope of Bargaining:**

- Wages, hours, working conditions and grievance arbitration
- Meet and confer on matters of educational policy

**Management Rights:**

Merit system appointments and promotions

**Employee Rights:**

To form, join and participate in a labor organization or exercise any other right under this Act

**Grievance Procedure:**

Grievance procedure culminating in binding arbitration is bargainable

**Union Security:**

- No specific provision
- Dues deduction permitted by inference

**Unfair Labor Practices:****UNION**

- Restrain, coerce or interfere with employees in exercise of rights under this Act, or a public employer in selection of his representative
- Refuse to bargain
- Engage in a work stoppage, slowdown, strike or blacklisting of a public employer

**MANAGEMENT**

- Interfere with, restrain or coerce employees in exercise of their rights under this Act
- Discriminate in hiring, tenure or condition of employment to encourage or discourage union membership
- Dominate or interfere with the formation of a union
- Discharge or discriminate against an employee for filing a complaint or testifying under this Act
- Refuse to bargain
- Blacklist an employee or organization

**Impasse Procedure:**

**MEDIATION**

- Either party requests or MLRB or Executive Director initiates
- Costs shared equally

**FACTFINDING**

- At request of either party, MLRB appoints 3-member panel
- Parties may agree to an acceptable factfinding procedure
- Mediator may not be factfinder
- Report publicized after 30 days
- Factfinding may be waived by joint request
- Costs shared equally

**ARBITRATION**

- If dispute is unresolved 45 days from issuance of factfinding report, parties may mutually agree to arbitration or petition MLRB for arbitration
- Tripartite panel

- Mediators/factfinders cannot be arbitrators
- Advisory award on monetary items, binding award on all other items
- Cost shared equally

**Strike Policy:**  
Prohibited

**CASE LAW:**  
**UNION SECURITY**

Agency shop is illegal. *Churchill v. Teachers Association*, 97 LRRM 2162 [1977]

**BARGAINING: LACK OF GOOD FAITH**

Lack of good faith bargaining is demonstrated by a school district that delayed raising an issue until after the expiration of the agreement and conclusion of factfinding. *Caribou School Dept. v. Teachers Ass'n*, 102 LRRM 2387 [1979]

**SCOPE OF BARGAINING**

Mandatory and permissive subjects of bargaining are defined. State law is not unconstitutional owing to lack of arbitral standards. Arbitration is a proper and intended delegation of authority in limited nonpolicy areas. *City of Biddeford v. Biddeford Teachers Ass'n*, 304, A. 2d 387 [1973]

**NOTES:**

Neither party may publicize initial written proposal until ten days after proposal has been submitted

**MAINE**  
**(HE: M)**

**Statute:**

*Maine Revised Statutes Annotated*, Title 26, Chapter 12, Section 1021 to 1035, as enacted by Ch. 603, L. 1975; as amended by Chs. 671, 697, 717, Ls. 1976; Ch. 581, L. 1977; Ch. 641, L. 1978; Chs. 561, 125, Ls. 1979; as last amended by Chs. 127, 153, Ls. 1983

**Coverage:**

Employees of the University of Maine, Maine Maritime Academy, vocational-technical institute and schools for practical nursing

**Exclusions:**

Appointed officials, Vice President, Dean, Director, or member of Chancellor's or Superintendent's staff; confidential employees working on collective bargaining; probationary employees; classified employees of vo-tech and nursing schools

**Administrating Agency:**

Maine Labor Relations Board (MLRB)

**Unit Determination:**

Statute

**UNIVERSITY OF MAINE**

- Faculty
- Professional and administrative staff
- Clerical, office, laboratory and technical
- Service and maintenance
- Supervisory
- Police

**MAINE MARITIME ACADEMY**

- Faculty
- Administrative staff
- Classified employees

**VOCATIONAL - TECHNICAL AND PRACTICAL NURSING SCHOOL(S)**

- Faculty and instructors
- Administrative staff

**Unit Determination Criteria:**

In event of a dispute the community of interest and work tasks are considered

MLRB may create additional units using the following criteria:

- Community of interest
- Legislative intent to avoid over fragmentation
- Intent to provide employees with their full rights under the law

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

Duty to bargain and reduce an agreement to writing

**Scope of Bargaining:**

Wages, hours, working conditions and grievance arbitration

**Management Rights:**

No Specific Provision

**Employee Rights:**

To join, form or participate in unions or in exercise of any other right under this Act

**Grievance Procedure:**

Grievance procedure culminating in binding arbitration is bargainable

**Union Security:**

- Dues checkoff is negotiable
- Service fees permitted
- Closed shop prohibited

**Unfair Labor Practices:****UNION**

- Interfere with, restrain or coerce employees in the exercise of their rights under this Act or interfere with the selection of employer representatives
- Refuse to bargain
- Engage in a work stoppage, slowdown or strike
- Blacklist an employer to prevent him from filling vacancies

**MANAGEMENT**

- Interfere with, restrain or coerce employees in exercise of their rights under this Act

- Discriminate in hiring, tenure or condition of employment to encourage or discourage union membership
- Dominate or interfere with the formation, existence or administration of an employee organization
- Discharge or discriminate against an employee for signing or filing a petition or complaint under this Act
- Refusing to bargain
- Blacklist an employee or organization in order to deny employment

**Impasse Procedure:****MEDIATION**

- At request of either party or MLRB initiation
- State pays for first 3 days, thereafter shared equally

**FACTFINDING**

- Request of either party
- MLRB assigned panel
- Mediator may not be factfinder
- Report issued within 30 days after conclusion of hearing
- Costs shared equally

**ARBITRATION**

- Either or both parties may request
- Single or tripartite panel
- Award due within 60 days
- Award advisory only on financial items
- Cost shared equally

**ARBITRATION AWARD CRITERIA**

- Interest and welfare of students and public
- Ability to pay
- Comparison with other private or public sector employees performing similar work
- Overall compensation
- Other factors normally considered
- Need for qualified employees
- Conditions of employment in similar occupations
- Need to maintain appropriate relationships between occupations
- Need to establish fair and reasonable conditions in relation to job qualifications and responsibilities

**Strike Policy:**

Prohibited

**NOTES:**

Panel of students may meet and confer with parties prior to bargaining and at reasonable times during negotiations with university bargaining team

**MARYLAND  
(ESP: MC)**

**Statute:**

*Maryland Annotated Code*, Article 77, Section 160A, as enacted by Chapter 719, L. 1974; as last amended by Ch. 799, L. 1975

**Coverage:**

Noncertified employees of public schools

**Exclusions:**

- Managerial, confidential, appointed and those involved in labor relations
- Employees of Carroll, Frederick, Howard, Somerset, Wicomico, and Worcester counties

**Administrating Agency:**

- Local school board
- State Department of Education

**Unit Determination:**

State Department of Education

**Unit Determination Criteria:**

- Joint deliberation of the parties
- No more than 3 units in a county unless more than three existed prior to enactment of this Chapter
- No mixed unit of supervisors and non-supervisory employees

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

Duty to bargain and reduce an agreement to writing

**Scope of Bargaining:**

Salaries, wages, hours, and other working conditions

**Management Rights:**

No Specific Provision

**Employee Rights:**

Form, join and participate in an employee organization or refrain from so doing

**Grievance Procedure:**

Grievance procedure culminating in final and binding arbitration is negotiable

**Union Security:**

Dues deduction is permitted

**Unfair Labor Practices:**

**MANAGEMENT**

Interfere with, intimidate, restrain, coerce or discriminate against employees

**Impasse Procedure:**

- Upon mutual request of parties and a determination by state superintendent that an impasse exists, assistance is provided to resolve the dispute
  - All costs are shared equally

**Strike Policy:**

- Prohibited
- Penalties include loss of recognition for 2 years and loss of dues deduction for one year

**MARYLAND  
(K-12: M)**

**Statute:**

*Maryland Annotated Code*, Article 77, Section 160 as enacted by Ch. 405, L. 1969; as amended by Ch. 630, L. 1972; as last amended by Ch. 713, L. 1978

**Coverage:**

Certified employees of public schools, including persons of equivalent status in Baltimore City and substitutes in Montgomery County

**Exclusions:**

Superintendents and those designated as employer negotiators

**Administrating Agency:**

- Local school boards
- State Department of Education

**Unit Determination:**

Jointly by the parties

**Unit Determination Criteria:**

- No more than 2 units in a county or Baltimore City, unless more than 2 units existed prior to enactment of this Chapter
  - All teachers must be in one unit

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

Duty to bargain and reduce an agreement to writing

**Scope of Bargaining:**

Wages, salaries, hours and other working conditions, excluding tenure

**Management Rights:**  
No Specific Provision

**Employee Rights:**  
To form, join and participate in unions or refrain from so doing

**Grievance Procedure:**  
Grievance procedure culminating in final and binding arbitration is negotiable

**Union Security:**  
Dues checkoff is permitted

**Unfair Labor Practices:**  
**MANAGEMENT**  
To interfere with, intimidate, restrain, coerce, or discriminate against employees

**Impasse Procedure:**  
• At request of either party, state superintendent determines that impasse exists  
• State Department of Education provides assistance at

request of both parties  
• At request of either party a tripartite panel may be named to resolve differences and issue an advisory report

**Strike Policy:**  
• Prohibited  
• Penalties: Loss of dues checkoff for one year and recognition for 2 years

**CASE LAW:**  
**STRIKE PENALTIES**  
Strike penalties are mandatory. *O.A.G.*, 8/15/74

**NOTES:**  
• Maryland has a statute prescribing a grievance procedure for state employees. *Maryland Annotated Code*, Chapter 727, Section 52  
• Montgomery County Board of Educ. is permitted to negotiate an agency fee. *Maryland Annotated Code*, Section 6-407  
• Prince George's County has a provision for an impartial agency. *Prince George's Ordinance and Resolutions*, Chapter 13-A

**MASSACHUSETTS**  
**(K-12, ESP, HE: M)**

**Statute:**  
*Massachusetts General Laws Annotated*, Chapter 150E, Section 1 to 15, as enacted by SB 1929, L. 1973; as amended by Chs. 354, 526, 589, Ls. 1974; Chs. 591, 689, Ls. 1975; Chs. 278, 347, 753, 788, 903, 937, Ls. 1977; Ch. 562, L. 1978; Ch. 594, L. 1979; as last amended by Chs. 351, 484, Ls. 1981

**Coverage:**  
All state, county and municipal employees including K-12 teachers, higher education faculty, nonteaching professional and K-G support personnel

**Exclusions:**  
Elected, appointed officials; members of boards/commissions; managerial and confidential employees; employer representatives; militia or national guard; employees of State Departments of Secretary, Treasurer, Auditor, Attorney General

**Administrating Agency:**  
Massachusetts Labor Relations Commissions (MLRC)  
Massachusetts Board of Conciliation and Arbitration (MBCA)

**Unit Determination:**  
MLRC in cases of dispute

**Unit Determination Criteria:**  
• Community of interest  
• Efficiency of operation  
• Rights of employees to effective representation  
• Professionals in separate units unless they vote for mixed unit  
• Appropriate protective units are employees below rank of: Chief (fire); sergeant (state police); captain (metropolitan police)

**Recognition:**  
Exclusive, voluntary, or by election

**Bargaining Rights:**  
• Duty to bargain and reduce an agreement to writing  
• Maximum three year duration

**Scope of Bargaining:**  
Wages, hours, standards of productivity and performance, and other terms and conditions of employment

**Management Rights:**  
No Specific Provision

**Employee Rights:**  
• To organize, form, join or assist unions  
• Engage in lawful concerted activities  
• Present grievances  
• Refrain from engaging in concerted activities or joining unions

**Grievance Procedure:**

Grievance procedure culminating in binding arbitration is negotiable

**Union Security:**

- Dues deduction mandatory
- Agency shop permitted, by unit vote
- Service fee equal to member dues

**Unfair Labor Practice****UNION**

- Interfere with, restrain or coerce employees or employer's representative
- Refuse to bargain in good faith
- Refuse to participate in impasse procedure in good faith

**MANAGEMENT**

- Interfere with, restrain or coerce employees in exercise of their rights under this Act
- Dominate, interfere with, or assist in the formation, existence of a union
- Discriminate or discharge an employee for petitioning, complaining or testifying under this Act

**Impasse Procedure:****MEDIATION**

- Either party may request MBCA to supply mediator or may name own mediator
- Written report

**FACTFINDING**

- After 20 days either party may request MBCA for factfinder or may name own factfinder
- Factfinder may mediate
- Report due in 30 days, made public 10 days after issuance

**ARBITRATION**

May proceed to mutually agreed to binding arbitration and waive factfinding

**Strike Policy:**

- Prohibited
- Strike penalties include loss of salary, no make-up days, discipline or discharge

**CASE LAW:****STRIKES**

Strikes are prohibited and enjoined. Union may be fined for an illegal strike. *Mass. Labor Relations Comm. v. Boston Teachers Union, Local 66 et. al.*, 97 LRRM 2507 [1978]

**SCOPE OF MLRC AUTHORITY**

An order of MLRC reinstating a college professor discharged for alleged union activities did not go outside scope of MLRC authority. *Mass. Board of Comm. Colleges v. MLRC*, 102 LRRM 2428 [1979]

**DUTY TO BARGAIN**

A school district violated its duty to bargain by unilaterally adopting salary increases before an impasse existed. *Vocational School District v. Mass. Labor Relations Commission*, 102 LRRM 2211 [1979]

**NOTES:**

- If a contract does not contain a grievance procedure with an arbitration clause, MLRC may order arbitration at request of either party
- Union must establish a rebate procedure to return that portion of fee not germane to services as bargaining agent
- Firemen and police are covered by a separate arbitration act. *Massachusetts General Laws Annotated*, Chapter 1078, Section 4A
- The statutes in effect which mandate dues deduction for public employees are:  
City of Boston and Suffolk County (Ch. 335, L. 1969)  
Certain county and municipal employees (Ch. 180, Sec. 176, L. 1970)  
All county state and municipal employees (Ch. 180, Sec. 171, L. 1981)

**MICHIGAN**  
(K-12; ESP; HE: M)

**Statute:**

*Michigan Compiled Laws Annotated*, Section 423-201 to 423-216, as enacted by Act 336, L. 1947; as amended by HB 2953, L. 1965; Act 25, L. 1973; Acts 18, 19, Ls. 1976; Act 266, L. 1977; as last amended by Act 441, L. 1978

**Coverage:**

State, municipal and local employees including K-12 teachers, higher education faculty, nonteaching profes-

sionals and K-G support personnel

**Exclusions:**

All state civil services employees

**Adminstrating Agency:**

Michigan Employment Relations Commission (MERC)

**Unit Determination:**

MERC

**Unit Determination Criteria:**

- History of bargaining
- Avoid over fragmentation
- One person units permitted provided union represents other employees in similar craft or occupation

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

Duty to bargain, and to reduce an agreement to writing upon request of either party

**Scope of Bargaining:**

Wages, hours and other terms and conditions of employment

**Management Rights:**

No Specific Provision

**Employee Rights:**

- To organize, form, join or assist unions
- Engage in lawful concerted activities
- Present grievances

**Grievance Procedure:**

Grievance procedure culminating in binding arbitration is negotia

**Union Security:**

- Dues deduction is bargainable
- Service fees are bargainable

**Unfair Labor Practices:****UNION**

- Restrain or coerce employees or employer's representative
- Cause or attempt to cause an employer to commit an unfair labor practice
- Refuse to bargain

**MANAGEMENT**

- Interfere with, restrain or coerce employees in exercise of their rights
- Refuse to bargain
- Initiate, create, dominate, contribute to or interfere with the formation or administration of a union
- Discriminate to encourage or discourage membership in a labor organization
- Discriminate because an employee testifies or institutes proceedings under this Act

**Impasse Procedure:****MEDIATION**

Either party may request a MERC appointed mediator 30 days prior to expiration of an agreement

**FACTFINDING**

- Either party may request or MERC may initiate factfinding
- Tripartite panel or single neutral
- Hearing within 20 days, report within 10 days from close of hearing
- Costs shared equally

**Strike Policy:**

Prohibited

**CASE LAW:****APPROPRIATE UNIT**

Regents of the University of Michigan are public employers. Interns, residents and post graduate fellows are public employees. *Regents of Univ. of Michigan v. Michigan Employment Relations Comm.*, 82 LRRM 2909 [1973]

**STUDENT PARTICIPATION: NEGOTIATIONS**

Though students have an interest in negotiations between a university and its employees and they may form any lawful association, a university is not required to bargain with a student union and said union has no right to intervene in negotiations. *O.A.G.*, #5022, 8/12/76

**STRIKE RIGHTS**

Striking teachers were properly discharged without a hearing as required by the Tenure Act (MCLA 38.71). Teachers may be reinstated if MERC determines the board committed a ULP or that re-instatement will effectuate the policies of the Act. *Rockwell v. Board of Educ.*, 89 LRRM 2017 [1975]

**AGENCY FEE**

Agency shop fee for nonmembers may not include a fee for political contributions, non-bargaining activities or strike funds. *Garden City School District v. Garden City Educ. Ass'n, MEA and NEA, and Paul E. and Lore M. Chamberlin*, Mich. Employment Relations Comm., Case Nos. C765-344, CU65-45 and CU65-46, 10/19/78

**NOTES:**

State has Police and Fire binding arbitration statute. *Michigan Compiled Laws Annotated*, Section 423.231 to 423.246

## MINNESOTA (K-12, ESP, HE: M)

**Statute:**

*Minnesota Statutes Annotated*, Chapter 33, Section 179.61 to 179.77, as enacted by SB 4, L. 1971; as amended by Ch. 635, L. 1973; Chs. 114, 127, 128, 246, 247, L. 1974; Ch. 102, L. 1976; Chs. 119, 206, 284, Ls. 1977; Chs. 619, 776, 789, Ls. 1978; Chs. 183, 332, Ls. 1979; SF 2085, L. 1980; Ch. 70, L. 1981; Chs. 459, 568, 588, Ls. 1982; Chs. 332, 364, Ls. 1983

**Coverage:**

All public employees, including K-12 teachers, higher education faculty, nonteaching professionals and K-G support personnel

**Exclusions:**

Elected officials, election officers, national guard; emergency, part-time, temporary or seasonal employees, employees of charitable hospitals; Bureau of Mediation staff, supervisory or confidential employees, principals and assistant principals

**Administrating Agency:**

Bureau of Mediation Services (BMS)  
Minnesota Public Employment Relations Board (MPERB)

**Unit Determination:**

BMS may appeal to MPERB

**Unit Determination Criteria:**

- Essential and non-essential employees may not be in the same unit
- One unit of all employees under the same appointing authority
  - Relevant administration
  - Supervisory levels of authority and geographic location
  - History and extent of organization
  - Wishes of the parties

**Recognition:**

Exclusive, by election or verified majority upon joint petition

**Bargaining Rights:**

- Duty to bargain
- Need to confer on policy
- Reduce agreement to writing
- Two year contract duration beginning July 1 of odd years

**Scope of Bargaining:**

- Terms and conditions of employment
- Hours, compensation, fringe benefits excluding pensions
- Personnel policies
- Grievance procedure

- Teachers may meet and confer on items not specified in the scope of bargaining

**Management Rights:**

- Policy, budget, technology, organizational structure and selection of personnel
- Inherent managerial policy

**Employee Rights:**

To form, join or assist unions or to refrain from so doing

**Grievance Procedure:**

Grievance procedure culminating in binding arbitration is mandatory

**Union Security:**

- Dues deduction is mandatory
- Agency shop/fair share fee permitted to a maximum 85% of dues

**Unfair Labor Practice:****UNION**

- Restrain or coerce employees or employers representative
- Refuse to bargain in good faith
- Violate rules and regulations of BMS
- Refuse to comply with an arbitration award
- Call a jurisdictional strike
- Restrain or coerce any person in order to: prevent employees from providing service; refuse to handle goods; recognize a noncertified union; force an employer to cease dealing with another person
  - Damage property or endanger others while on strike
  - Engage in an unlawful strike
  - Force an employer to assign work
  - Attempt to or cause an employer to pay for unperformed services
  - Picket for an unlawful purpose
  - Picket in a manner which renders an employer's facilities inaccessible
  - Refuse to comply with or violate orders of BMS or MPERB

**MANAGEMENT**

- Interfere with, restrain or coerce employees in the exercise of their rights under this Act
- Dominate or interfere with the formation, existence or administration of an employee organization or contribute to its support
  - Discriminate in hiring or tenure to encourage or discourage union membership
  - Discharge or discriminate against an employee for petitioning, filing or giving testimony under this Act
  - Refuse to bargain in good faith
  - Refuse to comply with a negotiated grievance procedure

- Blacklist individuals for exercising their rights under this Act
- Violate any rules and regulations of BMS
- Refuse to comply with an arbitration award
- Refuse to provide the union with budget information

**Impasse Procedure:****MEDIATION**

Either party may petition BMS for mediation or other procedure BMS deems necessary

**ARBITRATION**

- If dispute certified by BMS, conventional, binding arbitration is permitted
- Arbitration is mandatory for essential employees
- Arbitration for nonessential (K-G) is permitted, but may be rejected by employer or employee union
- Costs shared equally

**Strike Policy:**

- Strikes prohibited for all essential (protective services) employees
- K-G personnel may strike if: agreement has expired; mandatory mediation and impasse timelines have expired; written notice is served
- Strike penalties for employees include dismissal, loss of pay, probation
- Strike penalties for union include loss of representative status, dues deduction, and loss of certification for 2 years
- Remedies include injunctive relief, monetary damages

**CASE LAW:****SYMPATHY STRIKES**

A sympathetic strike by city employees in support of a lawful strike is not permitted by MERA. The only unit permitted to strike is the one involved in the impasse.

