CHAPTER 9-A

MUNICIPAL PUBLIC EMPLOYEES LABOR RELATIONS LAW

§961. Purpose

It is declared to be the public policy of this State and it is the purpose of this chapter to promote the improvement of the relationship between public employers and their employees by providing a uniform basis for recognizing the right of public employees to join labor organizations of their own choosing and to be represented by such organizations in collective bargaining for terms and conditions of employment. [PL 1969, c. 424, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 424, §1 (NEW).

§962. Definitions

As used in this chapter the following terms shall, unless the context requires a different interpretation, have the following meanings. [PL 1969, c. 424, §1 (NEW).]

1. Board. "Board" means the Maine Labor Relations Board referred to in section 968.
[PL 1975, c. 564, §9 (AMD).]

2. Bargaining agent. "Bargaining agent" means any lawful organization, association or individual representative of such organization or association which has as its primary purpose the representation of employees in their employment relations with employers, and which has been determined by the public employer or by the executive director of the board to be the choice of the majority of the unit as their representative.
[PL 1973, c. 458, §1 (AMD).]

2-A. Bureau.
[PL 1975, c. 564, §10 (RP).]

3. Commissioner.
[PL 1971, c. 620, §13 (RP).]

4. Department.
[PL 1971, c. 620, §13 (RP).]

4-A. Director.
[PL 1975, c. 564, §11 (RP).]

4-B. Executive director. "Executive director" means the Executive Director of the Maine Labor Relations Board.
[PL 1975, c. 564, §12 (AMD).]

5. Professional employee. "Professional employee" means any employee engaged in work:

A. Predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work; [PL 1969, c. 424, §1 (NEW).]

B. Involving the consistent exercise of discretion and judgment in its performance; [PL 1969, c. 424, §1 (NEW).]

C. Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given time period; and [PL 1969, c. 424, §1 (NEW).]

D. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes. [PL 1969, c. 424, §1 (NEW).]

[PL 1975, c. 564, §§9-12 (AMD).]

6. Public employee. "Public employee" means an employee of a public employer, except a person:

A. Elected by popular vote; [RR 2021, c. 2, Pt. A, §89 (COR).]

B. Appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, except that appointees to county offices may not be excluded under this paragraph unless defined as a county commissioner under Title 30-A, section 1302; [RR 2021, c. 2, Pt. A, §89 (COR).]

C. Whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head, body, department head or division head; [RR 2021, c. 2, Pt. A, §89 (COR).]

D. Who is a department head or division head appointed to office pursuant to statute, ordinance or resolution for an unspecified term by the executive head or body of the public employer; [RR 2021, c. 2, Pt. A, §89 (COR).]

E. Who is a superintendent or assistant superintendent of a school system; [RR 2021, c. 2, Pt. A, §89 (COR).]

F. [PL 2021, c. 601, §3 (RP).]

G. Who is a temporary, seasonal or on-call employee; or [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 654, §1 (AMD); PL 1989, c. 654, §13 (AFF).]

H. Who is a prisoner employed by a public employer during the prisoner's term of imprisonment, except for prisoners who are in a work release program or supervised community confinement pursuant to Title 34-A, section 3036-A. [PL 2013, c. 133, §21 (AMD).]

[RR 2021, c. 2, Pt. A, §89 (COR).]

7. Public employer. "Public employer" means:

A. Any officer, board, commission, council, committee or other persons or body acting on behalf of:

(1) Any municipality or any subdivision of a municipality;

(2) Any school, water, sewer, fire or other district;

(3) The Maine Turnpike Authority;

(5) Any county or subdivision of a county;

(6) The Maine Public Employees Retirement System;

(7) The Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf; or

(8) Any innovative, autonomous public school, innovative public school district, innovative public school zone or teacher-led school created and operated under Title 20-A, section 6212 or 6213; [PL 2013, c. 303, §6 (AMD).]

B. Any employer not covered by any other state or federal collective bargaining law that is:

(1) Established directly by the State or a political subdivision to constitute a department or administrative office of government; or

(2) Administered by individuals responsible to public officials or to the general electorate. [PL 1991, c. 576 (NEW).]

If any public employer, as defined in this or any other section, controls the operations of another employer to the extent that the public employer deprives that other employer of sufficient control over its own employees to enable it to bargain with a labor organization representing those employees, the public employer must be treated as the employer of those employees for the purposes of this chapter. [PL 2013, c. 303, §6 (AMD).]

SECTION HISTORY

PL 1969, c. 424, §1 (NEW). PL 1969, c. 578, §§1,2 (AMD). PL 1971, c. 609, §1 (AMD). PL 1971, c. 620, §13 (AMD). PL 1973, c. 458, §§1-3 (AMD). PL 1975, c. 9 (AMD). PL 1975, c. 564, §§9-12 (AMD). PL 1981, c. 137, §1 (AMD). PL 1981, c. 529, §5 (AMD). PL 1981, c. 698, §117 (AMD). PL 1987, c. 737, §§C70,C106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD). PL 1989, c. 499, §12 (AMD). PL 1989, c. 654, §§1,2 (AMD). PL 1989, c. 654, §13 (AFF). PL 1991, c. 576 (AMD). PL 1991, c. 843, §4 (AMD). PL 1993, c. 410, §L45 (AMD). PL 1997, c. 698, §1 (AMD). PL 1999, c. 775, §13 (AMD). PL 2001, c. 374, §6 (AMD). PL 2003, c. 646, §3 (AMD). PL 2005, c. 279, §15 (AMD). PL 2005, c. 662, §A43 (AMD). PL 2007, c. 58, §3 (REV). PL 2009, c. 142, §11 (AMD). PL 2011, c. 446, §3 (AMD). PL 2013, c. 133, §21 (AMD). PL 2013, c. 303, §6 (AMD). PL 2021, c. 601, §3 (AMD). RR 2021, c. 2, Pt. A, §89 (COR).

§963. Right of public employees to join or refrain from joining labor organizations

A person may not directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against a public employee or a group of public employees in the free exercise of their rights, given by this section, to voluntarily: [PL 2007, c. 415, §2 (RPR).]

1. Join a union. Join, form and participate in the activities of organizations of their own choosing for the purposes of representation and collective bargaining or in the free exercise of any other right under this chapter; or
[PL 2007, c. 415, §2 (NEW).]

2. Not join a union. Refrain from joining or participating in the activities of organizations for the purposes of representation and collective bargaining, except that an employee may be required to pay to the organization that is the bargaining agent for the employee a service fee that represents the employee's pro rata share of those expenditures that are germane to the organization's representational activities.
[PL 2007, c. 415, §2 (NEW).]

SECTION HISTORY

PL 1969, c. 424, §1 (NEW). PL 2007, c. 415, §2 (RPR).

§964. Prohibited acts of public employers, public employees and public employee organizations

1. Public employer prohibitions. Public employers, their representatives and their agents are prohibited from:

A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 963; [PL 1969, c. 424, §1 (NEW).]

B. Encouraging or discouraging membership in any employee organization by discrimination in regard to hire or tenure of employment or any term or condition of employment; [PL 1969, c. 424, §1 (NEW).]

C. Dominating or interfering with the formation, existence or administration of any employee organization; [PL 1969, c. 424, §1 (NEW).]

