

## §979-A. Definitions

As used in this chapter the following terms shall, unless the context requires a different interpretation, have the following meanings. [PL 1973, c. 774 (NEW).]

**1. 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 as defined in subsection 5 or by the executive director of the board to be the choice of the majority of the unit as their representative.  
[PL 1973, c. 774 (NEW).]

**2. Board.** "Board" means the Maine Labor Relations Board as defined in section 968, subsection 1.  
[PL 1975, c. 564, §30 (AMD).]

**3. Cost items.** "Cost items" means the provisions of a collective bargaining agreement which requires an appropriation by the Legislature.  
[PL 1973, c. 774 (NEW).]

**4. Executive director.** "Executive director" means the Executive Director of the Maine Labor Relations Board as defined in section 968, subsection 2.  
[PL 1975, c. 564, §31 (AMD).]

**4-A. Legislative employee.** "Legislative employee" means any employee of the Legislature performing services within the legislative branch, except any person:

A. Who is elected by popular vote; [PL 1997, c. 741, §2 (NEW); PL 1997, c. 741, §12 (AFF).]

B. Who is appointed to office pursuant to law by the Governor or the Legislature for a specific term; [PL 1997, c. 741, §2 (NEW); PL 1997, c. 741, §12 (AFF).]

C. Who is employed in the office of the President of the Senate, the office of the Speaker of the House, the office of the Secretary of the Senate, the office of the Clerk of the House of Representatives or the majority or minority offices of the Senate or the House of Representatives; [PL 1997, c. 741, §2 (NEW); PL 1997, c. 741, §12 (AFF).]

D. Whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship with respect to matters subject to collective bargaining, as between that person and the Legislative Council; [PL 1997, c. 741, §2 (NEW); PL 1997, c. 741, §12 (AFF).]

E. Who is a temporary, on-call employee; or [PL 1997, c. 741, §2 (NEW); PL 1997, c. 741, §12 (AFF).]

F. Who has been employed less than 30 days. [PL 1997, c. 741, §2 (NEW); PL 1997, c. 741, §12 (AFF).]

[PL 1997, c. 741, §2 (NEW); PL 1997, c. 741, §12 (AFF).]

**5. Public employer.** "Public employer" means, with respect to the executive branch, all the departments, agencies and commissions of the executive branch of the State of Maine, represented by the Governor or the Governor's designee. In the furtherance of this chapter, the State is considered a single employer and employment relations, policies and practices throughout the state service must be as consistent as practicable. With respect to state employees, it is the responsibility of the executive branch to negotiate collective bargaining agreements and to administer such agreements. To coordinate the employer position in the negotiation of agreements, the Legislative Council or its designee shall maintain close liaison with the Governor or the Governor's designee representing the executive branch relative to the negotiation of cost items in any proposed agreement. The Governor is responsible for the employer functions of the executive branch under this chapter, and shall coordinate its collective

bargaining activities with operating agencies on matters of agency concern. It is the responsibility of the legislative branch to act upon those portions of tentative agreements negotiated by the executive branch that require legislative action.

"Public employer" means, with respect to the legislative branch, all offices or agencies of the Legislature represented by the Legislative Council or its designee. With respect to legislative employees, the Legislative Council shall negotiate and administer collective bargaining agreements. The Legislative Council or its designee is responsible for the employer functions of the legislative branch under this chapter.

With respect to the executive branch, the Bureau of Human Resources, through the Commissioner of Administrative and Financial Services, shall act as directed by the Governor to:

- A. Develop and execute employee relations' policies, objectives and strategies consistent with the overall objectives of the Governor; [PL 1981, c. 289, §11 (NEW).]
- B. Conduct negotiations with certified and recognized bargaining agents under applicable statutes; [PL 1981, c. 289, §11 (NEW).]
- C. Administer and interpret collective bargaining agreements, and coordinate and direct agency activities as necessary to promote consistent policies and practices; [PL 1981, c. 289, §11 (NEW).]
- D. Represent the State in all bargaining unit determinations, elections, prohibited practice complaints and any other proceedings growing out of employee relations and collective bargaining activities; [PL 1981, c. 289, §11 (NEW).]
- E. Coordinate the compilation of all data and information needed for the development and evaluation of employee relations' programs and in the conduct of negotiations; [PL 1981, c. 289, §11 (NEW).]
- F. Coordinate the State's resources as needed to represent the State in negotiations, mediation, fact-finding, arbitration and other proceedings; and [PL 1997, c. 741, §3 (AMD); PL 1997, c. 741, §12 (AFF).]
- G. Provide staff advice on employee relations to the various departments and agencies of State Government, including providing for necessary supervisory and managerial training. [PL 1981, c. 289, §11 (NEW).]

All state departments and agencies shall provide such assistance, services and information as required by the Governor's office, or the Bureau of Human Resources, and shall take such administrative or other action as may be necessary to implement and administer the provisions of any binding agreement between the State and employee organizations entered into under law. [PL 2007, c. 240, Pt. HH, §14 (AMD).]

**6. State employee.** "State employee" means an employee of the State of Maine performing services within the Executive Department except a person:

- A. Elected by popular vote; [RR 2021, c. 2, Pt. A, §90 (COR).]
- B. Appointed to office pursuant to statute, ordinance or resolution for a specified term by the Governor or by a department head or body having appointive power within the Executive Department; [RR 2021, c. 2, Pt. A, §90 (COR).]
- C. Whose duties necessarily imply a confidential relationship with respect to matters subject to collective bargaining as between such person and the Governor, a department head, body having appointive power within the Executive Department or any other official or employee excepted by this section; [RR 2021, c. 2, Pt. A, §90 (COR).]

D. Who is a department or division head appointed to office pursuant to statute, ordinance or resolution for an unspecified term by the Governor or by a body having appointive power within the Executive Department; [RR 2021, c. 2, Pt. A, §90 (COR).]

E. [PL 2021, c. 601, §4 (RP).]

F. Who is a temporary, seasonal or on-call employee; [RR 2021, c. 2, Pt. A, §90 (COR).]

G. Who is serving as a member of the State Militia or National Guard; [RR 2021, c. 2, Pt. A, §90 (COR).]

H. Who is a staff attorney, assistant attorney general or deputy attorney general in the Department of the Attorney General; [RR 2021, c. 2, Pt. A, §90 (COR).]

I. Who is appointed to a major policy-influencing position as designated by Title 5, chapter 71; [RR 2021, c. 2, Pt. A, §90 (COR).]

J. Who substantially participates in the formulation and effectuation of policy in a department or agency or has a major role, other than a typically supervisory role, in the administration of a collective bargaining agreement in a department or agency; or [PL 1997, c. 773, §2 (AMD); PL 1997, c. 773, §§7, 8 (AFF).]

K. 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, §22 (AMD).]

L. [PL 1997, c. 773, §4 (RP); PL 1997, c. 773, §§7, 8 (AFF).]  
[RR 2021, c. 2, Pt. A, §90 (COR).]

#### SECTION HISTORY

PL 1973, c. 774 (NEW). PL 1975, c. 564, §§30,31 (AMD). PL 1977, c. 642 (AMD). PL 1981, c. 289, §11 (AMD). PL 1981, c. 381, §§1-3 (AMD). PL 1985, c. 785, §§A98,99 (AMD). PL 1989, c. 654, §§3,4,13 (AMD). PL 1991, c. 780, §Y121 (AMD). PL 1997, c. 668, §§4-6 (AMD). PL 1997, c. 741, §§2,3 (AMD). PL 1997, c. 741, §12 (AFF). PL 1997, c. 773, §§2-4 (AMD). PL 1997, c. 773, §§7,8 (AFF). PL 2007, c. 240, Pt. HH, §14 (AMD). PL 2009, c. 142, §12 (AMD). PL 2013, c. 133, §22 (AMD). PL 2021, c. 601, §4 (AMD). RR 2021, c. 2, Pt. A, §90 (COR).

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