*General Drivers Local 120 v. City of St. Paul*, 99 LRRM 2899 [1978]

**FAIR SHARE**

Fair share provision of the Act does not violate the due process clause of the U.S. or state constitutions. *Robbinsdale Educ. Ass'n v. Teachers, Local 872*, 92 LRRM 2417 [1976] reversing 90 LRRM 2702; affirmed by *Threlkeld v. Robbinsdale Educ. Ass'n*, 110 LRRM 3067 [1982].

**DUES CHECKOFF**

A public employer may not demand that dues checkoff be negotiated but is required to grant checkoff [Sec. 179.65(5)] once requested, and if no exclusive representative is present the employer is required to check off to each employee for the organization of his/her choice. *O.A.G. #270-D, 9/28/73*

**NEGOTIABILITY: MANAGEMENT RIGHTS**

- Because terms and conditions of employment and inherent management policy may overlap a public employer may voluntarily negotiate over these matters. *AFSCME Council 96 v. St. Louis County*, 106 LRRM 2635 [1980]
- Though a transfer is a managerial decision and not bargainable, whether or not the transfer conforms to negotiated transfer criteria is a proper subject of arbitration. *Minneapolis Teachers Federation v. School Dist.*, 96 LRRM 2706 [1977]

**NOTES:**

- Arbitration awards must be incorporated into contract
- All local ordinances, resolutions or municipal charters that restrict a public employer's ability to negotiate a binding contract are superceded
- There are 16 statewide units for state and university employees including community college, K-12 institutional teachers, and state university
- University of Minnesota has 12 statewide units

**MISSISSIPPI**

Mississippi does not have a collective bargaining statute for public employees

**NOTES:**

State has a right to work law.

**MISSOURI  
(ESP:M/C)**

**Statute:**

*Vernon's Annotated Missouri Statutes*, Section 105.500 to 105.540, as enacted by HB 166, L. 1967; as amended by SB 36, L. 1969

**Coverage:**

Employees of the state and its political subdivisions, including K-G support staff

**Exclusions:**

Police, sheriffs, highway patrol, national guard, K-12 teachers and higher education faculty and nonteaching professionals

**Administrating Agency:**

State Board of Mediation (SBM)

**Unit Determination:**

SBM, appealable to county circuit court

**Unit Determination Criteria:**

- Community of interest
- Supervisors excluded from unit

**Recognition:**

Exclusive, designated or selected by majority of employees in unit

**Bargaining Rights:**

- Meet and confer
- Any agreement must be reduced to writing

**Scope of Bargaining:**

Proposals relating to salaries and other conditions of employment

**Management Rights:**

No Specific Provision

**Employee Rights:**

- To form and join unions
- Present proposals through representatives

**Grievance Procedure:**

No Specific Provision

**Union Security:**

Prohibited

**Unfair Labor Practices:**

No Specific Provision

**Impasse Procedure:**

No Specific Provision

**Strike Policy:**

Prohibited

**CASE LAW:**

**RIGHT TO ORGANIZE and BARGAIN**

• Bargaining law is constitutional. Employees may form or join unions. *State ex rel Missey v. City of Cahool*, 70 LRRM 3394 [1957]

• Bargaining law does not infringe on a university's right to govern. Employees may join unions and petition for redress of grievances. *Curators of the Univ. v. Local 45*, 88 LRRM 3039 [1975] affirming 88 LRRM 3038

• Police may join or form unions but may not bargain collectively. *Vorbuk v. McNeal*, 91 LRRM 2788 [1976] affirmed S. Ct. 3160 92 LRRM 2861

• Negotiated agreements between a teachers association and board of education which does not bind the board to accept any agreement(s) is valid. Negotiations are not prohibited because the contracting teachers association is not a "labor organization" within the meaning of the Act. *Richard E. Peters v. Board of Educ. of Reorganized School #5*, 87 LRRM 2097 [1974]

• Teachers may join unions and present nonbinding proposals. *O.A.G.*, #276, 12/28/68

**MONTANA  
(K-12, ESP, HE: M)**

**Statute:**

*Montana Code Annotated*, Title 39, Chapter 31, Section 39-31-101 to 39-31-409, as enacted by Ch. 441, L. 1973; as amended by Ch. 244, HB 1032, Ls. 1974; Chs. 18, 35, 36, 97, 117, 136, 384, Ls. 1975; Ch. 57, L. 1977; HBs 212, 249, SB 208, Ls. 1979; as last amended Chs. 95, 211, 213, Ls. 1983

**Coverage:**

All public employees including K-12 teachers, higher edu-

cation faculty, nonteaching professionals, and K-G support personnel

**Exclusions:**

Elected, appointed, supervisory, managerial employees; school district clerks, administrators, nurses and engineers

**Administrating Agency:**

Board of Personnel Appeals (BPA)

**Unit Determination:**  
BPA

**Unit Determination Criteria:**

- Community of interest
- Wages, hours, benefits and working conditions
- History of bargaining
- Common supervision and personnel policies
- Extent of integration and interchange of work functions
- Desires of employees

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

Duty to bargain and to reduce an agreement to writing

**Scope of Bargaining:**

Wages, hours, fringe benefits and other conditions of employment

**Management Rights:**

- Direct employees
- Hire, promote, transfer, assign and retain employees
- Relieve employees due to lack of work or funds or when continuation of work would be inefficient
- Maintain efficiency of government operations
- Determine methods, means, job classification and personnel for operation of the agency
- Take necessary actions in case of emergency
- Establish process by which work is performed

**Employee Rights:**

- Organize, form, join or assist unions
- Bargain collectively through chosen representatives
- Engage in concerted activities

**Grievance Procedure:**

Grievance procedure culminating final and binding arbitration is negotiable

**Union Security:**

- Dues deduction mandatory
- Agency shop permitted

**Unfair Labor Practices:**

**UNION**

- Restrain or coerce employees in exercises of their rights or an employer in selection of his representative
- Refuse to bargain in good faith
- Use agency shop fees for political activity

**MANAGEMENT**

- Interfere with, restrain or coerce employees in exercise of their rights under this Act
- Refuse to bargain in good faith
- Dominate or interfere with or assist in formation of a labor union
- Discriminate to encourage or discourage membership

in a union

- Discharge or discriminate on account of union membership or for giving testimony under this Act

**Impasse Procedure:**

**MEDIATION**

- At request of either party after a reasonable period of time or upon expiration of agreement
- Costs paid by BPA

**FACTFINDING**

- At request of either party or BPA initiated upon expiration of agreement or 30 days after certification of impasse
- Report issued within 20 days of appointment
- Report made public after 15 days
- Factfinder may mediate
- Costs shared equally by parties and BPA

**ARBITRATION**

Permitted if agreed upon by the parties

**Strike Policy:**

No Specific Provision

**CASE LAW:**

**RIGHT TO STRIKE**

Right to engage in concerted activities gives employees a right to strike by inference. *State of Montana, Dept. of Highways v. Public Employees Craft Council of Montana* 529 P 2d 785; 88 LRRM 2012 [1974]

**OPEN MEETING LAW**

A meeting is subject to closure if the demand for individual privacy clearly exceeds the merits of public disclosure. *O.A.G., #170, 11/27/78*

**NEGOTIABILITY**

- Severance pay based on years of service is deferred compensation and is a reasonable form and manner of compensation. *O.A.G., #113, 2/8/78*
- Statutory benefits cannot be negotiated away. *O.A.G., #20, 5/23/79*

**UNFAIR LABOR PRACTICES**

- Failure to provide a dismissal hearing as provided in a contract and failure to provide sufficient notice to allow for preparation of a defense is a ULP under this Act. *City of Livingston v. AFSCME Council 9*, 100 LRRM 2528 [1977]

- School board committed a ULP when it informed striking teachers that they must sign individual contract and return to work on a specified date. *Billings Board of Trustees v. Montana*, 103 LRRM 2285 [1979]

- Refusal to arbitrate whether contractual procedures are required before terminating a nontenured teacher were followed is an unfair labor practice. *Savage Public Schools v. Savage Education Ass'n*, 647 P. 2d 833 [1988]

- Reliance by a board of trustees on a "tainted" evaluation presented to the trustees by the school principal con-

stitutes an act of discrimination. The motivation for discharge was determined to be for engaging in union activities. *Board of Trustees v. State of Montana*, 103 LRRM 3090, 604 P.2d 770 [1979]

#### FAILURE TO REPRESENT

- A union's failure to represent is not an unfair labor practice. The Act does not provide for an exclusive remedy. *Ford v. University of Montana*, 102 LRRM 2927, 598 P.2d 604 [1979]

- Where a union's breach of its duty to represent is a ULP, administrative remedies afforded employees by BPA are not abrogated because the issue is also under jurisdiction of the state court. *Teamsters Local 45 v. Montana*, 635 P.2d 1310 [1981]

#### NOTES:

- The Act does not limit the appropriating authority of any legislative body
- Persons who wish to serve as neutrals must undergo a BPA special education course
- University student representatives may meet and confer with both parties prior to negotiations. They may caucus and advise management
- State has a bargaining law for nurses in health care facilities (Title 39, Ch. 32)
- State has a firefighters arbitration act (Title 39, Ch. 34)
- State has a highway employees grievance procedure (Sec. 2-18-1001); a public employees grievance procedure and a state employees grievance procedure

### NEBRASKA (K-12; ESP, HE:M)

#### Statute:

*Revised Statutes of Nebraska, Public and Utility Employees Act*, Section 48-801 to 48-838, as enacted by Ch. 178, L. 1947; as amended by LB 15, L. 1969; LB 1228, L. 1972; LB 819, L. 1974; LB 40, L. 1977; LB 444, L. 1979; and as last amended by LBs 188, 204, Ls. 1981

#### Coverage:

All state employees and political subdivisions and public utilities; including K-12 teachers and support personnel in Class I, II & VI school districts and higher education faculty, nonteaching professionals and support personnel

#### Exclusions:

No Specific Provision

#### Administrating Agency:

Commission of Industrial Relations (CIR)

#### Unit Determination:

CIR

#### Unit Determination Criteria:

- All police and fire below rank of chief in one unit
- Established bargaining units and employer policies
- Largest possible unit of not less than departmental size

#### Recognition:

Exclusive, election or voluntary

#### Bargaining Rights:

Duty to bargain and reduce agreement to writing

#### Scope of Bargaining:

Terms and conditions of employment and the administration of grievances

#### Management Rights:

No Specific Provision

#### Employee Rights:

- To form, join and participate in unions and refrain from so doing
- Present grievances

#### Grievance Procedure:

- Grievance procedure mandatory
- May end in final and binding arbitration or through CIR

#### Union Security:

No Specific Provision

#### Unfair Labor Practices:

No Specific Provision

#### Impasse Procedure:

CIR maintains list of qualified mediators and factfinders

#### ARBITRATION

- CIR holds hearings to determine wages, hours and conditions of employment
- Teachers must use procedure in Teachers Negotiation Act, Sec. 79-1293

#### Strike Policy:

- Prohibited
- Violators guilty of a Class I misdemeanor

#### CASE LAW:

##### APPROPRIATE UNIT

Interns and residents at a state university medical center are employees under the Act and belong in the same unit

as other academic staff. *House Officers v. University of Nebraska Med. Cir.*, 95 LRRM 3346 [1977]

#### CIR JURISDICTION

- The Commission has jurisdiction to settle disputes over terms and conditions of employment. However it does not have the power to settle unfair labor practice charges. *Police Officers Union v. University of Nebraska*, 101 LRRM 3078 [1975]

- CIR is empowered to settle all disputes upon acquiring jurisdiction. *Crete Educ. Ass'n v. School Dist.*, 90 LRRM 2037 [1975]

#### SCOPE OF BARGAINING

A university instructor's student contact hours is a management prerogative and not a proper subject of bargaining. *Metro Educ. Ass'n v. Community College*, 102 LRRM [1979]

#### APPROPRIATE UNITS: CRITERIA

CIR may use following criteria to determine appropriate units: Community of interest as relating to wages, hours, working conditions, duties and skills of employees, extent of union organization and desires of employees. *University Professors v. University of Nebraska*, 95 LRRM 2122 [1977]

### NEBRASKA (K-12: M)

#### Statute:

*Revised Statutes of Nebraska*, Chapter 79, Section 79-1287 to 79-1295, as enacted by Ch. 518, L. 1967

#### Coverage:

Teachers in Class III, IV, V school districts

#### Exclusions:

No Specific Provision

#### Administrating Agency:

- Local school board
- State Department of Education

#### Unit Determination:

Statute

#### Unit Determination Criteria:

No Specific Provision

#### Recognition:

Exclusive; one year duration. If more than one organization, board may recognize group enrolling largest majority over 2 year period

#### Bargaining Rights:

Meet and confer

#### Scope of Bargaining:

Employment relations and mutually agreed to matters

#### Management Rights:

No Specific Provision

#### Employee Rights:

- Form, join and participate in unions or refrain from so doing
- Present grievances or represent themselves in their employment relations

#### Grievance Procedure:

No Specific Provision

#### Union Security:

No Specific Provision

#### Unfair Labor Practices:

No Specific Provision

#### Impasse Procedure:

##### FACTFINDING

- Tripartite panel
- Report issued in 30 days

#### Strike Policy:

No Specific Provision

#### NOTES

Nebraska has a right to work amendment

**NEVADA  
(K-12, ESP: M)**

**Statute:**

*Nevada Revised Statutes*, Local Government Employee - Management Relations Act, Section 288-010 to 288.280, as enacted by Ch. 650, L. 1969; as amended by Ch. 643, L. 1971; AB 599, L. 1973; Chs. 35, 539, Ls. 1975; Chs. 391, 402, 530, 551, Ls. 1977; Ch. 189, AB 426, Ls. 1975; SB 350, L. 1981; as last amended by Chs. 35, 552, Ls. 1983

**Coverage:**

All local government (state political subdivisions) employees, employees of public or quasi-public corporations and K-12 professional and support staff

**Exclusions:**

Managerial and confidential employees

**Administrating Agency:**

Local Government Employee-Management Relations Board (LGEMRB)

**Unit Determination:**

LGEMRB in cases of dispute

**Unit Determination Criteria:**

- Community of interest of employees
- Supervisors shall not be in the same unit with employees whom they supervise

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

- Duty to bargain
- Agreement must be reduced to writing at request of either party

**Scope of Bargaining:**

- Salary and wage rates or other forms of direct monetary compensation
- Sick leave, vacation leave, holidays and other paid or nonpaid leaves
- Insurance benefits
- Hours of work per day
- Number of days of work per year
- Discharge and discipline procedures
- Recognition clause
- Classification system for unit employees
- Dues deduction
- Protection of unit employees against discrimination for participating in union activities
- No strike provision
- Grievance procedure with arbitration
- Savings clause
- Duration of agreement
- Employee safety

- Teacher preparation time
- Reduction in force procedure
- Any provision negotiated and in effect as of 5/15/75

**Management Rights:**

- Right to hire, direct, assign, or transfer an employee, except as a form of discipline
- Right to lay off an employee(s) per the negotiated procedures for lack of work or funds
- Right to determine staffing levels and performance standards except for safety considerations
- Determine type of work, performance and workload
- Determine the quality and quantity of public services
- Determine the means and methods of offering those services
- Safety of the public
- Right to take any action whatsoever including suspension of agreement in the event of emergency
- Right without limitation to manage the "operation" in the most efficient manner

**Employee Rights:**

To join, or refrain from joining any labor union

**Grievance Procedure:**

Grievance procedure culminating in binding arbitration is mandatory

**Union Security:**

Dues deduction is mandatory

**Unfair Labor Practices:****UNION**

- Interfere with, restrain, or coerce employees in the exercise of rights guaranteed under this Act
- Refuse to bargain collectively and in good faith, including participation in impasse procedures
- Discriminate because of race, color, sex, age, physical or visual handicap or for political, personal or affiliation reasons
- Fail to provide information for the purpose of negotiations

**MANAGEMENT**

- Interfere with, restrain, or coerce employees in the exercise of any rights guaranteed under this Act
- Dominate, interfere with, or assist in the formation or administration of a union
- Discriminate in hiring, tenure, or any condition of employment to discourage or encourage union membership
- Discharge or discriminate against an employee for petitioning, complaining or giving testimony under this Act or for forming or joining an employee organization
- Refuse to bargain collectively and in good faith including participating in the impasse procedure

- Discriminate because of race, color, sex, age, creed, physical or visual handicap, national origin, or political, personal or affiliation reasons
- Fail to provide information for negotiations as required by Sec. 288.180 of this Act

**Impasse Procedure:**

(This section does not apply to firemen who may submit disputes to binding factfinding and/or arbitration)

**MEDIATION**

- Between April 1st - June 1st either party may request a mediator
- Labor commission shall submit a list from which a mediator must be chosen
- Parties share costs equally
- If parties resort to factfinding prior to July 11th, mediator must provide a report

**ADVISORY FACTFINDING**

- After mediation end by May 1st if no agreement is reached either party may request advisory factfinding
- Single factfinder chosen via alternate strike from AAA or FMCS list
- Costs shared equally
- Report due 30 days after close of hearing
- Parties may agree to accept report as final and binding

**BINDING FACTFINDING**

- Request for a panel must be filed by June 25th

- The panel shall be comprised of an attorney, an accountant (supplied by the respective state boards) and a neutral third member selected by the other two
- The disputed issues are submitted to this three person panel
- A decision must be given by August 10 regarding which issues are binding or advisory
- The panel may select all or part of the factfinders report as binding

**FACTFINDING AWARD CRITERIA:**

- The financial ability of the employer, based on all existing revenues and capacity to provide service
- If financial ability is present, factfinder shall apply "normal criteria for interest disputes" in assessing the reasonableness of each party's position
- Only funds retained from a prior year that are dedicated for salaries can be used to pay awarded monetary benefits
- Arbitrable issues are those enumerated as mandatory subjects of bargaining or negotiated prior to 5/75 or are voluntarily negotiated

**Strike Policy:**

- Prohibited
- No strike pledge required to receive recognition
- Strike penalties for individuals include: fines, imprisonment, suspension, demotion, dismissal, loss of salary
- Strike penalties for unions include: injunctive relief, up to \$50,000 per day fine, union officials up to \$1,000 per day fine and jail

**NEW HAMPSHIRE**  
(K-12, ESP, HE: M)

**Statute:**

*New Hampshire Revised Statutes Annotated*, Chapter 273-A, Section 1 to 16, as enacted by Ch. 490, L. 1975; as amended by Ch. 437, L. 1977; Ch. 374, L. 1979; as last amended by Ch. 270, L. 1983

**Coverage:**

All state and local government employees and public corporation employees, including K-12 teachers, higher education faculty, nonteaching professionals and K-G support employees

**Exclusions:**

Elected, appointed, managerial, confidential, probationary temporary and seasonal employees

**Administering Agency:**

Public Employee Labor Relations Board (PELRB)

**Unit Determination:**

PELRB

**Unit Determination Criteria:**

Community of interest exhibiting one or more of the following:

- Similar conditions of employment
- History of bargaining
- Same craft or profession
- Same functional unit
- No less than 10 employees in unit
- Separation of professionals and nonprofessionals unless both vote for inclusion

**Recognition:**

Exclusive, by election

**Bargaining Rights:**

Duty to bargain and reduce agreement to writing by budget submission date

**Scope of Bargaining:**

Wages, hours and other conditions of employment

**Management Rights:**

- Merit system and its operation
- Functions, programs and methods of operation
- Use of technology
- Organizational structure
- Selection, direction and number of employees necessary for the operation of the agency

**Employee Rights:**

To organize and be represented by a union

**Grievance Procedure:**

- Grievance procedure must be bargained
- Final and binding arbitration may be bargained

**Union Security:**

No Specific Provision

**Unfair Labor Practices:****UNION**

- Restrain, coerce or interfere with employees in the exercise of their rights under this Chapter
- Restrain, coerce or interfere with employees in selection of representatives
- Cause or attempt to cause a public employer to discriminate against a public employee
- Refuse to negotiate in good faith
- Engage in a strike or other form of job action
- Breach a collective bargaining agreement

**MANAGEMENT**

- Restrain, coerce or interfere with an employees' exercise of their rights under this Chapter
- Dominate or interfere with the formation or administration of a union
- Discriminate in hiring, tenure or condition of employment to encourage or discourage union membership
- Discharge or discriminate against an employee for filing a complaint or giving testimony or information under this Chapter
- Refuse to negotiate in good faith or fail to submit to the legislative body any agreed upon cost item
- Invoke a lockout
- Fail to comply with this Chapter or any rule adopted under this Chapter
- Breach a collective bargaining
- Pass any law, regulation or rule about terms and conditions of employment that would invalidate any portion of an agreement

**Impasse Procedure:****MEDIATION**

- At request of either party at impasse or at initiation of PELRB 60 days prior to budget submission date
- Costs shared equally by parties

**FACTFINDING**

- At request of either party or initiated by PELRB 45 days prior to budget submission date

- Parties mutually select neutral or PELRB appoints
- Report publicized 10 days after close of hearing
- If impasse exists after factfinder's report is rejected by both parties negotiations may be reopened
- Alternative dispute settlement procedures may be negotiated
- Binding arbitration of non-cost items may be negotiated