D. Discharging or otherwise discriminating against an employee because the employee has signed or filed any affidavit, petition or complaint or given any information or testimony under this chapter; [RR 2023, c. 2, Pt. E, §49 (COR).]

E. Refusing to bargain collectively with the bargaining agent of its employees as required by section 965; [PL 1969, c. 424, §1 (NEW).]

F. Blacklisting of any employee organization or its members for the purpose of denying them employment; [PL 2007, c. 415, §3 (AMD).]

G. Requiring an employee to join a union, employee association or bargaining agent as a member; and [PL 2007, c. 415, §4 (NEW).]

H. Terminating or disciplining an employee for not paying union dues or fees of any type. [PL 2007, c. 415, §5 (NEW).]

[RR 2023, c. 2, Pt. E, §49 (COR).]

2. Public employee prohibitions. Public employees, public employee organizations, their agents, members and bargaining agents are prohibited from:

A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 963 or a public employer in the selection of a representative for purposes of collective bargaining or the adjustment of grievances; [RR 2023, c. 2, Pt. E, §50 (COR).]

B. Refusing to bargain collectively with a public employer as required by section 965; [PL 1969, c. 424, §1 (NEW).]

C. Engaging in

(1) A work stoppage;

(2) A slowdown;

(3) A strike; or

(4) The blacklisting of any public employer for the purpose of preventing it from filling employee vacancies. [PL 1969, c. 424, §1 (NEW).]

[RR 2023, c. 2, Pt. E, §50 (COR).]

3. Violations. Violations of this section shall be processed by the board in the manner provided in section 968, subsection 5.

[PL 1971, c. 609, §2 (RPR).]

SECTION HISTORY

PL 1969, c. 424, §1 (NEW). PL 1971, c. 609, §2 (AMD). PL 2007, c. 415, §§3-5 (AMD). RR 2023, c. 2, Pt. E, §§49, 50 (COR).

§964-A. Continuation of grievance arbitration provisions

1. Contract signed before October 1, 2005. If a contract between a public employer and a bargaining agent signed prior to October 1, 2005 expires prior to the parties' agreement on a new contract, the grievance arbitration provisions of the expired contract pertaining to disciplinary action remain in effect until the parties execute a new contract.

[PL 2005, c. 324, §1 (NEW).]

2. Contract signed after October 1, 2005. If a contract between a public employer and a bargaining agent signed after October 1, 2005 expires prior to the parties' agreement on a new contract, the grievance arbitration provisions of the expired contract remain in effect until the parties execute a

new contract. In any arbitration that is conducted pursuant to this subsection, an arbitrator shall apply only those provisions enforceable by virtue of the static status quo doctrine and may not add to, restrict or modify the applicable static status quo following the expiration of the contract unless the parties have otherwise agreed in the collective bargaining agreement. All such grievances that are appealed to arbitration are subject exclusively to the grievance and arbitration process contained in the expired agreement, and the board does not have jurisdiction over such grievances. The arbitrator's determination is subject to appeal, pursuant to the Uniform Arbitration Act. Disputes over which provisions in an expired contract are enforceable by virtue of the static status quo doctrine first must be resolved by the board, subject to appeal pursuant to applicable law. The grievance arbitration is stayed pending resolution of this issue by the board. The board may adopt rules as necessary to establish a procedure to implement the intent of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Nothing in this subsection expands, limits or modifies the scope of any grievance arbitration provisions, including procedural requirements. [PL 2005, c. 324, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 773, §1 (NEW). PL 1997, c. 773, §7 (AFF). PL 2005, c. 324, §1 (RPR).

§965. Obligation to bargain

1. Negotiations. It is the obligation of the public employer and the bargaining agent to bargain collectively. "Collective bargaining" means, for the purposes of this chapter, their mutual obligation:

A. To meet at reasonable times; [PL 1969, c. 424, §1 (NEW).]

B. Except as provided in paragraph B-1, to meet within 10 days after receipt of written notice from the other party requesting a meeting for collective bargaining purposes, as long as the parties have not otherwise agreed in a prior written contract. This obligation is suspended during the period between a referendum approving a new regional school unit and the operational date of the regional school unit, as long as the parties meet at reasonable times during that period; [PL 2021, c. 752, §1 (AMD).]

B-1. For a public employer that is a school administrative unit and the bargaining agent representing employees within that school administrative unit, to meet within 10 days after receipt of written notice from the other party requesting a meeting for collective bargaining purposes, as long as the parties have not otherwise agreed in a prior written contract, except that explicit waivers of collective bargaining over wages, hours, working conditions and contract grievance arbitration in a prior written contract may not be enforced for purposes of this paragraph. The obligation to meet within 10 days of notice is suspended during the period between a referendum approving a new regional school unit and the operational date of the regional school unit, as long as the parties meet at reasonable times during that period; [PL 2023, c. 95, §1 (AMD).]

C. To confer and negotiate in good faith with respect to wages, hours, working conditions and contract grievance arbitration, except that by such obligation neither party may be compelled to agree to a proposal or be required to make a concession and except that public employers of teachers shall in accordance with subsection 1-A meet and consult but not negotiate with respect to educational policies, except that educational policies related to preparation and planning time and transfer of teachers are permissive subjects of negotiation; for the purpose of this paragraph, educational policies may not include wages, hours, working conditions or contract grievance arbitration; [PL 2021, c. 96, §1 (AMD).]

D. To execute in writing any agreements arrived at, the term of any such agreement to be subject to negotiation but may not exceed 3 years; and [PL 2009, c. 107, §5 (AMD).]

E. To participate in good faith in the mediation, fact-finding and arbitration procedures required by this section. [PL 1973, c. 788, §119 (AMD).]

[PL 2023, c. 95, §1 (AMD).]

1-A. Meet and consult. The obligation of public employers of teachers and the bargaining agent to meet and consult under subsection 1, paragraph C is governed by this subsection.

A. A public employer of teachers shall give written notice to the bargaining agent when a change in educational policy is planned by the public employer of teachers. Upon receipt of the written notice, the bargaining agent may initiate the meet and consult process by notifying the public employer of teachers, including the superintendent. The public employer of teachers may also initiate the meet and consult process by notifying the bargaining agent. [PL 2021, c. 96, §2 (NEW).]

B. The public employer of teachers shall, upon receipt of a request from the bargaining agent, provide to the bargaining agent information necessary for the bargaining agent and the employees to understand the planned change and make suggestions or express concerns about the planned change. [PL 2021, c. 96, §2 (NEW).]

C. When notice to initiate the meet and consult process is given under paragraph A, authorized representatives of the public employer of teachers and the bargaining agent shall meet and consult at reasonable times and places about the planned change. The parties shall meet and consult openly, honestly and in good faith, and the public employer of teachers shall consider the employees' suggestions and concerns. [PL 2021, c. 96, §2 (NEW).]

D. The authorized representatives of the public employer of teachers shall give full and fair consideration to the employees' suggestions and concerns before the change in educational policy is implemented, and the public employer of teachers shall decide in good faith whether employees' suggestions or concerns can be accommodated. [PL 2021, c. 96, §2 (NEW).]

E. The bargaining agent may initiate the meet and consult process by notifying the public employer of teachers when an existing educational policy of the public employer is changed by practice or if the written notice required under paragraph A is inadvertently omitted. [PL 2021, c. 96, §2 (NEW).]

[PL 2021, c. 96, §2 (NEW).]