**Strike Policy:**

- Strike and lockout prohibited
- Strike is enjoined
- Union subject to fines, costs and legal fees

**CASE LAW:****APPROPRIATE UNIT**

- Principals and assistant principals may join as a group for bargaining purposes. *In re Nashua Ass'n of School Principals*, 101 LRRM 2135 [1979]
- College lecturers on fixed term appointment of one year or less are temporary employees. The rule applied is whether or not the employees have a "reasonable expectancy of reemployment" *Keene State College Educ. Ass'n v. New Hampshire*, 100 LRRM 2937 [1979]

**SCOPE OF BARGAINING**

- A change in hours of work in a day is a mandatory subject of bargaining. *State Employees' Ass'n v. Board of Trustees*, 99 LRRM 2437 [1978]
- Subcontracting, leaves of absence, time-off, state training programs, discipline and removal, classification, promotion, transfer, layoff, seniority and wage administration are non-negotiable within the meaning of the Act or if they infringe on a statutory merit system. *State Employees Ass'n v. PELRB*, 100 LRRM 2484 [1978]

- A university is not obligated to bargain over abolition of department chairmanships, elimination of advisory faculty committees and denial of a faculty observers' right to be present at meetings as these items relate to the employer's organizational structure and are non-negotiable. *Keene State Educ. Ass'n v. New Hampshire*, 104 LRRM 2086 [1980]

**DUTY TO BARGAIN: PENDING LITIGATION**

A PELRB bargaining order can only be suspended by PELRB or by the court upon proper petition irrespective of pending litigation over an unfair labor practice charge. *Rochester School Board v. PELRB*, 101 LRRM 2129 [1979]

**UNFAIR LABOR PRACTICE: PELRB JURISDICTION**

Failure to pay teachers negotiated salary rates is a ULP. PELRB does have authority to order that a salary figure be included in an agreement. *Rochester School Board v. PELRB*, 101 LRRM 2129 [1979]

**NEW JERSEY  
(K-12, ESP, HE: M)**

**Statute:**

*New Jersey Statutes Annotated*, Title 34, Section 34-13A-1 to 34-13A-13, as enacted by Ch. 100, L. 1941; as amended by Ch. 303, L. 1968; Ch. 326, L. 1973; Ch. 23, L. 1974; Ch. 477, L. 1980; as last amended by Ch. 103, L. 1982

**Coverage:**

Employees of the state and its political subdivisions, including K-12 teachers, higher education faculty, nonteaching professionals and K-G support employees

**Exclusions:**

Elected officials, board and commission members, managerial and confidential employees, superintendents, other chief administrators and assistant superintendents

**Administrating Agency:**

Public Employment Relations Commission (PERC)

**Unit Determination:**

PERC

**Unit Determination Criteria:**

- Community of interest
- Professionals cannot be in a unit of nonprofessionals except by election
- Appropriate unit of employees
- Separate supervisory units

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

Duty to bargain

**Scope of Bargaining:**

- Grievance procedure
- Terms and conditions of employment
- Service fees

**Management Rights:**

No Specific Provision

**Employee Rights:**

To form, join and assist unions and refrain from so doing

**Grievance Procedure:**

- Grievance procedure mandatory
- Binding arbitration permitted

**Union Security:**

- Dues deduction mandatory
- Agency shop permitted
- Service fee is prorated

**Unfair Labor Practices:****UNION**

- Interfere with, restrain, or coerce employees in exercise of their rights under this Act
- Interfere with, restrain, or coerce employees in selection of their representatives
- Refuse to negotiate in good faith or represent employees
- Refuse to reduce an agreement to writing
- Violate any rules promulgated by PERC

**MANAGEMENT**

- Interfere with, restrain or coerce employees in exercise of their rights under this Act
- Dominate or interfere with the formation, existence or administration of a union
- Discriminate in hiring, tenure, term or condition of employment in order to encourage or discourage union membership
- Discharge or discriminate against an employee for testifying or filing a complaint under this Act
- Refuse to negotiate or process a grievance
- Refuse to reduce an agreement to writing or to sign such agreement
- Violate rules and regulations of PERC

**Impasse Procedure:****MEDIATION**

- Request of either party
- Costs borne by PERC

**FACTFINDING**

- PERC may initiate or recommend
- Single neutral or tripartite panel
- Costs borne by PERC

**Strike Policy:**

No Specific Provision

**CASE LAW:****EMPLOYEE RIGHTS**

Where an agreement provides for individual presentation of grievance, the right of the union to present a grievance is not waived as this right is statutory and cannot be modified. *Education Ass'n v. Red Bank Board of Educ.*, 99 LRRM 2447 [1978] affirming 96 LRRM 2863 [1975]

**SCOPE OF BARGAINING: NEGOTIABILITY**

- College calendar is not a subject of bargaining. It involves a major educational determination. *Faculty Ass'n v. Board of Trustees*, 84 LRRM 2857 [1973]
- Unilateral adoption of tenure guidelines and periodic evaluation of tenured faculty does not violate duty to bargain. These subjects are not bargainable as they are matters of major educational policy. *Ass'n of College Faculties v. Dungan*, 85 LRRM 2625 [1974]

- Consolidation of different subject departments is neither a subject of negotiations nor arbitrable as it is a matter of educational policy. *Dunellen Board of Educ. v. Educ. Ass'n*, 85 LRRM 2131 [1973]

- Extension of teaching hours of day and tuition reimbursement and salary credit are negotiable and therefore such disputes are arbitrable. *Board of Educ. v. Englewood Teachers Ass'n*, 85 LRRM 2137 [1973]

- Unilateral guidelines limiting compensation from outside employment are negotiable as they affect the work and welfare of employees and do not affect any major educational policy. *Educ. Ass'n v. New Jersey Board of Educ.*, 87 LRRM 2951 [1973]

- Negotiated retirement benefits over and above benefits provided by the system are outside the board's authority and unenforceable. The Act expressly prohibits modification of pension statutes by collective bargaining. *Fair Lawn Educ. Ass'n v. Board of Educ.*, 102 LRRM 2205 [1979]

- Transfers and reassignments are not mandatory subjects of bargaining as they interfere with managerial re-

sponsibilities. *Ridgefield Park Educ. Ass'n v. Board of Educ.*, 98 LRRM 3285 [1978]

#### UNFAIR LABOR PRACTICES

- PERC has power to order an employer to award employees back pay for actual losses sustained owing to an employer ULP. *Galloway Board of Educ. v. Secretaries*, 99 LRRM 2421 [1978]

- ULP proceedings are not rendered moot upon resolution of the incident giving rise to ULP and upon the cessation of unlawful conduct. PERC may move for enforcement. *Galloway Board of Educ. v. Educ. Ass'n*, 100 LRRM 2250 [1978]

#### RIGHT TO STRIKE

Public employees do not have right to strike by inference. *Board of Educ. v. New Jersey Education Ass'n*, 69 LRRM 2870 [1947]

#### NOTES:

NJ has a fire and police arbitration act. *New Jersey Statutes Annotated*, Section 34-13A-14 to 34-13A-21

### NEW MEXICO

New Mexico does not have a public employee collective bargaining statute.

#### NOTES:

The State Personnel Board in 1971 issued regulations for the conduct of labor management relations for classified state employees

### NEW YORK (K-12, ESP, HE: M)

#### Statute:

*New York State Statutes Annotated*, Civil Service Law, Section 200 to 214 (Taylor Act), as enacted by Ch. 392, L. 1967; as amended by Chs. 414, 1626, Ls. 1970; Ch. 503, L. 1971; Ch. 26, 818, Ls. 1972; Ch. 382, L. 1973; Chs. 283, 443, 587, 724, 725, Ls. 1974; Chs. 850, 854, Ls. 1975; Chs. 216, 429, 677, 678, 817, Ls. 1977; Chs. 291, 465, Ls. 1978; Chs. 316, 618, Ls. 1979; Chs. 378, 655, 814, L. 1981; Chs. 868, 921, Ls. 1982; as last amended by Ch. 254, L. 1983

#### Coverage:

All public employees of the state and its political subdivisions, including K-12 teachers, higher education faculty, nonteaching professionals and K-G support employees

#### Exclusions:

Elected, appointed officials, militia, confidential, manage-

rial, court system judges and all employees employed by mayoral agencies of the City of New York

#### Administrating Agency:

Public Employment Relations Board (PERB)

#### Unit Determination:

PERB

#### Unit Determination Criteria:

Appropriateness of unit determined by:

- Community of interest
- Employer determination of which jobs are similar
- Ability to deliver essential services to public

#### Recognition:

- Exclusive, voluntary or by election
- Exclusivity not to exceed three years

**Bargaining Rights:**

- Duty to bargain and reduce an agreement to writing
- Duration not to exceed 3 years

**Scope of Bargaining:**

- Wages, hours and other terms and conditions of employment defined to include agency shop and grievance procedures
- Exclusions for state employees are: agency shop fee deduction and retirement benefits

**Management Rights:**

No Specific Provision

**Employee Rights:**

- To form, join or participate in unions or refrain from so doing
- Be represented by unions in negotiations and/or grievance administration

**Grievance Procedure:**

Grievance procedure culminating in binding arbitration is negotiable

**Union Security:**

- Dues deduction mandatory
- Agency shop mandatory for state employees, optional for local employees
- Must provide rebate procedure upon demand for portion of fee for activities incidental to bargaining

**Unfair Labor Practices:****UNION**

- Interfere with, restrain, or coerce public employees in the exercise of rights under this Act
- Cause or attempt to cause a public employer to interfere with, restrain or coerce employees
- Refuse to negotiate

**MANAGEMENT**

- Interfere with, restrain, or coerce public employees in the exercise of their rights under this Act
- Dominate or interfere with the formation or administration of an employee organization
- Discriminate against any employee to discourage or encourage participation in the activities of an employee organization
- Refuse to negotiate in good faith
- Refuse to continue the terms of an expired agreement until a new one is negotiated

**Impasse Procedure:**

- An impasse may be deemed to exist if no agreement is reached 120 days prior to the end of the public employer's fiscal year
- Parties may negotiate any resolution procedure
- Parties may request or PERB may initiate assistance for resolution of dispute

**MEDIATION**

Upon request of either party, or Board may initiate and assign a neutral

**FACTFINDING**

- Board initiates
- Parties select neutral from PERB supplied list
- Recommendations transmitted to employer and made public within 5 days
- PERB may make recommendations to settle dispute, but shall not appoint a second factfinding board
- Excepting educational disputes, a public hearing shall be held wherein both parties shall explain their positions, thereafter the legislative body shall take appropriate action

**ARBITRATION**

- Voluntary for state and local employees
- Tripartite panel
- Conventional arbitration
- Parties share costs
- Award not to exceed 2 years contract duration

**Strike Policy:**

- Prohibited
- Strike may be enjoined
- Strike penalties for union include: loss of dues and agency fee deduction privilege and fines
- Strike penalties for individuals include 2 for 1 salary loss, disbursement fines

**CASE LAW:****SCOPE OF BARGAINING: HOURS**

- The number of hours of instruction is a term and condition of employment about which a school board must bargain. *School Boards Ass'n v. Board of Educ.*, 92 LRRM 2556 [1976]
- No merit exists for the argument that absent express statutory authority a board is prohibited from bargaining with a union on terms and conditions of employment. The duty to bargain is a broad and unqualified condition which should not be limited in any way except where other applicable statutory provisions expressly prohibit the employer from making an agreement. *Board of Education v. Associated Teachers*, 79 LRRM 2881 [1972] affirming in part and reversing in part 78 LRRM 2109 [1971]
- Class size is not a mandatory subject of bargaining; however, impact of class size is negotiable. *Teachers Ass'n vs. Helsby*, 87 LRRM 2318 [1974] affirming 87 LRRM 2313

**IMPROPER PRACTICES: PERB JURISDICTION**

- PERB has jurisdiction over an improper practice charge filed against board of education even though the Commissioner of Education is also reviewing the same board action. *Board of Educ. v. Helsby*, 83 LRRM 2526 [1973] affirming 79 LRRM 2303 [1969]
- PERB can order an employer to reinstate employees disciplined for exercise of their rights. *City of Albany v. Helsby*, 79 LRRM 2457 [1972] modifying and affirming 77 LRRM 2352 [1970]

- PERB has the authority to order a community college to bargain over merit salary increase but PERB does not have authority to order an institution to pay the increases. *Board of Supervisors v. PERB*, 89 LRRM 2713 [1975]

**ARBITRABILITY: PROPER SUBJECT OF ARBITRATION**

Absent a restrictive policy limiting the freedom of contract, a district is free to bargain voluntarily and agree to arbitration without violating the Act, decisional law or public policy. *School District v. Teachers Ass'n*, 90 LRRM 3046 [1975]

**STRIKES PENALTIES**

Imposition of strike penalties imposed by law prior to a hearing do not deprive an employee of due process rights. *Sanford v. Rockefeller*, 88 LRRM 2189 [1974]

**NOTES:**

- Separate labor provisions that mirror the Taylor Act are in effect for NYC (and NY-NJ Port Authority)
- Local governments may set up mini-PERBs to handle their own equivalent labor procedures, except ULP's
- Upgrading of civil service positions are not within definition of "terms and conditions of employment"

**NORTH CAROLINA**

North Carolina does not have any collective bargaining statutes for public employees

**CASE LAW:**

**RIGHT TO ORGANIZE**

Employees may join labor unions. *Atkins v. City of Charlotte*, 296 F Supp. 1068 [1969]

**DUES DEDUCTION**

There is no right to dues deduction in the absence of a

statute even if the public employer makes other deductions for other groups. *City of Charlotte v. Local 460 IAFT*, 96 S. Ct. 2036 [1976]

**NOTES:**

North Carolina has a statute prohibiting any public employer from entering into a labor contract with a union or group of public employees. *North Carolina General Statutes*, Section 95 to 97

**NORTH DAKOTA**

(K: 12: M)

**Statute:**

*North Dakota Century Code*, Teachers Representation and Negotiations Act, Chapter 15-38, 101-15, as enacted by HB 175, L. 1969; as amended by SB 2275, L. 1983

**Coverage:**

All certified teachers and administrators employed by school districts

**Exclusions:**

No Specific Provision

**Administrating Agency:**

Education Fact Finding Commission (EFFC)

**Unit Determination:**

Local Board of Education

**Unit Determination Criteria:**

- Common interest, problems and employer
- History of representation
- Administrators and teachers may be in separate unit

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

- Duty to bargain
- An agreement must be reduced to writing at request of either party
- No specific duration

**Scope of Bargaining:**

Matters relating to terms and conditions of employment and employer-employee relations, including but not limited to salary, hours and other terms and conditions of employment

**Management Rights:**

No Specific Provision

**Employee Rights:**

To form, join and participate in an employee organization or refrain from so doing

**Grievance Procedure:**

Grievance procedure culminating in binding arbitration is negotiable

**Union Security:**

Dues deduction is permitted

**Unfair Labor Practices:**

No Specific Provision

**Impasse Procedure:****MEDIATION**

- Mutual agreement of parties
- Costs shared equally

**FACTFINDING**

- Parties may ask EFFC to conduct a hearing or appoint a factfinder
- Report issued in 20 days, made public in ten days
- Costs shared equally
- Report nonbinding
- Parties may negotiate own procedures

**Strike Policy:**

- Prohibited
- Employee loses pay

**CASE LAW:****ARBITRABILITY**

Use of sick leave for maternity is arbitrable as use of such leave is within the ambit of a broad arbitration clause. *W. Fargo School Dist. v. Educ. Ass'n*, 97 LRRM 2361 [1977]

**INDIVIDUAL CONTRACTS**

At the conclusion of the negotiations process, the board is within its rights by complying with Sec. 15-47-27 of Code in issuing individual teacher contracts despite existence of negotiations dispute. No chilling effect on negotiations. *Edgeley Educ. Ass'n v. School Dist.*, 90 LRRM 2437 [1975]

**SCOPE OF BARGAINING**

Mandatory scope of bargaining includes salaries, hours, formulation of agreement, binding arbitration and interpretation of existing agreement. Permissive items include: class size, reduction in force procedure, curriculum, evaluation policies, transfer procedures, leave procedures and binding impasse arbitration. *Fargo Educ. Ass'n v. Fargo Public School District No. 1*, 2d NW 267 [1980]

**NOTES:**

- The State has a right to work law
- State has a public employee statute (excluding teachers) dealing with mediation of impasse disputes. *North Dakota Century Code*, Section 31.11.01 to 31.11.05

**OHIO**

(K-12, ESP, HE: M)

**Statute:**

*Ohio Revised Code Annotated*, Chapter 4117.01 to 4117.23, as enacted by SB 133, L. 1983

**Coverage:**

All public employees of the state and political subdivisions

**Exclusions:**

Employees of the General Assembly or other legislative body, employees of the governor or a chief executive; militia, state employment relations board employees, confidential, managerial and court employees, employees of public officials serving in a fiduciary capacity and students or assistants, supervisors, part-time faculty and seasonal or temporary employees

**Administrating Agency:**

State Employment Relations Board (SERB)

**Unit Determination:**

SERB

**Unit Determination Criteria:**

- Desires of employees

- Community of interest

- Wages, hours and other working conditions
- Effect of over-fragmentation
- Efficiency of operations
- Administrative structure of public employer
- History of bargaining
- Professionals separate from nonprofessionals

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

- Duty to bargain and reduce contract to writing
- Duration may not exceed three years

**Scope of Bargaining:**

Wages, hours or terms and other conditions of employment and the continuation, modification or deletion of an existing provision

**Management Rights:**

- Unless the public employer agrees otherwise nothing shall impair the following rights and responsibilities: Determine matters of inherent managerial rights such as

functions and programs, standards of service, budget, use of technology, organizational structure

- Direct, supervise, evaluate and hire employees
- Maintain efficiency of operations
- Determine methods, process, means, or personnel needed for operations
- Determine adequacy of work force
- Manage the work force
- Carry out the mission of the agency

#### Employee Rights:

- Form, join, assist or participate in or refrain from joining a labor union
- Engage in concerted activities
- Representation by a union
- Bargain collectively and present grievances

#### Grievance Procedure:

- Grievance procedure mandatory
- May culminate in final and binding arbitration

#### Union Security:

- Dues deduction mandatory
- Agency fee permitted
- Alternative payment permitted for conscientious or religious objection or use for partisan politics or ideological causes

#### Unfair Labor Practices:

##### UNION

- Restrain or coerce employees in the exercise of their rights under this Act
- Cause or attempt to cause an employee to commit an unfair labor practice
- Refuse to bargain collectively
- Call, institute, maintain or conduct a layoff against a public employee or picket any place of business of a public employer because of a jurisdictional work dispute
- Induce or encourage any person to engage in an illegal strike or refuse to handle goods or perform services or force a public employer to recognize an uncertified employee organization
- Fail to represent all unit employees
- Encourage picketing at a residence or place of private employment of any public official or employee representative

- Engage in any picketing or striking without giving ten days notice to the employer or the Board

#### MANAGEMENT

- Interfere with, restrain or coerce employees in the exercise of their rights under this Act or an employee organization in the selection of its representatives
- Initiate, create, dominate or interfere with the formation of an employee organization or contribute financial or other support to it
- Discriminate in hiring or tenure or any condition of employment against an employee for exercising their rights under this Act
- Discharge or discriminate against an employee for filing charges or testifying under this Act
- Refuse to bargain
- Fail to process a grievance or a request for arbitration
- Lockout employees
- Cause or attempt to cause commission of an unfair labor practice

#### Impasse Procedure:

- Upon request to SERB by parties
- Costs borne 1/2 by state 1/4 by each party

#### MEDIATION

Begins no later than 45 days from expiration of contract

#### FACTFINDING

- Begins 30 days before contract expires
- Report issued within 14 days
- Report binding unless 3/5 vote of total membership of either party rejects in which case the report is made public. If no agreement within 7 days, notice of strike must be given

#### ARBITRATION

Permitted in any form as an alternative dispute settlement mechanism

#### Strike Policy:

- Strike permitted after following impasse machinery and giving of "notice"
- Strikes may be enjoined for 60 days if found threatening to the public health or welfare

**OKLAHOMA**  
(K:12, ESP: M)

**Statute:**

*Oklahoma Statutes Annotated*, Title 70, Chapter 7, Section 509.1 to 509.10, as enacted by HB 1325, L. 1971; as amended by HBs 1115, 1170, Ls. 1978; HB 1129, L. 1981; HB 1824, L. 1982; as last amended by SB 188, L. 1983

**Coverage:**

All certified K-12 teachers and support personnel of school districts

**Exclusions:**

No Specific Provision

**Administrating Agency:**

Local Board of Education

**Unit Determination:**

Local Board of Education

**Unit Determination Criteria:**

- Separation of supervisory from non-supervisory employees
- Separation of professional from support employees

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

Duty to bargain, no requirement to reduce to writing

**Scope of Bargaining:**

PROFESSIONAL EMPLOYEES

Items affecting the performance of professional services

**SUPPORT PERSONNEL**

Terms and conditions of employment

**Management Rights:**

No Specific Provision

**Employee Rights:**

No Specific Provision

**Grievance Procedure:**

No Specific Provision

**Union Security:**

No Specific Provision

**Unfair Labor Practices:****UNION**

Impede, restrain or coerce employees in exercise of their rights under this Act

**MANAGEMENT**

- Discriminate for exercising or not exercising their rights under this Act
- Impede, restrain or coerce employees in exercise of their rights under this Act