2. Mediation.

A. It is the declared policy of the State to provide full and adequate facilities for the settlement of disputes between employers and employees or their representatives and other disputes subject to settlement through mediation. [PL 1975, c. 564, §13 (AMD).]

B. Mediation procedures must be followed whenever either party to a controversy requests such services prior to arbitration, or, in the case of disputes affecting public employers, public employees or their respective representatives as defined, whenever requested by either party prior to arbitration or at any time on motion of the Maine Labor Relations Board or its executive director. Requests for grievance mediation are handled in accordance with paragraph F. [PL 2001, c. 92, §1 (AMD).]

C. The Panel of Mediators, consisting of not less than 5 nor more than 10 impartial members, must be appointed by the Governor from time to time upon the expiration of the terms of the several members, for terms of 3 years. The Maine Labor Relations Board shall supply to the Governor nominations for filling vacancies. Vacancies occurring during a term must be filled for the unexpired term. Members of the panel are entitled to a fee for services in the amount of $300 for up to 4 hours of mediation services provided and $300 for each consecutive period of up to 4 hours thereafter and also are entitled to traveling and all other necessary expenses. Notwithstanding the provisions of Title 5, section 12003-A, subsection 9, members of the panel who provide mediation services in more than one dispute in a given day are entitled to the compensation as provided in this paragraph in each such case. The necessary expenses incurred by the members must be allocated to the mediation session that required the costs. The costs for services rendered and

expenses incurred by members of the panel and any state cost allocation program charges must be shared equally by the parties to the proceedings and must be paid into a special fund administered by the Maine Labor Relations Board. Authorization for services rendered and expenditures incurred by members of the panel is the responsibility of the Executive Director of the Maine Labor Relations Board. All costs must be paid from that special fund. The executive director may estimate costs upon receipt of a request for services and collect those costs prior to providing the services. The executive director shall bill or reimburse the parties, as appropriate, for any difference between the estimated costs that were collected and the actual costs of providing the services. Once one party has paid its share of the estimated cost of providing the service, the mediator is assigned. A party who has not paid an invoice for the estimated or actual cost of providing services within 60 days of the date the invoice was issued is, in the absence of good cause shown, liable for the amount of the invoice together with a penalty in the amount of 25% of the amount of the invoice. Any penalty amount collected pursuant to this provision remains in the special fund administered by the Maine Labor Relations Board and that fund does not lapse. The executive director is authorized to collect any sums due and payable pursuant to this provision through civil action. In such an action, the court shall allow litigation costs, including court costs and reasonable attorney's fees, to be deposited in the General Fund if the executive director is the prevailing party in the action. [PL 2013, c. 553, §1 (AMD).]

D. The employer, union or employees involved in collective bargaining shall notify the Executive Director of the Maine Labor Relations Board, in writing, at least 30 days prior to the expiration of a contract, or 30 days prior to entering into negotiations for a first contract between the employer and the employees, or whenever a dispute arises between the parties threatening interruption of work, or under both conditions. [PL 1975, c. 564, §15 (AMD).]

E. The Executive Director of the Maine Labor Relations Board shall serve as Executive Director of the Panel of Mediators. The Executive Director of the Maine Labor Relations Board shall annually, on or before the first day of July, make a report to the Governor. The Executive Director of the Maine Labor Relations Board, upon request of one or both of the parties to a dispute between an employer and its employees, shall, or upon the Executive Director of the Maine Labor Relations Board's own motion or motion of the Maine Labor Relations Board may, proffer the services of one or more members of the panel to be selected by the Executive Director of the Maine Labor Relations Board to serve as mediator or mediators in the dispute. The member or members so selected shall exert every reasonable effort to encourage the parties to the dispute to settle their differences by conference or other peaceful means. If the mediator or mediators are unable to accomplish this objective and to obtain an amicable settlement of the dispute between the parties, it is the duty of the mediator or mediators to advise the parties of the services available to assist them in settlement of their dispute. At this time, the mediator or mediators shall submit a written report to the Executive Director of the Maine Labor Relations Board stating the action or actions that have been taken and the results of their endeavors. [RR 2023, c. 2, Pt. E, §51 (COR).]

F. The services of the Panel of Mediators must be provided for grievance mediation only when the parties jointly agree to request grievance mediation services. Notwithstanding this option, neither party is obligated under subsection 1 to bargain over the inclusion of grievance mediation procedures in a collective bargaining agreement. The services of the Panel of Mediators are always available as a technique for impasse resolution in contract negotiations and may be invoked as described in paragraph B. [PL 2001, c. 92, §2 (RPR).]

G. Any information disclosed by either party to a dispute to the panel or any of its members in the performance of this subsection shall be privileged. [PL 1973, c. 617, §2 (RPR).]

[RR 2023, c. 2, Pt. E, §51 (COR).]

3. Fact-finding.

A. If the parties, either with or without the services of a mediator, are unable to effect a settlement of their controversy, they may jointly agree either to call upon the Maine Labor Relations Board to arrange for fact-finding services and recommendations to be provided by the Maine Board of Arbitration and Conciliation, or to pursue some other mutually acceptable fact-finding procedure, including use of the Federal Mediation and Conciliation Service or the American Arbitration Association according to their respective procedures, rules and regulations. [PL 1975, c. 564, §17 (RPR).]

B. If the parties do not jointly agree to call upon the Maine Labor Relations Board or to pursue some other procedure, either party to the controversy may request the executive director to assign a fact-finding panel. If so requested, the executive director shall appoint a fact-finding panel, ordinarily of 3 members, in accordance with rules and procedures prescribed by the board for making the appointment. The fact-finding panel shall be appointed from a list maintained by the board and drawn up after consultation with representatives of state and local government administrators, agencies with industrial relations and personnel functions and representatives of employee organizations and of employers. Any person who has actively participated as the mediator in the immediate proceedings for which fact-finding has been called may not sit on that fact-finding panel. The panel shall hear the contending parties to the controversy. The panel may request statistical data and reports on its own initiative in addition to the data regularly maintained by the Bureau of Labor Standards, and has the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relative or pertinent to the issues represented to them. The members of the fact-finding panel shall submit their findings and recommendations only to the parties and to the Executive Director of the Maine Labor Relations Board. [RR 1995, c. 2, §61 (COR).]

C. The parties shall have a period of 30 days, after the submission of findings and recommendations from the fact finders, in which to make a good faith effort to resolve their controversy. If the parties have not resolved their controversy by the end of said period, either party or the Executive Director of the Maine Labor Relations Board may, but not until the end of said period unless the parties otherwise jointly agree, make the fact-finding and recommendations public. [PL 1975, c. 564, §17 (RPR).]

D. If the parties do not agree to follow the fact-finding procedures outlined in paragraph A, they may jointly apply to the executive director or the executive director's designee to waive fact-finding. The executive director or the executive director's designee may accept or refuse to accept the parties' agreement to waive fact-finding and that decision is not reviewable. [RR 2023, c. 2, Pt. E, §52 (COR).]

[RR 2023, c. 2, Pt. E, §52 (COR).]

4. Arbitration. In addition to the 30-day period referred to in subsection 3, the parties shall have 15 more days, making a total period of 45 days from the submission of findings and recommendations, in which to make a good faith effort to resolve their controversy.