**Impasse Procedure:**

Parties must establish a negotiations procedure policy

**FACTFINDING**

In absence of procedure, a panel consisting of 3 members is to make recommendations

**Strike Policy:**

- Prohibited
- Employees lose all pay
- Union loses recognition

**CASE LAW:****RECOGNITION**

- Only one organization can be recognized as the exclusive representative. *O.A.G. #73-150, 2/13/74*
- School board does not have the right to demand review of authorization cards. *Moore Teachers Ass'n v. Board of Educ.*, 96 LRRM [1977]

**STRIKE PROHIBITIONS**

Strike prohibitions under the Act are effective only for the duration of the strike. *Oklahoma City v. Oklahoma Teachers Federation*, 110 LRRM 2602 [1980]

**NOTES:**

- State has an open meeting law requiring the school board to deliberate in public unless meeting in executive session.
- State has a police, fire and municipal employees bargaining statute
- Individual employees may petition the board to be excluded from the bargaining unit
- Designation of the bargaining representative shall be made by the recognized organization. *Oklahoma Statutes Annotated*, Title 70, Ch. 7, Sec. 509.2

**OREGON**  
(K:12, ESP, HE: M)

**Statute:**

*Oregon Revised Statutes*, Section 243.650 to 243.782, as enacted by Ch. 579, L. 1963; as amended by SB 55, L. 1969; Ch. 536, L. 1973; Ch. 679, L. 1975; Ch. 728, L. 1975; as last amended by Chs. 219, 257, Ls. 1979

**Coverage:**

All employees of the state, its agencies, political subdivisions, including quasi-public corporations, and K-12 teachers, higher education faculty, nonteaching professionals and K-G support staff

**Exclusions:**

Elected, board or commission appointees, confidential, supervisory and managerial employees

**Administering Agency:**

- Employment Relations Board (ERB)
- State Conciliation Service (SCS)

**Unit Determination:**

ERB

**Unit Determination Criteria:**

- Community of interest
- Wages, hours, and other working conditions
- History of collective bargaining
- Desires of employees

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

- Duty to bargain
- An agreement must be reduced to writing if requested

**Scope of Bargaining:**

Direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedure, and other conditions of employment

**Management Rights:**

No Specific Provision

**Employee Rights:**

To form, join and participate in unions

**Grievance Procedure:**

Grievance procedure culminating in final and binding arbitration is negotiable

**Union Security:**

- Dues deduction is mandatory
- Service fees, union shop permitted
- Contribution to mutually agreeable non-religious organization permitted for bona fide objection to payment of service fee

**Unfair Labor Practices:****UNION**

- Interfere with, restrain, or coerce employees for exercising their rights under this Act
- Refuse to bargain collectively
- Refuse to comply with this Act
- Refuse to comply with any terms of an agreed upon arbitration procedure
- Refuse to reduce an agreement to writing or to sign an agreement
- Communicate with anyone other than employer representatives during negotiations regarding employment relations

**MANAGEMENT**

- Interfere with, restrain or coerce employees for exercising their rights under this Act
- Dominate, interfere with, or assist in the formation, existence or administration of an employee organization
- Discriminate in hiring, tenure, or any term or condition of employment to encourage or discourage membership in an employee organization
- Discharge or discriminate against an employee for filing a complaint or testifying under this Act
- Refuse to bargain collectively
- Refuse to comply with the terms of an agreed upon arbitration procedure
- Refuse to reduce to writing or sign an agreement
- Communicate with unit employees on employment relations matters during the course of negotiations

**Impasse Procedures:****MEDIATION**

- Request of either party
- Stipulate unresolved issues
- Mediator appointed by SCS

**FACTFINDING**

- If no settlement after 15 days, either party may request factfinding, or ERB initiates
- Parties may select own factfinder
- ERB selects if parties do not agree
- Report issued 30 days after close of hearing
- Parties must accept or reject report within five days or report is made public
- Costs borne equally
- Parties may submit dispute to final and binding arbitration at any time, bypassing mediation and factfinding
- Protective services must submit dispute to binding arbitration
- Parties may negotiate alternate dispute resolution machinery

**Strike Policy:**

- Strike permitted after mediation and factfinding and upon giving ten days notice
- Protective services prohibited from striking
- ULP not a defense to prohibited strike

- Employer may seek injunctive relief where there is a clear and present danger to public health and welfare
- Court may order arbitration
- Honoring a picket line is deemed striking

**CASE LAW:****RIGHT TO REPRESENTATION**

- Lawful for employer and union to prohibit a rival organization from presenting grievances. *O.A.G.*, #7376, 12/29/76
- A teacher has neither a statutory nor a constitutional right to representation at evaluation conferences to measure annual growth and development. *O.A.G.*, #7381, 12/29/76

**AGENCY SHOP**

- Statutory definition of "fair share" is legal in light of

*Aboud, Siegel v. Gresham Grade School Teachers Ass'n*, 97 LRRM 3125 (1978)

- If an employee objects to the fair share fee contribution or any portion of the fair share contribution because the fee is not used exclusively for employment relations purposes, the employee is not required to make the contribution. *O.A.G.*, #7591, 3/21/78

**NOTES:**

- Postsecondary students may meet and confer with the parties and attend all the bargaining sessions. Confidentiality is required
- Agreements declared invalid by ERB or the court(s) or by an inability to execute must be renegotiated
- Counties and cities (Portland, Eugene) may adopt their own ordinance(s) governing labor relations providing these ordinances do not conflict with state law

## PENNSYLVANIA (K-12, ESP, HE: M)

**Statute:**

*Purdon's Pennsylvania Statutes Annotated*, Public Employee Relations Act, Title 43, Section 1101.101 to 1101.2301, enacted as Act 195, L. 1970; as amended by Act 67, L. 1976

**Coverage:**

Employees of the state, its political subdivisions and institutions receiving public funds, including K-12 teachers, higher education faculty, nonteaching professionals and K-G support employees

**Exclusions:**

Elected, appointed officials, police and fire, managerial and confidential employees, clergy or employees of church officials

**Administrating Agency:**

- Pennsylvania Labor Relations Board (PLRB)
- Pennsylvania Bureau of Mediation (PBM)

**Unit Determination:**

PLRB

**Unit Determination Criteria:**

- Community of interest
- Avoidance of overfragmentation
- Separation of professionals from nonprofessionals unless professionals vote for inclusion
- Separate supervisory units
- Statewide units where possible
- Separate units for guards and court employees

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

Duty to bargain and reduce an agreement to writing prior to budget submission date

**Scope of Bargaining:**

- Wages, hours and other terms and conditions of employment
- Meet and discuss on policy matters affecting wages, hours and terms and conditions of employment as well as impact thereon

**Management Rights:**

- Not required to bargain over matters of inherent managerial policy or "acts of discretion" such as functions and programs of the employer
  - Standards of service
  - Overall budget
  - Utilization of technology
  - Organizational structure
  - Selection and direction of personnel

**Employee Rights:**

- To organize, form, join or assist unions and refrain from so doing
- Engage in lawful concerted activities

**Grievance Procedure:**

- Grievance procedure including binding arbitration must be bargained
- PBM may be utilized

**Union Security:**

- Dues deduction permitted
- Maintenance of membership permitted

**Unfair Labor Practices:****UNION**

- Restrain or coerce employees in the exercise of their rights guaranteed under the Act
- Restrain or coerce an employer in selection of his representatives
- Refuse to bargain collectively
- Violate PERB rules for the conduct of elections
- Refuse to reduce to writing or sign an agreement
- Call, institute, maintain or conduct a strike or boycott or picket against a public employer on account of a jurisdictional dispute, or recognize a noncertified organization
- Refuse to comply with the provisions of an arbitration award
- Refuse to comply with the requirements of "meet and confer"

**MANAGEMENT**

- Interfere with, restrain or coerce employees in the exercise of rights guaranteed under this Act
- Dominate or interfere with the formation or existence of a union
- Discriminate in hiring or tenure of employment to discourage or encourage membership in a union
- Discharge or discriminate against an employee for exercising rights or filing complaints under this Act
- Refuse to bargain or process a grievance in good faith
- Refuse to comply with provisions of an arbitration award
- Refuse to comply with requirements of "meet and confer"

**Impasse Procedures:****MEDIATION**

Both parties must request mediation from PBM 150 days prior to budget submission date

**FACTFINDING**

- Panel must be appointed not later than 130 days prior to budget submission date
- Report due in 40 days from request for factfinding
- If report not accepted, may be publicized
- State pays 1/2 of cost, parties share balance

**ARBITRATION**

- Voluntary
- Tripartite panel
- A binding award
- PLRB pays for neutral
- Any part of award requiring legislation is advisory

**Strike Policy:**

- Permitted after following mandatory impasse procedures
- Employer may seek injunction against strike as threat to public health, safety and welfare
- Violation of injunction punishable by fine and imprisonment
- No pay for strike days

- ULP no defense for illegal strike

**CASE LAW:****UNION SECURITY**

- Employee's right to withdraw from a union is restricted only during the term of the contract. New contract may not nullify a valid resignation. *Philadelphia Teachers v. School Board*, 88 LRRM 2163 [1974]
- Agency shop is illegal in any form. *PLRB v. Zelem*, 329 A 2d 477 [1974]

**SCOPE OF BARGAINING**

- School boards may bargain over pay for days schools are forced to close for lack of funds as the issue relates to wages. *O.A.G.*, 7/17/72
- Sabbatical leave benefits are within the ambit of the mandatory scope of bargaining. But certain statutory provisions regarding eligibility criteria for sabbatical leaves are non-negotiable. *O.A.G.*, #31, 4/19/73
- An item of dispute is not automatically removed from bargaining simply because it touches upon managerial policy since it is also of fundamental concern to employees' interest in wages, hours, and other terms and conditions of employment. *PLRB v. School District*, 90 LRRM 2081 [1975]

**ARBITRABILITY: IMPROPER DELEGATION**

Arbitration of a discharge of a non-tenured teacher is permitted and is also a proper subject of negotiation. The arbitration provision does not delegate away the board's authority to enforce regulations regarding the management of school affairs or removal of teachers. *Philadelphia Board of Educ. v. Philadelphia Teachers*, 90 LRRM 2879 [1975]

**STRIKES**

- A strike is enjoined if the Act's procedural requirements are not met. *School District v. Educ. Ass'n*, 79 LRRM 2306 [1971]
- Where a threat to public health, welfare and safety is not established a preliminary injunction is dissolved since the strike did nothing more than the usual and disruptive effects of a teacher's strike. *School District v. Educ. Ass'n*, 79 LRRM 2455 [1971]
- Court does not have jurisdiction to enjoin a threatened strike as such action would frustrate the intent of the Act. *Commonwealth of Pennsylvania v. Region*, 88 LRRM 2638 [1974]

**CONTRACTING OUT**

A city is obligated to negotiate over possible contracting out of unit work. *Wilkesburg v. Sanitation Dept.*, 90 LRRM 2818 [1975]

**NOTES:**

- State has a police and fire bargaining act (Act 111, Title 43, Sec. 217.1-.11)
- State has a separate transit authority. *Right to Organize*, statute

**RHODE ISLAND  
(K-12: M)**

**Statute:**

*Rhode Island General Laws*, Section 28.9.3-1 to 28.9.3-16, Chapter 9.3 of Title 28, as enacted by Ch. 149, L. 1966; as amended by Ch. 54, L. 1975; as last amended by Ch. 418, L. 1981

**Coverage:**

All certified employees of a school district and support personnel whose position requires a professional certificate issued by the State Department of Education

**Exclusions:**

All supervisory and managerial personnel above the rank of assistant principal

**Administrating Agency:**

R.I. State Labor Relations Board (RISLRB)

**Unit Determination:**

Statute

**Unit Determination Criteria:**

No Specific Provision

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

- Duty to bargain and reduce an agreement to writing
- Duration not to exceed 3 years

**Scope of Bargaining:**

Hours, salary, working conditions and all other terms and conditions of professional employment

**Management Rights:**

No Specific Provision

**Employee Rights:**

To organize, be represented, negotiate and bargain collectively, and to refrain from so doing

**Grievance Procedure:**

No Specific Provision

**Union Security:**

- Dues deduction mandatory
- Service fee required

**Unfair Labor Practices:**

There is no specific provision in the Act for ULP's. The Act however (Sec. 28-9-3-4) references Chapter 7, (28-7.13) of the State Labor Relations Act which specifies

ULP's for an employer

**UNION**

Refuse to bargain

**MANAGEMENT**

- To spy or keep surveillance on employees or their representatives
- To blacklist employees
- Assist in the formation, administration of a union
- Discharge or discriminate on account of union membership or giving testimony or filing complaints under this Act
- Require an employee as a condition of employment to join a union
- Refuse to discuss grievances
- Refuse to bargain in good faith
- Interfere with, restrain or coerce employees in the exercise of their rights under this Act

**Impasse Procedure:****MEDIATION**

- At request of either party
- Any time after 30 days from first bargaining session

**ARBITRATION**

- At request of either party
- Tripartite panel
- Hearing concluded within 20 days
- May bypass mediation
- Binding on all matters except money

**Strike Policy:**

Prohibited

**NOTE:****ARBITRABILITY**

Statutory grant to school committees regarding selection of teachers refers to initial hiring. Because the Arbitration Act is broad and unqualified a school committee may subject promotion decisions to arbitral review. *Belanger v. Matteson*, 91 LRRM 2003 [1975]

**AGENCY FEE**

Agency shop provisions must neither require a nonjoiner to share expenses of benefits that are not received nor pay for more than a proportionate share of the costs of benefits. *Town v. Teachers Ass'n*, 82 LRRM 2010 [1972]

**UNFAIR LABOR PRACTICE: JUDICIAL RELIEF**

An employee organization must exhaust the procedures of the Arbitration Act prior to invoking a judicial remedy. *Warren Educ. Ass'n v. Jupn*, 67 LRRM 2523 [1967]

**RHODE ISLAND  
(HE: M)**

**Statute:**

*Rhode Island General Statutes*, Section 36-11.1 to 36.11.12, Title 36, Chapter 11, as enacted by Ch. 178, L. 1958; as amended by SB 28, L. 1970; HB 5354, L. 1972; Ch. 256, L. 1973; as last amended by Ch. 356, L. 1980

**Coverage:**

All higher education faculty, nonteaching professionals and support employees

**Exclusions:**

Casual and seasonal employees

**Administrating Agency:**

R.I. State Labor Relations Board (RISLRB)

**Unit Determination:**

RISLRB

**Unit Determination Criteria:**

Supervisors excluded from unit

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

Duty to bargain and reduce an agreement to writing

**Scope of Bargaining:**

Wages, hours and other conditions of employment

**Management Rights:**

No Specific Provision

**Employee Rights:**

To organize and choose a bargaining representative

**Grievance Procedure:**

No Specific Provision

**Union Security:**

- Dues deduction mandatory
- Agency shop mandatory
- Service fees equal to membership dues

**Unfair Labor Practices:**

No Specific Provision

**Impasse Procedure:**

**FACTFINDING**

- Any unresolved dispute 30 days after the first bargaining session may be submitted to RISLRB for conciliation and factfinding
- If conciliator cannot resolve the dispute within ten days a panel will be convened to make a finding of fact with recommendations
- If the report is rejected, parties shall take all unresolved issues to final and binding arbitration

**ARBITRATION**

- Mandatory on unresolved issues
- Monetary items advisory only
- Report in 20 days
- Costs shared equally

**ARBITRATION AWARD CRITERIA**

- Comparison with public and private sector employees doing similar work
- Interest and welfare of the public
- Peculiarities of employment such as hazards, qualifications, training and skills

**Strike Policy;**

No Specific Provision

**NOTES:**

Contract duration may not exceed 3 years

**RHODE ISLAND  
(ESP: M)**

**Statute:**

*Rhode Island General Statutes*, Chapter 19, Title 28, Section 28.9.4-1 to 28.9.4-19, as enacted by SB 386, L. 1967; and reenacted as Ch. 9, Title 28, L. 1970

**Coverage:**

All employees of any political subdivision of the state, including K-12 school district support personnel

**Exclusions:**

Elected or appointed officials, administrative, supervisory managerial and employees covered by other laws

**Administrating Agency:**

R.I. State Labor Relations Board (RISLRB)

**Unit Determination:**

RISLRB

**Unit Determination Criteria:**

No Specific Provision

**Recognition:**

Exclusive, by election

**Bargaining Rights:**

- Duty to bargain and reduce an agreement to writing
- Duration of contract not to exceed three years

**Scope of Bargaining:**

Hours, salaries, working conditions and all other terms and conditions of employment

**Management Rights:**

No Specific Provision

**Employee Rights:**

To organize, be represented, negotiate and bargain collectively

**Grievance Procedure:**

- Grievance procedure culminating in final and binding arbitration is negotiable
- State director of labor available for conciliation of grievances

**Union Security:**

No Specific Provision

**Unfair Labor Practices:**

There is no specific provision in the Act for ULP's. The Act however (Sec. 28-9-3-4) references Chapter 7.128-7.13) of the State Labor Relations Act which specifies ULP's for an employer

**UNION**

Refuse to bargain

**MANAGEMENT**

- To spy or keep surveillance on employees or their representatives
- To blacklist employees
- Assist in the formation, administration of a union
- Discharge or discriminate on account of union membership or giving testimony or filing complaints under this Act
- Require an employee to join a union as a condition of employment
- Refuse to discuss grievances
- Refuse to bargain in good faith
- Interfere with, restrain or coerce employees in the exercise of their rights under this Act

**Impasse Procedure:****FACTFINDING**

- Any unresolved dispute 30 days after the first bargaining session may be submitted to RISLRB for conciliation and factfinding
- If conciliator cannot resolve the dispute within ten days a panel will be convened to make a finding of fact with recommendations
- If the report is rejected, parties shall take all unresolved issues to final and binding arbitration

**ARBITRATION**

- Mandatory on unresolved issues
- Monetary items advisory only
- Report in 20 days
- Costs shared equally

**ARBITRATION AWARD CRITERIA**

- Comparison with public and private sector employees performing similar work
- Interest and welfare of the public
- Peculiarities of employment such as hazards, qualifications, training and skills

**Strike Policy:**

Prohibited

## SOUTH CAROLINA

South Carolina does not have a collective bargaining statute for public employees

### NOTES:

- South Carolina has a right to work law
- The state has a statute granting state employees a

grievance procedure and also establishing a state employees Grievance Committee. *South Carolina Statutes*, Section 1 to 8

- The state has a statute authorizing establishment of county and municipal employees grievance procedures. *South Carolina Statutes*, Section 8-17-150

## SOUTH DAKOTA (K-12, ESP, HE: M)

### Statute:

*South Dakota Codified Laws*, Chapter 88, Section 3-18-1 to 3-18-17, as enacted by Ch. 88, L. 1969; as amended by HB 716, L. 1971; HBs 619, 786, 860, SB 158, Ls. 1973; HB 600, L. 1974; HB 1286, L. 1978; Ch. 41, L. 1982; as last amended by HB 1079, 1080, Ch. 24, Ls. 1983

### Coverage:

All employees of the state and its political subdivisions including K-12 teachers, higher education faculty, non-teaching professionals and K-G support employees

### Exclusions:

- Elected and appointed officials
- Members of boards or commissions
- Administrators (except K-12), supervisors, part-time temporary or student employees
- National guard
- Judges or court employees

### Administrating Agency:

Division of Labor and Management (DLM)

### Unit Determination:

DLM

### Unit Determination Criteria:

- Principles of efficient administration
- Position classification and compensation plans
- History and extent of organization
- Occupational classification
- Administrative and supervisory levels of authority
- Geographical locations
- Recommendations of the parties

### Recognition:

Exclusive, voluntary or by election

### Bargaining Rights:

- Duty to bargain
- Contract must be reduced to writing
- No duration specified

### Scope of Bargaining:

Rates of pay, wages, hours of employment or other conditions of employment

### Management Rights:

No Specific Provision

### Employee Rights:

To form, join and assist unions, and to refrain from so doing

### Grievance Procedure:

- Grievance procedure is mandatory
- If procedure is not negotiated, DLM will establish
- Appeals and binding decision rest with DLM

### Union Security:

No Specific Provision

### Unfair Labor Practices:

#### UNION

- Restrain or coerce an employee in the exercise of rights under this Act
- Restrain or coerce an employer in the selection of his representatives
- Cause or attempt to cause an employer to discriminate against an employee
- Discriminate against an employee with respect to membership
- Refuse to bargain collectively

#### MANAGEMENT

- Interfere with, restrain or coerce employees in the exercise of rights guaranteed by this Act
- Dominate, interfere with or assist in the formation or administration of an employee organization or contribute to its support
- Discriminate in hiring or term or condition of employment to encourage or discourage union membership
- Discharge or discriminate against an employee for filing a complaint or testifying under this Act
- Refuse to negotiate in good faith
- Fail or refuse to comply with a provision of this Act

### Impasse Procedure:

- Either party may request DLM intervention upon ten days notice to other party. DLM shall conduct mediation and other procedures under the provisions of *SDCL* Sec. 60.10.116010.3
- The parties are free to adopt any agreeable impasse procedure

**Strike Policy:**

- Prohibited
- Injunctive relief available
- Strike penalties for individual may include fines up to \$1,000 and imprisonment
- Strike penalties for union may include fines up to \$50,000 and officers imprisoned