If the parties have not resolved their controversy by the end of said 45-day period, they may jointly agree to an arbitration procedure which will result in a binding determination of their controversy. Such determinations will be subject to review by the Superior Court in the manner specified by section 972.

If they do not jointly agree to such an arbitration procedure within 10 days after the end of said 45-day period, then either party may, by written notice to the other, request that their differences be submitted to a board of 3 arbitrators. The bargaining agent and the public employer shall within 5 days of such request each select and name one arbitrator and shall immediately thereafter notify each other in writing of the name and address of the person so selected. The 2 arbitrators so selected and named shall, within 10 days from such request, agree upon and select and name a neutral arbitrator. If either party shall not select its arbitrator or if the 2 arbitrators shall fail to agree upon, select and name a neutral arbitrator

within said 10 days, either party may request the American Arbitration Association to utilize its procedures for the selection of the neutral arbitrator. As soon as possible after receipt of such request, the neutral arbitrator will be selected in accordance with rules and procedures prescribed by the American Arbitration Association for making such selection. The neutral arbitrator so selected will not, without the consent of both parties, be the same person who was selected as mediator pursuant to subsection 2 nor any member of the fact-finding board selected pursuant to subsection 3. As soon as possible after the selection of the neutral arbitrator, the 3 arbitrators or if either party shall not have selected its arbitrator, the 2 arbitrators, as the case may be, shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, make inquiries and investigations, hold hearings, or take such other steps as they deem appropriate. If the neutral arbitrator is selected by utilizing the procedures of the American Arbitration Association, the arbitration proceedings will be conducted in accordance with the rules and procedures of the American Arbitration Association. The hearing shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the arbitrators may be received in evidence. The arbitrators shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relative or pertinent to the issues represented to them for determination.

If the controversy is not resolved by the parties themselves, the arbitrators shall proceed as follows: With respect to a controversy over salaries, pensions and insurance, the arbitrators shall recommend terms of settlement and may make findings of fact; those recommendations and findings are advisory only and must be made, if reasonably possible, within 30 days after the selection of the neutral arbitrator; the arbitrators may in their discretion make those recommendations and findings public, and either party may make those recommendations and findings public if agreement is not reached with respect to those findings and recommendations within 10 days after their receipt from the arbitrators; the arbitrators shall make determinations with respect to a controversy over subjects other than salaries, pensions and insurance if reasonably possible within 30 days after the selection of the neutral arbitrator; those determinations may be made public by the arbitrators or either party; and, if made by a majority of the arbitrators, those determinations are binding on both parties and the parties shall enter an agreement or take whatever other action that may be appropriate to carry out and effectuate those binding determinations; and those determinations are subject to review by the Superior Court in the manner specified by section 972. The results of all arbitration proceedings, recommendations and awards conducted under this section must be filed with the Maine Labor Relations Board at the offices of its executive director simultaneously with the submission of the recommendations and award to the parties. In the event the parties settle their dispute during the arbitration proceeding, the arbitrator or the chair of the arbitration panel shall submit a report of the arbitrator's or the chair's activities to the Executive Director of the Maine Labor Relations Board not more than 5 days after the arbitration proceeding has terminated.

[RR 2023, c. 2, Pt. E, §53 (COR).]

5. Costs. The costs for the services of the mediator, the members of the fact-finding board and of the neutral arbitrator including, if any, per diem expenses, and actual and necessary travel and subsistence expenses and the costs of hiring the premises where any mediation, fact-finding or arbitration proceedings are conducted, must be shared equally by the parties to the proceedings. All other costs must be assumed by the party incurring them.

[PL 1991, c. 622, Pt. O, §5 (AMD).]

6. Arbitration administration. The cost for services rendered and expenses incurred by the State Board of Arbitration and Conciliation, as defined in section 931, and any state cost allocation program charges must be shared equally by the parties to the proceedings and must be paid into a special fund administered by the Maine Labor Relations Board. Authorization for services rendered and expenditures incurred by members of the State Board of Arbitration and Conciliation is the responsibility of the executive director. All costs must be paid from that special fund. The executive

director may estimate costs upon receipt of a request for services and collect those costs prior to providing the services. The executive director shall bill or reimburse the parties, as appropriate, for any difference between the estimated costs that were collected and the actual costs of providing the services. Once one party has paid its share of the estimated cost of providing the service, the matter is scheduled for hearing. A party who has not paid an invoice for the estimated or actual cost of providing services within 60 days of the date the invoice was issued is, in the absence of good cause shown, liable for the amount of the invoice together with a penalty in the amount of 25% of the amount of the invoice. Any penalty amount collected pursuant to this provision remains in the special fund administered by the Maine Labor Relations Board and that fund does not lapse. The executive director is authorized to collect any sums due and payable pursuant to this provision through civil action. In such an action, the court shall allow litigation costs, including court costs and reasonable attorney's fees, to be deposited in the General Fund if the executive director is the prevailing party in the action.
[PL 1991, c. 798, §5 (AMD).]

SECTION HISTORY

PL 1969, c. 424, §1 (NEW). PL 1969, c. 578, §§2-A,2-B (AMD). PL 1971, c. 609, §3 (AMD). PL 1973, c. 458, §§4-8 (AMD). PL 1973, c. 617, §2 (AMD). PL 1973, c. 788, §119 (AMD). PL 1975, c. 361, §§1,2 (AMD). PL 1975, c. 564, §§13-19 (AMD). PL 1975, c. 623, §§37-E (AMD). PL 1975, c. 717, §6 (AMD). PL 1975, c. 771, §280 (AMD). PL 1977, c. 696, §204 (AMD). PL 1979, c. 541, §A170 (AMD). PL 1981, c. 137, §2 (AMD). PL 1985, c. 46 (AMD). PL 1987, c. 468, §§2,4 (AMD). PL 1987, c. 786, §19 (AMD). PL 1989, c. 502, §A108 (AMD). PL 1991, c. 92, §2 (AMD). PL 1991, c. 622, §§O4-6 (AMD). PL 1991, c. 798, §§4,5 (AMD). RR 1995, c. 2, §61 (COR). PL 1997, c. 412, §2 (AMD). PL 2001, c. 92, §§1,2 (AMD). PL 2009, c. 107, §5 (AMD). PL 2013, c. 553, §1 (AMD). PL 2019, c. 240, §1 (AMD). PL 2021, c. 96, §§1, 2 (AMD). PL 2021, c. 752, §§1, 2 (AMD). PL 2023, c. 95, §1 (AMD). RR 2023, c. 2, Pt. E, §§51-53 (COR).

§966. Bargaining unit; how determined

1. Bargaining unit standards. In the event of a dispute between the public employer and an employee or employees as to the appropriateness of a unit for purposes of collective bargaining or between the public employer and an employee or employees as to whether a supervisory or other position is included in the bargaining unit, the executive director or the executive director's designee shall make the determination, except that anyone excepted from the definition of "public employee" under section 962 may not be included in a bargaining unit. The executive director or the executive director's designee conducting unit determination proceedings has the power to administer oaths and to require by subpoena the attendance and testimony of witnesses and the production of books, records and other evidence relative or pertinent to the issues represented to them. In determining whether a supervisory position should be excluded from the proposed bargaining unit, the executive director or the executive director's designee shall consider, among other criteria, if the principal functions of the position are characterized by performing such management control duties as scheduling, assigning, overseeing and reviewing the work of subordinate employees, or performing such duties as are distinct and dissimilar from those performed by the employees supervised, or exercising judgment in adjusting grievances, applying other established personnel policies and procedures and in enforcing a collective bargaining agreement or establishing or participating in the establishment of performance standards for subordinate employees and taking corrective measures to implement those standards. This chapter is not intended to require the exclusion of principals, assistant principals or other supervisory employees from school system bargaining units that include teachers and nurses in supervisory positions.
[RR 2023, c. 2, Pt. E, §54 (COR).]