**CASE LAW:****SCOPE OF BARGAINING**

• School Board is not obligated to bargain over elementary conferences, teacher aides, class size, audio-visual expansion, guidance and counselling program, retirement, planning periods or budget allowances as such items are not within the ambit of "other conditions of employment" and therefore are not material items to working conditions or wages and hours but are at the discretion of the board. *Aberdeen Educ. Ass'n v. Board of Educ.*, 85 LRRM 2801 [1974]

• The term "other conditions of employment" is held to apply to items which materially affect rates of pay, wages, hours and working conditions. *O.A.G. #72-10*, 3/21/72

**MANAGEMENT RIGHTS**

The provisions of SDCL 3.18 neither limit the rights of a Board of Regents at a state educational institution to control that institution, nor limit the Regent's ability to unilaterally set salaries, discharge employees or establish employee qualifications. *Board of Regents v. Carter*, 89 LRRM 2216 [1975]

**NOTES:**

The state has a right to work statute applicable to public employees

**TENNESSEE  
(K-12: M)**

**Statute:**

*Tennessee Code Annotated*, Title 49-5-601 to 49-5-613, as enacted by Ch. 570, L. 1978

**Coverage:**

Certified public school employees

**Exclusions:**

Managerial employees

**Administrating Agency:**

- Local board of education
- State Commissioner of Education

**Unit Determination:**

Local school board

**Unit Determination Criteria:**

All professional employees in positions requiring a certificate

**Recognition:**

Exclusive, by election

**Bargaining Rights:**

- Duty to bargain and reduce an agreement to writing
- Duration not to exceed 3 years

**Scope of Bargaining:**

Salaries or wages, grievance procedure, insurance, fringe benefits excluding retirement, working conditions, student discipline, leaves, payroll deductions and other terms and conditions of employment

**Management Rights:**

Rights and responsibilities of boards of education, superintendents, and professional employees as contained in *Tennessee Code Annotated*, Title 49

**Employee Rights:**

- Right to self organization
- To form or join an employee organization
- Negotiate through representatives
- Engage in concerted activities
- Refrain from engaging in any union activities

**Grievance Procedure:**

- Grievance procedure must be negotiated
- Final and binding arbitration is negotiable

**Union Security:**

Dues deduction is negotiable

**Unfair Labor Practices:****UNION**

- To cause or attempt to cause an employer to violate this Act
- Refuse to negotiate in good faith or execute a written contract
- Interfere with, restrain or coerce employees or the board of education in exercise of rights guaranteed under this Act
- Refuse to participate in impasse resolution procedures
- Engage in a strike
- Urge, coerce or encourage others to engage in prohibited acts defined in this Act
- Enter the grounds of the employer at times which disrupt school operations

**MANAGEMENT**

- To impose, or threaten to impose reprisals or to discriminate against an employee by reason of exercising rights under this Act
- To interfere with, restrain or coerce employees in-exercise of rights guaranteed under this Act
- Refuse to negotiate in good faith or fail to execute a written agreement
- Refuse access to the work place to employee representatives
- Encourage or discourage membership in any employee organization by discriminating in hiring, tenure or other condition of employment
- Discharge or discriminate against an employee for giving testimony, filing affidavits or complaints under this Act
- Dominate, interfere with or assist in the administration of an employee organization
- Refuse to participate in the impasse resolution procedures

**Impasse Procedure:****MEDIATION**

- Request of either party to FMCS
- If services of a mediator are not available a representative from each side shall select a third to serve as mediator
- Mediator shall not make findings of fact unless so instructed
- Costs borne by requesting party

**FACTFINDING/ADVISORY ARBITRATION**

- Request of either party
- Report due within 30 days of appointment
- Costs borne by requesting party

**Strike Policy:**

- Prohibited
- Employer may seek injunctive relief
- Strike penalties for individual may include dismissal and loss of tenure for 3 years

**CASE LAW:****APPROPRIATE UNIT**

Principals or any other professional employee cannot be excluded from the negotiating unit unless these employees devote a majority of their time to system wide personnel management, fiscal affairs or general management. *O.A.G.*, #182, 5/1/79

**ELECTIONS**

To appear on a ballot an employee organization must submit a request for recognition and signed petition cards

from 30% of the unit. *O.A.G.*, #76, 10/31/78

**UNION SECURITY/CLOSED SHOP**

- Closed shop is prohibited as the Act gives an employee the right not to join an employee organization. *O.A.G.*, #188, 6/14/79
- Fair share agreements are prohibited unless such payments are voluntary and recognize the individuals right to refrain from contributing. *O.A.G.*, #5, 7/30/79

**NEGOTIABLE ITEMS**

The list of items provided in the law is not all-inclusive. Absent statutory guidance, the broad language of the Act will require a case by case determination for items not specifically mentioned in the Act. *O.A.G.*, #6, 6/20/78

**OPEN MEETING LAW**

Strategy sessions of the Board of Education are required to be open to the public under the state's open meeting statute. *O.A.G.*, #6, 6/20/78

**CONTRACT RATIFICATION**

The Act does not require a contract to be ratified by a majority of all professional employees but by the governing body of the professional organization. *O.A.G.*, #49, 9/25/79

**FAILURE TO REACH AGREEMENT: UNILATERAL CHANGE**

If a teachers' organization and school board fail to reach agreement prior to the start of a new school year, the employer may institute in good faith changes in salaries and benefits as reflected in the budget for that school year. *O.A.G.*, #45, 8/24/79

**BINDING NATURE OF AGREEMENT**

All agreed-upon, non-monetary items are binding on the employer. All monetary items requiring funding are binding as soon as funds are appropriated. *O.A.G.*, #6, 6/20/78

**IMPASSE PROCEDURE**

Once the parties exhaust the impasse procedures they may resume negotiations. Members may be assessed individually to defray costs of impasse procedure if the organization does not have sufficient funds. *O.A.G.*, #6, 9/6/80

**NOTES:**

- State has an open meeting law
- City of Memphis has adopted a labor relations ordinance covering city employees
- Public transit employees have the right to bargain *Tennessee Code Annotated*, 160, Section 6-3802

## TEXAS

Texas does not have a statute granting public employees the right to collective bargaining

## NOTES:

- Texas does have a Fire and Police Employee Relations Act applicable to towns, cities and political subdivisions that choose inclusion through referendum
- Texas also has two laws for counties with over 20,000 and cities with over 10,000 in population that al-

low dues deduction if the union agrees to bear the costs

- Texas has an open meeting law applicable to public sector collective bargaining
- Texas has a right to work law
- A Board of Trustees and administrative personnel of school districts may consult with teachers on matters of education policy and conditions of employment. *Vernon's Texas Code Annotated*, Section 13.901
- Teachers may present grievances through an employee representative. *O.A.G.*, #M-77, 5/67

## UTAH

Utah does not have a statute granting public employees the right to collective bargaining

## NOTES:

- Utah does have a statute mandating dues deduction for all employees. The amount of the dues deducted cannot be more than 3% of monthly wages
- The Utah Supreme Court has held collective bargaining with binding arbitration to be unconstitutional. *Salt Lake City vs. International Association of Firefighters, Locals 1645, 593, 165 and 2064*, 563 P.2d 786 [1977]
- Transit district employees have a statutory right to

collective bargaining and arbitration

- Salt Lake City has an ordinance governing collective bargaining for city employees
- Utah has a right-to-work law
- Public employees are authorized to organize
- The Utah Attorney General has opined that public employers may collectively bargain and enter into collectively bargained agreements
- The Utah Supreme Court has held that public employees in Utah generally have no collective bargaining rights. *Pratt vs. City Council of the City of Riverton*, 639 P.2d 172 [1981]

VERMONT  
(HE: M)

## Statute:

3 *Vermont Statutes Annotated*, Chapter 27, Section 901 to 1007, L. 1969; as amended by PA 193, L. 1972; PA 176, L. 1974; PA 52, L. 1975; HB 153, L. 1976; as last amended by Act 169, L. 1977

## Coverage:

All state employees including certified teachers in state hospitals, correctional and training institutions; higher education faculty and nonteaching professionals and state police

## Exclusions:

Exempt employees under state classified service; administrative, managerial, confidential, legislative, judicial employees and any employee in certain budget departments or an employee who would have a conflict of interests

## Administrating Agency:

Vermont State Labor Relations Board (VSLRB)

## Unit Determination:

VSLRB

## Unit Determination Criteria:

- Authority of employer to take positive action on negotiable matters
- Community of interest
- Desires of employees
- Avoid over fragmentation
- Supervisors in separate units
- Effective operation of agency

## Recognition:

Exclusive, by election

## Bargaining Rights:

- Duty to bargain
- Agreement must be reduced to writing
- Duration for higher education agreements is unspecified, two years all others

## Scope of Bargaining:

- Wages, salaries, benefits and reimbursement practices relating to expenses
- Hours of work per week
- Working conditions

- Overtime compensation and related matters
- Leaves
- RIF procedures
- Terms of coverage and employee financial participation in insurance programs
- Rules and regulations for personnel administration except classified service rules

**Management Rights:**

- Carry out statutory goals and mandates of agency
- Utilize personnel, methods and means in the most appropriate manner
- Take necessary action in case of emergency

**Employee Rights:**

- To organize, form, join or assist unions
- Engage in collective bargaining
- Engage in concerted activities
- Refrain from so doing
- Present grievances

**Grievance Procedure:**

- Grievance procedure is negotiable
- Final and binding determination by the VSLRB

**Union Security:**

- No specific provision for dues deduction
- Union shop and agency shop prohibited

**Unfair Labor Practices:****UNION**

- Restrain or coerce employees in the exercise of their rights guaranteed by statute, rule or regulation
- Restrain or coerce employees in the selection of a representative
  - Cause or attempt to cause an employer to discriminate against an employee in violation of this Act
  - Discriminate against an employee on account of membership in an employee organization
  - Refuse to bargain collectively
  - Engage in a strike or refuse to handle materials, goods or perform authorized functions
  - Cause an employer to pay for services not performed
  - Picket an employer to force recognition or to bargain with an employee organization
  - Engage in unlawful activities proscribed by this Act
  - Threaten or coerce an employer to require an employee to join an employee organization or enter into an agreement prohibited by this Act; or cease using, handling or

dealing with a particular vendor; or bargain with an employee organization if another is certified; or assign work to particular employees

**MANAGEMENT**

- Interfere with, restrain or coerce employees in the exercise of rights guaranteed by this Act
  - Dominate or interfere with the formation or administration of a union or to contribute to its financial support
  - Discriminate in hiring, tenure or any term or condition of employment to encourage or discourage membership in an employee organization
  - Discharge or discriminate against an employee for testifying or filing a complaint under this Act
  - Discriminate against an employee on account of race, color, creed, sex or national origin

**Impasse Procedure:****MEDIATION**

- Request of either party, or
- SLRB appointed neutral

**FACTFINDING**

- Request of either party, or
- SLRB appoints
- Tripartite panel may mediate
- Report made public
- Costs shared equally

**FACTFINDING AWARD CRITERIA**

- Prevailing rates for comparable work within state
- Employee needs
- Requirements of agency to deliver service
- Accepted safety standards and working conditions within state

If impasse continues 15 days after issuing report, parties may present last offer to VLRB as a package. VLRB presents package to legislature

**Strike Policy:**

Prohibited

**NOTES:**

- All terms and conditions of an agreement must be compatible with merit system
- No item can be agreed upon if there is inadequate funding

**VERMONT  
(ESP: M)**

**Statute:**

21 Vermont Statutes Annotated, Chapter 22, Section 1721 to 1734, as enacted by HB 239, L. 1973; as amended by Act 113, L. 1975; HB 153, L. 1976; as last amended by Act 201, L. 1978

**Coverage:**

Employees of political subdivisions of the state, including K-12 support personnel

**Exclusions:**

Elected, appointed, supervisory, confidential, certified or part-time employees

**Administrating Agency:**

Vermont State Labor Relations Board (VSLRB)

**Unit Determination:**

VSLRB

**Unit Determination Criteria:**

- Community of interest
- Avoid over fragmentation
- Effective operation of the agency
- Extent to which unit previously organized is not controlling
  - No mixed units of nonprofessionals and professionals unless professionals vote for inclusion

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

- Duty to bargain and reduce agreement to writing
- No contract duration specified

**Scope of Bargaining:**

Wages, hours, and the conditions of employment as defined to include matters directly affecting the economic circumstances, health, safety or convenience of employees

**Management Rights:**

Any matters of inherent managerial policy

**Employee Rights:**

- To form, join or assist unions
- To present grievances

**Grievance Procedure:**

- Grievance procedure culminating in binding arbitration is negotiable
- Voluntary, binding arbitration of tenure or discharge under contract supercedes any state or municipal procedure

**Union Security:**

- Dues deduction is negotiable
- Agency shop or service fee is negotiable

**Unfair Labor Practices:****UNION**

- Restrain or coerce employees in the exercise of rights guaranteed to them by statute, rule or regulation
- Restrain or coerce employees in the choice of a representative
  - Cause or attempt to cause an employer to discriminate against an employee in violation of this Act
  - Refuse to represent all employees
  - Refuse to bargain
  - Engage in conduct designed to force employees to join an employee organization or an employer to cease doing business with a vendor
  - Force agency employees to pay an excessive initiation fee
  - Force an employer to pay for goods or services not rendered
  - Picket in order to force an employer to recognize an employee organization or employees to join an employee organization
  - Discriminate on account of race, creed, color, religion, sex, age, national origin or political affiliation
  - Penalize a person for exercising rights guaranteed by federal or state statute
  - Cause to discharge an employee for nonpayment of service fees because of religious beliefs

**MANAGEMENT**

- Interfere with, restrain or coerce employees in the exercise of rights under this Act
- Dominate or interfere with the formation or administration of an employee organization or contribute to its financial support
  - Discriminate in hiring, tenure or condition of employment to encourage or discourage membership in an employee organization
  - Discharge or discriminate against an employee for filing charges or testifying under this Act
  - Refuse to bargain
  - Refuse to implement an agreement
  - Discriminate on account of race, color, religion, creed, sex, national origin, age or political affiliation
  - Discriminate or discharge an employee for nonpayment of agency fee

**Impasse Procedure:****MEDIATION**

- At request of either party
- Commissioner of Labor may appoint
- Costs shared equally

**FACTFINDING**

- Neutral appointed after 15 days of mediation or if mediator certifies impasse exists
- At request of either party
- Factfinder may mediate
- Report issued 30 days after close of hearing
- Costs shared equally

**ARBITRATION**

- Voluntary or by adopted resolution of municipality
- Twenty days after factfinding report publicized
- Tripartite panel
- Award rendered 30 days after close of hearing
- Costs shared equally
- Judicial review with guidelines

**FACTFINDING/ARBITRATION AWARD CRITERIA**

- Authority of the employer
- Stipulation of the parties
- Interest and welfare of the public
- Ability to pay
- Comparisons between other employees in public and private sectors with respect to wages and conditions of employment
  - Cost of living
  - Overall compensation levels and their continuance

**Strikes:**

- Strike is prohibited
- Strike may be enjoined if it occurs sooner than 30 days after the delivery of the factfinder's report
  - After dispute submitted to final and binding arbitration
    - Endangers public health, safety or welfare

**VERMONT  
(K-12: M)**

**Statute:**

16 Vermont Statutes Annotated, Chapter 57, Title 16, Section 1981 to 2010, L. 1969

**Coverage:**

Certified employees of a school district in any quasi-public or private elementary or secondary school that directly or indirectly receives support from public funds

**Exclusions:**

Superintendent and assistant superintendents

**Administrating Agency:**

No Specific Provision

**Unit Determination:**

Statute

**Unit Determination Criteria:**

Supervisory personnel in a separate unit

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

- Duty to bargain
- Must reduce agreement to writing
- No specific contract duration

**Scope of Bargaining:**

Salaries, related economic conditions of employment, procedures for processing grievances and any mutually agreed upon matters not in conflict with Vermont statutes or laws

**Management Rights:**

No Specific Provision

**Employee Rights:**

Join, assist or participate in an employees' organization or to refrain from so doing

**Grievance Procedure:**

- Grievance procedure is negotiable
- May culminate in final and binding arbitration

**Union Security:**

No Specific Provision

**Unfair Labor Practices:**

No Specific Provision

**Impasse Procedure:**

**MEDIATION**

- Mutual agreement of parties
- Costs shared equally

**FACTFINDING**

- Request of either party
- Tripartite panel
- Report due within 30 days of panel appointment
- Report publicized within ten days of issuance of report
  - Costs shared equally

**Strike Policy:**

No Specific Provision

**CASE LAW:****IMPASSE ARBITRATION: LEGALITY**

Binding arbitration of contract terms though not specifically permitted by statute is legal if board agrees. *School Directors v. Fifield*, 85 LRRM 2939 [1974]

**NOTES:**

- A teachers organization is granted by statute access to buildings, equipment, facilities and school mail privileges
- Although the word "strike" does not appear in the Act, Sec. 2010 has been interpreted to include strikes within the meaning of "actions posing a clear and present danger"

**VIRGINIA**

Virginia does not have a statute granting public employees the right to bargain collectively.

**CASE LAW:****RIGHT TO BARGAIN**

Virginia's State Supreme Court ruled that a local government or school board cannot enter into binding agreements absent enabling legislation. Public employers do not have an implied power to bargain. *Commonwealth of Virginia v. County Board of Education of Arlington County*, 232 S.E. 2d 30 [1977]

**NOTES:**

- Virginia has a statute which establishes a grievance procedure for teachers. The local school board makes the final determination on all grievances. A fact finding panel may make a recommendation to the board prior to its decision. *Code of Virginia*, Section 22.1-306 to 22.1-315
- Virginia has two statutes which deal with availability of grievance procedures for state and local employees. Each statute ends with a determination of a tripartite panel. The decision is final and binding. *Code of Virginia* Section 2.1-114.5(1) and Section 15.1-7.1
- Virginia prohibits strikes. *Code of Virginia* Section 40.1-55, Section 40.1-57.1 (1970)

**WASHINGTON  
(K-12: M)****Statute:**

*Revised Code of Washington*, Title 41, Chapter 59, Section 41.59.010 to 41.59.950, as enacted by SB 2500, L. 1975; as amended by Ch. 146, L. 1979; as last amended by Ch. 57, L. 1983

**Coverage:**

Certified employees of school districts

**Exclusions:**

Chief executive and administrative personnel; superintendents and their deputies, confidential and business managers

**Administrating Agency:**

Public Employment Relations Commission (PERC)

**Unit Determination:**

PERC

**Unit Determination Criteria:**

- Duties, skills and working conditions
- History of bargaining
- Extent of prior organization within the unit
- Desire of employees

- Separation of principals, assistant principals, supervisors from teachers unless both groups vote for inclusion

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

- Duty to bargain and reduce an agreement to writing
- Maximum 3 year duration if requested by either party

**Scope of Bargaining:**

- Wages, hours and terms and conditions of employment
- Supervisory units limited to compensation, hours and number of work days per year

**Management Rights:**

No Specific Provision

**Employee Rights:**

- Organize, form, join or assist unions
- Present grievances
- Refrain from so doing

**Grievance Procedure:**

- Grievance procedure is negotiable
- Binding arbitration is negotiable

**Union Security:**

- Dues deduction mandatory
- Closed and union shop prohibited
- Agency shop permitted
- Religious exemption and alternative service fee payment permitted

**Unfair Labor Practices:**

**UNION**

- Restrain or coerce employees in exercise of their rights under this Act
- Cause or attempt to cause an employee to discriminate against an employee
- Refuse to bargain

**MANAGEMENT**

- Interfere with, restrain or coerce employees in exercise of rights guaranteed under this Act

- Dominate or interfere with administration of a union or contribute to its financial support
- Encourage or discourage membership in an employee organization by discriminating in hiring or condition of employment
- Discharge or discriminate against an employee for filing charges or giving testimony under this Act
- Refuse to bargain collectively

**Impasse Procedure:**

**MEDIATION**

- Either party may require PERC to appoint a mediator
- Costs borne by PERC

**FACTFINDING**

- After ten days of mediation either party may request a factfinder
- Report due within 30 days of appointment
- Costs borne by PERC

**Strike Policy:**

No Specific Provision

**WASHINGTON  
(HE: MC)**

**Statute:**

*Revised Code of Washington*, Title 28B, Chapter 52, Section 28B.52.010 to Section 28B.52.100, as enacted by HB 739, L. 1971; as amended by Ch. 205, L. 1973; as last amended by Ch. 296, L. 1975

**Coverage:**

Academic employees of community college districts defined as teachers, counselors, librarians and department heads

**Exclusion:**

Chief administrative officer and administrators in each community college

**Administering Agency:**

Public Employment Relations Commission (PERC)

**Unit Determination:**

PERC

**Unit Determination Criteria:**

No Specific Provision

**Representation:**

Exclusive, by election

**Bargaining Rights:**

- Meet and confer

- Any agreement must be reduced to writing
- Duration not to exceed three years

**Scope of Bargaining:**

Including but not limited to curriculum, textbooks, in-service training, student-teacher programs, personnel, hiring and assignment practices, leaves of absence, salaries and salary schedules and noninstructional duties

**Management Rights:**

No Specific Provision

**Employee Rights:**

Employees may represent themselves

**Grievance Procedure:**

No Specific Provision

**Union Security:**

No Specific Provision

**Unfair Labor Practices:**

No Specific Provision

**Impasse Procedure:**

At request of both parties, PERC may be asked to provide mediation and/or factfinding assistance

**Strike Policy:**

No Specific Provision

**WASHINGTON  
(ESP: M)**

**Statute:**

*Revised Code of Washington*, Title 41, Chapter 56, Section 41.56.010 to 41.56.950, as enacted by Ch. 108, L. 1967; as amended by Ch. 215, L. 1969; Chs. 59, 131, Ls. 1973; Ch. 296, L. 1975; Ch. 14, L. 1976; Ch. 184, L. 1979; as last amended by Ch. 57, L. 1983

**Coverage:**

Employees of counties, municipal, corporations, political subdivisions including K-12 support personnel and uniformed (protective services) personnel

**Exclusions:**

- Elected, appointed or confidential employees
- Employees covered by other laws

**Administrating Agency:**

Public Employment Relations Commission (PERC)

**Unit Determination:**

PERC

**Unit Determination Criteria:**

- Duties, skills and working conditions of employees
- History of collective bargaining
- Extent of prior unit organization
- Desire of employees

**Recognition:**

Exclusive, voluntary or by election or cross-check of cards

**Bargaining Rights:**

- Duty to bargain
- An agreement must be reduced to writing
- Duration not to exceed three years

**Scope of Bargaining:**

Collective negotiations on personnel matters, including wages, hours and working conditions, and grievance procedure

**Management Rights:**

No Specific Provision

**Employee Rights:**

- Organize, bargain and present grievances
- Refrain from so doing

**Grievance Procedure:**

- Grievance procedure is mandatory
- Final and binding arbitration is negotiable

**Union Security:**

- Dues deduction mandatory

- Closed shop prohibited
- Union shop permitted
- Agency shop and service fee permitted
- Religious belief exemption permits alternative contribution

**Unfair Labor Practices:****UNION**

- Interfere with, restrain or coerce employees in exercise of rights guaranteed under this Act
- Induce a public employer to commit an unfair labor practice
- Discriminate against a public employee who has filed an unfair labor practice
- Refuse to negotiate

**MANAGEMENT**

- Interfere with, restrain, or coerce public employees in exercise of rights guaranteed by this Act
- Control, dominate or interfere with a bargaining representative
- Discriminate against an employee who has filed a ULP
- Refuse to negotiate

**Impasse Procedure:****NON-UNIFORMED PERSONNEL**

Either party may request mediation by PERC

**UNIFORMED PERSONNEL**

- Either party may request mediation by PERC
- Mediator may recommend or PERC initiates arbitration
- Tripartite panel
- PERC absorbs cost of neutral
- Award shall be final and binding after panel makes finding of fact

**ARBITRATION AWARD CRITERIA**

- Constitutional and statutory authority of the employer
- Stipulations of the parties
- Wages and hours comparison of employees in similar sized municipalities on the west coast
- Cost of living
- Any changes in foregoing during pendency of proceedings
- Any other factors traditionally considered in rendering such awards

**Strike Policy:**

Strikes not authorized for nonuniformed (K-12) personnel

**WASHINGTON  
(ESP-H.E.: M)**

**Statute:**

*Revised Code of Washington*, Title 28B, Chapter 16, Sections 28B.16.100 to Section 28B.16.930, as enacted by Ch. 17, L. 1971; as amended by HBs 489, 1099, Ls. 1973; Ch. 152, L. 1977; as last amended by Ch. 53, L. 1982

**Coverage:**

Support employees (ESP) in state institutions of higher education

**Exclusions:**

Supervisory, managerial, confidential, professional employees and faculty

**Administrating Agency:**

Higher Education Personnel Board (HEPB)

**Unit Determination:**

HEPB

**Unit Determination Criteria:**

- Duties, skills, working conditions
- History of bargaining
- Extent of prior unit organization
- Desires of employees

**Recognition:**

Exclusive, election or cross-check of cards

**Bargaining Rights:**

Duty to bargain and reduce an agreement to writing

**Scope of Bargaining:**

Grievance procedure and personnel matters over which the institution may lawfully exercise discretion

**Management Rights:**

No Specific Provision

**Employee Rights:**

To organize and bargain

**Grievance Procedure:**

Grievance procedure must be bargained

**Union Security:**

- Dues deduction mandatory
- Service fee permitted
- Religious belief exemption permits alternative payment

**Unfair Labor Practices:**

- No Specific Provision
- Unfair labor practices as prescribed in Sec. 4156.010 of Municipal Employees Act are incorporated by reference

**Impasse Procedure:**

No Specific Provision

**Strike Policy:**

Prohibited

**WEST VIRGINIA**

West Virginia does not have a statute granting public employees collective bargaining rights

**WISCONSIN  
(ESP [state]: M)**

**Statute:**

*Wisconsin Statutes Annotated*, Chapter III, Section 111.80 to 111.94, Subchapter V of Ch. 111, as enacted by Ch. 612, L. 1966; as amended by AB 475, L. 1971; Ch. 212, L. 1974; Ch. 238, L. 1976; Ch. 196, L. 1978; as last amended by Ch. 126, L. 1982

**Coverage:**

State employees below the rank of professional, including teachers in state institutions; K-12 and postsecondary support employees of state institutions

**Exclusions:**

Faculty teachers in state system, temporary, seasonal, project supervisors, managerial, confidential and WERC employees

**Administrating Agency:**

Wisconsin Employment Relations Commission (WERC)

**Unit Determination:**

Statute lists 15 occupational groups

**Unit Determination Criteria:**

- Avoid excess fragmentation
- Statewide units

**Recognition:**

Exclusive, by election

**Bargaining Rights:**

- Duty to bargain
- Reduce an agreement to writing

**Scope of Bargaining:**

Wage rates, fringe benefits, hours and conditions of employment and grievance procedure

**Management Rights:**

- Carry out statutory goals expeditiously and with appropriate personnel
- Manage employees
- Hire, fire, promote, transfer or assign
- Establish work rules
- Discipline, suspend or demote employees
- Lay off employees for lack of work or funds or owing to inefficiency

**Employee Rights:**

- Organize, form, join or assist unions
- Bargain collectively
- Engage in lawful concerted activities
- Present grievances
- Refrain from so doing

**Grievance Procedure:**

- Grievance procedure is mandatory
- Final and binding arbitration is negotiable

**Union Security:**

- Dues deduction mandatory
- Service fees and agency shop permitted with 2/3 vote of unit employees

**Unfair Labor Practices:****UNION**

- Coerce or intimidate employees in the exercise of their legal rights under this Act
- Coerce or intimidate an employer into denying an em-

ployee rights guaranteed under this Act, or commit an unfair labor practice

- Refuse to bargain
- Violate provisions of any written agreement with respect to terms and conditions of employment or violate terms of a binding arbitration award
- Engage in a strike or refuse to work
- Coerce or intimidate supervisory employees to join or assist a labor organization

**MANAGEMENT**

- Interfere with, restrain or coerce employees in the exercise of their rights
- Initiate, create, dominate or interfere with the formation of a union or contribute to its financial support
- Discriminate in hiring, tenure or condition of employment to induce or discourage membership in a labor organization
- Refuse to bargain collectively
- Violate provisions of any written agreement with respect to terms and conditions of employment or violate terms of a binding arbitration award
- Deduct unauthorized dues payments from an employee

**Impasse Procedure:****MEDIATION**

Either party may request or WERC may initiate and assign a mediator

**FACTFINDING**

- Joint request or WERC assigns
- Single neutral or tripartite panel
- Factfinder may mediate
- Costs shared equally
- Parties must notify WERC of disposition of report

**CRITERIA FOR FACTFINDING**

Efficient and effective administration of agency

**Strike Policy:**

- Prohibited
- Employer may seek injunction, file ULP or both
- Individuals subject to discipline, loss of employment eligibility, fines
- Union subject to fines and damages

**WISCONSIN  
(K-12, ESP, CC: M)**

**Statute:**

*Wisconsin Statute Annotated*, Chapter 111, Section 111.70 to 111.71, Subchapter IV, as enacted by Ch. 509, L. 1959; as amended by Chs. 124, 246, 247, Ls. 1971; Ch. 65, L. 1973; Ch. 178, L. 1977; as last amended by Ch. 442, L. 1978

**Coverage:**

Municipal employees and employees of political subdivisions of the state including K-12 teachers, vocational and technical college faculty and support (ESP) personnel

**Exclusions:**

Supervisory, managerial, confidential and executive employees, and independent contractors

**Administering Agency:**

Wisconsin Employment Relations Commission (WERC)

**Unit Determination:**

WERC

**Unit Determination Criteria:**

- Avoid excessive fragmentation
- Desires of employees
- Separate units for professionals unless majority vote for inclusion in non-professional unit
- Separate unit for craft employees unless the majority vote for inclusion in a noncraft unit

**Recognition:**

Exclusive, voluntary or by election

**Bargaining Rights:**

- Duty to bargain and reduce an agreement to writing
- Duration not to exceed three years

**Scope of Bargaining:**

Wages, hours and working conditions

**Management Rights:**

No Specific Provision

**Employee Rights:**

- Organize, form, join or assist unions
- Bargain collectively
- Engage in lawful concerted activities
- Present grievances
- Refrain from so doing

**Grievance Procedure:**

Grievance procedure culminating in final and binding arbitration is negotiable

**Union Security:**

- Dues checkoff and service fee permitted

- Fair share fee subject to referendum unless unit is certified

**Unfair Labor Practice:****UNION**

- Coerce or intimidate a public employee in exercise of rights under this Act
- Coerce, intimidate or induce an employer to interfere with employees' exercise of rights under this Act or to engage in an unfair labor practice
- Violate an agreed upon collective bargaining agreement or binding arbitration award
- Coerce or intimidate supervisory employees to induce them to join the labor organization

**MANAGEMENT**

- Interfere with, restrain or coerce employees in exercising their rights under this Act
- Dominate or interfere with the formation or administration of a labor organization or contribute to its financial support
- Discriminate in hiring, tenure or condition of employment to induce or discourage membership in an employee organization
- Refuse to bargain collectively
- Violate a previously agreed to collective bargaining agreement
- Deduct dues without authorization
- Refuse to implement an arbitration award

**Impasse Procedure:**

(Non-uniformed employees through July 1, 1987)

**MEDIATION**

- WERC or designee
- No power of compulsion

**VOLUNTARY IMPASSE RESOLUTION**

- Permissive subject of bargaining
- May provide for strike by municipal employees
- May provide for binding interest arbitration

**MEDIATION-ARBITRATION**

- Available upon reaching deadlock and if mediation and voluntary impasse resolution procedure, if any, have been exhausted
- At request of either party or jointly
- Final offer
- Neutral will mediate and if no settlement will ask parties if want to withdraw final offers and will inform parties of intent to issue final and binding decision
- Costs shared equally by parties

**ARBITRATION AWARD CRITERIA**

- Lawful authority of the employer
- Stipulations, if any, of the parties
- Interest and welfare of the public

- Ability of employer to meet costs of award
- Comparisons with employees performing similar work in public/private sector in same and comparable municipalities
  - Cost of living
  - Overall compensation, including fringe benefits
  - Changes in circumstances during pendency of proceedings
  - Other factors usually considered in wage and benefit determinations

#### Strike Policy:

Prohibited unless the strike is sanctioned under the Med-Arb provision of Act, in which case,

- Both parties withdraw their final offers prior to arbitration
  - Ten days notice given to employer and WERC
  - Injunctive relief possible where threat to public health or safety exists
    - Penalty for an illegal strike includes: individual fines up to \$10.00 per day, loss of compensation during strike, loss of fair share and dues checkoff, union fine of \$2.00 per member per day not to exceed \$10,000, and possible contempt and civil liability proceedings

#### CASE LAW:

**SCOPE OF BARGAINING: MANDATORY SUBJECTS**  
 Notice and input into evaluation procedures; scope of personnel files, access to files, just cause standard for non-renewal, layoffs, student discipline, school calendar, in-service days; and impact of class size found to relate to wages, hours and conditions of employment  
 Association proposal for training assistance to teachers having professional difficulties, and referral of problem students for counselling are not mandatory subjects of bargaining. *In City of Beloit v. WERC*, 92 LRRM 3318 [1976]

#### RIGHT TO SPEAK AT SCHOOL BOARD MEETING

WERC could not prohibit a teacher from speaking at a school board hearing on grounds that such conduct presents a danger to labor-management relations. School board cannot discriminate at public meeting between speakers on basis of their employment or content of their speech. *In School District #8 v. WERC*, 93 LRRM 2970 [1976]

#### UNIT DETERMINATION

WERC properly ordered a city to recognize the losing organization in a representation election as said organization was the choice of employees prior to pre-election smear campaign. *WERC v. City of Evansville*, 89 LRRM 2989 [1975]

### WYOMING

Wyoming does not have legislation granting collective bargaining rights to public employees

#### NOTES:

- Wyoming has a firefighters bargaining and arbitration statute
- Wyoming has a right to work law



# NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

## ANCHORAGE REGIONAL OFFICE

1411 W. 33RD  
ANCHORAGE, ALASKA 99503  
(907) 274-0536

## JUNEAU OFFICE

147 S. FRANKLIN #207  
JUNEAU, ALASKA 99801  
(907) 586 3090

## FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
(907) 456 4435

February 4, 1985

TO: Representative Mike Navarre, Chair  
Members, House Labor and Commerce Committee

RE: House Bill Number 130

"An Act relating to educational employees' collective bargaining agreements; and providing for an effective date."

NEA-Alaska strongly supports and urges passage of HB 130.

It brings much needed reform to the current teacher negotiations law and provides an effective means of getting to finality in the negotiations process through last best offer arbitration.

Listed below are some suggestions which pertain specifically to HB 130 which, in our opinion, would enhance this legislation. We are hopeful that the Committee will give them serious consideration.

a) Page 5, Section 7; lines 17 - 20

- In the event the mediator, as an employee of a federal agency is reluctant to take direction from the Statute a void could be filled by simply having either party notify EELRA and call for arbitration.

- On lines 20 and 21, same section: We question the worth or need for a "cooling off" period since it may tend to lengthen the collective bargaining process.

b) Page 5, Section 8; line 29

- We recommend placing a comma after the word arbitrator and inserting the word "or". In our opinion, this clarifies the intent of this section.

c) Page 6, Section 8; lines 5, 6 and 7

- We recommend removal of the Alaska residence requirement for the arbitrator. The fact of the "last best offer" technique as opposed to the more traditional conventional arbitration substantially diminishes the needs relative to residence. Further, it is our opinion that there will be a much larger pool of competent arbitrators available as a result of removal of the residence requirements.

d) Page 6, Section 8; paragraphs (b) and (c)

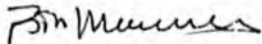
- We recommend that the "last best offer package" concept be changed to "last best offer, item by item".

- It is our feeling that each issue that remains in dispute should be scrutinized on its own merits and not as a part of a package. Each issue should be defensible and worthy of consideration on the basis of the arguments, data, and information that pertain to it. Such an approach will emphasize the "win/win" perspective which is essential to the collective bargaining process.

Attached please find additional information which we hope will be useful to the Committee.

Thank you for your consideration of this crucial legislation.

Respectfully submitted:



Robert Manners  
Executive Secretary

L85:05

Attachments

# STATE OF ALASKA

## DEPARTMENT OF ADMINISTRATION

DIVISION OF LABOR RELATIONS

March 1, 1985

BILL SHEFFIELD, GOVERNOR

POUCH C-0220  
JUNEAU, ALASKA 99811  
(907) 465-4404

Honorable Mike Navarre  
Chairman  
Labor & Commerce Committee  
Pouch V  
Juneau, AK 99811

Dear Mr. Chairman:

RE: CSHB 130, Collective Bargaining  
Privileges of Educational Employees  
in the State

It has been determined that the additional burden placed on the Personnel Board in HB 130 to also serve on the Educational Employees Labor Relations Agency (EELRA) is not feasible. As you may be aware, the Personnel Board also serves the Labor Relations Agency for State employees and the Alaska Railroad, as well as serving the Retirement Board.

In these alternative capacities, the State has asked the members to devote a substantial amount of time, all without compensation. Accordingly, I believe it more appropriate to establish a separate educational employees labor relations agency. I enclose a draft committee substitute which modifies the proposed A.S. 14.20.605 to incorporate these revisions (sec. 11).

Since the new agency will no doubt consist of individuals who do not possess the many years of experience gained by the member of the Personnel Board, and since the Board's present contract staff will not be available to them, it is necessary to revise our fiscal note to provide separate contractual staffing. The revised fiscal note, presently being prepared, is projected to be in the neighborhood of \$150,000.

Should you have any questions, please call me at 465-4403.

Sincerely,

*Kare P. Mark*  
for William J. Gibbons  
Director

WJG/vcy

Enclosure: (1)

cc: Commissioner Lisa Rudd  
Department of Administration

Eileen Plate  
Special Assistant  
to the Commissioner  
Department of Labor

# Teacher Negotiation Act

The following is the full text of the revised Connecticut statute concerning the Right of Certified Professional Employees to Negotiate with Boards of Education (Sections 10-153a through 10-153j of the General Statutes), as amended by Public Act Nos. 79-405 and 79-422 enacted by the 1979 Connecticut General Assembly. PA 79-405 took effect July 1, 1979 and PA 79-422 was effective October 1, 1979.

## SECTION 10-153a. RIGHTS CONCERNING PROFESSIONAL ORGANIZATION AND NEGOTIATIONS.

(a) Members of the teaching profession shall have and shall be protected in the exercise of the right to form, join or assist, or refuse to form, join or assist, any organization for professional or economic improvement and to negotiate in good faith through representatives of their own choosing with respect to salaries and other conditions of employment free from interference, restraint, coercion or discriminatory practices by any employing board of education or administrative agents or representatives thereof in derogation of the rights guaranteed by this section and sections 10-153b to 10-153j, inclusive.

← Right of teaching profession to organize and negotiate through representatives

(b) Nothing in this section or in any other section of the General Statutes shall preclude a local or regional board of education from making an agreement with an exclusive bargaining representative to require as a condition of employment that all employees in a bargaining unit pay to the exclusive bargaining representative of such employees an annual service fee, not greater than the amount of dues uniformly required of members of the exclusive bargaining representative organization which represents the cost of collective bargaining, contract administration and grievance adjustment; and that such service fee be collected by means of a payroll deduction from each employee in the bargaining unit.

← Right to bargain annual service fee

← Annual service fee defined

## SECTION 10-153b. SELECTION OF TEACHERS' REPRESENTATIVES.

(a) Whenever used in this section or in sections 10-153c to 10-153j, inclusive: (1) The "administrators' unit" means those certified professional employees in a school district who are employed in positions requiring an intermediate administrator or supervisor certificate, or the equivalent thereof, and are not excluded from the purview of sections 10-153a to 10-153g, inclusive. (2) The "teachers' unit" means the group of certified professional employees who are employed by a local or regional board of education in positions requiring a teaching or other certificate and are not included in the administrators' unit or excluded from the purview of sections 10-153a to 10-153g, inclusive. (3) "Commissioner" means the commissioner of education. (4) "To post a notice" means to post a copy of the indicated material on each bulletin board for teachers in every school in the school district or, if there are no such bulletin boards, to give a copy of such information to each employee in the unit affected by such

← Administrators' unit defined

← Teachers' unit defined

← Commissioner defined

← To post notice defined

**Budget submission date defined** → notice. (5) "Budget submission date" means the date on which a school district is to submit its itemized estimate of the cost of maintenance of public schools for the next following year to the board of finance in each town having a board of finance, to the board of selectmen in each town having no board of finance and, in any city having a board of finance, to said board, and otherwise to the authority making appropriations therein. (6) "Days" means calendar days.

**Days defined** →

**Certain professional personnel excluded from the purview of this act** →

(b) The superintendent of schools, assistant superintendents, certified professional employees who act for the board of education in negotiations with certified professional personnel or are directly responsible to the board of education for personnel relations or budget preparation, temporary substitutes and all non-certified employees of the board of education are excluded from the purview of this section and sections 10-153c to 10-153g, inclusive.

**Designation for representation procedure** →

(c) The employees in either unit defined in this section may designate any organization of certified professional employees to represent them in negotiations with respect to salaries and other conditions of employment with the local or regional board of education which employs them by filing, during the period between March first and March thirty-first of any school year, with the board of education a petition which requests recognition of such organization for purposes of negotiation under this section and sections 10-153c and 10-153d and is signed by a majority of the employees in such unit. Within three school days next following the receipt of such petition, such board shall post a notice of such request for recognition and mail a copy thereof to the commissioner. Such notice shall state the name of the organization designated by the petitioners, the unit to be represented and the date of receipt of such petition by the board. If no petition which requests a representation election and is signed by twenty per cent of the employees in such unit is filed in accordance with the provisions of subsection (d) with the commissioner within the thirty days next following the date on which the board of education posts notice of the designation petition, such board shall recognize the designated organization as the exclusive representative of the employees in such unit for a period of one year or until a representation election has been held for such unit pursuant to this section and section 10-153c, whichever occurs later. If a petition complying with the provisions of subsection (d) is filed within such period of thirty days, the local or regional board of education shall not recognize any organization so designated until an election has been held pursuant to said sections to determine which organization shall represent such unit.