2. Bargaining unit compatibility. The executive director of the board or the executive director's designee shall decide in each case whether, in order to ensure to employees the fullest freedom in exercising the rights guaranteed by this chapter and in order to ensure a clear and identifiable

community of interest among employees concerned, the unit appropriate for purposes of collective bargaining is the public employer unit or any subdivision thereof. A unit may not include both professional and nonprofessional employees unless a majority of the professional employees vote for inclusion in the unit, except that teachers may be included in a unit consisting of other certificated employees.
[RR 2023, c. 2, Pt. E, §55 (COR).]

3. Unit clarification. Where there is a certified or currently recognized bargaining representative and where the circumstances surrounding the formation of an existing bargaining unit are alleged to have changed sufficiently to warrant modification in the composition of that bargaining unit, any public employer or any recognized or certified bargaining agent may file a petition for a unit clarification provided that the parties are unable to agree on appropriate modifications and there is no question concerning representation.
[PL 1975, c. 697, §2 (NEW).]

4. Unit merger; same bargaining agent. If there is the same certified or currently recognized bargaining representative of public employees in multiple bargaining units with the same public employer, the public employer or certified or recognized bargaining representative may file a petition with the executive director to merge those bargaining units. Upon the finding of the executive director or the director's designee that the expanded unit would conform with the requirements set forth in this subsection, the executive director shall order an election within each bargaining unit to determine whether a majority of the employees voting in each bargaining unit wish to be within the expanded unit. The only question on the ballot in a merger election is approval or disapproval of the proposed merger. The executive director or the director's designee shall certify the bargaining agent for an expanded unit consisting of any bargaining units in which a majority of the employees voting approved the merger.

A. After an expanded unit is certified, the parties shall then bargain over modifications needed in order to provide for the wages, hours and working conditions or contract grievance arbitration for the newly included positions in any existing collective bargaining agreement or any collective bargaining agreement being negotiated.

When there is an unexpired collective bargaining agreement in the merged bargaining unit with a different expiration date from any other collective bargaining agreement in the merged bargaining unit, all contracts must be honored to their expiration dates unless mutually agreed to otherwise by the public employer and the bargaining agent. Collective bargaining agreements may be bargained on an interim basis in any merged bargaining unit so that all collective bargaining agreements expire on the same date. [PL 1993, c. 38, §1 (AMD).]

B. If a petition has been filed by a competing organization for decertification of the current bargaining agent for any of the bargaining units subject to the merger, then the decertification petition takes precedence over a petition to merge bargaining units. [PL 1989, c. 236 (NEW).]

C. A public employer or certified or recognized bargaining representative may not file more than once a year with the executive director to merge or combine bargaining units for the same bargaining unit. [PL 1989, c. 236 (NEW).]

D. The executive director or the director's designee conducting unit merger proceedings may administer oaths and may require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relating to the issues presented to the executive director or the director's designee. [PL 1989, c. 236 (NEW).]

E. A bargaining unit composed of a majority of supervisors may not merge under this subsection with any other bargaining unit. [PL 1989, c. 236 (NEW).]

F. A bargaining unit composed of teachers may not merge under this subsection with a bargaining unit of nonprofessional employees. [PL 1989, c. 236 (NEW).]

[PL 1993, c. 38, §1 (AMD).]

SECTION HISTORY

PL 1969, c. 424, §1 (NEW). PL 1969, c. 578, §3 (AMD). PL 1971, c. 609, §4 (AMD). PL 1973, c. 458, §9 (AMD). PL 1975, c. 564, §20 (RPR). PL 1975, c. 697, §§1,2 (AMD). PL 1989, c. 236 (AMD). PL 1993, c. 38, §1 (AMD). RR 2023, c. 2, Pt. E, §§54, 55 (COR).

§967. Determination of bargaining agent

1. Voluntary recognition. Any public employee organization may file a request with a public employer alleging that a majority of the public employees in an appropriate bargaining unit wish to be represented for the purpose of collective bargaining between the public employer and the employees' organization. Such request must describe the grouping of jobs or positions that constitute the unit claimed to be appropriate and must include a demonstration of majority support. Such request for recognition may be granted by the public employer.

[PL 2019, c. 135, §1 (AMD).]

1-A. Majority sign-up. If a request by a public employee organization for recognition pursuant to subsection 1 is not granted by the public employer, the executive director of the board or a designee shall examine the demonstration of support. If the executive director of the board or a designee finds that a majority of the employees in a unit appropriate for bargaining have signed valid authorizations designating the employees' organization specified in the petition as their bargaining representative and that no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit, the board may not direct an election but shall certify the employees' organization as the representative. However, if the majority status of the employees in the appropriate unit is in question, the executive director of the board or a designee shall call an election to determine whether the organization represents a majority of the members in the bargaining unit.

[PL 2019, c. 135, §1 (NEW).]

2. Elections. The executive director of the board, or a designee, pursuant to subsection 1-A, or upon signed petition of at least 30% of a bargaining unit of public employees that they desire to be represented by an organization, shall conduct a secret ballot election to determine whether the organization represents a majority of the members in the bargaining unit. Such an election may be conducted at suitable work locations or through the United States mail, and the procedures adopted and employed must ensure that neither the employee organizations or the management representatives involved in the election have access to information that would identify a voter.

The ballot must contain the name of such organization and that of any other organization showing written proof of at least 10% representation of the public employees within the unit, together with a choice for any public employee to designate that the public employee does not desire to be represented by any bargaining agent. When more than one organization is on the ballot and no one of the 3 or more choices receives a majority vote of the public employees voting, a run-off election must be held. The run-off ballot must contain the 2 choices that received the largest and 2nd-largest number of votes. When an organization receives the majority of votes of those voting, the executive director of the board shall certify it as the bargaining agent. The bargaining agent certified as representing a bargaining unit must be recognized by the public employer as the sole and exclusive bargaining agent for all of the employees in the bargaining unit unless and until a decertification election by secret ballot is held and the bargaining agent declared by the executive director of the board as not representing a majority of the unit.

Whenever 30% of the employees in a certified bargaining unit petition for a bargaining agent to be decertified, the procedures for conducting an election on the question are the same as for representation as bargaining agent as established in this section.

[PL 2019, c. 135, §1 (AMD).]

3. Merger of bargaining agents. Two or more bargaining agents who are certified by the executive director of the board and who are members or affiliates of the same public employee organization may elect to merge. Bargaining agents seeking to merge shall file with the executive director of the board, or a designee, a petition describing the proposed merger. On receipt of a petition under this subsection, the executive director of the board shall conduct an election among the employees represented by the petitioning bargaining agents in which the only question on the ballot is the proposed merger of the bargaining agents. On an affirmative vote of the majority of the employees represented by each petitioning bargaining agent, the executive director of the board shall order the merger. After a merger is ordered, the parties to a contract in which one party to that contract is one of the merged bargaining agents shall honor the terms of the contract unless the public employer and the merged bargaining agent agree to different terms.
[PL 2023, c. 240, §1 (NEW).]