**Election for representation procedure**

**Petition** →

**Date for filing with commissioner** →

**Action of the commissioner** →

(d) Twenty per cent or more of the personnel in an administrators' unit or teachers' unit may file during the period between March first and April thirtieth of any school year with the commissioner a petition requesting that a representation election be held to elect an organization to represent such unit. The commissioner shall file notice of such petition with the local or regional board of education on or before the third school day following receipt of the petition. The commissioner shall not divulge the names on such petition or any petition filed with the commissioner pursuant to this section to anyone except upon court order. Such notice shall

with the name of the petitioning group, the unit for which an election is sought and the date the petition was filed. Within three school days after receipt of such notice, the local or regional board of education shall post a copy of the notice. Any organization interested in representing personnel in such unit may intervene within ten school days after the board posts notice of such petition by filing with the commissioner a petition signed by ten per cent of the employees in such unit provided that any employee who signs more than one such petition between March first and April thirtieth in any one school year shall not be deemed to have signed any such petition. The commissioner shall notify the local or regional board on or before the third day following receipt of the intervening petition, and such board shall post notice of the intervening petition within three days following receipt thereof. No intervening petition shall be required from any incumbent organization previously designated by the board or elected and such incumbent organization shall be listed on the ballot if a petition for a representation election is filed. The petitioning organization, the incumbent organization, if any, and any intervening organization may agree on an impartial person or agency to conduct such an election consistent with the other provisions of this section, provided not more than one such election shall be held to elect an organization to represent the employees in such unit in any one school year, except, however, if no organization receives a majority of the vote validly cast, the election shall not be deemed completed and within ten days after the initial election a run-off election shall be held. In the event of a disagreement on the agency to conduct the election, the method shall be determined by the board of arbitrator selected in accordance with section 10-153c. The person or agency so selected shall conduct, between twenty and forty-five days after the first petition requesting an election is filed with the commissioner, an election by secret ballot to determine which organization, if any, shall represent such unit, provided if no organization receives a majority of the vote validly cast, such election shall not be deemed completed and a run-off election shall be held within ten days after the initial election. The organizations participating in the representative election shall share equally in the cost incurred by the impartial person or agency selected to conduct the election. Such person or agency shall immediately report the results of the election to the commissioner. If satisfied that the election has been conducted properly, the commissioner shall certify that the organization receiving a majority of votes is the exclusive representative of the employees in such unit.

← Board shall post a copy of notice from the commissioner

← Intervening petitions

← Incumbent organization

← Selection of impartial agency to conduct the election

← Time period for conducting election

← Secret ballot

← Majority vote

← Run-off election

← Cost of elections

← Certification of representative

← Duty of designated representative

← Multiple year contract bar

(e) The representative designated or elected in accordance with this section shall, from the date of such designation or election, be the exclusive representative of all the employees in such unit for the purposes of negotiating with respect to salaries and other conditions of employment, provided any certified professional employee or group of such employees shall have the right at any time to present any grievance to such persons as the local or regional board of education shall designate for that purpose. Whenever a multiple year contract is in effect, no representative election shall be held until two years of such contract have elapsed or until less than one year remains prior to the

expiration date of such contract, whichever is sooner. The terms of any existing contract shall not be abrogated by the election or designation of a new representative. During the balance of the term of such contract the board of education and the new representative shall have the duty to negotiate pursuant to section 10-153d concerning a successor agreement. The new representative shall, from the date of designation or election, acquire the rights and powers and shall assume the duties and obligations of the existing contract during the period of its effectiveness.

Combined unit representation →

(f) Any organization which has been designated or elected the exclusive representative of a unit which includes teachers and administrators shall continue to be the exclusive representative of such personnel upon expiration of the salary agreement in effect between such organization and the board of education employing such personnel on July 1, 1969, until or unless employees of such board of education in either of the units defined in this section initiate a petition for designation or election of an organization to represent them in accordance with the procedures set forth in this section and sections 10-153e to 10-153g, inclusive.

#### SECTION 10-153e. DISPUTES AS TO ELECTIONS.

Disputes as to eligibility of persons voting or agency to conduct the election →

Any dispute as to the eligibility of personnel to vote in an election, or the agency to conduct the election required by section 10-153b, shall be submitted to a board of arbitration for a binding decision with respect thereto. If there are two or more organizations seeking to represent employees, each may name an arbitrator within five days after receipt of a request for arbitration made in writing by any party to the dispute. Such arbitrators shall select an additional impartial member thereof within five days after the arbitrators have been named by the parties. The impartial agency selected to conduct the election shall decide all procedural matters relating to such election and shall conduct such election fairly. Each organization shall have, during the election process, equal access to school mail boxes and facilities.

Negotiations

#### SECTION 10-153d. MEETING BETWEEN BOARD OF EDUCATION AND FISCAL AUTHORITY REQUIRED. DUTY TO NEGOTIATE.

Board of education shall meet with authority for making appropriations →

(a) Within thirty days prior to the date on which the local or regional board of education is to commence negotiations pursuant to this section, such board of education shall meet and confer with the board of finance in each town or city having a board of finance, with the board of selectmen in each town having no board of finance and otherwise with the authority making appropriations therein. A member of such board of finance, such board of selectmen, or such other authority making appropriations, shall be permitted to be present during negotiations pursuant to this section and shall provide such fiscal information as may be requested by the board of education.

Authority for appropriations shall be permitted to be present during negotiations and shall provide fiscal information as requested by the board of education →

Duty to negotiate →

(b) The local or regional board of education and the organization designated or elected as the exclusive representative for the appropriate unit, through designated officials or their representatives, shall have the duty to negotiate with respect to salaries and other conditions of em-

ployment about which either party wishes to negotiate. Such negotiations shall commence not less than one hundred eighty days prior to the budget submission date. Any local board of education shall file forthwith a signed copy of any contract with the town clerk and with the commissioner of education. Any regional board of education shall file a signed copy of any such contract with the town clerk in each member town and with the commissioner of education. Upon receipt of a signed copy of such contract the clerk of such town shall give public notice of such filing. The terms of such contract shall be binding on the legislative body of the local or regional school district, unless such body rejects such contract at a regular or special meeting called and convened for such purpose within thirty days of the filing of the contract. If a vote on such contract is petitioned for in accordance with the provisions of section 7-7, in order to reject such contract, a minimum of fifteen per cent of those persons eligible to vote shall be required to participate in the voting and a majority of those voting shall be required to reject. Any regional board of education shall call a district meeting to consider such contract within such thirty-day period if the chief executive officer of any member town so requests in writing within fifteen days of the receipt of the signed copy of the contract by the town clerk in such town. The body charged with making annual appropriations in any school district shall appropriate to the board of education whatever funds are required to implement the terms of any contract not rejected pursuant to this section. If the legislative body rejects such contract within such period, the parties shall renegotiate the terms of the contract in accordance with the procedure in this section. All organizations seeking to represent members of the teaching profession shall be accorded equal treatment with respect to access to teachers, principals, members of the board of education, records, mail boxes and school facilities and, in the absence of any recognition or certification as the exclusive representative as provided by section 10-153b, participation in discussions with respect to salaries and other conditions of employment.

← Negotiations shall commence not less than 180 days prior to the budget submission date  
 ← Filing a signed contract

← Terms of contract binding unless local legislative body rejects within a calendar period

← If legislative body rejects . . .

← Equal treatment to organizations seeking to represent members of the teaching profession

**SECTION 10-153e. STRIKES PROHIBITED. INTERFERENCE WITH THE EXERCISE OF EMPLOYEES' RIGHTS PROHIBITED. HEARING BEFORE STATE BOARD OF LABOR RELATIONS. APPEAL PENALTY.**

(a) No certified professional employee shall, in an effort to effect a settlement of any disagreement with the employing board of education, engage in any strike or concerted refusal to render services. This provision may be enforced in the superior court for any judicial district in which said board of education is located by an injunction issued by said court or a judge thereof pursuant to sections 52-471 to 52-479, inclusive, provided the commissioner of education shall be given notice of any hearing and the commissioner or said commissioner's designee shall be an interested party for the purposes of section 52-474.

← No strike

← Issuance of injunctions

(b) The local or regional board of education or its representatives or agents are prohibited from: (1) interfering, restraining or coercing certified professional employees in the exercise of the rights guaranteed in sections 10-153a to 10-153g; (2) dominating or interfering with the

← Board of education prohibited from . . .

formation, existence or administration of any employees' bargaining agent or representative; (3) discharging or otherwise discriminating against or for any certified professional employee because such employee has signed or filed any affidavit, petition or complaint under said sections; (4) refusing to negotiate in good faith with the employees' bargaining agent or representative which has been designated or elected as the exclusive representative in an appropriate unit in accordance with the provisions of said sections; or (5) refusing to participate in good faith in mediation or arbitration. A prohibited practice committed by a board of education, its representatives or agents shall not be a defense to an illegal strike or concerted refusal to render services.

Professional employees organization prohibited from . . . →

(c) Any organization of certified professional employees or its agents is prohibited from: (1) interfering, restraining or coercing (A) certified professional employees in the exercise of the rights guaranteed in this section and sections 10-153a to 10-153c, inclusive, provided that this shall not impair the right of an employees' bargaining agent or representative to prescribe its own rules with respect to acquisition or retention of membership provided such rules are not discriminatory and (B) a board of education in the selection of its representatives or agents; (2) discriminating against or for any certified professional employee because such employee has signed or filed any affidavit, petition or complaint under said sections; (3) refusing to negotiate in good faith with the employing board of education, if such organization has been designated or elected as the exclusive representative in an appropriate unit; (4) refusing to participate in good faith in mediation or arbitration; or (5) soliciting or advocating support from public school students for activities of certified professional employees or organizations of such employees.

"To negotiate in good faith" defined →

(d) As used in this section, sections 10-153a to 10-153c, inclusive, and section 10-153g, "to negotiate in good faith" is the performance of the mutual obligation of the board of education or its representatives or agents and the organization designated or elected as the exclusive representative for the appropriate unit to meet at reasonable times, including meetings appropriately related to the budget-making process, and to participate actively so as to indicate a present intention to reach agreement with respect to salaries and other conditions of employment, or the negotiation of an agreement, or any question arising hereunder and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation shall not compel either party to agree to a proposal or require the making of a concession.

Prohibitive practices →

(e) Whenever a board of education or employees' representative organization has reason to believe that a prohibited practice, as defined in subsection (b) or (c) of this section, has been or is being committed, such board of education or representative shall file a written complaint with the state board of labor relations and shall mail a copy of such complaint to the party that is the subject of the complaint. Upon receipt of a properly filed complaint said board shall refer such complaint to the agent who shall, after investigation and within ninety days after the date of such referral, either (1) make a report to said board recommending dismissal

Filing complaint with state board of labor relations →

Investigation →

Report of investigation →

of this section shall issue a written complaint charging the party with such prohibited practice: if no such complaint is made and if no such written complaint is made by the board of labor relations in its due diligence, the board shall proceed to a hearing upon the complaint of the violation of this section. Any such complaint shall in such case be treated for all purposes of this section as a complaint issued by the agent. Upon receiving a report from the agent recommending dismissal of a complaint, said board of labor relations may issue an order dismissing the complaint or may order a further investigation or a hearing thereon. Upon receiving a complaint issued by the agent, the board of labor relations shall set a time and place for the hearing. Any such complaint may be amended with the permission of said board. The party so complained of shall have the right to file an answer to the original or amended complaint within five days after the service of such complaint or within such other time as said board may limit. Such party shall have the right to appear in person or otherwise to defend against such complaint. In the discretion of said board any person may be allowed to intervene in such proceeding. In any hearing said board shall not be bound by technical rules of evidence prevailing in the courts. A stenographic or electronic record of the testimony shall be taken at all hearings of the board of labor relations and a transcript thereof shall be filed with said board upon its request. Said board shall have the power to order the taking of further testimony and further argument. If, upon all the testimony, said board determines that the party complained of has engaged in or is engaging in any prohibited practice, it shall state its finding of fact and shall issue and cause to be served on such party an order requiring it to cease and desist from such prohibited practice, and shall take such further affirmative action as will effectuate the policies of subsections (b) to (d), inclusive, of this section. Such order may further require such party to make reports from time to time showing the extent to which the order has been complied with. If upon all the testimony the board of labor relations is of the opinion that the party named in the complaint has not engaged in or is not engaging in any such prohibited practice, then said board shall make its finding of fact and shall issue an order dismissing the complaint. Until a transcript of the record in a case has been filed in the superior court, as provided in subsection (g) of this section, said board may at any time, upon notice, modify or set aside in whole or in part any finding or order made or issued by it. Proceedings before said board shall be held with all possible expedition. Any party who wishes to have a transcript of the proceedings before the board of labor relations shall apply therefor. The parties may agree on the sharing of the costs of the transcript but, in the absence of such agreement, the costs shall be paid by the requesting party.

← Hearing procedure

← Post hearing action

(f) For the purpose of hearings pursuant to this section before the board of labor relations said board shall have power to administer oaths and affirmations and to issue subpoenas requiring the attendance of witnesses. In case of contumacy or refusal to obey a subpoena issued to any person, the superior court, upon application by said board, shall have jurisdiction to order such person to appear before said board to produce evidence or to give testimony touching the matter under investigation or in question, and any failure to obey such order may be

← Powers of board of labor relations

punished by said court as a contempt thereof. No person shall be excused from attending and testifying or from producing books, records, correspondence, documents or other evidence in obedience to the subpoena of the board, on the ground that the testimony or evidence required may tend to incriminate or subject such person to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such individual is compelled, after claiming a privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. Complaints, orders and other processes and papers of the board of labor relations or the agent may be served personally, by registered or certified mail, by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return of service shall be proof of such service. Witnesses summoned before said board or the agent shall be paid the same fees and mileage allowances that are paid witnesses in the courts of this state, and witnesses whose depositions are taken and the person taking the same shall severally be entitled to the same fees as are paid for like services in the courts of this state. All processes of any court to which an application or petition may be made under this chapter may be served in the judicial district wherein the person or persons required to be served reside or may be found.

Board of labor relations may petition the  
superior court for enforcement →

(g) (1) The board of labor relations may petition the superior court for the judicial district wherein the prohibited practice in question occurred or wherein any party charged with the prohibited practice resides or transacts business, or, if said court is not in session, any judge of said court, for the enforcement of an order and for appropriate temporary relief or a restraining order, and shall certify and file in the court a transcript of the entire record of the proceedings, including the pleadings and testimony upon which such order was made and the finding and orders of said board. Within five days after filing such petition in the superior court, said board shall cause a notice of such petition to be sent by registered or certified mail to all parties or their representatives. The superior court, or, if said court is not in session, any judge of said court, shall have jurisdiction of the proceedings and of the questions determined thereon, and shall have the power to grant such relief, including temporary relief, as it deems just and suitable and to make and enter a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part, the order of said board. (2) No objection that has not been urged before the board of labor relations shall be considered by the court, unless the failure to urge such objection is excused because of extraordinary circumstances. The findings of said board as to the facts, if supported by substantial evidence, shall be conclusive. If either party applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before said board, the court may order such additional evidence to be taken before said board and to be made part of the transcript. The board of labor re-

...of the superior court shall be subject to review by the supreme court, on appeal, by either party, irrespective of the nature of the decree or judgment or the amount involved. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases of appeal to the supreme court, and the record so certified shall contain all that was before the lower court.

← Jurisdiction of the superior court

(4) Any party aggrieved by a final order of the board of labor relations granting or denying in whole or in part the relief sought may obtain a review of such order in the superior court for the judicial district where the prohibited practice was alleged to have occurred or in the judicial district where such party resides or transacts business by filing in the court, or, if said court is not in session, with any judge thereof, within two weeks from the date of such order, a written petition in duplicate praying that the order of said board be modified or set aside. The clerk of the superior court shall thereupon mail the duplicate copy to said board. The board of labor relations shall then file in said court a transcript of the entire record in the proceeding, certified by said board, including the pleadings, testimony and order of the board. Upon such filing said court or such judge shall proceed in the same manner as in the case of a petition by said board under this section and shall have the same exclusive jurisdiction to grant to the party such temporary relief or restraining order as it deems just and suitable, and in like manner to make and enter a decree enforcing or modifying and enforcing as so modified or setting aside, in whole or in part, the order of said board. Unless otherwise directed by the court, commencement of proceedings under subdivisions (1) and (4) of this subsection shall not operate as a stay of such order. (5) Petitions filed under this subsection shall be heard expeditiously and determined upon the transcript filed, without requirement of printing. Hearings in the superior court or supreme court under this chapter shall take precedence over all other matters, except matters of the same character.

← Review

(h) Subject to regulations to be made by the board of labor relations, the complaints, orders and testimony relating to a proceeding instituted under subsection (e) of this section may be available for inspection or copying. All proceedings pursuant to said subsection shall be open to the public.

(i) Any person who willfully resists, prevents or interferes with any member of the board of labor relations or the agent in the performance of duties pursuant to subsections (e) to (i), inclusive, of this section shall be fined not more than five hundred dollars or imprisoned not more than six months or both.

**SECTION 10-153f. MEDIATION AND ARBITRATION OF DISAGREEMENTS.**

(a) There shall be in the department of education an arbitration panel of fifteen persons to serve as provided in subsection (c) of this

← Arbitration panel

section. The governor shall appoint such panel, with the advice and consent of the general assembly, as follows: (1) five members shall be representative of the interests of local and regional boards of education and shall be selected from lists of names submitted by such boards; (2) five members shall be representative of the interests of exclusive bargaining representatives of certified employees and shall be selected from lists of names submitted by such bargaining representatives; and (3) five members shall be representative of the interests of the public in general and shall be selected from lists of names submitted by the state board of education. Each member of the panel shall serve a term concurrent with that of the governor and may be removed for good cause. Persons appointed to the arbitration panel shall serve without compensation but each shall receive a per diem fee for each day during which he or she is engaged in the arbitration of a dispute pursuant to sections 10-153a to 10-153g, inclusive. The parties to the dispute so arbitrated shall pay the fee in accordance with subsection (c) of this section.

- Mediation → (b) If any local or regional board of education cannot agree with the exclusive representatives of a teachers' or administrators' unit after negotiation concerning the terms and conditions of employment applicable to the employees in such unit, either party may submit the issues to the commissioner for mediation.
- 120 days prior to budget submission date the commissioner shall order mediation to commence → Either party may request →
- Selection of mediator → If on the one hundred twentieth day prior to the budget submission date, the parties have not reached agreement and have failed to initiate mediation, the commissioner shall order the parties to appear before said commissioner to commence mediation. In either case, the parties shall meet with a mediator mutually selected by them, provided such parties shall inform the commissioner of the name of such mediator, or with the commissioner or commissioner's agents or a mediator designated by said commissioner. Mediators shall be chosen from a panel of mediators selected by the state board of education or from any other panel of qualified mediators. Such mediators shall receive a per diem fee determined on the basis of the prevailing rate for such services, and the parties shall share equally in the cost of such mediation. In any civil or criminal case, any proceeding preliminary thereto, or in any legislative or administrative proceeding, a mediator shall not disclose any confidential communication made to such mediator in the course of mediation unless the party making such communication waives such privilege. The parties shall provide such information as the commissioner may require. The commissioner may recommend a basis for settlement but such recommendations shall not be binding upon the parties. Such recommendation shall be made within thirty days after the day on which mediation begins.
- Parties shall share the cost →
- Recommendation for settlement →
- Arbitration
- When → (c) (1) On the fourth day next following the end of the mediation session or on the ninth day prior to the budget submission date, whichever is sooner, the commissioner shall order the parties to report their settlement of the dispute, or, if there is no settlement, to appear before the commissioner. At such meeting the parties shall notify the commissioner of the name of the single arbitrator mutually selected by them or shall notify the commissioner of the name of the arbitrator selected by each of them. Unless the parties have agreed to submit their dispute to a single arbitrator, their
- Selection of arbitrator(s) →

...arbitrators shall select a third arbitrator who shall be representative of the interests of the public in general, within five days after meeting with the commissioner and the commissioner of the name of the arbitrator. If, at such meeting, either party notify the commissioner of the name of an arbitrator, the commissioner shall select an arbitrator to serve and the two parties shall select a third who shall be representative of the interests of the public in general. If in either case the two arbitrators fail to agree on the selection of a third arbitrator within five days after said meeting with the commissioner, the commissioner shall select the third arbitrator who shall be representative of the interests of the public in general. If both parties fail to select an arbitrator, the commissioner shall recommend to the parties the names of three arbitrators, who shall be representative of the interests of the public in general, and the parties shall mutually select one of those so recommended to arbitrate the dispute, provided that if the parties are unable to agree on the selection of such arbitrator, the commissioner shall designate such arbitrator. Arbitrators shall be selected from the panel appointed pursuant to subsection (a) of this section and shall receive a per diem fee determined on the basis of the prevailing rate for such services. Whenever a panel of three arbitrators is selected, the chairperson of such panel shall be representative of the interests of the public in general.

(2) The chairperson of the arbitration panel or the single arbitrator shall set the time and place for a hearing to be held in the school district on the tenth day after such chairperson or such single arbitrator is designated except that if such day is Saturday, Sunday or a holiday, the hearing shall be held on the next Monday or the day following the holiday. At least five days prior to such hearing, a written notice of the time and place of the hearing shall be sent to the board of education and the representative organization which are parties to the dispute, and, if a three member arbitration panel is selected, to the other members of such panel. Such written notice shall also be sent to the fiscal authority having budgetary responsibility or charged with making appropriations for the school district, and a representative designated by such body may be heard at the hearing as part of the presentation and participation of the board of education. At the hearing each party shall have full opportunity to submit all relevant evidence, to introduce relevant documents and written material, and to argue on behalf of its positions. The chairperson of the arbitration panel or the single arbitrator shall preside over such hearing.