A question concerning representation may not be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, a question concerning unit or representation may not be raised except during the period not more than 90 nor less than 60 days prior to the expiration date of the agreement. The not more than 90-day nor less than 60-day period prior to the expiration date of an agreement regarding unit determination and representation does not apply to matters of unit clarification. [PL 2019, c. 135, §1 (AMD).]

The bargaining agent certified by the executive director of the board as the exclusive bargaining agent shall represent all the public employees within the unit without regard to membership in the organization certified as bargaining agent, except that any public employee at any time may present that public employee's grievance to the public employer and have such grievance adjusted without the intervention of the bargaining agent, if the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect and if the bargaining agent's representative has been given reasonable opportunity to be present at any meeting of the parties called for the resolution of such grievance. [PL 2019, c. 135, §1 (AMD).]

SECTION HISTORY

PL 1969, c. 424, §1 (NEW). PL 1969, c. 578, §§4,5 (AMD). PL 1971, c. 609, §§5-8 (AMD). PL 1975, c. 564, §21 (AMD). PL 1979, c. 199 (AMD). PL 1991, c. 622, §O7 (AMD). PL 2019, c. 135, §1 (AMD). PL 2023, c. 240, §1 (AMD).

§968. Maine Labor Relations Board; powers and duties

1. Maine Labor Relations Board. The Maine Labor Relations Board, established by Title 5, section 12004-B, subsection 2, consists of 3 members and 6 alternates appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over labor matters and to confirmation by the Legislature. The Governor, in making appointments, shall name one member and 2 alternates to represent employees, one member and 2 alternates to represent employers and one member and 2 alternates to represent the public. The member and alternates representing employees may not have worked in a management capacity or represented employer interests in any proceedings at any time during the prior 6 years. The member and alternates representing the public may not have worked in a management capacity or represented employer interests in any proceedings or have worked for a labor organization or served in a leadership role in a labor organization at any time during the prior 6 years. The member representing the public serves as the board's chair and the alternate representing the public serves as an alternate chair. Members of the board are entitled to compensation according to the provisions of Title 5, chapter 379. The alternates are entitled to compensation at the same per diem rate as the member that the alternate replaces. The term of each member and each alternate is 4 years, except that of the members and alternates first appointed, one member and 2 alternates are appointed for a term of 4 years, one member and 2 alternates

are appointed for a term of 3 years and one member and 2 alternates are appointed for a term of 2 years. The members of the board, its alternates and its employees are entitled to receive necessary expenses. Per diem and necessary expenses for members and alternates of the board may be paid from the board's General Fund appropriation if, in the discretion of the executive director, doing so would not create a financial hardship for the board; otherwise, per diem and necessary expenses for members and alternates of the board, as well as state cost allocation program charges, must be shared equally by the parties to any proceeding at which the board presides and must be paid into a special fund administered by the board from which all costs must be paid. The executive director may estimate costs upon receipt of a request for services and collect those costs prior to providing the services. The executive director shall bill or reimburse the parties, as appropriate, for any difference between the estimated costs that were collected and the actual costs of providing the services. Once one party has paid its share of the estimated cost of providing the service, the matter is scheduled for hearing. A party who has not paid an invoice for the estimated or actual cost of providing services within 60 days of the date the invoice was issued is, in the absence of good cause shown, liable for the amount of the invoice together with a penalty in the amount of 25% of the amount of the invoice. Any penalty amount collected pursuant to this subsection remains in the special fund administered by the Maine Labor Relations Board, and that fund does not lapse. The executive director is authorized to collect any sums due and payable pursuant to this subsection through civil action. In such an action, the court shall allow litigation costs, including court costs and reasonable attorney's fees, to be deposited in the General Fund if the executive director is the prevailing party in the action. At its discretion, the board may allocate all costs to a party that presents a frivolous complaint or defense or that commits a blatant violation of the applicable collective bargaining law. When the board meets on administrative or other matters that do not concern the interests of particular parties or when any board member presides at a prehearing conference, the members' per diem and necessary expenses must be paid from the board's regular appropriation for these purposes. The executive director and legal or professional personnel employed by the board are members of the unclassified service.
[PL 2021, c. 421, §2 (AMD).]

2. Executive director. The Executive Director of the Maine Labor Relations Board must be appointed by the board to serve at the board's will and pleasure. The person appointed must be experienced in the field of labor relations. The executive director shall perform the duties designated by statute and such other duties as may from time to time be assigned to the executive director by the board. The executive director shall serve as secretary of the board and shall maintain a record of all proceedings before the board. A board member may not serve as executive director.

The salary of the executive director must be established by the board within salary range 86 and may be adjusted periodically by the board within the limits for salary review procedures established in Title 2, section 6, subsection 5.
[RR 2023, c. 2, Pt. E, §56 (COR).]

3. Rule-making power. The board may, after a public hearing, from time to time, adopt such rules of procedure as it deems necessary for the orderly conduct of its business and for carrying out the purposes of this chapter. Such rules shall be published and made available to all interested parties. The board shall also, upon its own initiative or upon request, issue interpretative rules interpreting the provisions of this chapter. Such interpretative rules shall be advisory only and shall not be binding upon any court. Such interpretative rules must be in writing and available to any person interested therein.
[PL 1975, c. 564, §24 (AMD).]

4. Review of representative proceedings. Any party aggrieved by any ruling or determination of the executive director, or the executive director's designee, under sections 966 and 967 may appeal, within 15 days of the announcement of the ruling or determination, except that in the instance of

objections to the conduct of an election or challenged ballots the time period is 5 working days, to the Maine Labor Relations Board.

Upon receipt of such an appeal, the board shall within a reasonable time hold a hearing having first caused 7 days notice in writing of the time and place of the hearing to be given to the aggrieved party, the labor organizations or bargaining agent and the public employer. These hearings must be conducted in the manner provided in subsection 5, paragraph B. Within a reasonable time after the conclusion of any hearing the board shall make a written decision that must include findings of fact and either affirm or modify the ruling or determination of the executive director and specify the reasons for that action. A copy of that decision must be mailed to the labor organization or bargaining agent or its attorney or other designated representative and the public employer. Decisions of the board made pursuant to this subsection are subject to review by the Superior Court under the Maine Rules of Civil Procedure, Rule 80C, in accordance with the standards specified in section 972, provided the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested.
[PL 1993, c. 90, §1 (AMD).]

5. Prevention of prohibited acts.

A. The board is empowered, as provided, to prevent any person, any public employer, any public employee, any public employee organization or any bargaining agent from engaging in any of the prohibited acts enumerated in section 964. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law or otherwise. [PL 1971, c. 609, §9 (NEW).]