← Arbitration hearing

(3) The hearing may, at the discretion of the arbitration panel or the single arbitrator, be continued but in any event shall be concluded within twenty days after its commencement.

(4) After hearing all the issues, the arbitrators or the single arbitrator shall, within fifteen days, render a decision in writing, signed by a majority of the arbitrators or the single arbitrator, which states in detail the nature of the decision and the disposition of the issues by the arbitrators or the single arbitrator. The arbitrators or the single arbitrator shall file one copy of the decision with the commissioner, each town clerk in the school district involved and the board of education and organization which are parties to the dispute. The decision

← Filing a written decision

← Decision to be final and binding

of the arbitrators or the single arbitrator shall be final and binding upon the parties to the dispute. Such decision of the arbitrators or the single arbitrator shall incorporate those items of agreement the parties have reached prior to its issuance. At any time prior to the issuance of a decision by the arbitrators or the single arbitrator, the parties may jointly file with the arbitrators or the single arbitrator, any stipulations setting forth contract provisions which both parties agree to accept. The factors to be considered by the arbitrators or the single arbitrator in arriving at a decision shall include (1) the negotiations between the parties prior to arbitration; (2) the public interest and the financial capability of the school district; (3) the interests and welfare of the employee group; (4) changes in the cost of living; (5) the existing conditions of employment of the employee group and those of similar groups and (6) the salaries, fringe benefits, and other conditions of employment prevailing in the state labor market. The parties shall submit to the arbitrators or the single arbitrator their respective positions on each individual issue in dispute between them in the form of a last best offer. The arbitrators or the single arbitrator shall resolve separately each individual disputed issue by accepting the last best offer thereon of either of the parties, and shall incorporate in a decision each such accepted individual last best offer. Notwithstanding the provisions of subsection (b) of section 10-153d the decision of the arbitrators or the single arbitrator shall not be subject to rejection by the legislative body of the local or regional school district or by referendum. The parties shall each pay the fee of the arbitrator selected by or for them and share equally the fee of the third arbitrator or the single arbitrator and all other costs incidental to the arbitration.

(5) The commissioner shall assist the arbitration panel or the single arbitrator as may be required in the course of arbitration pursuant to this section.

(6) If the day for filing any document required pursuant to this section falls on Saturday, Sunday or a holiday, the time for such filing shall be extended to the next business day thereafter.

(7) The decision of the arbitrators or a single arbitrator shall be subject to judicial review upon the filing by a party to the arbitration, within thirty days following receipt of a final decision, of a motion to vacate or modify such decision in the superior court for the judicial district wherein the school district involved is located. The superior court, after hearing, may vacate or modify the decision if substantial rights of a party have been prejudiced because such decision is: (1) in violation of constitutional or statutory provisions; (2) in excess of the statutory authority of the panel; (3) made upon unlawful procedure; (4) affected by other error of law; (5) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(d) The commissioner and the arbitrators or single arbitrator shall have the same powers and duties as the board under section 31-108 for the purposes of mediation or arbitration pursuant to sections 10-153a to 10-153g, inclusive, and all provisions in section 31-108 with

Items previously agreed items →

Factors to be considered in arriving at decision →

Last best offer →

Issue by issue →

Not subject to legislative body rejection →

Judicial review →

Powers and duties of the commissioner and arbitrator(s) →



... of any special  
... of local ordinance; the  
provisions of sections 10-153a to 10-153f shall  
apply to negotiations concerning salaries and  
conditions of employment conducted by boards  
of education and certified personnel.

**SECTION 10-153. DESIGNATION OF STATUTORY AGENT FOR SERVICE OF PROCESS.**

(a) (1) Each administrators' or teachers' representative organization shall file with the commissioner a written designation, on such form as the commissioner shall prescribe, of all statutory agents for service of process who shall be the statutory agent for all members of that administrators' unit or teachers' unit, as defined in subsection (a) of section 10-153b, who shall be (A) a natural person who is a resident of this state or (B) a domestic corporation. (2) Each written appointment shall be signed by the president or vice president or secretary of the appointing organization. Each written appointment shall also be signed by the statutory agent for service therein appointed.

← Statutory agent required for representative organization

(b) If a statutory agent for service dies, disposes, removes from the state or resigns, the organization shall forthwith appoint another statutory agent for service. If the statutory agent for service changes such agent's address within the state from that appearing upon the record in the office of the commissioner, the organization shall forthwith file with the commissioner notice of the new address. A statutory agent for service may resign by filing with the commissioner a signed statement in duplicate to that effect. The commissioner shall forthwith file one copy and mail the other copy of such statement to the organization at its principal office. Upon the expiration of thirty days after such filing, the resignation shall be effective and the authority of such statutory agent for service shall terminate. An organization may revoke the appointment of a statutory agent for service by making a new appointment as provided in this section and any new appointment so made shall revoke all appointments theretofore made.

← Changing statutory agent

**SECTION 10-153I. THE MAKING OF SERVICE OF PROCESS, NOTICE OR DEMAND.**

(a) Except for citations for contempt, any process, notice or demand in connection with any action or proceeding pursuant to subsection (a) of section 10-153e, to be served upon any member of an administrators' unit or any member of a teachers' unit as defined in subsection (a) of section 10-153b, may be served upon the statutory agent for service by any proper officer or other person lawfully empowered to make service. The person making service of such process, notice or demand shall immediately send a true and attested copy thereof by registered or certified mail to each person named in such process, notice or demand.

## Koponen Amendment

The factors to be considered by the arbitrator in arriving at a decision shall include (1) the negotiations between the parties prior to arbitration; (2) the public interest and the financial capability of the school district; (3) the interests and welfare of the employee group; (4) changes in the cost of living; (5) the existing conditions of employment of the employee group and those of similar groups and (6) the salaries, fringe benefits, and other conditions of employment prevailing in the state labor market.

Kopomen Amendment #2

(e) The decision of the arbitrator shall be subject to judicial review upon the filing by a party to the arbitration, within thirty days following receipt of a final decision, of a motion to vacate or modify such decision in the superior court for the judicial district wherein the school district involved is located. The superior court, after hearing, may vacate or modify the decision if substantial rights of a party have been prejudiced because such decision is: (1) in violation of constitutional or statutory provisions; (2) in excess of the statutory authority of the arbitrator; (3) made upon unlawful procedure; (4) affected by other error of law; (5) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Pg 6 - Lw. 23

*Harley Amendment*

Cramer ✓

A M E N D M E N T

*#1  
Adopted*

Offered in the LABOR AND COMMERCE COMMITTEE

To: HB 130

Page 6, after line 18, insert a new subsection to read:

"(c) When making the decision, the arbitrator shall consider

(1) the history of negotiations between the parties before entering arbitration;

(2) the public interest and financial abilities of the school district;

(3) the interest and welfare of the employee group;

(4) changes in the cost of living;

(5) the existing employment conditions of the employee group compared with those of similar groups; and

(6) the salaries, fringe benefits, and other conditions of employment prevailing in the state labor market."

Reletter remaining subsections accordingly.

A M E N D M E N T

#2

Offered in the Health, Education and Social Services Committee By Hanley

TO: CSHB 130(L&C)

Page 8, line 14, after "governor" insert:

"and confirmed by the legislature meeting in joint session. Members serve"

Page 8, line 15, after "governor." insert:

"The governor shall appoint as members one representative of management, one representative of organized labor, and one public member. The members representing management and organized labor must have knowledge and experience in educational employment issues.

*yes. UNANIMOUS*

*Harley Amendment*

Cramer -

A M E N D M E N T

# 3

Offered in the LABOR AND COMMERCE COMMITTEE

To: HB 130

Page 1, lines 25 - 29, delete all material and insert:

"\* Sec. 2. AS 14.20.550 is repealed and reenacted to read:

Sec. 14.20.550. NEGOTIATION BETWEEN SCHOOL BOARDS AND EMPLOYEES

(a) A school board and an employee bargaining organization shall negotiate in good faith on matters pertaining to employment and the fulfillment of professional duties.

(b) In this section, 'negotiate in good faith' means the performance of mutual obligations of the parties to meet at reasonable time and to participate actively, indicating a present intention to reach agreement <sup>time off or fringe benefits</sup> ~~on wages, hours, and other mutually agreed conditions of employment,~~ or to negotiate an agreement or a question arising under the agreement, and at the request of either party to execute a written contract incorporating any agreement reached. However, the requirement to negotiate in good faith may not be interpreted to compel either party to agree to a proposal or to make a concession."

Renumber remaining bill sections accordingly.

ASSOCIATION OF ALASKA SCHOOL BOARDS

326 Fourth St., Suite 510 • Juneau, Alaska 99801 • (907) 586-1083

March 20, 1985

Representative Mike Navarre, Chairman  
House Labor and Commerce Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Navarre:

As you have requested, I am providing your committee with proposed language pursuant to H.B. 130 relative to collective bargaining between school boards and their employees.

You have specifically asked for a Management Rights provision. The attached recommended language is a direct derivative of the labor relations statute for all public employees in the state of Iowa. Language changes were necessary only to the extent that your request targets school district employees and the Iowa language targets public employees. I believe there are no substantive changes in my proposed language.

I have also included an Employee Rights section for consideration by the committee which is also derived from Iowa.

The following is language which AASB would propose for H.B. 130:

Insert on page 7, after line 11: #4

"(c) An employee is entitled to

(1) organize, form, join, or assist an employee organization;

(2) negotiate collectively through representatives of the employees' choosing;

(3) engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection if the activity is not prohibited by law;

(4) refuse to join or participate in the activities of employee organizations, including the payment of dues, fees, or assessments or service fees of any type."

Representative Mike Navarre, Chairman  
House Labor and Commerce Committee  
March 20, 1985  
Page two

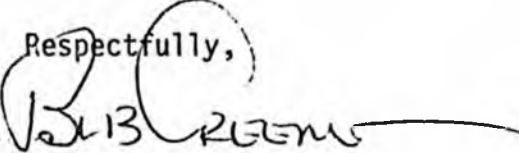
Insert on page 8, after line 9, a new section that reads:

- "\* Sec. 13. AS 14.20.610 is amended by adding a new subsection to read:
- (b) In addition to the powers and duties established by law, a school board has the exclusive power and duty to
- (1) direct the work of its employees;
  - (2) hire, promote, demote, transfer, assign, and retain employees in positions within the school district;
  - (3) suspend or discharge school district employees for proper cause;
  - (4) maintain the efficiency of ~~governmental~~ <sup>school district</sup> operations;
  - (5) relieve school district employees from duties because of lack of work or for other legitimate reasons;
  - (6) ascertain and implement the methods, means, assignments and personnel by which the school district's operations are to be conducted;
  - (7) take actions necessary to carry out the duties of the school district; and
  - (8) initiate, prepare, certify, and administer its budget."

The remaining sections of the bill should be renumbered accordingly.

Thank you again for the opportunity to have the concerns of school boards be so well received by you and your committee.

Respectfully,

  
Robert C. Greene  
Executive Director

RCG/sam

insurance rates is legal because the college's paying is for the "benefit" of its employees [Western Iowa Tech. Comm. Coll. v. W.I.T.C.C. Ed. Assn. (Ia. Dist. Ct., Woodbury Cnty.), No. 92926, 5-1-78].

- PERB has ruled that reimbursement for educational opportunities is bargainable as wages [Eastern Iowa Comm. Coll. Merged Area IX and Eastern Iowa Comm. Coll. Higher Ed. Assn., PERB, 2-1-78].

Nothing in this section shall diminish the authority and power of the merit employment department, board of regents' merit system, educational radio and television facility board's merit system, or any civil service commission established by constitutional provision, statute, charter or special act to recruit employees, prepare, conduct, and grade examinations, rate candidates in order of their relative scores for certification for appointment or promotion or for other matters of classification, reclassification, or appeal rights in accordance with the public employee service code.

Annotation: Though Civil Service Law for deput. sheriffs could be superseded by bargaining agreement negotiated under

PERB held that wages paid teachers because of increased workloads was a mandatory rather than permissive subject of bargaining [Urbandale Ed. Assn. and Urbandale Comm. Sch. Dist., PERB, 1-16-77].

School district violated PERA by changing its paid leave policy without negotiating with union on a mandatory subject of bargaining [Ames Ed. Assn. and Ames Comm. Sch. Dist., PERB Hearing Officer, 9-2-76].

PERA, civil service procedures for discipline would prevail [OAG No. 77-2-14, 2-23-77].

All retirement systems shall be excluded from the scope of negotiations. [Am. L. 1977, H.F. 634.]

[§ 11,110] 20.10 Prohibited practices. 1. It shall be a prohibited practice for any public employer, public employee, or employee organization to willfully refuse to negotiate in good faith with respect to the scope of negotiations as defined in section nine (9) of this Act.

Annotations: Employer's unilateral insistence on open negotiating sessions demonstrates bad faith and is an unfair practice [Burlington Comm. Sch. Dist. v. PERB (Ia. S. Ct., 1978) 268 NW2d 517].

Though PERA doesn't require an employee organization to notify an employer that it has rejected a tentative agreement, PERB said such lack of notification may be a failure to bargain in good faith [City of Dubuque, Iowa and Dubuque Assn. of Prof. Employees, Local 353, PERB, 9-8-77].

A second final offer during arbitration constitutes a refusal to negotiate in good faith. [Southwestern Comm. Coll. Ed. Assn.

and Southwestern Comm. Coll., PERB Hearing Officer, 9-1-77].

Duty to bargain in good faith requires employer to provide union with information substantiating its inability to grant salary increases [Sergeant Blatt-Luton Ed. Assn. and Sergeant Blatt-Luton Comm. Sch. Dist. and Iowa Assn. of Sch. Bds., PERB Hearing Officer, 7-18-77].

Refusal by school district to grant paid leave to teachers attending delegates meeting of Iowa State Education Association is a prohibited practice designed to discourage union participation [Ames Ed. Assn. and Ames Comm. Sch. Dist., PERB Hearing Officer, 9-2-76].

2. It shall be a prohibited practice for a public employer or his designated representative willfully to:   
 To: interfere with, restrain, or coerce public employees in the exercise of rights granted by this Act.

Annotation: Superintendent released survey and memo to teachers outlining consequences of wage increases. PERB found release of survey, along with release of portions of memo, to be co-

ersive and an attempt at individual bargaining [Akron Ed. Assn. and Akron Comm. Sch. Dist., PERB, 7-5-78].

- b. Dominate or interfere in the administration of any employee organization.
- c. Encourage or discourage membership in any employee organization, committee, or association by discrimination in hiring, tenure, or other terms or conditions of employment.
- d. Discharge or discriminate against a public employee because he has filed an affidavit, petition, or complaint or given any information or testimony under this Act, or because he has formed, joined, or chosen to be represented by an employee organization.
- e. Refuse to negotiate collectively with representatives of certified employee organizations as required in this Act.
- f. Deny the rights accompanying certification or exclusive recognition granted in this Act.
- g. Refuse to participate in good faith in any agreed upon impasse procedures or those set forth in this Act.

Annotation: A second final offer during arbitration is a refusal to participate in good faith in agreed-upon impasse procedures

[Southwestern Comm. Coll. Ed. Assn. and Southwestern Comm. Coll., PERB Hearing Officer, 9-1-77].

h. Engage in a lockout.

3. It shall be a prohibited practice for public employees or any employee organization or for any person, union, or organization or their agents willfully to:

- a. Interfere with, restrain, coerce, or harass any public employee with respect to any of his rights under this Act or in order to prevent or discourage his exercise of any such right, including, without limitation, all rights under section eight (8) of this Act.
- b. Interfere, restrain, or coerce a public employer with respect to rights granted in this Act or with respect to selecting a representative for the purposes of negotiating collectively on the adjustment of grievances.
- c. Refuse to bargain collectively with a public employer as required in this Act.
- d. Refuse to participate in good faith in any agreed upon impasse procedures or those set forth in this Act.
- e. Violate section twelve (12) of this Act.
- f. Violate the provisions of chapter seven hundred thirty-six B (736B), sections one (1), two (2) and three (3) of the Code, which are hereby made applicable to public employers, public employees and public employee organizations.

4. Hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such power to a member of the board, or persons appointed or employed by the board, including hearing officers for the performance of its functions. The board may petition the district court at the seat of government or of the county wherein any hearing is held to enforce a board order compelling the attendance of witnesses and production of records.

5. Adopt rules and regulations in accordance with the provisions of chapter seventeen A (17A) of the Code as it may deem necessary to carry out the purposes of this Act.

[§11,107] 20.7 Public employer rights. Public employers shall have, in addition to all powers, duties, and rights established by constitutional provision, statute, ordinance, charter, or special act, the exclusive power, duty, and the right to:

1. Direct the work of its public employees.
2. Hire, promote, demote, transfer, assign, and retain public employees in positions within the public agency.
3. Suspend or discharge public employees for proper cause.
4. Maintain the efficiency of governmental operations.
5. Relieve public employees from duties because of lack of work or for other legitimate reasons.
6. Determine and implement methods, means, assignments and personnel by which the public employer's operations are to be conducted.
7. Take such actions as may be necessary to carry out the mission of the public employer.
8. Initiate, prepare, certify, and administer its budget.
9. Exercise all powers and duties granted to the public employer by law.

Annotation: Public employer can't unilaterally demand open bargaining sessions [Burlington Comm. Sch. Dist. v. PERB (Ia. S.Ct., 1978) 268 NW2d 517].

[§11,108] 20.8. Public employee rights. Public employees shall have the right to: 1. Organize, or form, join, or assist any employee organization.

2. Negotiate collectively through representatives of their own choosing.
3. Engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection insofar as any such activity is not prohibited by this Act or any other law of the state.
4. Refuse to join or participate in the activities of employee organizations, including the payment of any dues, fees or assessments or service fees of any type.

Annotation: PERA provision protecting "concerted activities for the purpose of collective bargaining or other mutual aid or protection" protects an employee's labor relations conduct, even if no union is involved [AFSCME Iowa Organizing Committee and Madison Cnty. Secondary Roads Dept., PERB Hearing Officer, 9-10-76].

Public hospital erred in discharging employees for attempting to organize others since a clear right exists under PERA to organize [AFSCME and Jackson Cnty. Public Hospital, PERB Hearing Officer, 6-9-76].

[§11,109] 20.9 Scope of negotiations. The public employer and the employee organization shall meet at reasonable times, including meetings reasonably in advance of the public employer's budget-making process, to negotiate in good faith with respect to wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training and other matters mutually agreed upon. Negotiations shall also include terms authorizing dues checkoff for members of the employee organization and grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties. If an agreement provides for dues checkoff, a member's dues may be checked off only upon the member's written request and the member may terminate the dues checkoff at any time by giving thirty days written notice. Such obligation to negotiate in good faith does not compel either party to agree to a proposal or make a concession.

Annotations: Insurance for dependents is a mandatory subject of bargaining. Payment of grievance committee members for processing grievances during worktime is not [Charles City Comm. Sch. Dist. v. PERB (Ia. S. Ct., 1979) 275 NW2d 766].

Clothing or a clothing allowance is not a mandatory subject of bargaining under either wages or supplemental pay [City of Fort Dodge v. PERB and Local 6-502, Oil, Chem. and Atomic Workers Intl. Union, AFL-CIO (Ia. S. Ct., 1979) 275 NW 2d 393].

Union proposal providing for employee's advancement on the salary schedule through completion of college courses in employee's teaching or certified field is a mandatory subject of bargaining because advancement on the scale determines wages. [Charles City Ed. Assn. v. PERB and Charles City Comm. Sch. Dist. (Ia. Dist. Ct., Polk Cnty.) No. CE 10-5683, 3-22-79].

PERA doesn't authorize any bargaining with minority representatives; therefore, "public employers and minority employees' organizations would commit breaches of Iowa law by permitting and requesting dues checkoff for a minority union" [OAG No. 79-3-1, 3-7-79].

Health and welfare insurance for retiring employees and their families is a mandatory subject of bargaining [City of Mason City and Teamsters, Local 828, PERB, 2-13-79].

Unused sick leave pay is a form of teacher compensation which may be paid in a lump sum at retirement [Bettendorf Ed. Assn., et al. v. Bettendorf Comm. Sch. Dist. (Ia. S. Ct., 1978) 262 NW2d 550].

Contract requiring community college to pay 50% of the differential between single and family member health and accident

ASSOCIATION OF ALASKA SCHOOL BOARDS

326 Fourth St., Suite 510 • Juneau, Alaska 99801 • (907) 586-1083

March 19, 1985

Representative Drue Pearce  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

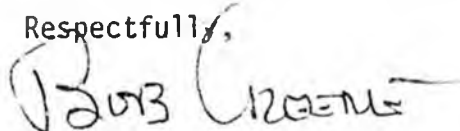
Dear Representative Pearce:

At the Labor and Commerce Committee hearing Monday evening, you asked me why four districts of the state had not concluded collective bargaining agreements with their teachers. I did not know the answer at that time.

This morning I asked my staff to research the question and the information is provided for you here. Hopefully it has some bearing on the discussions of the evening.

Thank you for your sincere interest in the issues before us.

Respectfully,



Robert C. Greene  
Executive Director

RCG/sam  
encl.

cc: Representative Navarre  
Representative Collins  
Representative Hanley  
Representative Davis  
Representative Koponen  
Representative Boucher  
Gayle Pearce, NEA Alaska