B. A public employer, public employee, public employee organization or bargaining agent that believes that any person, any public employer, any public employee, any public employee organization or any bargaining agent has engaged in or is engaging in such a prohibited practice may file a complaint with the executive director of the board stating the charges in that regard. A complaint may not be filed with the executive director until the complaining party has served a copy of the complaint upon the party complained of. Upon receipt of the complaint, the executive director or the executive director's designee shall review the charge to determine whether the facts as alleged constitute a prohibited act. If it is determined that the facts do not, as a matter of law, constitute a violation, the charge must be dismissed by the executive director, subject to review by the board. If a formal hearing is determined necessary by the executive director or by the board, the executive director shall serve upon the parties to the complaint a notice of the prehearing conference and of the hearing before the board, and that notice must designate the time and place of hearing for the prehearing conference or the hearing, as appropriate, except that a hearing may not be held based upon any alleged prohibited practice occurring more than 6 months prior to the filing of the complaint with the executive director. The party complained of has the right to file a written answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed for the hearing. In the discretion of the board, any other person or organization may be allowed to intervene in the proceeding and to present testimony. This paragraph does not restrict the right of the board to require the executive director or the executive director's designee to hold a prehearing conference on any prohibited practice complaint prior to the hearing before the board and to take whatever action, including dismissal, attempting to resolve disagreements between the parties or recommending an order to the board, as the executive director determines appropriate, subject to review by the board. [RR 2023, c. 2, Pt. E, §57 (COR).]

C. After hearing and argument, if, upon a preponderance of the evidence received, the board is of the opinion that any party named in the complaint has engaged in or is engaging in such a prohibited practice, the board shall in writing state its findings of fact and the reasons for its conclusions and shall issue and cause to be served upon the party an order requiring the party to cease and desist from the prohibited practice and to take such affirmative action, including reinstatement of

employees with or without back pay, as will effectuate the policies of this chapter. An order of the board may not require the reinstatement of an individual as an employee who has been suspended or discharged, or the payment to the individual of any back pay, if the individual was suspended or discharged for cause.

After hearing and argument, if, upon a preponderance of the evidence received, the board is not of the opinion that the party named in the complaint has engaged in or is engaging in such a prohibited practice, the board shall in writing state its findings of fact and the reasons for its conclusions and shall issue an order dismissing the complaint. [RR 2023, c. 2, Pt. E, §58 (COR).]

D. If after the issuance of an order by the board requiring any party to cease and desist or to take any other affirmative action, said party fails to comply with the order of the board then the party in whose favor the order operates or the board may file a civil action in the Superior Court of Kennebec County, or the county in which the prohibited practice has occurred, to compel compliance with the order of the board. Upon application of any party in interest or the board, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it deems just and proper; provided that the board's decision shall not be stayed except where it is clearly shown to the satisfaction of the court that substantial and irreparable injury shall be sustained or that there is a substantial risk of danger to the public health or safety. In such action to compel compliance the Superior Court shall not review the action of the board other than to determine whether the board has acted in excess of its jurisdiction. If an action to review the decision of the board is pending at the time of the commencement of an action for enforcement pursuant to this subsection or is thereafter filed, the 2 actions shall be consolidated. [PL 1977, c. 479, §6 (AMD).]

E. Whenever a complaint is filed with the executive director of the board, alleging that a public employer has violated section 964, subsection 1, paragraph F or alleging that a public employee or public employee organization or bargaining agent has violated section 964, subsection 2, paragraph C the party making the complaint may simultaneously seek injunctive relief from the Superior Court in the county in which the prohibited practice is alleged to have occurred pending the final adjudication of the board with respect to such matter. [PL 1971, c. 609, §9 (NEW).]

F. Either party may seek a review by the Superior Court of Kennebec County or of the county in which the prohibited practice is alleged to have occurred of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule 80C, if the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested. Upon the filing of the complaint, the court shall set the complaint down for hearing and shall cause all interested parties and the board to be notified. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Pending review and upon application of any party in interest, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it determines just and proper; except that the board's decision is not stayed except when it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained or that there is a substantial risk of danger to the public health or safety. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The record must include all documents filed in the proceeding and the transcript, if any. After hearing, the court may enforce, modify, enforce as so modified or set aside in whole or in part the decision of the board, except that the findings of the board on questions of fact are final unless shown to be clearly erroneous. Any appeal to the Law Court must be the same as an appeal from an interlocutory order under section 6. [PL 2011, c. 559, Pt. A, §26 (AMD).]

G. In any judicial proceeding authorized by this subsection in which injunctive relief is sought, sections 5 and 6 shall apply, except that neither an allegation nor proof of unavoidable substantial and irreparable injury to the complainant's property shall be required to obtain a temporary restraining order or injunction. [PL 1973, c. 788, §120-A (AMD).]

[RR 2023, c. 2, Pt. E, §§57, 58 (COR).]

6. Hearings. The hearings conducted by the board pursuant to this section shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other evidence deemed relevant by the board may be received.

The chair has the power to administer oaths and to require by subpoena the attendance and testimony of witnesses and the presentation of books, records and other evidence relative or pertinent to the issues presented to the board for determination. Witnesses subpoenaed by the board must be allowed the same fees as are paid to witnesses in the Superior Court. These fees, together with all necessary expenses of the board, must be paid by the Treasurer of State on warrants drawn on the State Controller.

[RR 2023, c. 2, Pt. E, §59 (COR).]

7. Reports. The board shall annually, on or before the first day of July, make a report to the Governor. The appropriation for the board and the executive director shall be included in the bureau's budget and authorization for expenditures shall be the responsibility of the director.

The board shall have the authority to recommend to the Legislature changes or additions to this chapter or to related enactments of law.

[PL 1977, c. 78, §164 (AMD).]

SECTION HISTORY

PL 1969, c. 424, §1 (NEW). PL 1969, c. 578, §§5-A,6,6-A (AMD). PL 1971, c. 609, §9 (RPR). PL 1971, c. 620, §13 (AMD). PL 1973, c. 458, §10 (AMD). PL 1973, c. 533, §§1,2 (AMD). PL 1973, c. 610, §1 (AMD). PL 1973, c. 788, §§120,120-A (AMD). PL 1975, c. 564, §§22-28 (AMD). PL 1975, c. 697, §§3-7 (AMD). PL 1975, c. 771, §§281-283 (AMD). PL 1975, c. 776, §2 (AMD). PL 1977, c. 78, §164 (AMD). PL 1977, c. 479, §§6,7 (AMD). PL 1977, c. 553, §§2,3 (AMD). PL 1977, c. 674, §24 (AMD). PL 1979, c. 501, §2 (AMD). PL 1979, c. 663, §160 (AMD). PL 1983, c. 812, §162 (AMD). PL 1989, c. 503, §B109 (AMD). PL 1991, c. 143, §§1,2 (AMD). PL 1991, c. 622, §O8 (AMD). PL 1991, c. 798, §6 (AMD). PL 1993, c. 90, §§1,2 (AMD). PL 2011, c. 559, Pt. A, §26 (AMD). PL 2019, c. 184, §1 (AMD). PL 2021, c. 421, §2 (AMD). RR 2023, c. 2, Pt. E, §§56-59 (COR).

§969. Municipal personnel board or civil service authority

Nothing in this chapter shall diminish the authority and power of any municipal civil service commission or personnel board or its agents established by statute, charter or special act to conduct and grade merit examinations and to rate candidates in the order of their relative excellence from which appointments or promotions may be made to positions in the competitive division of the classified service of the municipal employer served by such a civil service commission or personnel board. The conduct and the grading of merit examinations, the rating of candidates and the establishment of lists from such examinations and the appointments from such lists shall not be subject to collective bargaining. If a collective bargaining agreement between a public employer and a bargaining agent contains provisions for binding arbitration of grievances involving the following matters: The demotion, lay-off, reinstatement, suspension, removal, discharge or discipline of any public employee, such provisions shall be controlling in the event they are in conflict with any authority and power, involving such matters, of any such municipal civil service commission or personnel board or its agents.

[PL 1969, c. 424, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 424, §1 (NEW).

§970. Scope of binding contract arbitration

A collective bargaining agreement between a public employer and a bargaining agent may provide for binding arbitration as the final step of a grievance procedure but the only grievances which may be taken to such binding arbitration shall be disputes between the parties as to the meaning or application of the specific terms of the collective bargaining agreement. An arbitrator with the power to make binding decisions pursuant to any such provision shall have no authority to add to, subtract from or modify the collective bargaining agreement. [PL 1969, c. 424, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 424, §1 (NEW).

§971. Suits by and against unincorporated employee organizations

In any judicial proceeding brought under this chapter or to enforce any of the rights guaranteed by this chapter, any unincorporated employee organization may sue or be sued in the name by which it is known. [PL 1971, c. 609, §10 (RPR).]

SECTION HISTORY

PL 1969, c. 424, §1 (NEW). PL 1971, c. 609, §10 (RPR).

§972. Review

Either party may seek a review by the Superior Court of a binding determination by an arbitration panel. For interest arbitrations, the review must be sought in accordance with the Maine Rules of Civil Procedure, Rule 80B. [PL 1993, c. 90, §3 (AMD).]

The binding determination of an arbitration panel or arbitrator, in the absence of fraud, upon all questions of fact shall be final. The court may, after consideration, affirm, reverse or modify any such binding determination or decision based upon an erroneous ruling or finding of law. An appeal may be taken to the law court as in any civil action. [PL 1971, c. 609, §11 (AMD).]

SECTION HISTORY

PL 1969, c. 578, §7 (NEW). PL 1971, c. 609, §11 (AMD). PL 1991, c. 143, §3 (AMD). PL 1993, c. 90, §3 (AMD).

§973. Separability

If any clause, sentence, paragraph or part of this chapter for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this chapter. [PL 1975, c. 564, §29 (NEW).]

SECTION HISTORY

PL 1975, c. 564, §29 (NEW).

§974. Publication of initial proposals

Either party to negotiations may publicize the parties' written initial collective bargaining proposals. No proposal may be publicized until 10 days after both parties have made their initial proposal. [PL 1979, c. 125, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 125, §1 (NEW).

§975. Bargaining agent access

1. Bargaining agent access to employees. Public employers shall provide to a bargaining agent access to members of the bargaining unit that the bargaining agent exclusively represents. Access must include, but is not limited to, the following:

A. The right to meet with individual employees on the premises of the public employer's workplace during the work day to investigate and discuss grievances, workplace-related complaints and other workplace issues; [PL 2019, c. 389, §1 (NEW).]

B. The right to conduct workplace meetings during lunch and other breaks, and before and after the work day, on the public employer's premises to discuss workplace issues, collective bargaining negotiations, the administration of collective bargaining agreements and other matters related to the duties of a bargaining agent and internal bargaining agent matters involving the governance or the business of the bargaining agent; [PL 2019, c. 389, §1 (NEW).]

C. The right to meet with newly hired employees, without charge to the pay or leave time of the employees, for a minimum of 30 minutes or for an amount of time agreed upon by all parties, not later than 10 calendar days after receipt of the information provided pursuant to subsection 2, during new employee orientations or, if the employer does not conduct new employee orientations, at individual or group meetings; and [PL 2019, c. 389, §1 (NEW).]

D. The right to use the e-mail system of a public employer to communicate with bargaining unit members regarding official bargaining agent matters including, but not limited to, elections, meetings and social activities, as long as the use of the e-mail system does not create an unreasonable burden on the public employer's network capabilities or system administration. [PL 2019, c. 389, §1 (NEW).]

[PL 2019, c. 389, §1 (NEW).]

2. Bargaining agent access to employee information. Public employers shall provide to a bargaining agent access to information about members of the bargaining unit that the bargaining agent exclusively represents, as follows.

A. Public employers shall provide the following information regarding newly hired public employees and, upon request, regarding all other public employees to a bargaining agent in spreadsheet file format or another format agreed to by the bargaining agent:

(1) Name;

(2) Job title;

(3) Workplace location;

(4) Home address;

(5) Work telephone numbers;

(6) Home telephone and personal cellular telephone numbers, if known;

(7) Work e-mail address;

(8) Personal e-mail address, if known; and

(9) Date of hire.

For information regarding newly hired public employees, the employer shall provide the information required under this paragraph not later than 30 calendar days after the date a prospective public employee accepts an offer of employment or not later than 30 calendar days after the date of hire for all public employees. At the request of the bargaining agent, but not more than quarterly, the public employer shall provide the required information for all other public employees in the bargaining unit within 30 calendar days. [PL 2023, c. 467, §1 (AMD).]

B. The following are not public records as defined in Title 1, section 402, subsection 3 and are confidential and may not be disclosed by the public employer, except as provided in paragraph A:

(1) Home addresses, home or personal telephone numbers, personal e-mail addresses and dates of birth of employees;

(2) Names of employees within a bargaining unit; and

(3) Communications between a bargaining agent and its members. [PL 2019, c. 389, §1 (NEW).]

This subsection is subject to the dispute resolution process specified in an applicable collective bargaining agreement for a public employee.
[PL 2023, c. 467, §§1, 2 (AMD).]

3. Bargaining agent access to government buildings and facilities. The bargaining agent has the right to use government buildings and other facilities that are owned or leased by government entities to conduct meetings with bargaining unit members regarding bargaining negotiations, the administration of collective bargaining agreements, the investigation of grievances, other workplace-related complaints and issues and internal matters involving the governance or business of the bargaining agent, as long as that use does not interfere with governmental operations. A bargaining agent conducting a meeting in a government building or facility pursuant to this section may be charged for maintenance, security and other costs related to the use of the government building or facility that would not otherwise be incurred by the government entity.
[PL 2019, c. 389, §1 (NEW).]

4. Employee may opt out. After an initial meeting pursuant to subsection 1, paragraph C, an employee may opt out of receiving any further communications from a bargaining agent or allowing a bargaining agent to have any further access to that employee's information described in subsection 2, paragraph A, except for communications related to direct representation of that employee by a bargaining agent.
[PL 2019, c. 389, §1 (NEW).]

5. Selling or sharing nonmember data prohibited. A bargaining agent may not sell or share the information provided in accordance with subsection 2, paragraph A of an employee who is not a member of an employee organization except for the purpose of fulfilling the agent's collective bargaining obligations.
[PL 2019, c. 389, §1 (NEW).]

Nothing in this section may be construed to limit the terms of a collective bargaining agreement that provide a bargaining agent with greater rights of access to employees than the rights established by this section. [PL 2019, c. 389, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 389, §1 (NEW). PL 2023, c. 467, §§1, 2 (AMD).

§976. Obligations during interim between contracts

During the interim after the expiration of a collective bargaining agreement and before the effective date of any subsequent collective bargaining agreement, public employees covered by the expired collective bargaining agreement remain eligible for and must receive step increases in accordance with the terms and conditions set forth in the expired collective bargaining agreement. [PL 2021, c. 282, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 282, §1 (NEW).